

# Tamil Nadu Debt Relief Act, 1976

TAMILNADU

India

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### Act 31 of 1976

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Tamil Nadu Debt Relief Act, 1976(President's Act 31 of 1976)Statement of Objects and Reasons - Tamil Nadu Debt Relief (Amendment) Act, 1979 (Tamil Nadu Act 39 of 1979). - By the Tamil Nadu Debt Relief Act, 1976 (President's Act 31 of 1976) permanent relief, by way of liquidation of debts due to pawnbrokers, money-lenders and other non-institutional sources of credit who have been charging usurious rates of interest and indulging in other malpractices was given to the weaker sections of the rural community who are connected with agricultural production. Accordingly, the debts due to such pawnbrokers, money-lenders and other non-institutional sources of credit incurred by the said weaker sections before the date of commencement of that'Act were deemed to have been wholly discharged. During the actual working of the Act, however, it has been found necessary that certain changes should be effected in the Act so as to make the intention clear.2. The Bill seeks to achieve the above object.Published in Part IV Section 1 of the Tamil Nadu Government Gazette Extraordinary, dated the 17th April 1979.Statement of Objects and Reasons - Tamil Nadu Debt Relief (Amendment) Act, 1980 (Tamil Nadu Act 5 of 1980). - Under the provisions of the Tamil Nadu Debt Relief Act, 1976 (President's Act 31 of 1976) the Tahsildar on receipt of a statement furnished by the creditor under sub-section (1) of section 5 or of an application made by the debtor under sub-section (2) of section 5 or under sub-section (1) of section 6 has to conduct an enquiry in the prescribed manner before directing the return of the movable property or the release of the mortgaged property. It was reported that more than seventy lakhs of cases were pending before the Tahsildars. With a view to accord early relief to the debtors, the Government decided to simplify the procedure for disposal of the pending cases, by requiring the debtors to file affidavits which shall state the debtors are entitled to relief under section 4 and re produce certificates as to the annual household income, etc.2. Further, under the existing provisions there is no time limit within which debtors shall make applications for relief. It was also decided to specify a time limit within which debtors shall make their applications for relief. The Tamil Nadu Debt Relief (Second Amendment) Ordinance, 1979 (Tamil Nadu Ordinance 24 of 1979) was accordingly promulgated by the Governor to give effect to the above decisions.3. The Bill seeks to replace the above Ordinance.Published in Part IV-Section 1 of the Tamil Nadu Government Gazette Extraordinary, dated 4th February 1980.Statement of Objects and Reasons - Tamil Nadu Pawnbrokers and Debt Relief Laws (Amendment) Act, 1980 (Tamil Nadu Act 35 of 1980). - Under the Tamil Nadu Debt Relief Act, 1976

(President' Act 31 of 1976) as amended by the Tamil Nadu Debt Relief (Amendment) Act, 1980 (Tamil Nadu Act 5 of 1980), debtors seeking relief under the Act have to make applications to the Tahsildars within a period of six months from 13th December 1979. The said period of six months expired on the 12th June 1980 and it appears that the people in rural areas are not fully aware of the said time-limit of six months. The Government have, therefore, decided to extend the time limit by another six months beyond the 12th June 1980 so as to enable the debtors to avail themselves of the full benefits of the Act. The Tamil Nadu Debt Relief Act, 1979 (Tamil Nadu Act 40 of 1979) provides for permanent debt relief to specific classes of weaker sections of the society, by way of scaling down of debts. The Government have decided that provision should be made in the said Act to facilitate repayment of the scaled down debts in instalments.<sup>3</sup> It is also considered necessary by the Government that in view of the proposed extension of the time-limit to make applications for relief under the Tamil Nadu Debt Relief Act, 1976 (President's Act 31 of 1976) and the proposed provision for repayment in instalments of the scaled down debts under the Tamil Nadu Debt Relief Act, 1979 (Tamil Nadu Act 40 of 1979), there should be a ban on the sale by the creditors of the articles pledged by the debtors to whom the provisions of the aforesaid Acts are applicable, until the benefits under the respective enactments are availed of by the debtors and that there should be a similar ban on the sale of articles pledged by debtors to whom the provisions of the Tamil Nadu Debt Relief Act, 1980 (Tamil Nadu Act 13 of 1980) are applicable. The Government have therefore, decided to ban the sale of such movable properties during the relevant period.<sup>4</sup> The Bill seeks to give effect to the above decisions. Published in Part IV-Section 1 of the Tamil Nadu Government Gazette Extraordinary, dated the 16th July 1980. Received the assent of the President on the 29th July 1976 and first Published in the Tamil Nadu Government Gazette Extraordinary on the 29th July 1976. [An Act to provide relief to landless agricultural labourers, rural artisans and small farmers in the State of Tamil Nadu from the usurious practices of pawnbrokers, moneylenders and other non-institutional sources of credit and to give relief from the debts due to such pawnbrokers, money-lenders and other non-institutional sources of credit.] [[This long title and preamble were substituted for the following long title by section 2 of the Tamil Nadu Debt Relief (Amendment) Act, 1979 (Tamil Nadu Act 39 of 1979), which was deemed to have come into force on the 29th July 1976:- 'An Act to provide relief from indebtedness to landless, agricultural labourers, rural artisans and small farmers in the State of Tamil Nadu.]] Whereas it is expedient to provide relief to landless agricultural labourers, rural artisans and small farmers in the State of Tamil Nadu from the usurious practices of pawnbrokers, money-lenders and other non-institutional sources of credit and to give relief from the debts due to such pawnbrokers, money-lenders and other non institutional sources of credit; In exercise of the powers conferred by section 3 of the Tamil Nadu State Legislature (Delegation of Powers) Act, 1976 (41 of 1976), the President is pleased to enact as follows:-

