

The Punjab Regulation of Accounts Act, 1930

HARYANA

India

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Act 1 of 1930

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The Punjab Regulation of Accounts Act, 1930 Punjab Act 1 of 1930 Received the assent of His Excellency the Governor on the 19th January, 1930, and that of his Excellency the Viceroy and Governor-General on the 9th March, 1930, and was first published in the Punjab Government Gazette of the 21st March, 1930. An Act to regulate the keeping of Accounts of certain transactions. Preamble. - Whereas it is expedient to make provision for regulating the keeping of accounts relating to certain transactions in [Punjab] [Substituted for the words 'East Punjab' - which had been inserted for the words 'the Punjab' by the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948 - by the Adaptation of Laws (Third Amendment) Order, 1951.], and whereas the previous sanction of Governor-General under section 80-A(3) of the Government of India Act has been obtained; It is hereby enacted as follows :-

1. Short title, extent and commencement.

(1) This Act may be called the Punjab Regulation of Accounts Act, 1930. (2) It extends to [Haryana] [Substituted for the words 'Punjab' by the Adaptation of Laws Order, 1968.]. (3) It shall come into force [in the principal territories] [Substituted for the words 'Punjab' by the Adaptation of Laws Order, 1968.] on such date as the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may, by notification, appoint in this behalf [and in the transferred territories on 30th December, 1960] [Substituted for the words 'Punjab' by the Adaptation of Laws Order, 1968.]: Provided that this date shall not be earlier than six months or later than one year after the date of final publication of the rules made under section 6.

2. Definitions.

- In this Act, unless there is anything repugnant in the subject or context- (1) "Bank" means a company carrying on the business of banking and registered under any of the enactments relating to companies for the time being in force in the United Kingdom or in any of the Colonies or Dependencies thereof or in [any Part A State or Part C State] [Substituted for the words 'British

India' by the Adaptation of Laws (Third Amendment) Order, 1951.] or incorporated by an Act of Parliament [of the United Kingdom] [Inserted by the Adaptation of Laws (Third Amendment) Order, 1951.] or by Royal Charter or Letters Patent or by any Act of [Parliament] [Substituted for words 'the Central Legislative' by Adaptation of Laws (Third Amendment) Order, 1951.].(2)"Company" means a company registered under any of the enactments relating to companies for the time being in force in the United Kingdom or any of the Colonies or Dependencies thereof or in [any Part A State or Part C State] [Substituted for the words 'British India' by the Adaptation of Laws (Third Amendment) Order, 1951.] or incorporated by an Act of Parliament [of the United Kingdom] [Inserted by Adaptation of Laws (Third Amendment) Order, 1951.] or by Royal Charter or Letters Patent Land includes Life Assurance Companies to which the Indian Life Assurance Companies Act, 1912, applies.(3)"Co-operative Society" means a society registered under the provisions of Co-operative Societies Act, 1912.(4)"Court" includes a court acting in the exercise of insolvency jurisdiction.(5)"Creditor" means a person who in the regular course of business advances a loan as defined in this Act and shall include subject to the provisions of section 3 of the legal representatives and the successor-in-interest whether by inheritance, assignment or otherwise of the person who advanced the loan.(6)"Interest" includes the return to be made over and above what was actually lent, whether the same is charged or sought to be recovered specifically by way of interest or otherwise.(7)"Loan" means an advance whether of money or in kind at interest and shall include any transaction which the court finds to be in substance a loan, but it shall not include -(i)a deposit of money or other property in a Government Post Office Bank or any other Bank or in a company or with a co-operative society;(ii)a loan to or by or a deposit with any society or association registered under the Societies Registration Act, 1860, or under any other enactment;(iii)a loan advanced by [the Central or any [State Government] [Substituted for the word 'Government' by the Government of India (Adaptation of Indian Laws) Order, 1937.] or by any local authorised by [the Central or any [State] [Substituted for the word 'Government' by the Government of India (Adaptation of Indian Laws) Order, 1937.] Government];(iv)a loan advanced by a bank, a co-operative society or a company whose accounts are subject to audit by a certificated auditor under the Companies Act;(v)a loan advanced to a trader;(vi)an advance made on the basis of a negotiable instrument as defined in the Negotiable Instruments Act, 1881, other than a promissory note;(vii)a transaction which is, in substance, a mortgage or a sale of immovable property.(8)"Prescribed" means prescribed by rules made under this Act.(9)"Trader" means a person who in the regular course of business buys and sells goods or other property, whether movable or immovable, and shall include -a wholesale or a retail merchant,a commission agent,a broker,a manufacturer,a contractor,a factory owner,but shall not include a person who sells his own agricultural produce or cattle, or buys agricultural produce or cattle for his own use.

3. Duty of the creditor to maintain and furnish accounts.

(1)A creditor shall in order to comply with the provisions of this Act -(a)regularly record and maintain an account for each debtor separately, of all transactions relating to any loan advanced to that debtor, in such manner as the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may prescribe;(b)furnish each debtor every six months with a legible statement of account signed by the creditor or his agent of any balance or amount that may be outstanding against such debtor on the 30th day of June or 15th Har and the 31st day of

December or 15th Poh in each year. This statement of account shall include all transactions relating to the loan entered into during the six months to which the statement relates, and shall be sent, in such manner and in such form and containing such details as the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may prescribe, on or before the 31st day of August or 15th Bhadon in the case of any balance outstanding on the 30th day of June or 15th Har and on or before the 28th day of February or 15th Phagan in the case of any balance outstanding on the 31st day of December or 15th Poh.

