

Tamil Nadu Indebted Agriculturists (Temporary Relief) Act, 1976

TAMILNADU

India

Tamil Nadu Indebted Agriculturists (Temporary Relief) Act, 1976

Act 15 of 1976

- Published on 6 April 1976
- Commenced on 6 April 1976
- [This is the version of this document from 6 April 1976.]
- [Note: The original publication document is not available and this content could not be verified.]

Tamil Nadu Indebted Agriculturists (Temporary Relief) Act, 1976(Presidents Act 15 of 1976)Statement of Objects and Reasons - Tamil Nadu Indebted Agriculturists (Temporary Relief) Act, 1976 (President's Act 15 of 1976). - By the Tamil Nadu Indebted Agriculturists (Temporary Relief) Act 1975 (Tamil Nadu Act 10 of 1975), suits for the recovery of debts due from agriculturists and applications for the execution of the decrees for payment of money passed in any such suit were barred for the period up to the 15th January, 1976. Though the drought conditions had eased in view of the favourable monsoon, the agriculturists were not in a position to repay after the harvest all the loans taken by them. They required some time to rehabilitate themselves. It was, therefore, decided that the relief granted to agriculturists should be extended for a further period of three months. The Tamil Nadu Indebted Agriculturists (Temporary Relief) Ordinance, 1976 (Tamil Nadu Ordinance 1 of 1976) was promulgated to give effect to the above decision.2. The President issued a Proclamation on the 31st January, 1976 under article 356 of the Constitution, in relation to the State of Tamil Nadu, declaring, inter alia, that the powers of the Legislature of the State shall be exercisable by or under the authority of Parliament. The Ordinance referred to above could not be replaced by an Act of Parliament for want of time. Hence by virtue of the powers delegated to the Governor of Tamil Nadu by the President, the Tamil Nadu Indebted Agriculturists (Temporary Relief) No. 2 Ordinance, 1976 (Tamil Nadu Ordinance 7 of 1976) was promulgated and the relief granted to the agriculturists was extended for a period of one year from the 15th January, 1976, instead of for three months as provided in the Tamil Nadu Ordinance 1 of 1976.3. The proposed measure seeks to replace the Tamil Nadu Ordinance 7 of 1976.4. Parliament has, under article 357(l)(a) of the Constitution, now conferred on the President, the powers of the Legislature of the State to make laws vide the Tamil Nadu State Legislature (Delegation of Powers) Act, 1976 (41 of 1976).5. In view of the urgency of the matter, it is not practicable to consult the Consultative Committee on Tamil Nadu Legislation constituted under the above Act. The measure is accordingly being enacted without reference to the Consultative Committee.Published in Part IV-Section 3, page 153 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 (President's Act 3 of 1977). - 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 subscribers 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 (Tamil Nadu Act 27 of 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 I, page 343-344 of the Tamil Nadu Government Gazette Extraordinary dated the 31st March, 1978. Received the assent of the President dated the 6th April 1976 and first published in the Tamil Nadu Government Gazette Extraordinary, dated the 17th April 1976. An Act to provide temporary relief to indebted agriculturists 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 Agriculturists (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, - (a) "agricultural land" means land used for agriculture or horticulture, not being land appurtenant to a residential building; (b) "agriculturist" means a person who owns an interest in agricultural land, and who, by reason of such interest, is in possession of such land or is in receipt of the rents or profits thereof and shall include a lessee; but shall not include - (i) a firm registered under the Indian Partnership Act, 1932 (9 of 1932), or a company as defined in the Companies Act, 1956 (1 of 1956), or a corporation formed in pursuance of an Act of Parliament of the United Kingdom or of any special Indian Law, or (ii) any person who was assessed to income-tax under the Income-tax Act, 1961 (43 of 1961), or to agricultural income-tax under the Tamil Nadu Agricultural Income-tax Act, 1955 (Tamil Nadu Act V of 1955), or to sales-tax under the Tamil Nadu General Sales Tax Act, 1959 (Tamil Nadu Act 1 of 1959), or under the Central Sales Tax Act, 1956 (74 of 1956), in any of the years 1971-72, 1972-73, 1973-74 and 1974-75. Explanation. - Where a joint Hindu Family or a tarwad, tavazhi, kutumba or kavaru is an agriculturist, every coparcener or member of the tarwad, tavazhi, kutumba or kavaru, as the case may be, shall be deemed to be an agriculturist, provided that he has not been assessed to income-tax or agricultural income-tax or sales-tax in any of the years 1971-72, 1972-73, 1973-74 and 1974-75; (c) "debt" - (i) means any sum of money which a person is liable to pay under a contract (express or implied) for consideration received; and (ii) includes rent in cash or kind which a person is liable to pay or deliver in respect of the lawful use and occupation of agricultural land. Explanation I. - For the purpose of this clause, "rent" in relation to agricultural land, shall mean rent accrued due for the fasli year ending with the 30th day of June 1974 and for any previous fasli year. Explanation II. - It is immaterial that the sum or produce is recoverable only by sale of property in enforcement of a mortgage or charge or that the contract was entered into by the person's predecessor-in-title or by the manager of the joint Hindu family or the karanavan of the tarwad or tavazhi or the yajaman of the kutumba or kavaru of which such person was or is a member. Exception. - "Debt" does not include - (i) rent or compensation for the use and occupation of house property; (ii) rent or compensation for the use and occupation of immovable property (not being house property or agricultural land) accrued due on or after the 16th day of January 1975; (iii) any liability arising out of a breach of trust; (iv) any liability in respect of maintenance; (v) any sum payable to the State Government or the Central Government or to any local authority, whether by way of revenues, tax, cess or loan or otherwise; (vi) any sum payable 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 the right of the society to recover the sum did not arise by reason of an assignment made subsequent to the 15th day of September 1974; (vii) wages or remuneration due as salary, or otherwise for service rendered; (viii) any liability in