## **1. Short title, extent and commencement.**

(1) This Act may be called the Tamil Nadu Debt Relief Act, 1976. (2) It extends to the whole of the State of Tamil Nadu. (3) It shall come into force at once.

## 2. Declaration.

- It is hereby declared that this Act is for giving effect to the policy of the State towards securing the principles specified in Article 46 of the Constitution.

## 3. Definitions.

- In this Act, unless the context otherwise requires,-(a)"agriculture" includes,-(i)Horticulture;(ii)the raising of crops (including plantation crops), grass or garden produce;(iii)dairy farming;(iv)poultry farming;(v)breeding of livestock;(vi)grazing, but does not include the cutting of wood only;(b)"agricultural land" means land used for purposes of agriculture;(c)[ "annual household income" means the aggregate of the gross annual income from all sources of all the members of a family during the year ending on the 31st December 1975;] [[Substituted for the following clause by section 3 of the Tamil Nadu Debt Relief (Amendment) Act, 1979 (Tamil Nadu Act 39 of 1979), which was deemed to have come into force on the 29th July 1976:-(c)annual household income means the aggregate of the annual income from all sources of all the members of a family;]](d)"creditor" means a person from or in respect of whom the debtor has borrowed or incurred a debt and includes the heirs of such person;(e)"debt" means any liability in cash or in kind whether secured or unsecured and whether decreed or not, but does not include arrears of tax due to the Central Government or a State Government or a local authority;(f)"debtor" means-(i)a landless agricultural labourer; or(ii)a rural artisan; or(iii)a small farmer, who has borrowed or incurred any debt before the commencement of this Act;(g)"family", in relation to a persons means the individual, the wife or husbands, as the case may be, of such individual and their unmarried minor children.Explanation. - For the purpose of this clause, "minor" means a person who has not completed his or her age of eighteen years;(h)"interest" means any amount or other thing paid or payable in excess of the principal sum borrowed or pecuniary obligation incurred, or where anything has been borrowed in kind, in excess of what has been so borrowed, by whatsoever name such amount or thing may be called, and whether the same is paid or payable entirely in cash or entirely in kind or partly in cash and partly in kind and whether the same is expressly mentioned or not in the document or contract, if any;(i)"landless agricultural labourer" means a person who does not hold, whether as owner, tenant or mortgagee with possession, or partly in one capacity and partly in another, any agricultural land and whose principal means of livelihood is manual labour on agricultural land and whose annual household income does not exceed two thousand and four hundred rupees;(j)"person" means an individual or a family;(k)"rural artisan" means a person who does not hold, whether as owner, tenant or mortgagee with possession, or partly in one capacity and partly in another, any agricultural land and whose annual household income does not exceed two thousand and four hundred rupees and-(i)whose principal means of livelihood is production or repair of traditional tools, implements and other articles or things used for agriculture, or purposes ancillary thereto, or(ii)who normally earns his livelihood by practising any craft either by his own labour or by the labour of the members of his family in any rural area.Explanation. - For the purpose of sub-clause (ii) of this clause, "rural area" means any area not being the City of [Chennai] [Substituted for the word 'Madras' by the City of Madras (Alteration of Name) Act, 1996 (Tamil Nadu Act 28 of 1996)] or the City of Madurai or the area comprised in a municipal town or a township constituted under any law for the time being in force;(l)"small farmer" means a person whose principal means of livelihood

