

The Rehabilitation Finance Administration Act, 1948

UNION OF INDIA

India

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Act 12 of 1948

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An Act to establish the Rehabilitation Finance Administration. WHEREAS it is expedient to establish a Rehabilitation Finance Administration for the purpose of giving financial assistance on reasonable terms to displaced persons to enable them to settle in business or industry; It is hereby enacted as follows: -

1. Short title, extent and commencement.-

(1) This Act may be called the Rehabilitation Finance Administration Act, 1948. (2) It extends to the whole of India except the State of Jammu and Kashmir [Vide Notification No. S.O. 3912 (E), dated 30th October, 2019, this Act is made applicable to the Union territory of Jammu and Kashmir and the Union territory of Ladakh]; [Subs. by Act 1 of 1950, s. 2, for sub-section (2) (w.e.f. 18-2-1950)]. (3) It shall come into force on such date [1st June, 1948, see Gazette of India, 1948, Extraordinary] as the Central Government may, by notification in the Official Gazette, appoint in this behalf.

2. Definitions.-

In this Act, unless there is anything repugnant in the subject or context, - (a) "Act" means the Rehabilitation Finance Administration Act, 1948; (b) "Administration" means the Rehabilitation Finance Administration constituted under this Act; (c) "borrower" means an individual, company, association or body of individuals, whether incorporated or not, to whom a loan has been advanced under this Act; (d) "displaced person" means - (i) a person who, being displaced from any area [now forming part of Pakistan] on account of civil disturbances or fear of such disturbances, has settled and is engaged or intends to engage in any business or industry in India, or (ii) a person in India who, having had his business, industry or property, wholly or partially [in any area now forming part of Pakistan; Subs. by Act 1 of 1950, s. 3, for "outside India"], has lost, wholly or partially, such business, industry, or property on account of civil disturbances or the fear of such disturbances, and who is engaged, or intends to engage in any business or industry in India; (e) "loan" means a sum of money

advanced by the Administration-(i)to a displaced person for the purpose of any business or industry in which he is engaged or intends to engage himself, or(ii)in respect of any business or industry, a substantial portion of which is owned by displaced persons; and [Subs. by s.3, ibid., for clause (e)](f)"prescribed" means prescribed by rules made under section 23 or regulations made under section 24.

3. Establishment and incorporation.-

(1)The Central Government shall constitute a Corporation called the Rehabilitation Finance Administration for giving financial assistance on reasonable terms to displaced persons to enable them to settle in business and industry [or to any business or industry, a substantial portion of which is owned by displaced persons;Added by Act 1 of 1950, s. 4].(2)The Corporation shall be a body corporate by the name of the Rehabilitation Finance Administration having perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire, hold and transfer property, both movable and immovable, and shall by the said name sue and be sued.(3)The administration shall have its head office at Delhi and may, with the previous approval of the Central Government, open branches at such places in India as it may consider necessary to discharge effectively its functions under this Act.

4. Constitution of the Administration.-

(1)The Administration shall consist of the following members, namely:-(a)a Chairman to be appointed by the Central Government who shall be called the Chief Administrator;(b)1[four] officials appointed by the Central Government; and(c)[four;Subs. by Act 1 of 1950, s. 5, for "three"] non-officials nominated by the Central Government. (2) No act done by the Administration shall be called in question on the ground merely of the existence of any vacancy or any defect in the constitution of the Administration.

5. Advisory Board.-

(1)The Central Government shall constitute an Advisory Board to advise the Administration on matters of policy and may where necessary constitute a Regional Committee to advice each branch of the Administration.(2)The Advisory Board shall consist of such members, not exceeding fifteen in number, as may be nominated by the Central Government.

6. Terms of office of the members of the Administration and the Advisory Board.-

(1)A member appointed under clauses (a) and (b) of sub-section (1) of section 4 shall hold office during the pleasure of the Central Government.(2)A member nominated under clause (c) of sub-section (1) of section 4 or sub-section (2) of section 5 shall hold office for a term of two years from the date of his nomination and shall be eligible for re-nomination.(3)A nominated member may resign his membership by writing under his hand addressed to the Central Government and he

shall thereupon cease to be a member.(4)A casual vacancy created by resignation under sub-section (3) or by any other reason shall be filled by fresh nomination and the person nominated to fill the vacancy shall hold office only for the remainder of the term for which the member whose place he takes was nominated.

7. Disclosure of interest.-

(1)No member of the Administration shall have any interest, direct or indirect, in any business, industry or concern to which any assistance under section 12 has been given or is to be given and if any such member acquires such interest at any time during the continuance of such assistance, he shall immediately disclose it to the Administration and shall either resign his membership or disclose of his interest in such manner and within such time as he may be directed by it.(2)Any member of the Advisory Board who has any interest, director indirect, in any business, industry or concern to which any assistance under section 12 has been given or is to be given or acquires such interest at any time during the continuance of such assistance shall immediately disclose it to the Administration and shall not participate in the proceedings of the Advisory Board relating to such assistance.

