

# Rajasthan Scheduled Debtors (Moratorium on Debts) Act, 1976

RAJASTHAN

India

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### Act 15 of 1976

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Rajasthan Scheduled Debtors (Moratorium on Debts) Act, 1976(Act No. 15 of 1976)[Published in the Rajasthan Gazette, Part IV-A, Extraordinary, dated 13th February, 1976.][Received the assent of the President on the 13th day of February, 1976.]An Act to impose moratorium on the recovery of debts due from marginal and small farmers, agricultural labourers and rural artisans in Rajasthan.Be it enacted by the Rajasthan State Legislature in the Twenty-seventh Year of the Republic of India as follows:-

### 1. Short title, extent and commencement.

(1)This Act may be called the Rajasthan Scheduled Debtors (Moratorium on Debts) Act, 1976.(2)It shall extend to the whole of the State of Rajasthan.(3)It shall come into force at once

### 2. Definitions.

- In this Act, unless the context otherwise requires,-(a)"agricultural labourer" means a person who follows any one or more of the following agricultural occupations in the capacity of a labourer on hire or exchange, whether paid in cash or in kind or partly in cash and partly in kind:-(i)farming including cultivation and tillage of soil;(ii)dairy farming;(iii)production, cultivation, growing and harvesting of any horticultural commodity;(iv)raising of livestock, bees or poultry; and(v)any practice performed on a farm as incidental to or in conjunction with farm operations (including any forestry or timbering operations) and preparation for market and delivery to storage or to market or to carriage for transportation of farm products;(b)"agriculturist" means a person who earns his livelihood wholly or mainly, from:-(i)agriculture, or(ii)rent from agricultural land, in case he belongs to any of the categories of persons mentioned in clauses (a) to (h) of subsection (1) of Section 46 of the Rajasthan Tenancy Act, 1955 (Rajasthan Act 3 of 1955);(c)"civil court" includes,-(i)any court exercising jurisdiction under the Provincial Insolvency Act, 1920 as adapted

by the Rajasthan Adaptation of Central Laws Ordinance, 1950 (Ordinance No. IV of 1950);(ii)a Panchayat established under the Rajasthan Panchayat Act, 1953 (Rajasthan Act XXI of 1953) and a Nyaya Up-Samiti constituted under Section 27-B of the said Act;(iii)a court of small cause as defined in clause (i) of Section 4 of the Rajasthan Small Causes Courts Ordinance, 1950 (Ordinance No. VIII of 1950);(iv)a debt relief court established under Section 3 of the Rajasthan Relief of Agricultural Indebtedness Act, 1957 (Rajasthan Act 28 of 1957); and(v)any other court exercising appellate or revisional jurisdiction over the decisions of a civil court;(d)"co-operative society" means a society registered or deemed to be registered under the provisions of the Rajasthan Co-operative Societies Act, 1965 (Rajasthan Act 13 of 1965);(e)"debt" includes all liabilities owing to a creditor in cash or kind, secured or unsecured, payable under a decree or order of a civil court or otherwise and subsisting on the date of commencement of the Rajasthan Scheduled debtors (Moratorium on Debts) Ordinance, 1975 (Ordinance No. 21 of 1975) whether due or not due;(f)"marginal farmer" means an agriculturist who holds land as a Khatedar or Ghair Khatedar tenant and cultivates it personally and also a person who cultivates land as a sub-tenant or share cropper and which, in area, does not exceed the limits specified below:-(i)0.33 hectare land under assured irrigation capable of growing atleast two crops in a year;(ii)0.50 hectare land under assured irrigation capable of growing atleast one crop in a year;(iii)1 hectare barani land in fertile zone, semi-fertile zone or hilly zone;(iv)2.67 hectares land in semi-desert zone; and(v)3.67 hectares land in desert zone;(g)"prescribed period" means the period specified as prescribed period in Section 4 and includes every extension thereof made under that Section;(h)"proceeding" means any proceeding in a civil court started on a plaint, petition of appeal, application or otherwise;(i)"rural area" means an area which does not fall within a municipality;(j)"rural artisan" means a person who does not hold any land and whose principal means of livelihood is production or repair of traditional tools, implements and other articles or things used for agriculture or for purposes ancillary thereto, and also a person who normally earns his livelihood by practising a craft either by his own labour or by the labour of the members of his family in a rural area;(k)"Scheduled debtor" means an agricultural labourer, a marginal farmer, a rural artisan or a small farmer;(l)"small farmer" means a person referred to in clause (f) who holds land exceeding the area specified in that clause but not exceeding the area double thereof;(m)reference to land under assured irrigation capable of growing at least two crops or one crop in a year made in clause (f) shall have the same meaning as is given to these expressions by or under the Rajasthan Imposition of Ceiling on Agricultural Holdings Act, 1973 (Rajasthan Act 11 of 1973) and reference to various zones given in the said clause shall mean the areas of the State as specified under each such zone in the Schedule appended to the said Act;(n)where land is held by co-tenants or by members of joint Hindu family, the area of land held by each co-tenant or each member of joint Hindu family shall, for the purpose of clause (f) and clause (1), be deemed to be the extent of land which would have been allotted to such co-tenant or such member of joint Hindu family if such land had been divided or partitioned as the case may be, on the date of the commencement of the Rajasthan Scheduled Debtors (Moratorium on Debts) Ordinance, 1975 (Ordinance No. 21 of the 1975); and (o) words and expression used, but not defined, in this Act, shall have the same meaning as is assigned to them in the Rajasthan Tenancy Act, 1955 (Rajasthan Act 3 of 1955).

