

The Gujarat Public Moneys (Recovery of Dues) Act, 1979

GUJARAT

India

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Act 17 of 1979

- Published on 28 May 1979
- Commenced on 28 May 1979
- [This is the version of this document from 28 May 1979.]
- [Note: The original publication document is not available and this content could not be verified.]

The Gujarat Public Moneys (Recovery of Dues) Act, 1979 Gujarat Act No. 17 of 1979 [Dated 28th May, 1979] For the Statement of Objects and Reasons see Gujarat Government Gazette, Extraordinary, Part V, dated the 20th March, 1979, page 225. This Act was assented to by the President on the 18th May, 1979. For validating provisions see Section 3 of Gujarat 4 of 1985 (w.r.e.f. 09-01-1985). An Act to provide for the speedy recovery of certain classes of dues payable to the State Government the State Financial Corporation and Other Corporations owned or controlled by the State Government, Government Companies and nationalized or other banks. It is hereby enacted in the Thirtieth Year of the Republic of India as follows:-

1. Short title, extent and commencement.

(1) This Act may be called the Gujarat Public Moneys (Recovery of Dues) Act, 1979. (2) It extends to the whole of the State of Gujarat. (3) It shall come into force on such date as the State Government may, by notification in the Official Gazette appoint.

2. Definitions.

- In this Act unless the context otherwise requires,-(a) "agriculture" includes horticulture raising of crops, grass or garden produce, animal husbandry, dairy farming, poultry farming and breeding of livestock; (ab) ["Collector" includes an officer appointed by the State Government to perform the functions and exercise the powers of the collector under this Act;] [Clause (ab) was inserted by Gujarat 4 of 1985, Section 2 (w.r.e.f. 09-01-1985).] (b) "Corporation" means the Gujarat State Financial Corporation established under the State Financial Corporations' Act, 1951 (LXII of 1951) and includes any other Corporation owned or controlled by the Central or State Government specified by the State Government by a notification in the Official Gazette. (c) "bank" means-(i) a banking company as defined in the Banking Regulation Act, 1949 (X of 1949); (ii) the State Bank of

India constituted under the State Bank of India Act, 1955 (XXIII of 1955);(iii)subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (XXXVIII of 1959);(iv)a corresponding new bank constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (V of 1970);(v)any banking institution notified by the Central Government under Section 51 of the Banking Regulation Act, 1949 (X of 1949);(vi)any other financial institution notified by the State Government by a notification in the Official Gazette as a bank for the purpose of this Act;(d)"financial assistance" means any kind of financial assistance given-(i)for establishing expanding modernising renovating or running any industrial undertaking; or(ii)for the purpose of vocational training; or(iii)for the development of agriculture or agro-industry; or(iv)for purposes of any other kind of planned development recognised by the State Government; or(v)for relief against distress caused by fire or serious drought flood or other natural calamities; or(vi)for the purpose of carrying out any State sponsored scheme;(vii)for any other prescribed purpose;(e)"Government Company" means Government Company as defined in Section 617 of the Companies Act, 1956 (I of 1956);(f)"industrial concern" shall have the same meaning as is assigned to that expression in the State Financial Corporations Act, 1951 (LXIII of 1951) as in force for the time being;(g)"industrial undertaking" includes any undertaking for the manufacture, preservation, storage or processing of goods or mining or the hotel industry or the transport of passengers or goods or the generation or distribution of electricity or any other form of energy or for the development of any contiguous area of land as an industrial estate.Explanation. - The expression "processing of goods" includes any art or process for producing, preparing or making an article by subjecting any material to a manual, chemical, electrical or any other like operation;(k)"prescribed" means prescribed by rules made under this Act;(l)"State-sponsored scheme" means a scheme sponsored or adopted by the State Government or an officer authorised by it in this behalf for development or agriculture or industry and notified as such by the State Government or the authorised Officer, by a notification in the Official Gazette, for the purpose of this Act.

3. Recovery of certain dues as arrears of land revenue.

(1)Where any person is a party-(a)to any agreement relating to a loan, advance or grant given to him or relating to credit in respect of or relating to hire-purchase of goods sold to him [by the State Government, the Corporation or as the case may be the Government Company] [These words were substituted and shall be deemed always to have been substituted for the words 'by the State Government or the Corporation' Gujarat 21 of 1981, Section 2.] by way of financial assistance, or(b)to any agreement relating to a loan, advance or grant given to him of relating to credit in respect of or relating to hire-purchase of goods sold to him by a bank or a "Government Company, as the case may be, under a State sponsored scheme; or(c)to any agreement relating to a guarantee given by the State Government or the Corporation in respect of a loan raised by an industrial concern, or(d)to any agreement providing that any money payable thereunder to the State Government or the Corporation shall be recoverable as arrears of land revenue;and such person-(i)makes any default in payment of the loan or advance of any instalment thereof; or(ii)having become liable under the conditions of the grant to refund the grant or any portion thereof makes any default in the refund or such grant or portion or any instalment thereof, or(iii)otherwise fails to comply with the terms of the agreement-then in the case of the State Government such officer as may be authorised in that behalf by the State Government by