is income derived from agricultural land and who holds, whether as owner, tenant, or mortgagee with possession, or partly in one capacity and partly in another, - (i) not more than two units of land, in a case where such person is a member of any of the Scheduled Tribes; and (ii) not more than one unit of land, in any other case. Explanation I. - For the purpose of this clause, "Scheduled Tribes" shall have the meaning assigned to it in clause (25) of Article 366 of the Constitution. Explanation II. - Where any person holds as aforesaid more than one category of land referred to in clause (o), then, for the purpose of calculating the extent of land held by him, two hectares of unirrigated land shall be deemed to be equal to - (i) half hectare of land having facilities for growing one irrigated crop; (ii) half hectare of land used for growing any plantation crop or grapes or coconut or arecanut or mulberry; (iii) quarter hectare of land having perennial irrigation facilities, or having facilities for growing more than one irrigated crop in a year. Explanation III. - In this clause and in clause (o) - (a) "irrigated" means irrigated from any source, whether Government or private; (b) "plantation crop" means cardamom, cinchona, coffee, rubber or tea; (m) "Tahsildar" includes a Deputy Tahsildar in independent charge of a taluk or sub-taluk and any other officer of the Revenue Department not below the rank of a Deputy Tahsildar empowered by the State Government to exercise the powers and perform the functions of a Tahsildar under this Act; (n) "transferee of the creditor" means any person including an institution referred to in clause (g) of section 13 to whom - (i) the creditor has pledged the movable property pledged to him by the debtor and includes any subsequent transferee to whom such transferee has pledged such movable property and also includes any person in possession of the property pledged; or (ii) the creditor has transferred or otherwise assigned his interest in the property mortgaged by the debtor and includes any subsequent transferee to whom such transferee has transferred or otherwise assigned his interest in the property mortgaged and also includes any person in possession of the property mortgaged; (o) "unit of land" means - (i) two hectares of unirrigated land; or (ii) half hectare of land having facilities for growing one irrigated crop; or (iii) half hectare of land used for growing any plantation crop or grapes or coconut or arecanut or mulberry; or (iv) quarter hectare of land having perennial irrigation facilities, or having facilities for growing more than one irrigated crop in a year.

#### **4. Relief from indebtedness.**

- Notwithstanding anything contained in the Tamil Nadu Agriculturists Relief Act, 1938 (Tamil Nadu Act IV of 1938), the Tamil Nadu Pawn Brokers Act, 1943 (Tamil Nadu Act XXIII of 1943), the Tamil Nadu Money-lenders Act, 1957 (Tamil Nadu Act XXVI of 1957), the Tamil Nadu Debt Relief Act, 1972 (Tamil Nadu Act 38 of 1972), the Tamil Nadu Indebted Agriculturists (Temporary Relief) Act, 1976 (President's Act 15 of 1976), the Tamil Nadu Indebted Persons (Temporary Relief) Act, 1976 (President's Act 16 of 1976), or in any other law for the time being in force or in any contract or instrument having force by virtue of any such law and save as otherwise expressly provided in this Act, with effect on and from the commencement of this Act, - (a) every debt advanced or incurred before the commencement of this Act (including interest, if any,) and payable by the debtor to the creditor shall be deemed to be wholly discharged; (b) no Civil Court shall entertain any suit or other proceeding against the debtor for the recovery of any amount of such debt (including interest, if any): Provided that where any suit or other proceeding is instituted jointly against the debtor and any other person, nothing in this section shall apply to the maintainability of such suit or proceeding in so far as it relates to such other person; (c) all suits and other proceedings (including