respect of any sum due to-(A)any banking company to which the Banking Regulation Act, 1949 (10 of 1949), applies;(B)the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955);(C)any subsidiary bank as defined in clause (k) of section 2 of the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959);(D)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);(E)the Agricultural Refinance and Development Corporation, established under the Agricultural Refinance and Development Corporation Act, 1963 (10 of 1963);(F)any other financial institution notified by the State Government in the Tamil Nadu Government Gazette;(G)[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 2 of the Tamil Nadu Debt Relief Laws (Amendment) Act, 1976 (President's Act 46 of 1976).)];(H)[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 2 of the Tamil Nadu Debt Relief Laws (Amendment) Act, 1978 (Tamil Nadu Act 27 of 1978).](d)"pay", with its grammatical variations, includes deliver;(e)"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. Bar of suits and applications.

- No suit for the recovery of a debt shall be instituted, 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, and no suit or application for the eviction of a tenant on the ground of non-payment of a debt shall be instituted or made, against any agriculturist 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 2(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 2(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 2(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 agriculturist.Explanation II. - Where a debt is payable by an agriculturist jointly or jointly and severally with a non-agriculturist, no suit or application of the nature mentioned in this section shall be instituted or made either against the non-agriculturist or against the agriculturist before the expiry of the period mentioned in this section.Explanation III. - 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.

4. Stay of proceedings.

(1) All further proceedings in suits and application of the nature mentioned in section 3 in which relief is claimed against an agriculturist, 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 2(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 2(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 2(a) 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.

5. Exclusion of time for limitation.

(1) 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 application was barred by section 3 or during which the plaintiff or his predecessor-in-title, believing in good faith that section 3 applied to such suit or such application, refrained from instituting the suit or making the application, shall be excluded. Explanation. - "Goodfaith" shall have the meaning assigned to it in clause (22) of section 3 of the General Clauses Act, 1897 (10 of 1897). (2) Where in a suit or an application in which the question of exclusion of time under sub-section (1) arises, the defendant or the respondent, or one of the defendants or respondents, with respect to whom the question is raised, would have been an agriculturist, but for the fact that in the year 1971-72, 1972-73, 1973-74, or 1974-75 he had been assessed to income-tax under the Income-tax Act, 1961 (43 of 1961), or to agricultural income-tax under the Tamil Nadu Agricultural Income-Tax Act, 1955 (Tamil Nadu Act V of 1955), or sales tax under the Tamil Nadu General Sales Tax Act, 1959 (Tamil Nadu Act 1 of 1959), or under the Central Sales Tax Act, 1956 (74 of 1956), it shall be conclusively presumed that, in refraining from instituting the suit or making the application, the creditor believed in good faith that such defendant or respondent was an agriculturist.

6. Effect of transfer of immovable property by the debtor.

- Every transfer of immovable property by a debtor entitled to the benefit of section 3 or section 4, made on or 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 2(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 2(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 2(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.

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

- The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in the Tamil Nadu Cultivating Tenants Protection Act, 1955 (Tamil Nadu Act XXV of 1955), the Tamil Nadu Public Trusts (Regulation of Administration of Agricultural Lands) Act, 1961 (Tamil Nadu Act 57 of 1961), the Malabar Tenancy Act, 1929 (Tamil Nadu Act XIV of 1930), the Tamil Nadu Cultivating Tenants (Special Provisions) Act, 1968 (Tamil Nadu Act 16 of 1968), the Tamil Nadu Cultivating Tenants Arrears of Rent (Relief) Act, 1972 (Tamil Nadu Act 21 of 1972), or 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.

8. 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.

9. Repeal and saving.

(1) The Tamil Nadu Indebted Agriculturists (Temporary Relief) No. 2 Ordinance, 1976 (Tamil Nadu Ordinance 7 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.