Explanation. - (i) The [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government shall prescribe the forms and numerals in which the accounts required by this provision of this sub-section are to be maintained and furnished, and the creditor shall at his option use one of the following scripts and languages, namely - English, Urdu, Gurmukhi, Nagri or Mahajani; Provided that if the debtor in writing demands that the account be furnished in any one of the above scripts it shall be supplied to him in that script at his cost according to the scale prescribed; (ii) the prescribed accounts shall be so kept that items due by way of interest shall be shown as separate and distinct from the principal sum, and separate totals of principal and interest shall be maintained. The creditor shall not in the absence of agreement, include the interest or any portion of it in the principal sum; and the principal and interest shall be separately shown in the opening balance of each new six-monthly account; Provided that - (i) if the loan has, since it was originally advanced, passed by inheritance or assignment to a widow or minor, such widow or minor shall not be bound to maintain and furnish the account prescribed by this section for a period of six months from the date of such passing; (ii) nothing in this section shall be deemed to lay upon any person the duty of maintaining and furnishing the prescribed account in the case of a loan wherein the title to recover is sub-judice between two or more persons claiming as creditors adversely to each other unless and until the title has been finally decided by a court of competent jurisdiction.

(2) Entries in the account prescribed under clause (a) to sub-section (1) shall be deemed to be regularly kept in the course of business for the purpose of section 34, Indian Evidence Act, 1872, and copies of such entries certified in such manner as may be prescribed shall be admissible in evidence for any purpose in the same manner and to the same extent as the original entries.

Explanation - A person to whom a statement of account has been sent under clause (b) of sub-section (1) shall not be bound to acknowledge or deny its correctness and his failure to protest shall not, by itself, be deemed to be an admission of correctness of the account.

4. Penalty for non-compliance with the provisions of section 3.

- Notwithstanding anything contained in any other enactment in force for the time being - (a) in any suit or proceeding relating to a loan the court shall, before deciding the claim on the merits, frame and decide the issue, whether the creditor has complied with the provisions of clauses (a) and (b) of sub-section (1) of section 3; (b) if the court finds that the provisions of clause (a) of sub-section (1) of section 3 have not been complied with by the creditor, the court shall, if the plaintiff's claim is established in whole or in part, disallow the whole or a portion of the interest found due, as may seem reasonable to the court in the circumstances of the case and shall disallow costs; (c) if the court finds that the provisions of clause (b) of sub-section (1) of section 3 have not been complied with by the creditor, the court shall in computing the amount of interest due upon the loan exclude every period for which the creditor omitted duly to furnish the account as required by clause (b) of

sub-section (1) of section 3 : provided that if the creditor has after the time prescribed in that clause furnished the account and the plaintiff satisfies the court that he had sufficient cause for not furnishing it earlier, the court may, notwithstanding it earlier, the court may, notwithstanding such omission, include any such period or periods for the purpose of computing the interest. Explanation. - A person who has kept his account and sent his six-monthly statements of accounts in the form and manner prescribed in clauses (a) and (b) of sub-section (1) of section 3 shall be held to have complied with the provisions of these clauses, in spite of errors and omissions, if the court finds that the errors and omissions are accidental and not material and that accounts have been kept in good faith with the intention of complying with the provisions of these clauses. [4A. Receipt for repayment of loan. - (1) Every creditor, who receives repayment from his debtor on account of any loan advanced to him, shall forthwith give a receipt therefor. (2) Notwithstanding anything contained in any other enactment for the time being in force in any suit or proceeding relating to a loan, if the court finds that the provisions of sub-section (1) have not been complied with by the creditor it shall, if the plaintiff's claim is established in whole or in part, disallow the whole or any portion of the interest found due, as may seem reasonable to the court in the circumstances of the case, and may also disallow costs. (3) The provisions of this section shall not apply to any loan made before the commencement of the Punjab Money Lending and Debtors' Protection Laws (Extension and Amendment) Act, 1960 unless any fresh transaction in respect of such loan is made after such commencement.] [Section 4-A inserted by Punjab Act 44 of 1960, Schedule.]

5. Savings.

- The provisions of this Act shall not apply to any loan advanced before the commencement of this Act : Provided that if any fresh transaction relating to a loan advanced before the commencement of this Act is made after the commencement of this Act is made after the commencement of this Act, such transaction shall be subject to the provisions of this Act.

6. Power of State Government to make rules.

(1) The [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may make rules not inconsistent with the Act for the purposes of carrying out all or any of the provisions of this Act. (2) In particular, and without prejudice to the generality of the foregoing power, the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may make rules - (i) prescribing the forms and numerals to be used in the accounts required by sub-section (1) of section 3; (ii) prescribing the manner in which the accounts required by clause (b) of sub-section (1) of section 3 shall be furnished by the creditor to the debtor, the forms to be used, and the details to be incorporated therein and the scale of costs to be paid by such debtors as may demand that the account required by this clause should be furnished in one of the particular scripts mentioned in Explanation (i) of this Clause : Provided that before making any rules under the provisions of this section, the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government shall, in addition to observing the procedure laid down in section 21 of the Punjab General Clauses Act, 1898, publish by notification a draft of the proposed rules for the information of persons likely to be affected thereby, at least thirty days before a meeting of the Punjab Legislative [Assembly] [Substituted for the word 'Council' by the Government of India

(Adaptation of Indian Laws) Order, 1937.]. The [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government shall defer consideration of such rules until after the meeting of the Punjab Legislative [Assembly] [Substituted for the word 'Council' by the Government of India (Adaptation of Indian Laws) Order, 1937.] next following the publication of the draft, in order to give member of the [Assembly] [Substituted for the word 'Council' by the Government of India (Adaptation of Indian Laws) Order, 1937.] an opportunity to introduce a motion for discussing the draft.