

The Maharashtra Debt Relief (Adjustment of Debts) Rules, 1979

MAHARASHTRA

India

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Rule

THE-MAHARASHTRA-DEBT-RELIEF-ADJUSTMENT-OF-DEBTS-RULES of 1979

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The Maharashtra Debt Relief (Adjustment of Debts) Rules, 1979 Published vide Notification No. MDR. 1479/20040/142/7C, dated 16th August, 1979 (M. G. G., Part 4B, pp. 1448-1461) In exercise of the powers conferred by sub-sections (1) and (2) of section 57 of the Maharashtra Debt Relief Act, 1975 (Maharashtra III of 1976), and all powers enabling it in that behalf, the Government of Maharashtra hereby makes the following rules under the Maharashtra Debt Relief Act, 1975, the same having been previously published as required by sub-section (3) of the said section 57, namely:-

1. Short title.

- These rules may be called the Maharashtra Debt Relief (Adjustment of Debts) Rules, 1979.

2. Definitions.

- In these rules, unless the context otherwise requires, -(a) "Act" means the Maharashtra Debt Relief Act, 1975 (Maharashtra III of 1976); (b) "Form" means a form appended to these rules; (c) "Section" means a section of the Act.

3. Applications under sub-section (1) of section 24.

- (1) The application to be made by a debtor under sub-section (1) of section 24 shall be in Form 1.
- (2) The application to be made by a creditor under sub-section (1) of section 24 shall be in Form 2.
- (3) Every application to be made under the preceding sub-rules shall be accompanied by copies of

relevant documents such as decree of the Court, promissory note executed by the debtor, bill of exchange or hundi, deed of mortgage, assignment and such other documents evidencing the debt in question.(4)Every debtor or creditor making such application shall present it in person to the Court during its working hours or shall send it to the Court by registered post.

4. Applications under sub-section (1) of section 27.

- All applications to be made under sub-section (1) of section 27 shall be in Form 3. The applicants shall present them in person to the Court during its working hours or send them to the Court by registered post.

5. Notice under sub-section (3) of section 27.

(1)On receipt of any application under sub-section (1) or (2) of section 27, the Court shall send a notice thereof to the creditor or creditors or the debtor, as the case may be, under a certificate of posting. A copy of such notice shall also be affixed on the notice board in the Court's premises.(2)Every such notice shall state that the applications received by the Court shall be available for inspection in the office of the Court during its working hours.

6. Forms of statements to be submitted by debtor and creditor under section 28.

- The statements of debt to be submitted by a debtor and a creditor section 28 shall be in Forms 4 and 5, respectively.

7. Determination of average gross annual income of debtor.

(1)For the purpose of determining the average gross annual income of a debtor during the five years immediately preceding the date of application made under section 24 (such period being hereinafter in this rule referred to as "the said specified period"), the Court shall,-(i)in the case of a debtor who is a marginal farmer, small farmer or other agriculturist, obtain from the Tahsildar within the limits of whose jurisdiction, the debtor resides or holds agricultural land or other property, such particulars as it may consider relevant, as respects the debtor's land holding, the produce raised thereupon during the said specified period and the approximate value of such produce;(ii)in the case of a debtor who is a worker, rural artisan or rural labourer, obtain from the Tahsildar within the limits of whose jurisdiction, the debtor resides or holds agricultural land or other property, such particulars as it may consider relevant, as respects the sources of his income and the approximate amount of annual income derived therefrom and in the case of a worker who is employed, shall, in addition require such worker to produce a certificate of salary or wages paid to him annually during the said specified period, given by his employer.

8. Form of award.

- The award to be made by the Court under section 41 shall be in Form 6.

9. Form of application under section 44.

- The form of application to be made under section 44 shall be in Form 7.

10. Manner of sale of debtor's property by officer of Court.

- The officer who is ordered by the Court to sell any property of the debtor under section 44 shall sell it in accordance with the procedure laid down for sale under the Code of Civil Procedure, 1908 (5 of 1908) and upon effecting the sale, shall issue a certificate in Form 8 to the purchaser of the property.

11. Recovery of court-fee.

- The court-fees recoverable under section 51 shall be recovered as arrears of land revenue. Form 1 (See rule 3) [Form of application for adjustment of debt to be made by debtor] To, The Court of Civil Judge,

(Senior Division/Junior Division) The Court of Small Causes, Bombay.

