

The Agriculturists Relief Act, 1983 (1926 A. D.)

JAMMU & KASHMIR

India

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Act 1 of 1983

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The Agriculturists Relief Act, 1983 (1926 A. D.) Act No. 1 of 1983 [Sanctioned by His Highness the Maharaja Bahadur in Council under State Council Resolution No. 96 dated 5th July, 1926, and published in Government Gazette dated 4th Sawan, 1983.] An Act for the Relief of indebted Agriculturists. Preamble. - Whereas it is expedient to relieve the agricultural classes from indebtedness ; It is hereby enacted :-

Chapter I Preliminary

1. Short title.

(a) This Act may be called the Agriculturists' Relief Act, 1983. (b) Commencement. - It shall come into force on and from the fifteenth day of Sawan, 1983. (c) [Extent. - It extends to the Provinces of Jammu and Kashmir only in the first instance but [the Government] [Section 1 (c) and 2 (1) substituted by Notification No. 17-L/83 published in the Government Gazette dated 21st Maghar, 1983.] may, by notification, extend all or any of the provisions of this Act to any [other local area within the State] [Extended to Frontier Districts by Notification No. 5-L/1993 published in the Government Gazette dated 15th Phagon, 1993.], and may also by notification, exempt any local area, or class of persons, suits or transactions from all or any of the provisions of this Act."]

2. Definitions.

- In this Act unless there is something repugnant in the subject or context, -(1) ["agriculturist" means a person who, by himself or by his servants or by his tenants, earns his livelihood wholly or principally by agriculture, or by horticultural or pastoral pursuits, carried on within the limits of the State (including Illaqa of Poonch and Jagir of Chenani) or who, within such limits, ordinarily engages personally in agricultural labour or such pursuits; and includes a Lohar, a Tarkhan, and a

Kumhar who, within such limits, is wholly or principally dependent on a share of the agricultural produce given to him on account of his Services to agriculturists, in his capacity of a Lohar, Tarkhan or Kumhar ; [Section 2 (1) and 2 (1) substituted by Notification No. 17-L/83 published in the Government Gazette dated 21st Maghar, 1983.]Explanation. - (a) An "agriculturist" who without any intention of changing his status as such, temporarily ceases to earn his livelihood by such labour or pursuits, or who is prevented from so earning his livelihood or so engaging in such labour or pursuits by age or by bodily infirmity or by necessary absence due to service in the non-commissioned ranks of [x x x] Indian Army [x x x] [Words 'or of His Highness Army' omitted by Act No. X of 2010.] or due to service in a Civil Department under the Government or the Government of India when emoluments of such service do not exceed twenty-five rupees per mensem, does not hereby cease to be an "agriculturist" within this definition ;(b)an assignees of Government assessment or a mortgagee is not as such an agriculturist within this definition.](2)"the Court", when used with reference to any suit or proceeding, means the Court competent under this Act to hear such suit on proceeding ;(3)["money" includes cash, agricultural, horticultural or pastoral produce, livestock and articles made from such produce or livestock by the agriculturist or his family and also the implements of his avocation ;] [Section 2 (3) substituted by Notification No. 17-L/83 published in the Government Gazette dated 21st Maghar, 1983.](4)"notification" means a notification published in the Jammu and Kashmir Government Gazette; and(5)all other expressions used out not defined in this Act shall, if defined in the Land [Jammu and Kashmir Land Revenue Regulation, 1980, or the Jammu and Kashmir Tenancy Act, 1980,] [Revenue Act No. XII of 1996.] have the-meanings respectively assigned to such expressions in tho said Regulation or Act.

Chapter II

Scope of the Act and Jurisdiction Of Courts

3. Application of Act to certain suits.

- Except as may hereinafter be otherwise provided, the provisions of this Act apply to-(a)suits for an account instituted by an agriculturist under the provisions hereinafter contained ; and(b)suits, in which the defendant, or any one of the defendants, is an agriculturist, for the recovery of money alleged to be due to the plaintiff;on account of money lent or advanced to, or paid for, the defendant, or as the price of goods sold, oron an account stated between the plaintiff and the defendant, oron a written or unwritten engagement for the payment of money not hereinbefore provided for.

