

# The Madhya Bharat Agricultural Debtor's Relief Act, 1956

MADHYA BHARAT

India

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### Act 33 of 1956

- Published on 29 October 1956
- Commenced on 29 October 1956
- [This is the version of this document from 29 October 1956.]
- [Note: The original publication document is not available and this content could not be verified.]

The Madhya Bharat Agricultural Debtor's Relief Act, 1956(No. 33 of 1956)[Dated 29th October, 1956](Assented to by the President on 29th October, 1956)An Act to make provision for the relief of indebtedness of agriculturists.Be it enacted in the Seventh Year of the Republic of India as follows-

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

(1)This Act may be called the Madhya Bharat Agricultural Debtor's Relief Act, 1956.(2)It extends to [the Madhya Bharat Region.](3)It shall come into force on such date as the Government may by notification in the Gazette appoint in this behalf.

### 2. Definitions.

- In the Act, unless there is anything repugnant in the subject or context-(1)"Agriculture" includes-(a)the raising of annual or periodical crops and garden produce;(b)horticulture;(c)the planting and upkeep of orchards;(d)the reserving of land for fodder, grazing or thatching grass;(e)dairy farming;(f)poultry; and(g)stock breeding, but does not include leasing of land or cutting of wood only.(2)"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 whether due or not due but shall not include arrears of land revenue, or any amount recoverable as arrears of land revenue, other than the amount due under the award made regarding any debt by the Registrar, Co-operative societies before the 15th August, 1947 or any money for the recovery of which a suit is barred by limitation, or arrears of wages payable in respect of agricultural or manual labour.(3)"Debtor" means a person who earns his livelihood mainly by agriculture and who, in [Madhya Bharat Region] is a pucca tenant, ordinary tenant, sub-tenant, concession holder, assignee of proprietary rights, or a holder of service holding [as defined in Madhya Bharat Land Revenue and Tenancy Act, Samvat 2007 (No. 66 of 1950)] [Now M.P. Land Revenue Code (20 of 1959).] and includes a person or

undivided Hindu family who ordinarily engages in Agricultural labour or who works as an agricultural artisan.(4)"Creditor" means a person to whom a debt is owing and includes a co-operative society.(5)"Board" means a Debt Relief Board established under sub- Section (1) of Section 3.(6)"Prescribed" means prescribed by rules made under this Act.

### **3. Establishment of Debt Relief Board.**

(1)The [State Government] may establish a Debt Relief Board for any district or part of district. Such Board shall consist of a Chairman and two members to be appointed by the Government. The Government may, for reasons to be recorded in writing, cancel any appointment and dissolve any Board :Provided that the Chairman shall be a Civil Judge :Provided also that if on the dissolution of the Board the Government does not consider the appointment of another Board necessary or desirable, it may authorise any officer or officers to exercise all or such powers of the Board, as it may specify.(2)The Chairman and every member of a Board, so established, shall be appointed for a term not exceeding three years. Such Chairman or a member may, on the expiration of the period for which he has been appointed be again appointed from time to time for a further period which shall not exceed three years.(3)The Quorum of the Board shall be two.(4)Where the Chairman and the members of a Board are unable to agree, the opinion of the majority shall prevail. Where the Board is equally divided the Chairman shall have a casting vote.(5)If at any time the Chairman of a Board is temporarily prevented from discharging duties, he may nominate any member thereof to act for him during his temporary absence and such member shall while so acting, have the same powers as the Chairman.

### **4. Application for settlement between debtor and his creditor.**

(1)A debtor or any of his creditors may apply to the Board appointed for the area in which any holding of the debtor, or any part thereof, is situated or where the debtor ordinarily resides to effect of settlement between the debtors and his creditors.(2)No debtor or creditor shall make more than one application, and where applications have been made by the debtor and any of his creditors the application made by the creditors shall be merged in the application made by the debtor.

### **5. Application by debtor jointly and severally liable.**

(1)If the payment of a debt due by a debtor is guaranteed by a surety or if a debtor is otherwise jointly and severally liable for any debt along with any other person and if the surety or such other person is not a debtor, the debtor may make an application under Section 4 for relief in respect of such debt and the Board may after consideration of the facts and circumstances of the case proceed with the settlement of debts under this Act in so far as such applicant is concerned.(2)Whenever the debts due by a debtor which are guaranteed by a surety and adjusted under sub-section (1), the surety shall be discharged from liability in respect of the debts or portion of the debts of such debtor which are extinguished under sub-Section (5) of Section 26, Section 33 or sub-Section (2) of Section 34 and the surety shall not be entitled to proceed against the debtor in respect of such debts or portion.

## **6. Assignees from non.**

- debtor not entitled to benefit of this Act-No application shall lie under Section 4 for settlement of any debt due from a debtor to whom such a debt has been transferred or assigned after the 15th August, 1947, by any person who is not himself a debtor.

## **7. Verification of application.**

- Every application made under Section 4 to the Board shall be in writing and shall be signed and verified in the manner prescribed by the Code of Civil Procedure, 1908 (V of 1908) for signing and verifying the plaints.

## **8. Particulars to be stated in application.**

(1)An application presented by a debtor to the Board under Section 4 shall contain the following particulars, namely-(a)a statement that the debtor is unable to pay his debts;(b)the place where he normally resides;(c)the amount and particulars of all claims against him, together with the names and residences of his creditors so far as they are known to, or can by the exercise of reasonable care and diligence be ascertained by him;(d)the amount and particulars of all his property including claims due to him together with a specification of the value of property and the place or places at which any such property is to be found.(2)An application presented by a creditor shall contain the following particulars, namely-(a)the name of the debtor;(b)the place where the debtor resides; and(c)the amount and particulars of his claim against such debtor.(3)An application presented under this section shall be submitted by the debtor or creditor or by their authorised representatives in case of their Inability owing to genuine reasons to the Chairman of the Board personally and the Chairman shall make a note of this thereon in his own hand.

## **9. Procedure on application.**

(1)On receipt of an application under Section 4 the Board shall pass an order fixing a date and place for hearing the application :Provided that if the Board is of opinion that the application is outside its jurisdiction, it shall dismiss the application without fixing any date.(2)Notice of the order under sub-Section (1) shall be sent by registered post to the debtor or creditors, as the case may be.