### **3. Inapplicability of the Act to certain debts and liabilities.**

- The provisions of this act shall not affect the following debts and liabilities of a scheduled debtor:-(a)any rent due in respect of any property let out to a scheduled debtor;(b)any liability arising out of breach of trust or any tortious liability;(c)any liability in respect of wages or remuneration due as salary or otherwise for services rendered to a scheduled debtor;(d)any liability in respect of maintenance whether under a decree of a court or otherwise;(e)any debt due to:- (i) the Central Government or the State Government;(ii)any local authority;(iii)a banking company as defined in Section 5 of the Banking Regulation Act, 1949 (Central Act 10 of 1949), including the State Bank of India constituted under the State Bank of India Act, 1955 (Central Act 23 of 1955), a Subsidiary Bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (Central Act 38 of 1959) and a corresponding new bank as defined in the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (Central Act 5 of 1970);(iv)any banking institution notified by the Central Government under Section 51 of the Banking Regulation Act, 1949;(v)a co-operative society;(vi)a Government company as defined in Section 617 of the Companies Act, 1956 (Central Act 1 of 1956);(vii)the Agricultural Finance Corporation Limited, a company incorporated under the Companies Act, 1956 (Central Act 1 of 1956);(viii)the Rajasthan State Agro-Industries Corporation;(ix)a corporation or any other body corporate by whatever name called and established or constituted by any law for the time being in force; and(x)any other financial institution that may be notified by the State Government in the Official Gazette;(f)any sum recoverable as a public demand or arrears of land revenue under any law for the time being in force.

### **4. Fixation of Prescribed Period.**

- The prescribed period for the purposes of this Act shall be one year on and from the date of commencement of the Rajasthan Scheduled Debtors (Moratorium on Debts) Ordinance, 1975 (Ordinance No. 21 of 1975) and it may be extended from time to time, by the State Government, by a notification published in the Official Gazette, for a further period not exceeding one year in the aggregate.