8. Removal from membership.-

Notwithstanding anything contained in section 6, the Central Government may, for any reason which may appear to it to be sufficient, remove any member at anytime from the Administration or the Advisory Board.

9. The Chief Administrator.-

The Chief Administrator shall be a whole time servant of the Administration and shall receive such salaries and allowances and shall be subject to such terms and conditions as may be determined by the Central Government.

10. Staff.-

The Administration may, in the manner prescribed [The words “and with the prior sanction of the Central Government” omitted by Act 1 of 1950, s. 6.* * *],-(a)appoint a Deputy Chief Administrator and such other officers and servants as may be required to enable it to carry out the functions under this Act;(b)fix the salary and allowances or other conditions of service of the Deputy Chief Administrator, other officers and servants;(c)fix the remuneration and allowances payable to the members of the Administration and of the Advisory Board:[Provided that the appointment and the fixation of the salary, allowances and other conditions of service of the Deputy Chief Administrator and such other officers as may be prescribed by the Central Government, shall be subject to the previous sanction of that Government;Added by s. 6, ibid].

11. Funds of the Administration.-

(1)The Central Government may from time to time advance money to the Administration for its business, the aggregate amount of which, -(a)for the purpose of enabling the Administration to advance loans, shall not, save as hereinafter provided, exceed twelve crores and fifty lakhs of rupees; and(b)for the purpose of enabling the Administration to meet any liability which it may incur in guaranteeing losses in respect of loans advanced by scheduled banks, shall not exceed two crores of rupees: Provided that if, after the lapse of such period from the commencement of this Act as the Central Government may think fit to fix in this behalf, any sum of money earmarked for the purpose specified in clause (b) is found not to have been actually advanced for that purpose and is not, in the opinion of the Central Government, likely to be required for the said purpose, the Central Government may utilize the money for making advances from time to time to the Administration for the purposes specified in clause (a), and when any such advance is made, the limit specified in clause (a) shall be deemed to have been correspondingly increased [Subs. by Act 36 of 1953, s. 2, for sub-section (1)].(2)[Subject to any regulations that may be made in this behalf, all moneys belonging to the Administration which are not immediately required by the Administration for any purpose;Subs. by Act 1 of 1950, s. 7, for “All moneys belonging to the Administration”] shall be deposited in the Reserve Bank of India or any agents thereof or invested in such securities as may be approved by the Central Government.(3)The Administration shall pay interest on the money so advanced at the rate of 3 per cent. per annum to the Central Government.

12. Business of the Administration.-

The Administration may-(a)subject to the provisions of section 13, advance loans;(b)guarantee, on such terms and conditions as may be agreed upon, losses which a scheduled bank may suffer in respect of any loan advanced by it and approved by the Administration: Provided that the total amount which may be guaranteed in respect of any scheduled bank and the terms and conditions on which such guarantee may be given shall be subject to the prior approval of the Central Government: Provided further that the maximum liability of the Administration under such guarantee shall not exceed the amount for the time being available under clause (b) of sub-section (1) of section 11;(c)do all such acts and things as may be incidental to or consequential upon the performance of its functions under this Act including the running of the Administration.[Subs. by Act 36 of 1953, s. 3, for section 12;]

13. Loans.-

(1)The Central Government may prescribe the limits as to amounts within which loans may be advanced by the Administration.(2)For the purpose of advancing any loan under sub-section (1), the Administration may call for any report either through its own staff, or through the District Officer of the district in which the borrower resides or carries on business, or through any State [The words “or a State” omitted by Act 36 of 1957, s. 3 and the Second Schedule* * *] Government, or through any bank of any other appropriate agency. (3) The Administration shall charge interest from the borrower at such rate not exceeding 6 per cent. per annum as may be specified by it.(4)The period of the loan shall not exceed [fifteen;Subs. by Act 36 of 1953, s. 4, for “ten”] years.(5)The loan may be

advanced either for fixed capital or working capital or for both. The assets created from the loan shall, notwithstanding any law or usage to the contrary, be deemed to be mortgaged to the Administration for the repayment of the loan together with the interest thereon and the amount of the loan and the interest thereon shall be first charge on such assets.(6)The Administration may also take such further security for any loan as it may consider necessary.

14. Power to call for repayment before agreed period.-

Notwithstanding any agreement to the contrary, the Administration may, by notice, require any borrower forthwith to repay in full with interest thereon any loan borrowed from it,-(a)if it appears to the Administration that false or misleading information in any material particular was given by the borrower for obtaining the loan or while furnishing any information under section 17; or(b)if the borrower has failed to comply with the terms of the contract with the Administration in the matter of the loan; or(c)if there is a reasonable apprehension that the borrower is unable to pay his debts or that insolvency proceedings or proceedings for liquidation may be commenced against him; or(d)if for any other reason it is necessary in the opinion of the Administration to protect the interests of the Administration.