## **10. Finality of Board's jurisdiction.**

(1)If, on receipt of an application under Section 4, the Board admits the application as being within its jurisdiction or, under sub-Section (1) of Section 9, dismisses it for want of jurisdiction, a debtor or his creditor may within 30 days, make an objection in writing to the Board against such admission or dismissal.(2)On receipt of an objection under sub-Section (1) the Board shall make such order thereon as it may deem fit and it shall be final.(3)If no objection is made under sub-Section (1) or if an objection is made and decided under sub-section (2) the jurisdiction of the Board shall not be questioned in any Civil Court.

## **11. Notice calling upon creditors to submit statement of debts.**

(1) If, after examining the debtor, the Board is of opinion that it is desirable to make an attempt to effect a settlement between him and his creditors, a notice shall be issued and served or published in the manner prescribed, calling upon every creditor or debtor to submit a statement of debts payable to such creditor by the debtor. Such statement shall be submitted to the Board in writing on or before such date as the Board may fix in this behalf not being earlier than two months from the date of service of publication of the notice, as the case may be : Provided that, if the Board is satisfied that any creditor was, for good and sufficient cause, unable to comply with such direction, it shall extend the period for the submission of his statement of the debt owed to him. (2) Every debt of which statement is not submitted to the Board in compliance with the provisions of sub-Section (1) shall be deemed for all purposes and all occasions to have been duly discharged : Provided that the Board may revive the debt if a creditor proves to the satisfaction of the Board that the notice was not served on him and that he had no knowledge of its publication or that he was prevented from complying with the provision of sub-Section (1) on account of unforeseen or unavoidable difficulty.

## **12. Preliminary issue.**

(1) On the date fixed for the hearing of an application made under Section 4, the Board shall decide as preliminary issue whether the person for the settlement of whose debts the application has been made is a debtor. (2) If the Board finds that such person is not a debtor it shall dismiss the application forthwith for reasons to be recorded.

## **13. Procedure on submission of statement of debts.**

(1) Every creditor submitting a statement of the debts owed to him in compliance with a notice issued under sub-section (1) of Section 11, shall furnish, along with such statement, full particulars of all such debts and shall at the same time produce all documents, including entries in book of account, on which he relies to support his claims together with a true copy of every such document : Provided that if the Board is satisfied that any creditor was, for good and sufficient cause, unable to produce such document along with the statement, it shall require them to be produced on a date fixed for the purpose. (2) Board shall after marking for the purpose of identification every original document so produced and verifying the correctness of the copy, retain the copy and return the original to the creditor. (3) If any document which is in the possession or under the control of the creditor is not produced by him as required by sub-Section (1) the document shall not be admissible in evidence in [Madhya Bharat Region] against the debtor or his heirs in any suit brought by the creditor or by any person claiming under him.

## **14. Verification of statement and particulars of debts.**

- Every statement submitted under sub-Section (1) of Section 11 together with all particulars furnished along with it under sub-Section (1) of Section 13 shall be signed and verified in the manner as prescribed by the Code of Civil Procedure, 1908 (V of 1908) for signing and verifying

plaints.

### **15. Board to endeavour amicable settlement.**

- The Board shall call upon the debtor and each creditor respectively, to explain his case regarding each debt and shall endeavour to induce them to arrive at an amicable settlement.

### **16. Withdrawal of application.**

- An application for settlement of debts under Section 4 shall not be withdrawn without the leave of the Board.

### **17. Power of Board to require attendance of persons and production of documents and to receive evidence.**

(1) Subject to the provisions of Sections 132 and 133 of the Code of Civil Procedure, 1908 (V of 1908) and to rules made under Section 34, the Board shall have power to summon any person whose attendance it considers necessary either to be examined as a party or to give evidence as a witness or to produce any document for the purpose of ascertaining the antecedents of any debt or for any other purpose in connection with an enquiry under this Act. (2) Any person present may be required by the Board to give evidence or to produce any documents then and there in his possession or power.

### **18. Agreement of amicable settlement, its registration and effect.**

(1) If the creditor or creditors come to amicable settlement with the debtor, such settlement shall forthwith be reduced to writing in the form of an agreement recording in a list of immovable properties of the debtor with particulars of any mortgage, lien or charge subsisting thereon, the amounts payable to such creditor or creditors and the manner in which and the times at which they are to be paid. Such agreement shall be read out and explained to the parties concerned, and shall be signed or otherwise authenticated by the Board and the Parties: Provided that, when a co-operative society is one of such creditors, no settlement, in so far as it affects the debts owing to such society, shall be valid without the previous approval in writing of the Registrar of Co-operative Societies. (2) An agreement thus made shall, after the date of its making, be registered, under the Registration Act, 1908 (XVI of 1908) by the Chairman of the Board in such manner as may be prescribed and it shall then take effect as if it were decree of a Civil Court. (3) For the purpose of the registration of an agreement under sub-section (2) the Chairman of the Board shall be deemed to be an officer of Government empowered to execute such agreement within the meaning of Section 88 of the Indian Registration Act, 1908.

## **19. Existing mortgage, lien or charge to subsist.**

- Where an agreement registered under sub-section (2) of Section 18 relates to a debt which is secured by a mortgage, line or charge on any immovable property of a debtor, such mortgage, lien or charge shall subsist to the extent of the amount payable to the creditor in respect of such debt in accordance with the terms of the agreement until such amount has been paid or the property has been sold for the satisfaction of such debt.