4. Jurisdiction to hear certain suits.

(1)The Court of a Subordinate Judge shall have jurisdiction to hear, irrespective of the amount or value of the subject-matter, all suits to which this Act applies.(2)Save as otherwise provided in [sub-section (3)] [In section 4 (2) 'sub-section (3)' substituted for words 'this Regulation' by Notification No. 17-L/83.] and notwithstanding anything to the contrary in section 16 of the Jammu and Kashmir State Small Cause Courts Act, 1968, no Court exercising jurisdiction under the said Act and no Court inferior to the Court of a Subordinate Judge shall hear any such suit.(3)[The High Court of the Jammu and Kashmir State may, by notification, empower any Munsiff or Tehsildar to

hear all or any such suits the amount or value of the subject-matter of which does not exceed five hundred rupees, and may likewise subject to the aforesaid limit of five hundred rupees, determine the jurisdiction of the Munsiff or Tehsildar so empowered :] [Sub-section (3) substituted for proviso by Notification 17-L/83 as amended by Notification No. a-L/85 published in the Government Gazette dated 21st Maghar, 1983, and 8th Bhadon, 1985 respectively.][Provided that a suit referred to in section 10 shall be heard by a Subordinate Judge irrespective of the value thereof.] [Inserted by Act No. XVII of 1972, Section 2.]

5. [Appeals. [Substituted by Act No. XVII of 1972.]

- No appeal shall lie from any decree or order passed in a suit to which this Act applies when the value of the suit in which the decree or order has been passed does not exceed five hundred rupees and the decree or order is passed by a Subordinate Judge or when the value of such suit does not exceed one hundred rupees and the decree or order is passed by a Munsiff or Tehsildar empowered under sub-section (3) of section 4 :Provided that nothing herein contained shall apply to any order directing the arrest or detention in a civil prison of any person in execution of a decree.Explanation.
- In a suit referred to in section 10 the amount claimed by the dependant-creditor in his written statement shall be deemed to be the value of the suit and where no such claim is made, the amount at which the plaintiff-debtor values the suit.(2)One appeal and one only shall lie to the Subordinate Judge from a decree or order passed by the Munsiff or Tehsildar empowered under subsection (3) of section 4 in a suit to which this Act applies when the value of the suit in which the decree or order is passed exceeds one hundred rupees and from such decree or order passed by a Subordinate Judge to the District Judge when the value of the suit exceeds five hundred rupees but does not exceed two thousand and five hundred rupees and to the High Court in any other case.(3)Nothing herein contained shall affect section 24 of the Code of Civil Procedure.]

5A. [Superintendence of, appeals to and revision by, Special Judges. [Section 5-A added by Notification No. 8-L/84 published in Government Gazette dated 9th Bhadon, 1984.]

(1)["The Government may, from time to time, appoint a Special Judge or Judges for any local area to inspect, supervise and control in the place of the District Judge the proceedings of all Courts empowered under section 4 in any suit of the description mentioned in section 3 or any appeal under section 5, and may cancel any such appointment].(2)Any appeal which lies under section 5 to a Subordinate Judge or the District Court may be heard and determined by such Special Judge.(3)Such Special Judge may withdraw any such suit, appeal or proceeding pending before any Subordinate Judge, Munsiff or Tehsildar and may either transfer it to any other Court of equal or superior jurisdiction competent to determine it under this Act or may himself determine it in accordance with the provisions of this Act.(4)Such Special Judge may, for the purpose of satisfying himself of the legality or propriety of any decree or order passed by any Subordinate Judge, Munsif or Tehsildar in any such suit or any such appeal or as to the regularity of the proceedings therein, call for and examine the record of such suit, appeal or proceeding and pass such order thereon as he thinks fit :Provided that no decree or order shall be reversed or altered for any error or defect or

otherwise, unless a failure of justice appears to have taken place.(5)No appeal shall lie from any decree or order passed by such Special Judge under sub-sections (2), (3) or (4) but High Court may exercise its powers of revision under section 115 of the Code of Civil Procedure, 1977, with regard to any such decree or order."(6)Such Special Judge may refer to the High Court under section 113 of the Code of Civil Procedure, 1977, any question of law, or usage having the force of law, or the construction of a document arising in any case pending before him under sub-sections (2), (3) or (4) as if that case were a suit or an appeal pending before him; and in respect of every reference so made, the provisions of Order XLVI of said Code shall apply.(7)If any conflict of authority arises between the Special Judge and the District Judge, the High Court shall pass such order thereon consistent with this Act as it thinks fit.]