notification in the Official Gazette, in the case of a corporation or a Government Company, the Managing Director thereof or where there is no Managing Director the Chairman thereof by whatever name called and in the case of bank the local agent thereof by whatever name called may send to the Collector a certificate as early as possible in the prescribed form mentioning the sum due from such person and requesting^hat such sum may be recovered as if it were an arrear of land revenue.(2)The Collector on receiving the certificate shall after making such inquiries (including giving hearing to the party affected) as he deems fit proceed to recover the amount stated therein as aforesaid as arrears of land revenue.(3)On recovery of any amount under sub-section (2) the same shall be paid over to the State Government, Corporation, Government Company or as the case may be, bank after deducting except in the case of amount to be paid to the State Government such portion of the amount realised as cost of collection; as the Collector may deem to be reasonable.(4)No suit for the recovery of any such due as aforesaid shall lie in a Civil Court against any person referred to in sub-section (1) and no injunction shall be granted by a Civil Court in respect of any action taken or intended to be taken in pursuance of the right conferred by this section.

4. Savings.

(1)Nothing in Section 3 shall,-(a)affect any interest of the State Government the Corporation a Government Company or any bank in any property created by any mortgage charge, pledge or other encumbrance; or(b)bar a suit or affect any other right or remedy against any person other than a person referred to in that section in respect of a contract of indemnity or guarantee entered into in relation to an agreement referred to in that section or in respect of any interest referred to in clause (a).(2)Where the property of any person referred to in Section 3 is subject to any mortgage, charge, pledge or other encumbrance in favour of the State Government, a Corporation, a Government Company' or a bank then;(a)in every case of a pledge of goods proceedings shall first be taken for sale of the goods pledged and if the proceeds of such sale are less than the sum due then proceedings shall be taken for recovery of the balances as if it were an arrear of land revenue:Provided that where the collector is of opinion that it is necessary so to do for safeguarding the recovery of the sum due to the State Government, Corporation, Government Company or bank as the case may be he may for reasons to be recorded, direct proceedings to be taken for recovery of the sum due as if it were an arrear of land revenue before or at the same time the proceedings are taken for sale of the goods pledged;(b)in every case of a mortgage charge or other encumbrance on immovable property such property or as the case may be the interest of the defaulter therein shall first be sold in proceedings for recovery of the sum due from that person as if it were an arrear of land revenue and any other proceedings may to taken thereafter only if the Collector certifies that there is no prospect of realisation of the entire sum due through the first mentioned process within reasonable time.

5. Act not to debar recovery of dues by banks under any other law.

- Subject to the provisions of sub-section (3) of Section 3 nothing in this Act shall debar the recovery of due in respect of financial assistance given by a bank to an agriculturists or the security of a charge or mortgage created by the agriculturists on any land or interest therein, favour of the bank, where such dues are recoverable by the bank under the provisions of any other law for the time

being in force.

6. Power of State Government to make rules.

(1)The State Government may by notification in the Official Gazette, and subject to the condition of previous publication, make rules for the purpose of carrying out the provisions of this Act.(2)In particular and without prejudice to the generality of the foregoing power such rules may be made for all or any of the following matters namely:- (a)any other purpose to be prescribed under sub-section (vii) of clause (d) of Section 2;(b)the form of certificate to be sent under sub-section (1) of Section 3;(c)any other matter which is to be or may be prescribed.(3)All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as may be after they are made and shall be subject to rescission by the State Legislature or to such modification as the State Legislature may make during the session in which they are so laid or the session immediately following.(4)Any rescission or modification so made by the State Legislature shall be published in the Official Gazette, and shall thereupon take effect.

7. Transitory provision.

- [(1)] [Section 7 was renumbered as sub-section Gujarat 21 of 1981, Section 3.] All suits of the nature referred to in sub-section (4) of Section 3 pending in any Civil Court immediately before the commencement of this Act shall abate upon such commencement so however that such abatement shall be without prejudice to the right of the State Government, Corporation, Government Company or bank as the case may be recover any sum which may be the subject matter of such suit in accordance with the provisions of this Act or any other law for the time being in force.(2)[All suits for the recovery of any sum due, to which this Act applies by virtue of amendment in clause (a) of sub-section (1) of Section 3 by Section 2 of the Gujarat Public Moneys (Recovery of Dues) (Amendment) Act, 1981 (Gujarat 21 of 1981) pending in any Civil Court immediately before the commencement of the said Act shall abate upon such commencement so however that such abatement shall be without prejudice to the right of a Government Company to recover any sum which may be the subject matter or such suit in accordance with the provisions of this Act or any other law for the time being in force.] [Section 7 was renumbered as sub-section Gujarat 21 of 1981, Section 3.]