## **20. Transfer of pending suits, appeals, applications and proceedings to the Board.**

(1) All suits, appeals, applications for execution and proceedings, in respect of any debt pending in any civil or revenue court or in the Office of the Inspector or sub-inspector Co-operative Department shall, if they involve the question whether the person from whom such debt is due is a debtor, be transferred to the Board. (2) When an application for settlement of debts made to the Board under Section 4 or a statement submitted to the Board under Section 13 includes a debt in respect of which a suit, appeal, application for execution or proceeding liable to be transferred under sub-section (1) is pending before a civil or revenue court, or the Office of the Inspector or sub-inspector, Co-operative Department, the Board shall give notice thereof to such Court or Office. On receipt of such notice, such Court or Office shall transfer the suit, appeal, application or proceeding as the case may be, to the Board. (3) When any suit, appeal, application or proceeding is transferred to the Board under sub-section (1) of sub-section (2) the Board shall proceed as if an application under Section 4 had been made to it. (4) If the Board to which any suit, appeal, application or proceeding is transferred under sub-section (1) or sub-section (2) decides (that the person for the settlement of whose debts the application has been made is not debtor) it shall re-transfer the suit, appeal, application or proceeding to the Court or Office from which it had been transferred to itself after the disposal and subject to the result of the appeal where an appeal is filed, and after the expiry of the period, prescribed for an appeal where no appeal is filed. (5) When any suit, appeal, application or proceeding is re-transferred to the Court or Office under sub-section (4), the said Court or Office shall proceed with the same. (6) When such suit, appeal, application or proceeding involved the determination of any issue entirely unconnected with the settlement of debts the transfer of such suit, appeal, application or proceeding under this section shall not empower the Board to determine the said issue and the determination of such issue shall be made as if the transfer of suit, appeal, application or proceeding was not made under this section. (7) When any question arises regarding the validity of the transfer or re-transfer under this section of any suit, appeal, application or proceeding or if any question arises whether any issue is or is not entirely unconnected with the settlement of debts, the Court or Office before which such question arises, if it is not the District Court, may refer the question for decision to the District Court. If such question arises before the District Court, the District Court itself shall decide the same. The decision of the District Court in either case shall be final.

## **21. Taking accounts.**

- If the Board finds the person making an application under Section 4 or the person against whom an application is made under the said Section 4 to be a debtor, the Board shall proceed to take accounts in the manner hereinafter provided.

## **22. Mode of taking accounts.**

- In case the amicable settlement is not reached notwithstanding any agreement between the parties or the person (if any) through whom they claim, as to allowing compound interest of setting off the profits of mortgaged property without an account in lieu of interest, or otherwise determining the manner of taking the account, and notwithstanding any statement of settlement of account, or any contract purporting to close previous dealings and create a new obligation, the Board shall enquire into the history and merits of the case and take account between the parties from the commencement of the transaction subsisting between the parties and the persons (if any) through whom they claim, out of which the claim has arisen and determine the amount due to each of the creditors at the date of the application made under Section 4 according to the following rules namely-(1)(a) Separate accounts of principal and interest shall be taken; (b) In the account of principal there shall be debited to the debtor only such money as may from time to time have been actually received by him or on his account from the creditor and the price of goods, if any, sold to him by the creditor; (c) In the accounts of principal and interest there shall also be debited the amounts, if any respectively due for principal (including costs) and interest under any decree or order passed by a competent Court in respect of any debt : Provided that if such decree or order does not specify the amount of principal and interest separately or does not contain any material for determining the same, two-third and one-third of the amount awarded by such decree or order shall for purposes of this clause, be deemed to be the amount awarded on account of principal (including costs) and interest respectively. (2) In the case of transactions which commenced before the 1st January, 1941, the Board shall take the account up to the date of the institution of the application and in the account of interest there shall be debited to the debtor, simple interest on the balance of principal for the time being outstanding at the rate agreed upon between the parties, or at the rate allowed under any decree passed between the parties or at a rate not exceeding 9 percent, per annum, whichever is the lowest. The amount found due in respect of principal as well as in respect of interest shall, each separately be reduced by 40 percent, notwithstanding that a decree or order of a Civil Court was passed in respect of any such amount or portion thereof. The amounts so reduced shall be taken to represent the amounts due in respect of principal and interest on the date of the institution of the application. (3) In the case of transactions which commenced on or after the 1st January, 1941 but before the 1st January, 1950 in the account of interest there shall be debited to the debtor, simple interest on the balance of principal for the time being outstanding at the rate agreed upon between the parties, or at the rate allowed under any decree passed between the parties, or at a rate not exceeding 6 percent, per annum, whichever is the lowest. The amount found due on the date of the institution of the application in respect of principal as well as interest shall, each separately be reduced by 30 percent, notwithstanding that a decree or order of a Civil Court was passed in respect of any such amount or portion thereof. The amounts so reduced shall be taken to represent the amounts due in respect of principal and interest on the date of the institution of the

application.(4)In the case of transactions which commenced on or after the 1st January, 1950, in the account of interest there shall be debited to the debtor, simple interest on the balance of principal for the time being outstanding at the rate agreed upon between the parties, or at the rate allowed under any decree passed between the parties, or at rate not exceeding 6 percent per annum, whichever is the lowest.(5)All money paid by or on account of the debtor to the creditor or on his account and all profits, service or other advantages of every description received by the creditor in the course of the transaction (estimated, if necessary, at such money-value as the Board in its discretion may determine) shall be credited first in the account of interest, and when any payment is more than sufficient to discharge the balance of interest due at the rate specified in sub-section (2), (3) or (4) as the case may be, the residue of such payment shall be credited to the debtor in the account of principal.(6)The accounts of principal and interest shall be made up to the date of the institution of the application, and the aggregate of the balance, if any, appearing due on both such accounts against the debtor on that date shall be deemed to be the amount due on that date, except when the balance appearing due on the interest account exceeds that appearing due on the principal account, in which case, double the latter balance shall be deemed to be the amount then due :Provided that where the transactions between the parties have commenced more than 30 years before the 1st January, 1950 any settlement of accounts which has been last arrived at between the parties before the said period of 30 years and which is in writing and bears the signature of the debtor or the person through whom the liability is derived shall be accepted as binding between the parties and no enquiry into the history and merits of the case shall be made prior to the date of such settlement.

### **23. In certain cases rent may be charged in lieu of profits.**

- Where any mortgaged property is in the possession of the mortgagee or his tenants other than the mortgagor and the Board is unable to determine what profits have actually been received, it may fix a fair rent for such property and charge to the mortgage such rent as profits for the purpose of Section 22 :Provided that, if it be proved that in any year there was any suspension or remission of rent or land revenue of such land under Section 122 of the Madhya Bharat Land Revenue and Tenancy Act, Samvat 2007 an abatement of the whole or part of such amount may be allowed for the year.