5B. [Limitation of Appeals. [Section 5-B inserted by Act No. XVII of 1972, Section 4.]

(1)The period of limitation for an appeal under section 5 shall run from the date of the decision appealed against and shall be as follows :-

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| (a) when the appeal lies to the Subordinate Judge | 60
days |
| (b) when the appeal lies to the District Judge, Special Judge or the High Court. | 90
days |

(2)In computing the period of limitation for an appeal under this section, the period requisite for obtaining copies of the decision appealed against, shall be excluded.]

6. Pending suits.

- The provisions of this Act apply also to all suits mentioned in section 3 which, though instituted before the date on which this Act comes into force, are pending in any Court of first instance on such date and, if such Court is not competent under section 4 to hear any such suit, such suit shall be transferred to and heard, in accordance with the provisions of this Act, by the Court competent to hear such suits under section 4.

Chapter III

Of Suits and Other Proceedings to Which Agriculturists are Parties

7.

[Omitted.] [Section 7 omitted by Notification 17-L/83 published in the Government Gazette dated 21st Maghar, 1983.]

8. History of transactions with agriculturist-debtors to be investigated.

- In any suit of the description mentioned in section 3, clause (b), in which the defendant, or anyone of the defendants, is an agriculturist, the Court if, the amount of the creditor's claim is disputed, shall examine both the plaintiff and the defendant as witnesses unless, for reasons to be recorded by it in writing, it deems it unnecessary so to do and shall enquire into the history and merits of the case, from the commencement of the transactions between the parties and the persons (if any) through whom they claim out of which the suit has arisen, first with a view to ascertaining whether there is any defence to the suit on the-ground of fraud, mistake, accident, undue influence or otherwise, and, secondly, with a view to taking an account between such parties in manner hereinafter provided. When the amount of the claim is admitted and the Court, for reasons to be recorded by it in writing, believes that such admission is true and is made by the debtor with a full knowledge of his legal rights as against the creditor, the Court shall not be bound so to enquire, but may do so if it thinks fit. In other cases in which the amount of the claim is admitted, the Court shall be bound to enquire as aforesaid. Nothing herein contained shall affect the right of the parties to require that any matter in difference between them be referred to arbitration.

9. Mode of taking accounts.

(1) When the Court enquires into the history and merits of a case under section 8, it shall, notwithstanding any agreement between the parties or the persons (if any) through whom they claim, as to allowing compound interest or otherwise determining the manner of taking the account, and notwithstanding any statement or settlement of account, or any contract purporting to close previous dealings and create a new obligation, open the account between the parties from the commencement of the transactions, and take that account according to the rules laid down in sub-section (2) : Provided that, in the exercise of the powers conferred by this and the last preceding section the Court shall not re-open any agreement or contract purporting to close previous dealings and create a new obligation which has been entered into by the parties or the persons (if any) through whom they claim, or go behind and beyond a statement or settlement of account which is of a date prior to the first day of Baisakh, 1978 : [Provided further that, nothing hereinbefore contained and nothing contained in section 10 shall be deemed to authorise the Court to re-open any agreement, contract or account when the account has been finally closed and settled between the parties' or the aforesaid persons leaving no subsisting liabilities between them.] [Inserted by Notification 17-L/83 published in the Government Gazette dated 21st Maghar, 1983.] (2) The Court shall take the account under sub-section (1) in accordance with the following rules, namely :- (a) [In the account of principal] [Inserted by Notification 17-L/83 published in the Government Gazette dated 21st Maghar, 1983.] there shall be debited to the debtor such money as may from time to time have been actually received by him or on his account from the creditor as part of the transactions, but not any accumulated interest which has been converted into principal at any statement or settlement of account or by any contract made in the course of the transactions: Provided that, the Court shall allow such debit, when such statement, settlement or contract is of a date prior to the first day of Baisakh, 1978. (b) [In the account of interest] [Inserted by Notification 17-L/83 published in the Government Gazette dated 21st Maghar, 1983.] there shall be debited to the debtor monthly simple interest [on the balance of the principal for the time being outstanding] [Substituted for