15. Mode of recovery.-

If the amount of loan or any instalment thereof or interest thereon which is due, in accordance with the terms of the contract or under the provisions of section 14, has not been repaid, the Administration may,-(a)without prejudice to any other remedy provided by law, recover such loan, instalment or interest as arrears of land revenue, or(b)take charge of the business or industry of the borrower on such terms and conditions as it may deem fit.

16. [Accounts and audit.-

(1)The Administration shall maintain proper accounts and other relevant records and prepare an annual statement of accounts including the profit and loss account and the balance-sheet in such form as may be prescribed by the Central Government in consultation with the Company and Auditor-General of India.(2)The accounts of the Administration shall be audited annually by the Comptroller and Auditor General of India and any expenditure incurred by him in connection with such audit shall be payable by the Administration to the Comptroller and Auditor-General of India.(3)The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of the Administration shall have the same rights, privileges and authority in connection with such audit as the Comptroller and Auditor-General of India has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Administration.(4)The accounts of the Administration as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before both Houses of Parliament; Subs. by s. 5, ibid., for section 16].

17. Power of inspection.-

(1)The Chief Administrator or any other Officer authorised by him in writing in this behalf may, by order, require any borrower to furnish such information or to produce such books of accounts and other documents for inspection at such time and place as may be specified in the order and the borrower shall comply with such order.(2)The Chief Administrator or such officer may inspect such books of account or documents produced and take extracts therefrom.(3)The Chief Administrator or the officer making the inspection or any person working under his order shall not communicate or allow to be communicated to any person not legally entitled thereto any information relating to the affairs of the borrower.(4)If any person contravenes the provisions of sub-section (1) or sub-section (3) he shall be punishable with imprisonment which may extend to six months or with fine which may extend to five thousand rupees or with both.

18. Returns.-

(1)The Administration shall furnish to the Central Government a half-yearly report together with accounts and such other information within such time and in such manner as may be specified by the Central Government.(2)The report shall be laid before [Parliament;Subs. by A. O. 1950, for “the Central Legislature”] as soon as may be after it is prepared.

19. Power of Central Government to give direction.-

For the purposes of this Act, the Central Government may, from time to time, give to the Administration such general or special directions as it thinks fit, and the Administration shall, in the exercise of its functions under this Act, comply with any such directions.

20. Exemption from taxes.-

Notwithstanding anything contained in the Indian Income-tax Act, 1922 (11 of 1922)[See now the Income-tax Act, 1961 (43 of 1961)], or in any other enactment for the time being in force relating to income-tax, super-tax or business profits tax, the Administration shall not be liable to pay any income-tax, super-tax or business profits tax or any incomes, profits or gains.

21. Liquidation of the Administration.-

(1)No provision of law relating to insolvency or to the winding up of companies or corporation shall apply to the Administration and the Administration shall not be placed in liquidation save by the order of the Central Government and in such manner as it may direct.(2)In the event of the Administration being placed in liquidation, the assets of the Administration, after meeting the liabilities, if any, shall vest in the Central Government and the Central Government shall thereupon have all the powers of the Administration in recovering the loans remaining unpaid.

22. Delegation.-

The Administration may, by notification in the Official Gazette, direct that any power or duty which under any of the provisions of this Act is conferred or imposed upon the Administration shall, in such circumstances and under such conditions, if any, as may be specified in the direction, be exercised or discharged by the Chief Administrator, Deputy Chief Administrator or any other person subordinate to the Administration.

23. Power to make rules.-

The Central Government may, by notification in the Official Gazette, make rules for the purpose of giving effect to the provisions of this Act.

24. Power to make regulations.-

(1)The Administration may, with the previous sanction of the Central Government, make regulations, not inconsistent with this Act or the rules made there under, to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Act.(2)In particular and without prejudice to the generality of the foregoing power such regulation may provide for-(a)the conditions on which a person may be recognised as a displaced person,(b)the manner and the time of the general meeting of the Administration, or Advisory Board or Regional Committee and the procedure to be followed thereat and the manner in which right of voting be exercised,(c)the terms on which the Administration may grant loans,(d)forms of returns and statements required under this Act,(e)the duties and conduct, salaries, allowances and conditions of service of officers, servants and agents of the Administration,(f)manner and form of application for loans and contracts,(g)manner in which accounts of the Administration shall be kept and audited,(h)the manner in which and the conditions under which the business or industry of a person to whom a loan has been advanced may be taken charge of and administered under section 15,(i)any other matter which has to be or may be specified under this Act.(3)All regulations made under this section shall be published in the Official Gazette and shall come into force on such date as may be specified therein.

25. Laying of rules and regulations before Parliament.-

Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation 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 or regulation.[Ins by Act 4 of 1986, s. 2 and the Schedule (w.e.f. 15-5-1986)]

1. Ins by Act 4 of 1986, s. 2 and the Schedule (w.e.f. 15-5-1986).