

Gujarat Rural Debtors (Temporary Relief) Act, 1976

GUJARAT

India

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An Act to provide for relief to certain farmers, rural artisans and rural labourers from indebtedness in the State of Gujarat. It is hereby enacted in the Twenty-seventh Year of the Republic of India as follows:-* Received the Assent to by the president on the 19th March, 1976 is hereby published for genera information.

1. Short title, extent and duration.- (1) This Act may be called the Gujarat Rural Debtors (Temporary Relief) Act, 1976.

(2) It extends to the whole of the State of Gujarat. (3) It shall remain in force upto and inclusive of the 31st day of October, 1977. (4) Section 7 of the Bombay General Clauses Act, 1904 (Bom. I of 1904) shall apply upon the expiry of this Act, as if it had then been repealed by a Gujarat Act.

2. Definitions.- (1) In this Act, unless the context otherwise requires;-

(a) "appointed day" means the day on which the Gujarat Rural Debtors (Temporary Relief) Ordinance, 1975 (Guj. Ord. No. 5 of 1975) came into force; (b) "civil court" includes a Court of Small Causes and a Nyaya Panchayat; (c) "debt" means any liability in cash or kind, whether secured or unsecured, or whether payable under a decree or order of any civil court or otherwise, and subsisting on the appointed day, whether due or not due; (d) "debtor" means a small farmer, a rural labourer or a rural artisan who on the appointed day was in debt; (e) "to hold land", with its grammatical variations and cognate expressions, means to be lawfully in actual possession of land as owner or as tenant (including a Government lessee) and the expression "holding" shall be construed accordingly; (f) "land" means land which is used or capable of being used for agricultural purposes and includes the sites of farm buildings appurtenant to such land; (g) "member of a family" in relation to a rural artisan, means a father, mother, spouse, brother, unmarried dependent sister, divorced and dependent sister, son, son's wife, or unmarried daughter, divorced and dependent daughter, son's son, son's unmarried daughter, son's divorced and dependent daughter, and includes any relation residing with and actually dependent for his maintenance on the rural

artisan;(h)"rural area" means an area which for the time being is not within the limits of,-(i)a City constituted under section 3 of the Bombay Provincial Municipal Corporations Act, 1949 (Bom. LIX of 1949), or(ii)a municipal borough or a notified area constituted or deemed to be constituted under the Gujarat Municipalities Act, 1963 (Guj. 34 of 1964), or(iii)a cantonment declared as such under the Cantonments Act, 1924 (II of 1924);(i)"rural artisan" means a person who, being resident in a rural area, earns his livelihood in such area by practising any craft by his own labour or by the labour of the members of his family and whose annual income during the year immediately preceding the appointed day does not exceed two thousand and four hundred rupees;(j)"rural labourer" means a person who, being resident in a rural area, earns his livelihood principally by manual labour from any of the following occupations, but does not hold any land for any of such occupations, whether as an owner or tenant, namely:- (i)cultivation;(ii)cutting of wood;(iii)dairy farming;(iv)poultry farming;(v)breeding of livestock or bees;(vi)any operation performed on a farm as incidental to preparation, transport, delivery or storage for marketing of any of the products of any of the occupations mentioned in sub-clauses (i), (ii), (iii), (iv) and (v);(k)"small farmer" means a person who holds land measuring not more than two hectares and who earns his livelihood principally by cultivating such land;(l)"specified period" means the period commencing on the appointed day and ending on the date of the cessation in force of this Act;(m)"suit" includes an appeal and a revision application;(n)the words and expressions used in this Act but not defined therein shall have the meanings respectively assigned to them in the Gujarat Agricultural Lands Ceiling Act, 1960 (Guj. XXVII of 1961), as in force on the appointed day.(2)If a question arises whether a person is a rural artisan, a rural labourer or a small farmer, the question shall be decided by the civil court as a preliminary issue and the decision of such court on such question shall be final and conclusive and shall not be called in question in any appeal or revision.

3. Stay of suits and proceedings against debtors.- (1) Notwithstanding anything contained in any other law for the time being in force or in any contract, custom or usage to the contrary, during the specified period.-

(a)no civil court shall entertain any suit, application or proceeding against a debtor in respect of any debt;(b)any suit, application or proceeding in relation to recovery of a debt pending before a civil court against a debtor shall be stayed;(c)no decree of a civil court in relation to the recovery of a debt passed before the appointed day against a debtor shall be executed;(d)no proceeding forming final any preliminary decree for foreclosure or sale passed by a civil court in relation to the recovery of a debt before the appointed day against a debtor, shall be entertained or proceeded with, by a civil court;(e)all proceedings under the Provincial Insolvency Act, 1920 against a debtor, whether on an application of a debtor or creditor, pending on the appointed day shall be stayed.(2)All growing crops, agricultural produce, livestock and other movable property of a perishable nature attached in execution of any decree, the execution of which has been stayed under sub-section (1), shall be deemed to have been released from attachment.

4. Release of debtors in detention in civil prison.- (1) On the appointed day, every debtor undergoing detention in a civil prison in execution of any decree passed by a civil court in respect of his debt shall be released.

(2) During the specified period, no debtor shall in any case be liable to arrest or detention in a civil prison in execution of any such decree as is referred to in sub-section (1).