### **24. Power of Court to declare transfer purporting to be in nature of mortgage.**

- Notwithstanding anything to the contrary contained in any law, custom or contract, whenever it is alleged during the course of the hearing of an application made under Section 4 that any transfer of land by a person whose debts are being settled under this Act or any other person through whom he inherited it was a transfer in the nature of mortgage, the Board shall declare the transfer to be a mortgage, if the Board is satisfied that the circumstances connected with the transfer showed it to be in the nature of a mortgage.



## **25. Provisions of Section 24 not to apply to certain transfers and transferees.**

- Nothing in Section 24 shall apply to-(i)any transfer which has been finally adjudged to be a transfer other than a mortgage by a decree of a Court of competent jurisdiction; and(ii)any bonafide transferee for value without notice of the real nature of such transfer or his representative where such transfer or representative holds it under a registered deed executed on or before the 1st January, 1951.

## **26. Notice to Collector, co-operative societies, Registrar, local authorities and others.**

(1)On receipt of an application for settlement of debts, the Board shall give notice to the Collector requiring him to state to the Board within such time as may be fixed by it the amount of the debt due by the debtor to Government.(2)The Board shall also give similar notice to any local authority, co-operative society, scheduled bank to which any debt may be due by the debtor and also to any person who is entitled to maintenance from the debtor, under a decree or order passed by a competent Court. In the case of any debt due to a co-operative society, the Board shall also give notice to the Registrar of Co-operative Societies or to such officer as the Registrar may nominate in this behalf.(3)On receipt of such notice, the Collector, the local authority, the co-operative society, the scheduled bank, or the person entitled to maintenance, as the case may be, shall, within such time as may be fixed by the Board, from time to time, submit a statement to the Board showing the total amount of the debt due by the debtor as also any recurring liability against such debtor in respect of the liability for maintenance under the decree or order.(4)The Collector, the co-operative society or the scheduled bank shall also furnish a statement to the Board showing the amount of remission which the State Government, the co-operative society or the scheduled bank, as the case may be, is willing to give in respect of the debt.(5)The portion of any debt remitted under sub-section (4) and unless the Board otherwise directs, any debts or portion thereof, in respect of which no statement is submitted under sub-section (3), shall be extinguished :Provided that the Board may revive the debt, if the Collector, Local Authority, Co-operative Society, Scheduled Bank or the person entitled to maintenance, as the case may be, satisfied the Board by proving that he was not served with a notice and he had no knowledge of its publication or that he was prevented from complying with the provisions of sub-Section (3) due to unforeseen or unavoidable circumstances.

## **27. Board's duty of determine particulars, value, etc. of property.**

- After taking accounts under Section 22, the Board shall in the manner hereinafter, provided determine-(1)the particulars of the property belonging to the debtor;(2)the value of the said property;(3)the particulars of any incumbrances of the said property; and(4)the paying capacity of the debtor.

## **28. Fraudulated alienations or encumbrances void.**

(1) If in the course of the hearing of an application made under Section 4, the Board finds that the debtor has made an alienation of property or created any encumbrances thereon with intent to defeat or delay any of his creditors, the Board shall, by notice, summon the debtor and the person in whose favour the alienation of encumbrance is made or created to appear before it on a day to be specified in the notice. (2) On the day specified in the notice or such other day to which the hearing may be adjourned, the Board shall hear the parties and record evidence as may be produced, and if it is satisfied that the alienation was made or the encumbrance was created with intent to defeat or delay any of the creditors of the debtor, the Board shall declare the alienation or encumbrance to be void. (3) Nothing in this section shall impair the rights of an alienee or the holder of an encumbrance in good faith and for valuable consideration.

## **29. Value of property of debtor to be determined by Board in prescribed manner.**

(1) Subject to the provisions of sub-sections (2) and (3) the value of the property and other assets of a debtor for the purpose of ascertaining the paying capacity of the debtor under Section 30 shall be determined by the Board in the prescribed manner. (2) The property or assets which are exempted from attachment in execution of a decree of a Civil Court under the Code of Civil Procedure, 1908, shall not be taken into account. (3) The Market-value of the lands, which, under any law for the time being in force are not transferable or alienable except with the previous sanction of the Collector or the State Government, shall be calculated in such manner as may be prescribed.

## **30. Paying capacity.**

- The paying capacity of the debtor shall, for the purposes of this Act, be deemed to be sixty percent of the value of all the property of the debtor : Provided that when any portion of such property yields income, but the market-value of such portion cannot be determined, the value of such portion shall be the amount of the income capitalised at six percent per annum.

## **31. Debts payable by debtors to be scaled down.**

(1) Notwithstanding any law, custom, contract, award or decree of a Court to the contrary, the amount found due under Section 22 from a debtor shall be further scaled down in the manner hereinafter provided. (2) If all the debts found due by a debtor after taking accounts under Section 22 are unsecured, such debts' shall be further scaled down pro rata to the paying capacity of the debtor. (3) If all the debts found due by a debtor after taking accounts under Section 22 are secured debts, and the total amount of such debts is more than sixty percent of the value of the property belonging to the debtor, such debts shall be further scaled down pro rata to the paying capacity of the debtor. (4) If the debts found due by a debtor after taking accounts under Section 22 are both secured and unsecured, and if the total amount of the secured debts is more than sixty per cent of the value of the property on which debts are secured, the secured debts shall be further scaled down

pro rata to sixty per cent of the value of the property on which such debts are secured and the unsecured debts shall be further scaled down pro rata to sixty per cent of the value of the other property belonging to the debtor over which no debts are secured.