### **5. Moratorium on debts.**

(1)All proceedings in execution of any decree for money, all proceedings for making final any preliminary decree for fore-closure or sale in enforcement of a mortgage and all proceedings in execution of any final decree for foreclosure or sale in enforcement of a mortgage passed by any civil court against a scheduled debtor in respect of a debt shall be stayed during the prescribed period.(2)Where proceedings in execution of any decree have been stayed under sub-section (1), all attachment of growing crops, agricultural produce, live-stock and other movable property made in execution of such decree and subsisting on the date on which the stay order is passed, shall be deemed to be withdrawn.(3)All proceedings under the Provincial Insolvency Act, 1920 (Central Act V of 1920), against a scheduled debtor pending in any civil court on the date of coming into force of the Rajasthan Scheduled Debtors (Moratorium on Debts) Ordinance, 1975 (Ordinance No. 21 of 1975) shall be stayed during the prescribed period.(4)All suits for money and for foreclosure or sale in enforcement of a mortgage against a scheduled debtor in respect of a debt, and all appeals from

decrees or orders passed in such suits, pending in any civil court on the date of commencement of the Ordinance mentioned in sub-section (3) shall be stayed during the prescribed period.(5)No suit for money and no suit for foreclosure or sale in enforcement of a mortgage against a scheduled debtor in respect of a debt nor any appeal from any decree or order passed in any such suit, shall be instituted during the prescribed period in any civil court.(6)No application for execution of any decree referred to in subsection (1) or for making final any preliminary decree for foreclosure or sale referred to therein, shall be entertained by any civil court against a scheduled debtor during the prescribed period.

## **6. Power to issue certificate.**

- The Tehsildar, Naib Tehsildar and Inspector Land Records within the local limits of whose jurisdiction a debtor actually and voluntarily resides, or carries on business, or personally works for gain and such other officer or authority as may be prescribed shall be competent to issue a certificate in the prescribed form and manner certifying that the debtor is an agricultural labourer, a marginal farmer or a rural artisan or a small farmer.

## **7. Presumption and burden of proof.**

- Where in any proceeding for the recovery of debt in a civil court, the debtor produces a certificate issued in his favour under Section 6, the civil court shall presume that the debtor is a scheduled debtor and the burden of proving the contrary, shall lie on the creditor.

## **8. Instalment decrees.**

- Where any decree referred to in subsection (1) of Section 5 is payable by instalments and any instalment payable thereunder falls due within the prescribed period then, notwithstanding anything contained in such decree:- (a) failure to pay such instalment on the due date shall not be deemed to be a default; (b) no instalment shall be deemed to have fallen due during the prescribed period; (c) the unpaid instalments shall be payable after the expiry of the prescribed period on the same dates and with the same intervals as are provided in the decree; and (d) the decree shall be deemed to have been amended accordingly.

## **9. Computation of the Period of limitation.**

(1) The prescribed period shall be excluded in computing the period of limitation prescribed by the Limitation Act, 1963 (Central Act 36 of 1963), or any other law for the time being in force for suits, appeals and applications referred to in sub-section (5) and (6) of Section 5. (2) In computing the period of twelve years prescribed in Section 48 of the Code of Civil Procedure, 1908 (Central Act V of 1908), for an application for execution of any decree referred to in sub-section (1) of Section 5 or in sub-section (6) of the said Section, the prescribed period shall be excluded.

## **10. Restriction on transfer.**

- Every transfer of immovable property or of any interest therein made by a scheduled debtor who is a judgment debtor of any decree referred to in sub-section (1) of Section 5, during the prescribed period, shall be void as against the holder of such decree.

## **11. Repeal.**

- The Rajasthan Scheduled Debtors (Moratorium on Debts) Ordinance, 1975 (Ordinance No. 21 of 1975) is hereby repealed. Notifications [Notification No. F 2 (16) Rev./Gr. IV/76, dated 7-3-1977-Rajasthan Gazette, Extraordinary Part IV-C (II) dated 7.3.1977, Part 475.] S.O. 225. - In exercise of the powers conferred by Section 4 of the Rajasthan Scheduled Debtors (Moratorium of Debts) Act, 1976, the State Government hereby extends the prescribed period for purposes of the said Act for a further period of six months from the date of the expiry of the period prescribed by notification number F. 2 (16) Rev./Gr. IV/76, dated the 10th September, 1976.