appeals, revisions, attachments or execution proceedings) pending at the commencement of this Act against any debtor for the recovery of any such debt (including interest, if any,) shall abate: Provided that nothings in this clause shall apply to the sale, in respect of any such debt, of-(i)any movable property held and concluded before the commencement of this Act;(ii)any immovable property confirmed before such commencement;(d)every debtor undergoing detention in a civil prison in execution of any decree for money passed against him by a Civil Court in respect of any such debt (including interest, if any) shall be released;(e)every movable property pledged by a debtor shall stand released in favour of such debtor and the creditor shall be bound to return the same to the debtor forthwith;(f)every mortgage executed by the debtor in favour of the creditor shall stand redeemed and the mortgaged property shall be released in favour of such debtor.Explanation. - Nothing in this section shall be construed as entitling any debtor for refund of any part of any debt repaid or interest paid already by him or recovered from him before the commencement of this Act.

## **5. Creditors to file statement, etc.**

(1)Every creditor referred to in clause (e) of section 4 shall, within such period as may be prescribed, furnish to the Tahsildar having jurisdiction over the area where such creditor has his ordinary place of business, a statement in such form as may be prescribed containing the names of all the persons who have pledged movable property with him, the nature and description of such property, the amount advanced and due as on the commencement of this Act, the rate of interest and such other particulars as may be prescribed.(2)A debtor referred to in clause (e) of section 4 may also make an application to the Tahsildar having jurisdiction over the area where his creditor has his ordinary place of business for an order for the return of the movable property pledged by the debtor:[Provided that no application shall be made under this sub-section after the 13th day of December 1979 and every application for an order for the return of the movable property shall be made in accordance with, and within the time specified in, sub-section (2-A).] [Added by section 2(1) of the Tamil Nadu Debt Relief (Amendment) Act, 1980 (Tamil Nadu Act 5 of 1980), which was deemed to have come into force on the 13th December 1979.][ (2-A) (a) Every debtor referred to in clause (e) of section 4, shall, notwithstanding anything contained in sub-section (1) or in sub-section (2) and whether or not his creditor has furnished a statement under sub-section (1) in respect of such debtor, make an application in such form and containing such particulars as may be prescribed to the Tahsildar having jurisdiction over the area where his creditor has his ordinary place of business.(b)Every such application shall be,-(i)supported by an affidavit, which shall be in such form and be sworn or affirmed before such officer or authority as may be prescribed and which shall state that the debtor is entitled to relief under section 4; and(A)in the case of a landless agricultural labourer or a rural artisan, as to the annual household income of such debtor; and(B)in the case of a small farmer, as to the extent of land held by him (whether as owner, tenant or mortgagee with possession) and that his principal means of livelihood is income derived from agricultural land.(ii)accompanied by a certificate from the prescribed authority,-(c)Every such application shall be made before the expiry of the period of [twelve months] from the 13th day of December 1979 (hereafter in this section referred to as the said date):Provided that the Tahsildar may, in his discretion, allow further time not exceeding one month for making any such application, if he is satisfied that the debtor had sufficient cause for not making the application in time, but no application shall be made after the expiry of [thirteen months] [Substituted for the words 'seven