### **32. Award.**

(1)After determining the amount of debts scaled down in the manner provided in Section 31, the Board shall, save as otherwise provided in Section 33, make an award.(2)The award shall be in the prescribed form and shall be drawn up subject to the following provisions-(i)the amount of the secured debts scaled down shall be charged on the properties on which they may have been secured;(ii)subject to clause (i), the amount of unsecured debts shall be charged on all the properties of the debtor unless all the creditors declare in writing that the unsecured debts due may not be charged on any of the properties of the debtor;(iii)in fixing the priority in which debts shall be paid, the following order shall be followed :(a)debts due to Government, which are charged on the immovable property belonging to the debtor or which are recoverable as the current year's land revenue,(b)debts due to local authorities, which are charged on the immovable property belonging to the debtor or which are recoverable as the current year's land revenue,(c)secured debts in order of priority,(d)debts due to Government, local authorities and other bodies including co-operative societies, and recoverable as arrears of land revenue,(e)other debts due to co-operative societies,(f)unsecured debts:Provided that in the case of unsecured debts, they shall be paid pro rata.(iv)the total annual instalments shall not exceed twelve :Provided that in fixing the amount of instalments in which the debts shall be paid, the Board shall ascertain the net annual income of the debtor, and the annual instalments payable by the debtor shall not exceed his net annual income.Explanation - For the purposes of this clause, the net annual income of the debtor shall mean the balance of his annual income after deducting (i) such sum as may be considered necessary for the payment of this liability, if any, imposed on the debtor under a decree or order for maintenance passed by a competent Board, (ii) such sum as may be considered necessary for the maintenance of the debtor and his dependents, and (iii) the sum required by the debtor to pay the assessment and taxes in respect of the current year to Government and to local authorities and to pay off loans borrowed for the purpose of the financing of crops.(v)the Board may pass an order for the delivery of possession of any property notwithstanding any law or contract to the contrary.(vi)the rate of interest shall not exceed six per cent per annum of such less rate as may be notified in this behalf by the Government or the rate agreed upon between the parties when the debt was originally incurred or the rate allowed by the decree in respect of such debt whichever is the lowest.

### **33. No recovery of amount in excess of debts scaled down.**

- The amount of debts scaled down under Section 31 shall, for the purposes of this Act, be the amount due by the debtor in respect of the said debts and the portion of the debts in excess of this amount shall be extinguished.

### **34. Debts not to be scaled down in case of collusion.**

- If the Board making an award under Section 32 is, at any stage of the proceeding, satisfied that-(1)the debtor had, in collusion with any creditor, furnished in such proceeding incorrect information in respect of the debt due by him to such creditor with a view to defeat the lawful claims of any other creditor, the Board may refuse to scale down any of the debts of such debtor in the manner provided in Section 31 and may make an award for the full amount of the debts due from such debtor;(2)any claim by a creditor in such proceeding had been put forward in collusion between the debtor and such creditor with a view to defeat the lawful claims of any other creditor, the Board shall order that the debt due by the debtor to such creditor shall be extinguished and such debt shall not be recoverable.

### **35. Ex-parte proceedings if any party does not appear.**

(1)Notwithstanding that the person for the settlement of whose debts an application has been made under Section 4, or any of his creditors, does not appear on the date fixed for the hearing of the application or on any date to which it may be adjourned, the Board shall proceed ex-parte to hear the application, and, if necessary, make the award on the evidence available.(2)When an application made under Section 4, is heard and disposed of ex-parte under sub-Section (1), the decision on the award shall not, except for sufficient reasons, be re-opened merely on the ground that any of the parties thereto did not appear at the hearing.

### **36. Re-opening of award and re-settlement of debts.**

- If, after an award is made under Section 32 the Board finds on an application made to it by any party or otherwise that the debtor has other property which was not disclosed to the Board when the award was made or that any property included in the award did not belong to the debtor the Board may, notwithstanding anything contained in this Act, re-open the award and re-settle the debts in accordance with the provisions of this Act:Provided that where the Board is satisfied that the non disclosure of such property was in consequence of any fraud on the part of the debtor, the Board in revising the award shall not give the debtor the benefit of Section 31.

### **37. Award to be registered. How executed.**

(1)Every award made under this Act if it is in respect of debts charged on the properties of the debtor shall, on payment of the court-fee payable under Section 43 be registered in the manner provided hereinafter.(2)The court-fee on the award shall be paid by the party ordered by the Board to bear the costs :Provided that any creditor, who is not ordered to bear the costs, may pay such court-fee. Such creditor shall be entitled to recover the amount of court-fee paid by him from the debtor with the first instalment payable to him under the award :Provided further that no court-fee shall be payable by a co-operative society.(3)The award shall be executed as follows-(i)If the debtor makes default in the payment of any instalment due under the award to any creditor, such creditor may apply in the prescribed form to the Board for execution of the award.(ii)If the Board, on receipt

of such application, is satisfied that the debtor has made default in the payment of the instalment, the Board shall transfer the award for execution to the Collector, and thereupon the Collector shall recover the amount of the instalment from the debtor as arrears of the land revenue :Provided that nothing in clauses (i) and (ii) shall affect the right of Government, a local authority, or a co-operative society to have recourse to any mode of the recovery allowable by any law for the time being in force.(iii)If the Board has passed an order for the delivery of the possession of any property under clause (v) of sub-Section (2) of Section 32 such order shall on the application be executed by the Board as if it were a decree passed by it.

### **38. Postponement of payment of instalment in case of remission, etc.**

(1)Whenever from any cause the payment of one-half or more of the land revenue payable to the Government is suspended or remitted, the payment of whole of the instalment due for that year and the full amount of instalment due for each subsequent year under an award of instalment shall be postponed for one year.(2)Whenever from any cause the payment of any portion less than one-half of the land revenue payable to the Government is suspended or remitted, one-half of the amount of the instalment for that year and the full amount of the instalment for that year and full amount of the instalment due for each subsequent year under settlement or an award made under Section 32 shall be postponed for one year.

### **39. Board or Court may order sale of debtor's property in liquidation of his debt.**

- If the Board or the Court hearing an appeal against the award is at any time satisfied that it is in the interest of a debtor that any part of his property should be sold in liquidation of his debt or part thereof, such Board or Court may permit the debtor to sell such part of the property for such purpose within a specified period. If the debtor fails so to sell it, such Board or Court may order an officer of the Board or Court, as the case may be, to sell the same. The property ordered to be sold under this section shall be sold by such officer in the manner prescribed :Provided that the part of the property ordered to be sold under this Section shall not exceed the part liable to be sold under sub-Section (2) of Section 52.