Under section 24(1) of the Maharashtra Debt Relief Act, 1975, Ison of..... resident of village taluka district aged engaged in the occupation of.....hereby apply for the adjustment of my debt under the said Act.

2. The amount and other particulars of all debts due from me are indicated below :-

Particulars of debts other than those referred to in sections 58 and 60 of the said Act

1	2	3	
Sr. No.	Full name and address of the creditor	Amount of debt	
Amount of principal originally advanced (1)	Rate of interest (2)	Amount of principal claimed by the creditor (3)	Amount of interest claimed by the creditor (4)
4	5	6	7
Particulars of the securities given to	Amount and the date of decree and the name of the Court	Particulars of debts for which the debtor is liable as surety,	Remarks

the creditor	which has passed the decree	joint surety or joint debtor
Amount of debt	Nature of liability	Full names and addresses of the debtors, joint sureties or joint debtors
(1)	(2)	(3)

The amount and particulars of debts referred to in sections 58 and 80 of the said Act

1	2	3	
Sr. No.	Full name and address of the creditor	Amount of debt	
Amount of principal originally advanced	Rate of interest	Amount of principal claimed by the creditor	Amount of interest claimed by the creditor
(1)	(2)	(3)	(4)
4	5	6	7
Particulars of the securities given to the creditor	Amount and the date of decree and the name of the Court which has passed the decree	Particulars of debts for which the debtor is liable as surety, joint surety or joint debtor	Remarks
Amount of debt	Nature of liability	Full names and addresses of the debtors, joint sureties or joint debtors	
(1)	(2)	(3)	

3. The particulars of my property including claims due to me are as follows

(a) Immovable property (including property situate outside the State of Maharashtra)

Specification of the property with boundaries, where necessary	Name of the village with Survey Nos.	Nature of tenure	
Survey Nos.	Area in hectares	Land Revenue	
(1)	(2)	(3)	
(1)	(2)	(3)	
Average annual income derived during the five years immediately preceding the date of this application	Market value	Details of any attachment, mortgage, line or charge subsisting thereon indicating the date of creation and the name and address of the person in whose favour it is created	Full names and addresses of the co-sharers of the debtors, if any
			Remarks

(4) (5) (6) (7) (8)

Lands.....Houses.....(b)Movable property (including cash)

Sr. No.	Description	Estimated value	Places where it may be found	Details of any pledge, charge or lien thereon	Remarks
1	2	3	4	5	6

4. I hereby declare that to the best of my knowledge and belief all debts which are due from me have been fully and truly disclosed and included in the above statement.

I solemnly affirm that the particulars of all my movable and immovable property have been fully and truly declared and shown in the above statement. Dated the..... 19.....Signature of the applicant. Form 2(See rule 3)[Form of application for adjustment of debt to be made by creditor]To, The Court of Civil Judge,

(Senior Division/Junior Division)The Court of Small Causes, Bombay.

Under section 24(1) of the Maharashtra Debt Relief Act, 1975. I.....son of.....resident of village....taluka..... and district.....hereby apply for the adjustment of my claims against.....who is my debtor.

2. The particulars of my claims are as follows :

Name and full address of the debtor	Amount of debt claimed	Whether secured, and if so, how	Amount of original loan advanced, date of advance and the rate of interest	Rate of interest
Principal	Interest	Amount of loan	Date of loan	(3)
(1)	(2)	(1)	(2)	(3)
1	2	3	4	

Particulars of the decree or award of any Court under which the amount is claimed, showing the date of award or decree, the amount decreed or awarded and the Court which passed the decree or award

Names and addresses of other creditors so far as they are known to the applicant

5 6 7

3. The particulars of the debtor's property including the property situate outside the State of Maharashtra, so far as they are known to me are as follows

(a)Immovable property -

Specifications of the property		Name of the village or town in which the property is situated			
1		2			
		Survey No.	Area in hectares	Land revenue assessment	
Nature of tenure	Estimated market value	Particulars of any mortgage, lien, or charge on the property in favour of the creditors, giving the date of the mortgage, charge or lien and the amount thereof			Remarks
3	4	5			6

(b)Movable property -

Description	Estimated value	Applicant's charge on the same, if any	Remarks
1	2	3	4

(c)Particulars of other income of the debtors, if any, and sources thereof -I solemnly affirm that the particulars of my claims shown in paragraph 2 above are based upon my personal knowledge and to the best of my knowledge and belief are true and correct.I hereby declare that the particulars of the debtor's property as shown in paragraph 3 above are based upon information received and believed to be true by me.Dated the 19.....Signature of the applicant.Form 3(See rule 4)[Form of application for recording settlement arrived at by the debtor and all or any of his creditors]To.