certain words by Notification 17-L/83 published in the Government Gazette dated 21st Maghar, 1983.] at the stipulated rate of interest for, in its absence, at the rate considered fair by the Court, not exceeding in either case twelve per centum per annum on such balance.[x x x x x x] [Proviso to clause (b) omitted by Notification 17-L/83 published in the Government Gazette dated 21st Maghar, 1983.](c)[All money paid by or on account of the debtor to the creditor or on his account, and all profits, service or other advantages of every description, received by the creditor in the course of the transactions (estimated, if necessary, at such money value, as the Court in its discretion, or with the aid of arbitrators appointed by it, may determine, [shall be credited first in the account of interest, and when any payment is more than sufficient to discharge the balance of interest due at the time it is made, the residue of such payment shall be credited to the debtor in the account of principal.] [Original clause (c) re-lettered as (d) by Notification 17-L/83 published in the Government Gazette dated 21st Maghar, 1983.](d)[The accounts of principal and interest] [Substituted for certain words by Notification 17-L/83 published in the Government Gazette dated 21st Maghar, 1983.] shall be made up to the date of instituting the suit and the [aggregate of the balances] [Substituted for 'balance' by Notification 17-L/83 published in the Government Gazette dated 21st Maghar, 1983.] (if any) appearing due [on both such accounts on that date] [Substituted for certain words by Notification 17-L/83 published in the Government Gazette dated 21st Maghar, 1983.] shall be deemed to be the amount due at that date; [except when the balance appearing due on the interest-account exceeds one-half of that appearing due on the principal account, in which case the latter balance plus one-half thereof shall be deemed to be the amount then due.] [Inserted by Notification 17-L/83 published in the Government Gazette dated 21st Maghar, 1983.] The party from whom this amount is thus found due shall be bound to repay it, whether such party is a plaintiff or a defendant in the suit, and the Court shall by its decree declare and direct accordingly.(e)For the purposes of clauses (a) and [(c)] [Substituted for '(b)' by Notification 17-L/83 published in the Government Gazette dated 21st Maghar, 1983.] the value of the produce for which a record of prices is kept in the local Tehsil office shall be debited or credited, as the case may be, at such rates for the month during which such produce was sold, advanced supplied or received.

10. Agriculturist-debtors may sue for accounts.

- Any agriculturist may sue for an account of money lent or advanced to or paid for him by a creditor, or due by him to the creditor as the price for goods sold, or on a written or unwritten engagement for the payment of money and of money paid by him to the creditor, and for a decree declaring the amount, if any, still payable by or to him to or by the creditor. Amount of debts in such cases to be determined according to foregoing provisions. - When any such suit is brought the amount (if any) payable by the plaintiff or the defendant shall be determined under the same rules as would be applicable under this Act, if the creditor had sued the plaintiff for recovery of the debt.

11. Decree under section 10 shall provide for payments by instalments Execution of decrees under this section.

- A 1[decree passed ex parte or otherwise] under section 10 shall, besides, declaring the amount due, direct that such amount shall be paid in one or more instalments, with or without interest, and, judgment-debtor may pay the amount of such decree, or the amount of each instalment fixed by

such decree as it falls due, into Court, in default whereof execution of the decree may be enforced by the decree - holder in the same manner as if he had obtained a decree in a suit to recover the debt.

12. Payment into Court in cases under section 10.

- The plaintiff in any suit instituted under section 10 may at any stage of such suit deposit in Court such sums of money as he considers a satisfaction in full of the defendant's claim against him. Notice of deposit shall be given by the Court to the defendant, and the amount of the deposit shall (unless the Court otherwise directs) be paid to the defendant on his application. No interest shall be allowed to the defendant on any sum deposited from the date of the receipt of such notice whether the sum deposited .be in full satisfaction of the claim or fall short thereof.