months' by section 3(1)(i)(6) of the Tamil Nadu Pawnbrokers and Debt Relief Law (Amendment) Act, 1980 (Tamil Nadu Act 35 of 1980), which was deemed to have come into force on the 13th June 1980.] from the said date.(3)(a)On receipt of an application under sub-section (2-A), the Tahsildar, after giving a reasonable opportunity to the creditor concerned and the debtor to make their representations and if he is satisfied,-(i)that the debtor is entitled to relief under section 4, shall pass an order for the return of the movable property pledged by the debtor and direct the creditor to produce on or before the date specified in the order, the movable property pledged by such debtor with the creditor; or(ii)that the debtor is not entitled to relief under section 4, shall pass an order dismissing the application:Provided that the Tahsildar may, if he deems fit, hold a summary enquiry before passing an order under this sub-section.(b)An order under clause (a) shall be communicated to the creditor concerned and the debtor within such period as may be prescribed.](3-A) (a) The Tahsildar shall, as soon as may be, after the expiry of [thirteen months] [Substituted for the words 'seven months' by section 3(1)(ii) of the Tamil Nadu Pawnbrokers and Debt Relief Laws (Amendment) Act, 1980 (Tamil Nadu Act 35 of 1980), which was deemed to have come into force on the 13th June 1980] from the said date, publish in such form and in such maimer as may be prescribed a list of debtors who have made applications under sub-section (2-A).(b)Upon publication under clause (a) of the list of debtors, it shall be lawful for the creditors to dispose of in accordance with the provisions of the Tamil Nadu Pawnbrokers Act, 1943 (Tamil Nadu Act XXIII of 1943) or any other law for the time being in force relating to the sale of pledged articles, the movable properties pledged with the creditors by persons other than those whose names are published in the list referred to in clause (a).(c)Where the Tahsildar has passed an order under sub-section (3) dismissing any application, the creditor may, subject to the provisions of sub-section (3) of section 8, dispose of in accordance with the provisions of the Tamil Nadu Pawnbrokers Act, 1943 (Tamil Nadu Act XXIII of 1943) or any other law for the time being in force relating to the sale of pledged articles, the movable property for the return of which the said application was made.(d)Where any debtor referred to in clause (e) of section 4, has not made any application in accordance with the provisions of, and within the time specified in, sub-section (2-A), then, such debtor shall not be entitled to relief under this Act.(4)Where the movable property pledged by the debtor is in the possession of any transferee of the creditor, the creditor shall redeem the said property from such transferee and produce it on or before the date specified in the order referred to in sub-section (3).(5)If the creditor fails to produce the movable property as directed in the order under sub-section (3)-(a)[the Tahsildar may, with the previous approval in writing of the Revenue Divisional Officer concerned, enter any premises] [Substituted for the words 'the Tahsildar may enter any premises' by section 4(1) of the Tamil Nadu Debt Relief (Amendment) Act, 1979 (Tamil Nadu Act 39 of 1979), which was deemed to have come into force on the 29th July 1976.] of the creditor or of the transferee of the creditor [other than an institution referred to in clause (g) of section 13] and search and seize the said property; and(b)where the movable property is in the possession of any of the institutions referred to in clause (g) of section 13, the Tahsildar shall,-(i)by an order, direct the said institution to deposit, on or before the date specified in the order, the movable property with the Tahsildar together with a statement specifying the amount due: to the said institution in respect of the said property and simultaneously issue a certificate to the said institution to the effect that the amount due to the said institution in respect of the said property shall be recovered from the creditor as if it were an arrear of land revenue and paid to the said institution; and(ii)on the said institution depositing the said property with the Tahsildar,

acknowledge in writing the receipt of the movable property and proceed to recover from the creditor such amount as is due to the said institution in respect of the said property as if it were an arrear of land revenue, and on such recovery pay the same to the said institution.(6)After such production or recovery or deposit of the movable property pledged, the Tahsildar shall deliver the said property to the debtor.(7)Pending [the passing of an order under sub-section (3) in respect of an application made under sub-section (2-A)] [Substituted for the expression 'determination of the question under sub-section (3)' by section 2(3) of the Tamil Nadu Debt Relief (Amendment) Act, 1980 (Tamil Nadu Act 5 of 1980), which was deemed to have come into force on the 13th December 1979.], no creditor or the transferee of the creditor shall sell or pledge or otherwise dispose of any movable property pledged by the debtor.(8)Notwithstanding anything contained in sub-section (5) or in the Tamil Nadu Pawnbrokers Act, 1943 (Tamil Nadu Act XXIII of 1943), the Tahsildar-(a)[may, with the previous approval in writing of the Revenue Divisional Officer concerned, enter any premises] [Substituted for the words 'may enter any premises' by section 4 (2) of the Tamil Nadu Debt Relief (Amendment) Act, 1979 (Tamil Nadu Act 39 of 1979), which was deemed to have come into force on the 29th July 1976] of the creditor or of the transferee of the 'creditor [other than an institution referred to in clause (g) of section 13] and search and seize the movable properties pledged by debtors and arrange for their safe custody;(b)shall proceed to determine which of the movable properties so seized are to be released to the debtors and pass orders accordingly.[(8-A) The Revenue Divisional Officer shall not give his approval under sub-section (5) and sub-section (8) unless he is of opinion that there is sufficient cause for effecting search and seizure.] [Inserted by section 4(3) of the Tamil Nadu Debt Relief (Amendment) Act, 1979 (Tamil Nadu Act 39 of 1979), which was deemed to have come into force on the 29th July 1976](9)The provisions of sections 100 and 165 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), relating to search and seizure shall, so far as may be, apply to searches and seizures under sub-sections (5) and (8).

