

Tamil Nadu Indebted Persons (Temporary Relief) Act, 1976

TAMILNADU

India

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Act 16 of 1976

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Tamil Nadu Indebted Persons (Temporary Relief) Act, 1976(Presidents Act 16 of 1976)Statement of Objects and Reasons - Tamil Nadu Indebted Persons (Temporary Relief) Act, 1976 (President's Act 16 of 1976). - For Statement of Objects and Reasons for the enactment, please see in Part IV-Section 2, pages 160-161 of the Tamil Nadu Government Gazette Extraordinary, dated the 17th April 1976.Statement of Objects and Reasons - Tamil Nadu Debt Relief Laws (Amendment) Act, 1976. - By the Tamil Nadu Indebted Agriculturists (Temporary Relief) Act, 1976 (President's Act 15 of 1976) and the Tamil Nadu Indebted Persons (Temporary Relief) Act, 1976 (President's Act 16 of 1976), there is a moratorium on recovery of debts of agriculturists and non-agriculturists up to the 14th January, 1977. The Tamil Nadu Debt Relief Act, 1976 (President's Act 31 of 1976), provides for total discharge of debts of rural artisans whose annual household income does not exceed Rs. 2,400 and that of small farmers and landless agricultural labourers. There is, however, no specific exclusion of the debts of subscribers to the chit fund schemes. Chit fund schemes are of a self liquidating nature and partake the character of mutual aid schemes. It has been represented that the grant of moratorium in respect of recovery of debts due from subscribes to chit fund schemes and wiping off their debts under the Debt Relief Acts will seriously jeopardise the future conduct of chit fund schemes. In the present form, the moratorium and Debt Relief Acts are bound to disrupt whatever little economic impact chit funds have on the savings of the community. It is, therefore, considered that chit fund schemes registered under the Tamil Nadu Chit Funds Act, 1961 (Tamil Nadu Act 24 of 1961), have to be given exemption from the operation of debt relief measures. Accordingly, it is proposed to exempt 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), from the provisions of the Tamil Nadu Indebted Agriculturists (Temporary Relief) Act, 1976 and the Tamil Nadu Debt Relief Act, 1976.2. The present measure seeks to give effect to this proposal.3. The Committee constituted under the proviso to sub-section (2) of section 3 of the Tamil Nadu State Legislature (Delegation of Powers) Act, 1976 (41 of 1976), has been consulted before the enactment of this measure as a President's Act.Published in Part IV-Section 2 page 354 of the Tamil Nadu Government Gazette Extraordinary dated the 29th December 1976.Statement of Objects and

Reasons - Tamil Nadu Debt Relief Laws (Second Amendment) Act, 1978. - Under 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) and the Tamil Nadu Debt Relief Act, 1976 (President's Act 31 of 1976), only certain categories of debts and liabilities of the persons eligible for relief under the aforesaid Acts have been exempted. Nidhis and Mutual Benefit Societies are run on the basis of mutuality of interest among members on the same principles of co-operative societies. It has been represented that if provisions of the above mentioned Acts are strictly enforced, it will result in these institutions incurring heavy losses, as they will not be in a position to repay to the members the deposits already made by them, and also no fresh deposits will be received, thus crippling their business and possibly leading to their ultimate extinction. It is, therefore, proposed to exempt any liability in respect of any sum due to 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) from the provisions of 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) and the Tamil Nadu Debt Relief Act, 1976 (President's Act 31 of 1976).2. The Bill seeks to achieve the above object. Published in Part IV-Section 1, pages 343-344 of the Tamil Nadu Government Gazette Extraordinary dated the 31st March, 1978. Received the assent of the President on the 16th April 1976 and first published in the Tamil Nadu Government Gazette Extraordinary, dated the 17th April 1976. An Act to provide temporary relief to certain indebted persons in the State of Tamil Nadu. Be enacted by the President in the Twenty-seventh Year of the Republic of India. 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 Indebted Persons (Temporary Relief) Act, 1976. (2) It extends to the whole of the State of Tamil Nadu. (3) It shall be deemed to have come into force on the 15th day of January, 1976.

2. Definitions.

- In this Act, unless the context otherwise requires, - (1) "debt" means any liability in cash or kind, whether secured or unsecured, due from an indebted person whether payable under a decree or order of a civil or revenue court or otherwise, but does not include - (i) rent as defined in clause (5); (ii) any debt to which the Tamil Nadu Indebted Agriculturists (Temporary Relief) Act, 1976 (President's Act 15 of 1976), is applicable; (2) "indebted person" means any person from whom any debt is due: Provided that a person shall not be deemed to be an indebted person, if he - (i) has in both the financial years ending on the 31st day of March 1974 and the 31st day of March, 1975, been assessed to income-tax under the Income-tax Act, 1961 (43 of 1961), or under the income-tax law in force in any foreign country; or (ii) has in both the financial years ending on the 31st day of March 1974 and the 31st day of March 1975, been assessed to sales tax under the [Tamil Nadu General Sales Tax Acts 1959 (Tamil Nadu Act 1 of 1959)] [This Act has been repealed and reenacted as the Tamil Nadu Value Added Tax Act, 2006.], or under the Central Sales Tax Act, 1956 (74 of 1956);