### **40. Pleaders etc. excluded from appearance.**

- Except in proceedings under Sections 24 and 28 and sub-section (3) of Section 37, no pleader shall be entitled to appear on behalf of any party in any proceeding before the Board or the Court in appeal under this Act:Provided that the Board or the Court in appeal in the interest of justice for reasons to be recorded in writing may allow the parties to be represented at their own cost by a pleader :Provided further that pleader's fee shall not be allowed as part of the costs for the appearance of a pleader in any proceeding under this Act :Provided also that if any officer of Government is appointed or declared by a competent Court or is authorised, under any law for the time being in force as a guardian, administrator or manager of the property of a person who is under a legal disability or is incompetent or unable to manage or to act, such officer shall be entitled to

appear through a representative authorised by him in writing in this behalf in any proceedings before the Board or the Court in appeal. Such representative may also submit any application or otherwise act on behalf of the officer in any such proceedings.

#### **41. Appeals.**

- Notwithstanding anything contained in any other law, - (i) an appeal shall lie - (a) from every order passed under Section 16; (b) from every order passed under Section 18; (c) from every order passed under Section 24; (d) from every order passed under Section 28; (e) from every order passed under sub-Section (1) of Section 35; (f) from every award made under this Act, or an award before the making of which neither the debtor nor any of the creditors produced evidence; to enable the Board to determine the amount of debt due from the debtor; (g) from an order made under sub-section (1) or (2) of Section 52 for adjudicating the debtor an insolvent: Provided that no appeal shall lie from such order except on the ground that insolvent has failed to disclose all the material facts relating to his assets and liabilities. (2) an appeal from the Board shall lie to the District Court and the appeal shall be made within sixty days, from the date of the order of award as the case may be, whichever is later. In computing the period of sixty days, the provisions contained in Sections 4, 7 and 15 of the Indian Limitation Act, 1908 shall so far as may be apply; (3) no second appeal shall lie against any decision, order or award of the Board under this Act.

#### **42. Power of District Judge to refer, for disposal, certain appeals, to Additional District Judge or Civil Judge empowered to hear appeals.**

- A District Judge may refer for disposal any appeal filed under the last preceding section to an Additional District Judge, or a Civil Judge invested with power to hear appeals under Section 24 of Madhya Bharat Civil Court Act, Samvat 2006.

#### **43. Court-fees.**

(1) Notwithstanding anything contained in the Indore Court-fees Act (IV of 1918), as adopted in Madhya Bharat, court-fees payable in respect of proceedings under this Act shall be at the following rates : (i) on an application under Sections 4, 16, 18 or sub-section (1) of Section 24 - Re. 1; (ii) on an award other than an award specified in clause (i) - Re. 1 for every hundred rupees, or part thereof, the amount of the award, subject to a maximum of Rs. 50; (iii) on an appeal against a decision of the Board - Rs. 2; (iv) on an order passed under Section 13 - Rs. 2; (v) on an appeal other than an appeal specified in clause (iii) - Re. 1 for every hundred rupees or part thereof of the amount involved subject to maximum of Rs. 50. (2) Notwithstanding anything contained in any law, the court-fees payable in respect of proceedings under this Act shall be a first charge on the property of the party ordered to pay the costs and shall be recoverable in such manner as may be prescribed.

#### **44. Notice how served.**

- Any notice required to be served under this Act shall be served in the manner provided in the Code of Civil Procedure, 1908, and when rules are made in that behalf, in such a manner as may be prescribed.

#### **45. Provisions of Civil Procedure Code to apply to proceedings.**

- Save as otherwise expressly provided in this Act, the provisions of the Code of Civil Procedure, 1908, shall apply to all proceedings under this Act: Provided that the Board may, in a proper case and on such terms as may appear to it to be just, exercise its powers to add or strike out parties under Rule 10 of order I of the said Code in any proceeding pending before it under Section 4 or 24 notwithstanding the fact that such addition, or striking out of parties is to be made after the date specified in Section 4 or 24, as the case may be, has elapsed.

#### **46. Debt Settlement Register and index.**

- In all registration offices a book called "Register of Debt Settlement Awards" and an index relating thereto shall be kept. The book and index shall be kept in such a form and shall contain such particulars as the State Government may prescribe.

#### **47. Court to send award and memorandum to registrars and sub-registrars.**

- Where an award is required to be registered under Section 37, it shall be the duty of the Court making the award to send to the sub-registrar of the sub-district in which the property, which is the subject-matter of the award, or any part of such a property is situated, or, if there is no sub-registrar for the area, to the registrar of the district in which the property or its part is situated, a certified copy of the award after court-fees has been paid thereon in accordance with the provision of Section 43 together with memorandum containing such particulars as the State Government may prescribe.

#### **48. Notice of appeals to Registrars.**

- If a party files an appeal against an award, under Section 41, and if such an award has been registered under Section 37, it shall be the duty of the Court in which the appeal is filed to send to the sub-registrar or the registrar to whom a certified copy of the award has been sent under Section 47, a notice regarding the institution of the appeal.

#### **49. Registration.**

- After the expiry of the period provided for the appeal against an award, if no appeal is filed, or if an appeal is filed after the disposal of the said appeal, the sub-registrar or the registrar, as the case may be, shall register the award in the register of debt settlement awards, and shall also enter particulars in the index kept under Section 46.

## **50. Notice of awards.**

- Any person acquiring any property share or any part of, or any share or interest in, the property of a debtor for settlement of whose debts an award has been made and registered, shall be deemed to have notice of the award as from the date of the registration under this Act.

## **51. Application of Indian Registration Act.**

- Except as herein provided, the provisions of the Indian Registration Act, 1908, shall mutatis mutandis apply to the registration of awards, and the words and expressions used in this Act but not defined in this Act shall have the meanings assigned to them in the Indian Registration Act, 1908.