**5A. [ Ban on the sale of movable properties pledged by debtors. [Inserted by section 3(2) of the Tamil Nadu Pawnbrokers and Debt Relief Laws (Amendment) Act, 1980 (Tamil Nadu Act 35 of 1980)]**

- Notwithstanding anything contained in this Act or in any other law for the time being in force relating to the sale of pledged articles, where any debtor has pledged any movable property with the creditor, the creditor or the transferee of the creditor shall not sell or otherwise dispose of, in any manner whatsoever, any such movable property during the period up to and, inclusive of the date of publication of the list of debtors under clause (a) of sub-section (3-A) of section 5 and, in the case of debtors whose names are so published in the said list, the creditor or the transferee of the creditor shall not sell or otherwise dispose of, in any manner whatsoever, the movable properties pledged by such debtors until final orders (including orders on appeal) are passed on the applications made by them.] [[These sub-sections were substituted for the following sub-section (3) by section 2(2), of the Tamil Nadu Debt Relief (Amendment) Act, 1980 (Tamil Nadu Act 5 of 1980), which was deemed to have come into force on the 13th December 1979.-(3) On receipt of a statement under sub-section (1) or an application under sub-section (2), and after such inquiry conducted in the manner prescribed, the Tahsildar shall, by order, determine-(i)where a statement has been furnished by the creditor under sub-section (1), which of the persons who have pledged movable property with him are entitled to relief under section 4; and(ii)where an application has been made by the debtor under

sub-section (2), whether the debtor is entitled to relief under section 4, and direct the creditor to produce on or before the date specified in the order the movable properly pledged by such persons or debtor.]]

## 6. Debtors to apply in certain cases.

(1) A debtor referred to in clause (f) of section 4 may make an application to the Tahsildar having jurisdiction over the area within which such debtor ordinarily resides, for an order releasing the mortgaged property and for the grant of a certificate of redemption: [Provided that no application shall be made under this sub-section after the 13th day of December 1979 and every application for an order releasing the mortgaged property and for the grant of a certificate of redemption shall be made in accordance with, and within the time specified in, sub-section (1-A)]. [Added by section 3(1) of the Tamil Nadu Debt Relief (Amendment) Act, 1980 (Tamil Nadu Act 5 of 1980) which was deemed to have come into force on the 13th December 1979.]] (1-A) (a) Every debtor referred to in clause (f) of section 4 shall, notwithstanding anything contained in sub-section (1), make an application in such form and containing such particulars as may be prescribed to the Tahsildar having jurisdiction over the area within which such debtor ordinarily resides. (b) Every such application shall be, - (i) supported by an affidavit, which shall be in such form and be sworn or affirmed before such officer or authority as may be prescribed and which shall state that the debtor is entitled to relief under section 4; and (A) in the case of a landless agricultural labourer or a rural artisan, as to the annual house-hold income of such debtor; and (B) in the case of a small farmer, as to the extent of land held by him (whether as owner, tenant or mortgagee with possession) and that his principal means of livelihood is income derived from agricultural land. (ii) accompanied by a certificate from the prescribed authority, - (c) Every such application shall be made before the expiry of the period of [twelve months] from the 13th day of December 1979 (hereafter in this section referred to as the said date): Provided that the Tahsildar may, in his discretion, allow further time not exceeding one month for making any such application, if he is satisfied that the debtor had sufficient cause for not making the application in time, but no application shall be made after the expiry of [thirteen months] [Substituted for the words 'seven months' by section 3(3)(i)(b) of the Tamil Nadu Pawnbrokers and Debt Relief laws (Amendment) Act, 1980 (Tamil Nadu Act 35 of 1980), which was deemed to have come into force on the 13th June 1980.] from the said date. (2) [(a) On receipt of an application under sub-section (1-A), the Tahsildar, after giving a reasonable opportunity to the creditor concerned and the debtor to make their representations and if he is satisfied - (i) that the debtor is entitled to relief under section 4, shall pass an order releasing the mortgaged property' and grant a certificate of redemption in the prescribed form which shall be admissible as evidence of such redemption in any proceeding before any Court or other authority; or (ii) that the debtor is not entitled to relief under section 4, shall pass an order dismissing the application: Provided that the Tahsildar may, if he deems fit, hold a summary enquiry before passing an order under this clause.] [[Substituted for the following clause (2) by section 3(3) of the Tamil Nadu Debt Relief (Amendment) Act, 1980 (Tamil Nadu Act 5 of 1980), which was deemed to have come into force on the 13th December 1979: - '(a) On receipt of such application and after such enquiry conducted in the manner prescribed, the Tahsildar shall pass an order releasing the mortgaged property and grant a certificate of redemption in the prescribed form which shall be admissible as evidence of such redemption in any proceeding before any court or other