or(iii)has in all the four half-years immediately preceding the 1st April 1975 been assessed to property or house-tax in respect of buildings or lands other than agricultural lands, under the Tamil Nadu District Municipalities Act, 1920 (Tamil Nadu Act V of 1920), the [Chennai] [Substituted for the word 'Madras' by City of Madras (Alteration of Name) Act, 1996 (Tamil Nadu Act 28 of 1996).] City Municipal Corporation Act, 1919 (Tamil Nadu Act IV of 1919), the Madurai City Municipal Corporation Act, 1971 (Tamil Nadu Act 15 of 1971), the [Tamil Nadu Panchayats Act, 1958 (Tamil Nadu Act XXXV of 1958)] [See now Tamil Nadu Panchayats Act, 1994 (Tamil Nadu Act 21 of 1994).], the [Cantonments Act, 1924 (2 of 1924)] [See now Cantonment Act, 2003.], or any law governing Municipal or local bodies in this State or in any other State or Union territory, provided that the aggregate annual rental value of such buildings and lands, whether let out or in the occupation of the owner, is not less than two thousand and four hundred rupees.Explanation. - The annual rental value of any building or land for the purposes of clause (iii) of this proviso shall - (1)where the assessment is based on the annual rental value, be deemed to be such value;(2)where the assessment is based on the capital value, be deemed to be five per cent of the capital value; and(3)in any other case, be deemed to be the value ascertained in the prescribed manner:Provided further that a person shall not be deemed to be an indebted person if he is an agriculturist as defined in the Tamil Nadu Agriculturists Relief Act, 1938 (Tamil Nadu Act IV of 1938), and entitled to the benefits of that Act;(3)"pay", with its grammatical variations, includes deliver;(4)"person" means an individual and includes an undivided Hindu family, a marumakkattayam or aliyasantana tarwad or tavazhi, but does not include a body corporate, a charitable or religious institution or an unincorporated company or association or any firm as defined in the Indian Partnership Act, 1932 (9 of 1932);(5)"rent" means the rent payable by any tenant to the owner of any building in respect of such building or portion thereof occupied by such tenant.Explanation. - For the purposes of this clause, the expression "building" shall have the same meaning as in clause (2) of section 2 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 (Tamil Nadu Act 18 of 1960);(6)"suit" or "application" does not include an appeal from a decree or order passed in a suit or application or an application for revision or review.

3. Certain debts and liabilities not to be affected.

- Nothing in this Act shall affect debts and liabilities of any indebted person falling under the following heads:- (a)any revenue, tax or cess payable to the State Government or any other sum due to them by way of loan or otherwise;(b)any revenue, tax or cess payable to the Central Government or any other sum due to it, by way of loan or otherwise;(c)any tax or cess payable to any local authority of any other sum due to it, by way of loan or otherwise;(d)any liability in respect of any sum due to any co-operative society including a land development bank registered or deemed to be registered under the Tamil Nadu Co-operative Societies Act, 1961 (Tamil Nadu Act 53 of 1961):Provided that where the liability mentioned in this clause arises by reason of an assignment to any such co-operative society either such assignment has taken place before the 15th day of March 1975 or is an assignment to any such co-operative society of a loan granted "by another such co-operative society;(e)any liability arising out of breach of trust;(f)any liability in respect of maintenance whether under a decree of Court or otherwise;(g)any liability in respect of wages or remuneration due as salary or otherwise for services rendered;(h)any liability in respect of any sum due to-(A)any public company as defined in the Companies Act, 1956 (1 of 1956);(B)any banking

company to which the Banking Regulation Act, 1949 (10 of 1949) applies;(C)the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955);(D)any subsidiary bank as defined in clause (k) of section 2 of the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959);(E)any corresponding new bank as defined in clause (d) of section 2 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970);(F)any company or corporation owned or controlled by the Central Government or any State Government;(G)the Committee for the Administration of the Amalgamated Tamil Nadu Shares of the Post-War Services Reconstruction Fund and Special Fund for Reconstruction and Rehabilitation of Ex-servicemen;(H)any other financial institution notified by the State Government in the Tamil Nadu Government Gazette;(I)[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 3 of the Tamil Nadu Debt Relief Laws (Amendment) Act, 1976 (President's Act 46 of 1976).](J)[any liability in respect of any sum due to 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 3 of the Tamil Nadu Debt Relief Laws (Second Amendment) Act, 1978 (Tamil Nadu Act 27 of 1978).]