## **52. Board to declare debtor insolvent in certain circumstances.**

(1) If at any stage of the proceedings under procedure of settlement of debts, the Board finds that the income of the debtor, and his movable property are not sufficient to allow his debts to be liquidated by annual instalment not exceeding twelve in number, the Board shall make an order adjudicating the debtor an insolvent. (2) If at any time after the expiration of two years from the date of an award, the debtor satisfies the Court that there is no reasonable probability of his being in a position to pay the remaining amount of instalments fixed under the award, the Board may, notwithstanding anything contained in this Act, after giving notice to the creditor, modify the terms of the award and reduce the amount of the instalment as it may think fit, provided that the total annual instalments in which the balance of the debts shall be paid in such instalments shall not exceed twenty, or the Board may make an order adjudicating the debtor an insolvent. (3) After the debtor has been adjudicated an insolvent, the Board shall direct that such portion of the property of the debtor, liable to attachment and sale, under Section 60 of the Code of Civil Procedure, 1908, excluding such portion thereof as the State Government shall from time to time notify in the Official Gazette as the minimum necessary for the maintenance of the debtor and his dependents, as may be required to liquidate all the debts of the debtor, shall immediately be sold free of all encumbrances in liquidation of all debts outstanding against such debtor.

## **53. Procedure in insolvency proceedings.**

- The order of adjudication made under sub-section (1) or (2) of Section 52 shall have the force of an order made by a competent Court in the exercise of its powers under Section 7 of the Provincial Insolvency Act.

## **54. Distribution of assets of insolvent.**

- The proceeds realised by the sale of the property of the insolvent under Section 52 shall be distributed in the order of priority specified in clause (iii) of sub-section (2) of Section 32.



## **55. Bar of application in insolvency in other courts.**

- No application or proceedings in regard to the insolvency of the debtor shall lie in, or shall be dealt with by, any other Court.

## **56. Appeals barred.**

- Save as provided sub-clause (g) of clause (1) of Section 41, no appeal shall lie from any order passed under this Act.

## **57. Period of proceedings before Board under this Act to be excluded.**

- In computing the period of limitation for the institution of any suit or proceeding in respect of any debt due from any person who is held not to be a debtor by the Board or the Court in appeal or an application relating to which has been dismissed by the Board or the Court in appeal, the period during which the proceeding, in respect of such debt, were prosecuted before the Board or the Court in appeal, shall be excluded.

## **58. Alienation of standing crops, etc. before re.**

- payment of loan prohibited-(1) No person, who is or was a party to any proceedings or award under this Act, and who is indebted to any person authorised to advance loan under Section 59 of this Act on account of any loan advanced to him under this Act, shall hypothecate or sell the standing crops or the produce of his land without the previous permission of the person, until such loan has been repaid in full.(2)Any person who hypothecates or sells the standing crop or the produce of his land in contravention of sub-Section (1), shall, on conviction, be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to rupees 500.(3)No criminal Court shall take cognizance of any offence under this section except on the complaint in writing of the Chairman of the Board before which the proceedings were held, or which made the award.

## **59. Power of State Government to authorise any person to advance loans to the debtors.**

(1)The Government or any officer empowered by it may by notification in the Official Gazette authorise in any local area any person to advance loan to the debtors who are parties to any proceedings under the Act or in respect of his debts and adjustment has been made under this Act.(2)Such authority shall be granted on such conditions as may be prescribed.

## **60. Recovery of sums due under agreement.**

(1)If a debtor makes default in paying any amount due in accordance with the terms of an agreement registered under sub-Section (2) of Section 18, such amount shall be recoverable, on the application

of the creditor made within ninety days from the date of default as if it were an arrear of land revenue.(2)Where the Collector has under sub-Section (1) recovered any amount which was payable in accordance with the terms of agreement, he shall proceed to make payment as follows-(a)he shall, in the first instance, apply the sum realised from the sale of any portion of the movable property to the payment of any amount payable under the agreement on account of a debt which is secured by mortgage, lien or charge on such property in order of priority determined in accordance with the provisions of the Transfer of Property Act, 1882 (IV of 1882) and, if the said sum is insufficient to meet such payments the amount which have remained unpaid shall rank equally with unsecured debts;(b)if there is a surplus after the payments have been made under clause (a) the Collector shall apply to the payment of any other amounts payable under the agreement the sum of the surplus and of the proceeds realised from the sale of such portion of any other property of the debtor as will, together with the surplus, be sufficient to meet the payment of such accounts;(c)if the sum of the surplus and sale proceeds referred to in clause (b) are insufficient to meet the payment of other amount referred to therein such other amount and any amount payable an account of any unsecured debt for the recovery of which a decree has been passed by a Civil Court, and of which details are given in the agreement shall rank equally between themselves for the purposes of payment.(d)Any further surplus remaining after the payments have been made under clauses (a), (b) and (c) shall be paid by the Collector to the debtor.(3)Where the Collector fails, under sub-section (1) to recover as an arrear of land revenue any part of the amount referred to therein he shall certify that it is irrecoverable and thereupon the agreement shall cease to subsist.(4)Where an agreement ceases to subsist any amount which was payable under such agreement but has not been paid shall be recoverable as if a decree of a Civil Court had then been passed for its payment.

## **61. Power to deposit amount of instalment with the Collector.**

(1)If a creditor refuses to accept any amount tendered to him by his debtor in accordance with the terms of an agreement registered under sub-section (2) of Section 18, or in accordance with the terms of the award registered under Section 37, or if in any case, the debtor is doubtful as to the person entitled to receive such amount, the debtor may apply to the Collector for permission to deposit such amount with him.(2)An application made under sub-Section (1) shall be in writing and shall contain-(a)a statement of the grounds on which it has been made,(b)the name of the creditor to whose credit the deposit is to be entered, and(c)the name of the person to whom payment was last made and of the person now claiming it.

## **62. Grant of receipt for deposit.**

(1)If it appears to the Collector that the applicant is entitled to make the deposit under Section 61, the shall receive such deposit and give a receipt therefor.Payment of deposit - (2) The Collector shall cause a notice of such deposit to be served on every person who, he has reason to believe, claims or is entitled to it and may pay the amount thereof to any person appearing to him to be entitled to it, or may retain it pending the decision of a Civil Court as to the person entitled to it.