The Court of Small Causes, Bombay.The Court of Civil Judge (Senior Division)/(Junior Division). Under section 27(1) of the Maharashtra Debt Relief Act, 1975, Ison of..... resident of village taluka district.....hereby apply that the settlement in respect of my debts/claims arrived at between the parties mentioned below on.....be recorded and certified under section 27(3) of the said Act.

2. The particulars regarding the settlement are as follows.

Parties to settlement	Amount of debt claimed due by the creditor	Amount for which the settlement is reached	Number of annual or monthly instalments in which the amount is to be paid and priority among the creditors, if any	Particulars of the property of the debtor relating to the	Remarks
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settlement
with details
of any
charge, lien
or mortgage
thereon

Name and address of the debtor	Name and address of the creditor				
(1)	(2)	(3)	(4)	(5)	(6)

I hereby declare that (to the best of my knowledge and belief all debts which are due from me or which to my knowledge any person claims to be due from me and in respect of which the present application is made have been fully and truly disclosed and included in the above statement. I solemnly affirm that the particulars of all my immovable and movable property to which the settlement relates have been fully and truly declared and shown in the above statement. Dated the 19..... Signature of the applicant. Form 4 (See rule 6) [Statement of debts to be furnished by debtor] The amount and particulars of all debts due from me are as follows

1	2	3		
Sr. No.	Full name and address of the creditor	Amount of debt		
Amount of principal originally advanced	Rate of interest	Amount of principal claimed by the creditor	Amount of interest claimed by the creditor	
(1)	(2)	(3)	(4)	
4	5	6	7	
Particulars of the securities given to the creditor	Amount and the date of decree and the name of the Court which has passed the decree	Particulars of debts for which the debtor is liable as surety, joint surety or joint debtor		Remarks
Amount of debt	Nature of liability	Full names and addresses of the debtors, joint sureties or joint debtors		
(1)	(2)	(3)		

Particulars of debts referred to in sections 58 and 60

1	2	3
Sr. No.	Full name and address of the creditor	Amount of debt
	Rate of interest	

Amount of principal originally advanced		Amount of principal claimed by the creditor	Amount of interest claimed by the creditor
(1)	(2)	(3)	(4)

4	5	6	7
Particulars of the securities given to the creditor	Amount and the date of decree and the name of the Court which has passed the decree	Particulars of debts for which the debtor is liable as surety, joint surety or joint debtor Full names and addresses of the debtors, joint sureties or joint debtors	Remarks
Amount of debt	Nature of liability		
(1)	(2)	(3)	

Dated the 19 Signature of the Debtor. Form 5 (See rule 6) [Statements of debts to be furnished by creditor] The particulars of the debts claimed by me are as under

Name and full address of the debtor	Amount of debt claimed	Whether secured, and if so, how	Amount of original land advanced, date of advance and the rate of interest	
Principal	Interest	Amount of loan	Date of loan	Rate of interest
(1)	(2)	(1)	(2)	(3)
1	2	3	4	

Particulars of the decree or award of any Court under which the amount is claimed, showing the date of award or decree, the amount decreed or awarded and the Court which passed the decree or award

5	6	7
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Dated the Signature of the Creditor. Form 6 (See rule 8) [Award under section 41 of the Maharashtra Debt Relief Act, 1975] Proceeding No. Year Award of the Court Whereas, on an application made under the Maharashtra Debt Relief Act, 1975, for the adjustment of debts of the debtor mentioned in column 1 of Schedule A hereto, this Court has determined under the provisions of the said Act, the amounts payable to the creditors mentioned in column 2 of that Schedule.