4. Bar of suits and applications.

- No suit for the recovery of a debt shall be instituted, and no application for the execution of a decree for payment of money passed in a suit for the recovery of a debt shall be made, against any indebted person in any civil or revenue Court on and from the date of commencement of this Act and before the expiry of [two years and six months] [Substituted for the words 'two years' by section 3(a) of the Tamil Nadu Debt Relief Laws (Amendment) Act, 1978 (Tamil Nadu Act 2 of 1978). [The words 'two years' were earlier substituted by section 3(a) of the Tamil Nadu Debt Relief Laws (Second Amendment) Act, 1977 (Tamil Nadu Act 1 of 1977) for the words 'one year and six months' which in turn were substituted for the words 'one year' by section 3(a) of the Tamil Nadu Debt Relief Laws (Amendment) Act, 1977 (President's Act 3 of 1977)]] from the said date.Explanation I. - "Suit" does not include a claim to a set-off made in a suit instituted by an indebted person.Explanation II. - A suit shall be deemed to be a suit for the recovery of a debt, notwithstanding that other reliefs are prayed for in such suit, and a decree shall be deemed to be a decree for payment of money passed in such suit notwithstanding that other reliefs are granted by such decree:Provided that a suit for possession of land shall not be deemed to be a suit for recovery of a debt by reason merely of mesne profits being also prayed for in such suit.

5. Stay of proceedings.

(1)All further proceedings in suits and applications of the nature mentioned in section 4 in which relief is claimed against an indebted person, not being proceedings for the amendment of pleadings or for the addition, substitution, or the striking off of parties, but otherwise inclusive of proceedings consequent on orders or decrees made in appeals, revision petitions, or applications for review, shall, subject to the next succeeding sub-section, stand stayed until the expiry of [two years and six months] [Substituted for the words 'two years' by section 3(b) of the Tamil Nadu Debt Relief Laws

(Amendment) Act, 1978 (Tamil Nadu Act 2 of 1978). [The words 'two years' were earlier substituted by section 3(b) of the Tamil Nadu Debt Relief Laws (Second Amendment) Act, 1977 (Tamil Nadu Act 1 of 1977) for the words 'one year and six months' which in turn were substituted for the words 'one year' by section 3(b) of the Tamil Nadu Debt Relief Laws (Amendment) Act, 1977 (President's Act 3 of 1977).] from the date of commencement of this Act: Provided that in regard to property under attachment, the Court may pass such orders as it deems necessary for the custody or preservation of the property or for the sale of such property if it is subject to speedy or natural decay, or, if in respect of it, the expenses of custody or preservation are considered excessive. (2) On application made by the defendant or the respondent or by all the defendants or all the respondents, as the case may be, the stay effected by subsection (1) in a suit or application shall be dissolved and the suit or application shall be proceeded with from the stage which had been reached when further proceedings in the suit or the application were stayed.

6. Exclusion of time for limitation.

- In computing the period of limitation or limit of time prescribed for a suit for the recovery of a debt or an application for the execution of a decree passed in such suit, the time during which the institution of the suit or the making of the application was barred by section 4, or during which the plaintiff or his predecessor-in-title, believing in good faith that section 4 applied to such suit or such application, refrained from instituting the suit or making the application, shall be excluded. Explanation. - "Good faith" shall have the meaning assigned to it in clause (22) of section 3 of the General Clauses Act, 1897 (10 of 1897).

7. Effect of transfer of immovable property by an indebted person.

- Every transfer of immovable property by an indebted person entitled to the benefit of section 4 or section 5, made after the date of commencement of this Act and before the expiry of [two years and six months] [Substituted for the words 'two years' by section 3(c) of the Tamil Nadu Debt Relief Laws (Amendment) Act, 1978 (Tamil Nadu Act 2 of 1978). [The words 'two years' were earlier substituted by section 3(c) of the Tamil Nadu Debt Relief Laws (Second Amendment) Act, 1977 (Tamil Nadu Act 1 of 1977) for the words 'one year and six months' which in turn were substituted for the words 'one year' by section 3(c) of the Tamil Nadu Debt Relief Laws (Amendment) Act, 1977 (President's Act 3 of 1977).] from the said date, shall, in any suit or other proceeding, with respect to such transfer, be presumed until the contrary is proved, to have been made with intent to defeat or delay the creditors of the transferor.

8. Act to override other laws, contracts, etc.

- The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in the Code of Civil Procedure, 1908 (5 of 1908), or in any other law for the time being in force, or any custom, usage or contract, or decree or order of a Court or other authority.

9. 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] [Substituted for 'both Houses of Legislature' by paragraph 3(2) of the Tamil Nadu Adaptation of Laws Order, 1987.] and if, before the expiry of the session in which it is so placed or the next session, [the Legislative Assembly agrees] [Substituted for 'both Houses agree' by paragraph 3(2) of the Tamil Nadu Adaptation of Laws Order, 1987.] in making any modification in any such rule or [Legislative Assembly agrees] [Substituted for 'both Houses agree' by paragraph 3(2) of the Tamil Nadu Adaptation of Laws Order, 1987.] 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.

10. Repeal and saving.

(1)The Tamil Nadu Indebted Persons (Temporary Relief) No. 2 Ordinance, 1976 (Tamil Nadu Ordinance 8 of 1976), is hereby repealed.(2)Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provision of this Act.