### **63. Debtor to be deemed to have fulfilled terms of agreement or of award.**

- A debtor who has made deposit under Section 62 shall be held to have fulfilled the terms of the agreement or of the award.

### **64. Bar of suits and other legal proceedings.**

- Not suit or other legal proceeding shall be instituted in any Court against the Chairman of the Board or any member for anything done or intended to be done under this Act.

### **65. Bar of civil suits.**

- Except as otherwise provided in this Act and notwithstanding anything contained in any other law, no Civil Court shall entertain-(a)any suit in respect of-(i)any matter pending before a Board, or(ii)the validity of any procedure or the legality of any agreement made under this Act or award, or(iii)the recovery of any debt recorded as wholly or partly payable under an agreement registered under sub-section (2) of Section 18 from any person or an award made against any person who, as a debtor, was party to such agreement whether such agreement or award is subsisting or not, or(iv)the recovery of any debt which has been deemed to have been duly discharged under sub-section (2) of Section 11 except a debt which is revived under the proviso to that sub-Section,(b)any application to execute a decree, the execution of which is suspended.

### **66. Any transfer made by the debtor before the discharging of debt shall not be valid.**

- Being any law or contract in force, transfer of property of such debtor who is a party to any proceeding under this Act or in an award registered under this Act which has been made under the provisions of Sections 39 and 58 before discharging of all his debts by him shall not be valid except with the previous sanction of the Board.

### **67. Bar of appeal or revision.**

- Except as otherwise in this Act no appeal or application for revision shall lie against any order or award made by a Board.

### **68. Power of Board to review its order.**

- The Board may, either on its own motion at any time or on the application from any person interested, made within 90 days of the passing of an order review any order passed by it and pass such order in reference thereto as it thinks fit:Provided that no order shall be varied or reserved unless notice has been given to the person interested .to appear and be heard in support of such order.

## **69. Suspension of pending application or suit.**

- When an application has been made to the Board under Section 4, any suit or other proceeding then pending before a Civil Court in respect of any debts for the settlement of which application has been made shall be suspended until the Board has disposed of the application.

## **70. Members of Board deemed to be public servants.**

- The members of the Board shall be deemed to be public servants within the meaning of the Indian Penal Code (XLV of 1860).

## **71. Proceedings deemed to be Judicial proceedings.**

- All proceedings under this Act shall be deemed to be judicial proceedings within the meaning of Section 228 of the Indian Penal Code.

## **72. Rules.**

(1)The State Government may, by notification in the Official Gazette and subject to the condition of previous publication from time to time make rules for carrying into effect the purposes of this Act.(2)In particular and without prejudice, to the generality of the foregoing provision such rules may be made for all or any of the following purposes namely-(a)for regulating the procedure before the Board,(b)the form of application under sub-section (2) of Section 4 and the manner of signing, verification and presentation thereof,(c)the manner in which notices shall be issued and served or published under sub-section (1) of Section 11,(d)the process fee to be charged for issue of process under this Act,(e)the inventories of property, lists of creditors and of debtors and of debts due to and from a debtor, the examination in respect of property or creditors, the time at which the debtors shall attend before the Board and the production of books of account, the examination to be submitted to and the information to be supplied by the creditor in respect of the debt due to him by the debtor,(f)the power of the Board to summon parties and witnesses under Section 18 and the grant of expenses to witnesses,(g)the place at which and the manner in which an agreement shall be registered under sub-section (2) of Section 18,(h)the manner of determining the value of property and other assets under sub-section (1) of Section 29, and the manner of calculating the market value of the lands under sub-section (3) thereof,(i)the form of award under sub-section (2) of Section 32 and Section 33(j)the form of application under clause (i) of sub-section 37,(k)the manner in which property may be sold under Section 39,(l)the manner of recovery of court-fees under sub-section (2) of Section 43,(m)the charges to be made by the Board for anything done under this Act and the persons by whom and the manner in which such charges shall be paid,(n)the form of and the particulars to be included in the Register of Debt Adjustment Awards and the index kept under Section 46,(o)the particulars to be included in the memorandum under Section 47, (p) the conditions on which authority to grant loans shall be granted under sub-section (2) of Section 59,(q)the records to be kept and the returns to be made by the Board,(r)the allowances, if any, to be paid to the Chairman and members of the Board,(s)the purposes for which loans may be granted

under sub-Section (1) of Section 59.(3)Any charges prescribed by rules may be recovered as an arrear of land revenue from a person liable to pay them.(4)In making any rule the Government may direct that a breach thereof shall be punishable with fine which may extend to fifty rupees, and, where the breach is a continuing one, with further fine which may extend to ten rupees for every day after the first during which the breach has persisted in.

### **73. Savings.**

- Save as otherwise expressly provided, nothing in this Act shall affect the debts and liabilities of the debtor falling under the following heads-(1)any revenue or tax payable to Government or any other sum due to it by way of loan or otherwise,(2)any tax payable to a local authority or any other sum payable to such authority by way of loan or otherwise,(3)any sum due to a co-operative society, actually advanced after 5th August, 1947,(4)the sum of loan advanced under Section 59,(5)any sum due under a decree or order for maintenance passed by a competent Civil Court, and(6)any sum due to a scheduled bank.

### **74. Repeal.**

- As soon as this Act comes into force the Agricultural Debtor's Relief Act Gwalior State, Samvat 2007, the Indore Debt Conciliation Act, the Barwani State Agriculturists Relief Act, the Sitamau Agriculturists Relief Act, 1944, and all other laws in respect of the relief of indebtedness of agriculturists for the time being in force in the Government States of Madhya Bharat shall stand repealed, but it shall not affect the Madhya Bharat Money Lender's Act, 1950 and the Madhya Bharat Usurious Loans act, 1951 :Provided also that all actions taken or orders given under the said Act, Rules and Laws shall, so far as they could have been validly taken or given under this Act, be deemed to have been taken or given, as the case may be, under this Act.