13. Instalments.

- In cases other than those provided for in section 11 at the time of passing a [decree ex parte or otherwise] [Substituted for 'decree' by Act No. XI of 1988.] against an agriculturist in a suit to which this Act applies, the Court shall by such decree direct that the amount of the decree shall be paid in one or more instalments, with or without interest.

14. Instalments to be within paying capacity of Judgment debtor.

- The number, amount and intervals for the payment of the instalments fixed by the Court under section 11 or 13 shall be fixed within the paying capacity of the judgement-debtor :[Provided that,-(a)the whole of the unrealised balance of the decretal amount shall be recoverable in lump at once in case default is made by the judgement-debtor in the payment of two or more consecutive instalments unless such default was due to abnormal circumstances beyond the control of the judgement-debtor which in the opinion of the Court executing the decree entitled the judgement-debtor to an extension in the period of instalments(b)the Court which passed the decree or to which the decree is transferred for execution, if it is satisfied that a substantial change has taken place in the paying capacity of the judgement debtor may, on the application of the decree-holder or the judgement-debtor from time to time, vary the number and alter the amount of instalments fixed by the decree to suit the changed paying capacity of the judgement-debtor.]Explanation. - "Paying capacity" means the amount which the judgement-debtor can reasonably be expected to pay after providing for the exercise of his avocation and for the essential necessities of himself and of such members of his family as are dependent on him.

15. Limit of further interest.

- The rate of further interest allowed in any decree passed in a suit to which this Act applies shall not exceed [twelve per centum] [Substituted for 'six per centum' by Notification 17-L/83 published in the Government Gazette dated 21st Maghar. 1983.] per annum and the aggregate amount of further interest so allowed shall not exceed one half of the amount decreed exclusive of costs.

Chapter VI

Miscellaneous

16. [Term within which suit to be instituted. [Section 16 substituted by Notification 17-L/83 published in the Government Gazette dated 21st Maghar, 1983.]

- A suit of the description mentioned in section 3 clause (a) may be instituted within six years from the date of the last transaction between the parties or persons claiming through them or from the date of the last balance struck between the parties or such persons, whichever is the later date] [Proviso to section 14 added by Act No. XI of 1988.].

17. Bar of application of Order 21, rule 2(3) of the Code.

- Sub-rule (3) of rule 2, of Order 21 of the Code of Civil Procedure shall not apply to payments out of Court made in any proceeding under this Act in any case where an acknowledgement by the judgement-creditor for the same is produced, or when the payment is either admitted by him or proved.

18. The Civil Courts Act and Civil Procedure Code to apply to proceedings under this Act.

- Except in so far as these are inconsistent with this Act, the provisions of the Code of Civil Procedure and the Jammu and Kashmir State Civil Courts Act, 1977, shall apply in all suits and proceedings before the Court under this Act. The Court exercising jurisdiction under section 4 shall for the purposes of the said Code, and the said Act be deemed inferior to the District Court.

19. Bar of application of the Small Cause Court Act and the Usurious Loans Act.

- The provisions of the Jammu and Kashmir State Small Cause Court Act, 1968, and Usurious Loans Act, 1977, shall not apply to the proceedings of the Court under this Act.

20. Court-fee on plaints under section 3, clause (a).

- The plaint in a suit under clause (a) of section 3 shall state the amount at which the relief sought in it is valued by the plaintiff and, subject to a minimum court-fees of five rupees, shall be liable to the fee payable therefor under the Court Fees Act, 1977.

21. Power to make rules.

- The High Court with the sanction of [the Government] [[In section 21 the words 'the Government' substituted for the words 'His Highness the Maharaja Bahadur in Council' by Act No. X of 1996. Note :- See also Notification No. II-L/84 published in the Government Gazette dated 9th Maghar, 1984.]] may from time to time, make all such rules as it may deem necessary for carrying out the provisions herein contained.

22. Rule to be published.

- All rules made under this Act shall be published in the Jammu and Kashmir Government Gazette, and shall thereupon, in so far as they are consistent with this Act, have the force of law.