authority;]]An order under this clause shall be communicated to the creditor concerned and the debtor within such period as may be prescribed.] [This sub-section was inserted by section 3 (2) of the Tamil Nadu Debt Relief (Amendment) Act, 1980 (Tamil Nadu Act 5 of 1980) which was deemed to have come into force on the 13th December 1979.](b)The Tahsildar shall also direct the creditor or the transferee of the creditor-(i)to deliver possession of the mortgaged property to the debtor on or before the date specified in the order, if the debtor is not already in possession of the mortgaged property; and(ii)to produce on or before the date specified in the order, the mortgage deed or other document and the Tahsildar shall make an endorsement of redemption on the mortgage deed or other document.[(2-A) (a) The Tahsildar shall, as soon as may be after the expiry of [thirteen months] [Inserted by section 3(4) of the Tamil Nadu Debt Relief (Amendment) Act, 1980 (Tamil Nadu Act 5 of 1960), which was deemed to have come into force on the 13th December 1979] from the said date, publish in such form and in such manner as may be prescribed a list of debtors who have made applications under sub-section (1-A).](b)Where any debtor referred to in clause (f) of section 4 has not made any application in accordance with the provisions of, and within the time specified in, sub-section (1-A), then, such debtor shall not be entitled to relief under this Act.(3)Pending orders under sub-section (2), no creditor or the transferee of the creditor shall transfer or otherwise assign his interest in, or exercise his right of foreclosure in respect of, the property mortgaged by the debtor.(4)Where the mortgaged property has been transferred or any right therein has been assigned to any of the institutions referred to in clause (g) of section 13 by the creditor, the Tahsildar shall recover from the creditor such amount as is due to such institution in respect of the said mortgaged property, as if it were an arrear of land revenue, and shall pay the same to the said institution.

## **7. Finality of orders passed under this Act.**

- Every order of the Tahsildar under section 5 or section 6 shall, subject to appeal under section 8, be final and shall not be called in question in any Court.

## **8. Appeal.**

(1)Any person aggrieved by an order made by the Tahsildar under this Act may, within such period and in such manner as may be prescribed, appeal to such authority as may be specified by the State Government in this behalf.(2)In deciding the appeal, the authority specified under sub-section (1) shall follow such procedure as may be prescribed and the decision of such authority on such appeal shall be final and shall not be called in question in any Court.(3)[ Pending disposal of an appeal under this section in respect of an order made by the Tahsildar,-(a)under section 5, any movable property pledged by any debtor who is a party to such appeal, shall not be either returned or disposed of under this Act; and(b)under section 6,-(i)the Tahsildar shall not order the release of the mortgaged property or grant a certificate of redemption; and(ii)the creditor or the transferee of the creditor shall not transfer, or otherwise assign his interest in, or exercise his right of foreclosure in respect of, the property mortgaged by the debtor.]

## **9. Legal practitioner not to appear.**

- No party to any proceeding under this Act shall be entitled to be represented by a legal practitioner. Explanation. - In this section, "legal practitioner" shall have the meaning assigned to it in section 2 of the Advocates Act, 1961 (Central Act 25 of 1961).

## **10. Penalty.**

(1) Any person failing to furnish the statement under section 5 or to comply with the order made or direction given under section 5 or section 6 [or filing false affidavit under section 5 or section 6] [Inserted by section 5 of the Tamil Nadu Debt Relief (Amendment) Act, 1980 (Tamil Nadu Act 5 of 1980), which was deemed to have come into force on the 13th December 1979] or otherwise, contravening the provisions of either of the said sections shall be liable to imprisonment for a term which shall not be less than three months but which may extend to one year and with fine which shall not be less than one thousand rupees but which may extend to five thousand rupees. (2) Every offence punishable under sub-section (1) shall be cognizable. (3) Every offence punishable under sub-section (1) shall be tried in a summary way and the provisions of sections 262 to 265 (both inclusive) of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), shall, as far as may be, apply to such trial.