2. It is hereby ordered under section 41 of the said Act as under

(1) The said debtor shall pay to each of the creditors the amount mentioned against the latter's names in column 4 of Schedule A, in the manner laid down in column 7 thereof. (2) The properties of the said debtor described against Serial Nos. in Schedule B are hereby charged for the payment to the said creditors. (3) Properties described against Serial Nos in Schedule B now in possession of

the creditor Shri shall be delivered to the said debtor, subject to the conditions which are recorded at the end.(4)Properties described against Serial Nos in Schedule B shall be liable to be sold for the recovery of debts of creditors mentioned against Serial Nos respectively, in Schedule A. The conditions subject to which these shall be sold are recorded at the end.(5)Simple interest at the rate mentioned in column 4 of Schedule A shall be allowed on the amount mentioned in that column; costs mentioned in column 5 and court-fees mentioned in column 6 of the said Schedule A shall be paid by the parties mentioned in these columns.(6)The debts shall be paid in priority to the creditors according to the order in which their names are arranged in column 2 of Schedule A.It is hereby declared by the Court under section 46 of the said Act that, without prejudice to the provisions of sections 47 and 56 of the said Act, alienations of properties described against Serial Nos. in Schedule B and encumbrances on properties described against Serial Nos. in the said Schedule B shall be void.(Seal)Small Cause Court, Bombay/Civil Judge, (Senior/Junior Division).Dated the 19.....Note. - In Schedule A, in column 8, the amounts in respect of which a charge is kept should be entered separately according to each serial number of the properties described in Schedule B. In Schedule B, properties on which charges are kept, properties, the possession of which is ordered to be delivered, properties which are liable to be sold and properties, the alienation whereof and encumbrance on which, are declared to be void should be described in different serial numbers.

A

Name and address of the debtor	Names and addresses of the (creditor) including creditors mentioned in sections 58 and 60. arranged in the order of priority mentioned in sub-section (3) of section 41	Amount of debt (secured or unsecured) originally claimed due by the creditor	Amount of debt as scaled down by the Court under section 40 or otherwise made payable under the provisions of the Act	
Serial No.	Name and address of the creditor	Amount	Rate of interest at which further interest shall be payable	
(1)	(2)	(3)	(4)	
Costs	Court-fees	Amount in column 4 how payable	Amount in respect of which a charge is kept	Remarks
(5)	(6)	(7)	(8)	(9)

B

(a) Immovable Properties

Sr No.	Specifications of properties with	Names of villages with	Nature of debtor's	Details of encumbrances, lien, mortgage or	Remarks
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	boundarieswhere necessary (Lands or Houses)	Survey Nos. etc. right	chargealready subsisting thereon	
Survey No. and Pot Hissa	Area in hectares	Assessment		
(1)	(2)	(3)	(4)	(5)
				(6)

(b)Movable Properties

Sr. No.	Description	Place where it may be found	Details of any charge or lien already subsistingthereon	Remarks
1	2	3	4	5

Form 7(See rule 9)[Application for execution of award to be made by creditor under sub-section (1) of section 44 of the Maharashtra Debt Relief Act, 1975]To,

The Court of Small Causes, BombayThe Court of Small Causes, Bombay

In reference to the award passed by Your Honour under proceedings No..... dated I..... son of..... resident of..... villagetaluka district aged and doing business ashereby state that the debtor(s) mentioned in the said award has/have made default in the payment of following instalment (s) due to me under the award:

Sr. No.	Name and address of the debtor	Particulars of instalments which are not paid	Remarks, if any
Due date	Amount of Instalment		
(1)	(2)	(3)	(4)

2. Under the provisions of sub-section (1) of section 44 of the Maharashtra Debt Relief Act, 1975. I hereby pray to Your Honour that the recovery of the aforesaid instalments be ordered to be made through the Collector.....under the provisions of sub-section (2) of section 44 of the said Apt.

Place :Dated the.....19.....Signature of the Creditor.Form 8(See rule 10)[Form of certificate of sale]This is to certify that the properties described in the Schedule hereto have been sold to Shri.....of village.....taluka....district....under section 47 of the Maharashtra Debt Relief Act. 1975, on for Rs.....and the said Shri has been declared to be the purchaser of the said properties at the time of the sale. The sale price of the said properties was received on by the The sale was confirmed by and became absolute on

Schedule 3

(A)Immovable Property

Sr. No. Survey No. Boundaries Village Taluka District

(1) (2) (3) (4) (5) (6)

(B) Movable Property Particulars Place : Dated the..... Officer conducting the sale.