5. Relief against default in payment of installment.- (1) Where a decree for payment of any amount in relation to a debt passed against a debtor is payable by instalments and contains a provision that in default of payment of one or more instalments the whole of the decretal amount shall become due at once, then, notwithstanding anything contained in such provision,-

(a) in a case where the whole of the decretal amount has, by reason of non-payment of instalments, become due at once before the appointed day but has not been paid or recovered before such day, the non-payment of such instalments shall not be deemed to be a default for the purposes of such provision in the decree and such amount shall not be deemed to have become due at once, if the judgment-debtor of the decree pays the whole of the amount of the instalments so remaining unpaid before the appointed day, - (i) within a period of one year from the date of expiry of this Act, or (ii) within such period after the expiry of one month from the date of expiry of this Act as is equal to the total period within which such amount would have been payable in accordance with the terms of the decree, whichever period is less; (b) in any other case, the non-payment of any instalment falling due during the specified period shall not be deemed to be a default for the purposes of such provision in the decree. (2) In any case to which sub-section (1) applies, the instalments falling due after the appointed day whether during or after the expiry of the specified period, shall be payable after the expiry of this Act in such manner, at such intervals and subject to such conditions as would govern the payment of the corresponding instalments under the terms of the decree, subject to the modification that the first of such instalments shall be payable - (i) in a case to which clause (a) of sub-section (1) applies, on the first day of the month immediately following the month in which the period for payment of the amount of instalments referred to in sub-clause (i) or (ii) of the said clause (a), whichever is applicable, expires; (ii) in a case to which clause (b) of sub-section (1) applies, on the first day of the month immediately following the month in which this Act expires.

6. Computation of the period of limitation.- (1) In computing the period of limitation prescribed by the Limitation Act, 1963 (XXXVI of 1963) or any other law for the time being in force for-

(a) any suit, application or proceeding in a civil court against a debtor for recovery of any debt referred to in clause (a) of sub-section (1) of section 3, or (b) an application in a civil court for execution of any decree referred to in clause (c) of sub-section (1) of section 3 or an application in a civil court for making final any preliminary decree referred to in clause (d) of that sub-section, the specified period shall be excluded, and a further period of thirty days shall be added.

7. Payment of certain ??? decrees.- Nothing contained in this Act shall-

(a) apply to a decree for money arising out of claims relating to trusts or for maintenance or for

profits in favour of a co-tenant or a co-owner, or for mesne profits or for damages for tort, or for contribution, between to tenants of agricultural lands; or(b)apply to a mortgage decree against property in the hands of a subsequent transferee who has taken the transfer in order to satisfy the mortgage subject to the mortgage on the basis of which such decree has been obtained;(c)apply to decisions of the Registrar, awards of arbitrators or orders of liquidators or order or decision of the Gujarat State Co-operative Tribunal or of any other authority made under the Gujarat Co-operative Societies Act, 1961 or the rules made thereunder (Guj. X of 1962).

8. Restriction on transfer.- Every transfer of immovable property or of any interest therein, made during the specified period, by a debtor who is a judgment-debtor of any decree referred to in clauses (c) and (d) of sub-section (1) of section 3 shall be void against the holder of such decree.

9. Remission of Interests.- A debtor shall not be liable to pay any interest on any debt in respect of the specified period.

10. Savings.- Subject to the provisions of section 7, nothing in this Act shall affect the debts and other liabilities of any debtor falling under any of the following matters, namely:-

(a)debts due to any Government;(b)debts due to any local authority including amount due by way of tax, cess or fee;(c)debts due to any co-operative society registered or deemed to be registered under the Gujarat Co-operative Societies Act, 1961;(d)debts due to the Life Insurance Corporation of India;(e)debts due to-(i)a banking company as defined in the Banking Regulation Act, 1949 (10 of 1949);(ii)the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955);(iii)a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (33 of 1959);(iv)a corresponding new bank constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970);(v)the Agricultural Refinance Corporation constituted under the Agricultural Refinance Corporation Act, 1963 (10 of 1963); and(vi)any other banking, financial or other institution which the State Government may, by notification in the Official Gazette, specify in this behalf;(f)any sum recoverable by way of arrears of land revenue;(g)any rent or compensation due from a debtor in respect of any property;(h)any sum due from a debtor-(i)by way of price for goods, essential for the maintenance of the debtor and his wife, children and any other dependent residing with him, and(ii)by way of charges for supply of electricity, water or such other essential services;(i)any liability in respect of wages or remuneration due as salary or otherwise for service rendered;(j)any claim arising out of any tortious liability;(k)any sum due in favour of a public trust registered under the Bombay Public Trusts Act, 1950 (Bom. XXIX of 1950);(l)any liability in respect of maintenance whether under a decree of a court or otherwise;(m)any claim arising out of any breach of trust in relation to transactions other than money-lending.

11. Repeal of Guj. Ord. No. 5 of 1975.- The Gujarat Rural Debtors (Temporary Relief) Ordinance, 1975 (Guj. Ord. No. 5 of 1975) is hereby repealed and the provisions of section 7 of the Bombay General Clauses Act, 1904 (Bom. I of 1904) shall apply to such repeal, as if that Ordinance were an enactment.