## **11. Offences by companies.**

(1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence. (2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary, or other officer of the company, such director, manager, secretary or other officer of the company, shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. Explanation. - For the purpose of this section, - (a) "company" means any body corporate and includes a firm or other association of individuals; and (b) "director", in relation to a firm, means a partner in the firm.

## **12.**

[Omitted by Tamil Nadu Act 5 of 1980, which was deemed to have come into force on the 13th December 1979.]

### 13. Certain debts and liabilities not to be affected.

- Nothing in this Act shall apply to the following categories of debts and liabilities of landless agricultural labourers, rural artisans and small farmers, namely:-(a)any rent due in respect of any property including agricultural land let out to a debtor;(b)any amount recoverable as arrears of land revenue;(c)any liability arising out of breach of trust or any tortious liability;(d)any liability in respect of wages or remuneration due as salary or otherwise for services rendered;(e)any liability in respect of maintenance whether under a decree of a Court or otherwise;(f)a debt due to-(i)the Central Government or any State Government;(ii)any local authority;(g)save as otherwise provided in this Act, any liability in respect of any sum due to-(i(A) any banking Company to which the Banking Regulation Act, 1949 (Central Act 10 of 1949) applies;(B)the State Bank of India constituted under the State Bank of India Act, 1955 (Central Act 23 of 1955);(C)any subsidiary bank as defined in clause (k) of section 2 of the State Bank of India (Subsidiary Banks) Act, 1959 (Central Act 38 of 1959);(D)any corresponding new bank as defined in clause (d) of section 2 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970;(E)the Agricultural Refinance and Development Corporation established under the Agricultural Refinance and Development Corporation Act, 1963;(F)any other financial institution notified in this behalf by the State Government in Tamil Nadu Government Gazette;(ii)any Government company within the meaning of the Companies Act, 1956 (Central Act 1 of 1956);[(ii-a) any company which is declared to be a Nidhi or Mutual Benefit Society under sub-section (1) of section 620-A of the Companies Act, 1956 (Central Act 1 of 1956);] [Inserted and was deemed always to have been inserted by section 4 of the Tamil Nadu Debt Relief Laws (Second Amendment) Act, 1978 (Tamil Nadu Act 27 of 1978)](iii)any corporation owned or controlled by the Central Government or any State Government;(iv)the Life Insurance Corporation of India;(v)any co-operative society including a land development bank, registered or deemed to be registered under the Tamil Nadu Co-operative Societies Act, 1961;[xxx] [The word 'and' was omitted and was deemed always to have been omitted by section 4(a) of the Tamil Nadu Debt Relief Laws Amendment) Act, 1976 (President's Act 46 of 1976).](h)any debt which represents the price of property whether movable or immovable purchased by a debtor or any amount due under a hire purchase agreement.(z)[ any liability' incurred or arising under any chit, the bye-laws of which have been registered under the [Tamil Nadu Chit Funds Act, 1961 (Tamil Nadu Act 24 of 1961)] [Inserted and was deemed always to have been inserted by section 4(b) of the Tamil Nadu Debt Relief Laws Amendment) Act, 1976 (President's Act 46 of 1976)]]

### 14. Power to make rules.

(1)The State Government may make rules to carry out the purposes of this Act.(2)All rules made under this Act shall be published in the Tamil Nadu Government Gazette, and unless they are expressed to come into force on a particular day, shall come into force on the day on which they are so published.(3)Every rule made under this Act shall, as soon as possible, after it is made, be placed on the Table of the Legislative Assembly and if, before the expiry of the session in which it is so placed or the next session, the Legislative Assembly agrees in making any modification in any such rule or the Legislative Assembly agrees that the rule should not be made, the rule shall, thereafter, have effect only in such modified form or be of no effect, as the case may' be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously

done under that rule.

## **15. Effect of other laws.**

- Save as otherwise provided in this Act, the provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force.[Added by section 4 of the Tamil Nadu Debt Relief (Amendment) Act, 1980 (Tamil Nadu Act 5 of 1980), which was deemed to have come into force on the 13th December 1979.]