

The U.P. Debt Relief Act, 1977

UTTAR PRADESH

India

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Act 4 of 1977

- Published on 23 July 1977
- Commenced on 23 July 1977
- [This is the version of this document from 23 July 1977.]
- [Note: The original publication document is not available and this content could not be verified.]

The U.P. Debt Relief Act, 1977(U.P. Act No. 4 of 1977)[Dated 23rd July, 1977]Received the assent of the President on July 23, 1977, published in U.P. Gazette, Extraordinary, dated 23rd July, 1977, pages 11-20.An Act to provide relief from indebtedness to landless agricultural labourer, rural artisans, marginal formers, small farmers and urban workers.It is hereby enacted in the Twenty-eighth Year of the Republic of India as follows:

Chapter I Preliminary

1. Short title, extent and commencement.

(1)This Act may be called the Uttar Pradesh Debt Relief Act, 1977.(2)It extends to the whole of Uttar Pradesh.(3)It shall be deemed to have come into force on February 21, 1977.

2. Definitions.

- In this Act-(1)"annual household income", in relation to a debtor or a small farmer, means the aggregate of the annual income from all sources of all the members of his family, for the year 1976 ;(2)"appellate officer" means an officer appointed by the State Government for the purposes of hearing appeals under this Act;(3)"Civil Court" includes-(a)any court exercising jurisdiction under the Provincial Insolvency Act, 1920;(b)a Nyaya Panchayat established under the U.P. Panchayat Raj Act, 1947 ;(c)a court exercising powers under the Provincial Small Cause Courts Act, 1947;(4)"creditor" means a person from or in respect of whom a debtor or a small farmer has borrowed or incurred a debt, and includes the [heirs or assignees of such person] [Substituted by U.P. Act No. 2 of 1979 and shall be deemed always to have been substituted.];(5)"debt" includes all liabilities owing to a creditor in cash or kind, secured or unsecured, payable by a debtor or a small farmer under a decree or order of a civil court or otherwise, and subsisting on the date of

commencement of this Act, whether sue or not;(6)"debtor" means a landless agriculturer, labourer, a marginal farmer, a rural artisan or an urban worker who owes a debt, but does not include a small farmer;(7)"family", in relation to a debtor, means the debtor, the wife or husband, as the case may be, of such debtor and the unmarried minor children of either or both of them;(8)"landless agricultural labourer" means a person [residing in village] [Inserted by U.P. Act No. 2 of 1979.] who on the date of commencement of this Act, does not hold any land and whose principal means of livelihood is manual labour on agricultural land, and includes a person [residing in village] [Inserted by U.P. Act No. 2 of 1979.] who follows any one or more of the following occupations in the capacity of a labourer on wages, whether paid in cash or in kind or partly in cash and partly in kind, namely-(a)farming, including cultivation and tillage of soil;(b)dairy farming;(c)production, cultivation, growing and harvesting of any horticultural commodity;(d)raising of live stocks, bees or poultry ; and(e)any practice performed on a farm as incidental to or in conjunction with farm operations (including any forestry or timbering operations) and preparation for market and delivery to cold storage or other warehouse or to market or to carriage for transportation of farm products;(9)"marginal farmer" means a person residing in a village who on the date of commencement of this Act, holds agricultural land not exceeding one hectare of unirrigated land and whose principal means of livelihood is income from agricultural land or by manual labour on such land, and includes a person cultivating land as an asami or as a share-cropper;(10)"rural artisan" means a person residing in a village who on the date of commencement of this Act, does not hold any agricultural land, and whose principal source of livelihood is manual labour connected with-(a)the production or repair of traditional tools, implements and other articles or things used for agriculture or purposes ancillary thereto; or(b)the practice of any other craft either by own labour or by labour of the members of his family;(11)"small farmer" means a person residing in a village who, on the date of commencement of this Act, hold unirrigated land exceeding one hectare but not exceeding two hectares, and whose principal source of livelihood is income from agricultural land or by manual labour on such land and includes a person cultivating land as an asami or as a share-cropper;(12)"urban worker" means a person,-(a)who does not reside in a village; and(b)whose family on the date of commencement of this Act, does not hold any immovable property; and(c)whose principal source of livelihood is manual labour (including the practice of any craft) either by himself or by the members of his family; and includes a rickshaw puller or scavenger, but does not include a person who-(i)has in both the financial years ending on March 31, 1975 and March 31, 1976 been assessed to income-tax under the Income Tax Act, 1961; or(ii)has in both financial years ending on march 31, 1975 and March 31, 1976 been assessed to sales tax under the U.P. Sales Tax Act, 1948 or under the Central Sales Tax Act, 1956;(13)"village" shall have the meaning assigned to it in clause (25) of Section 3 of the Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950.Explanation I. - For the purposes of clause (7) 'minor' means a person who his not completed his or her age of eighteen years.Explanation II. - For the purposes of clauses (9) and (11), one hectare of irrigated land shall be equated to two hectares of unirrigated land.Explanation III. - The expression "irrigated land" and "unirrigated land" shall have the meaning respectively assigned to them in the Uttar Pradesh Imposition of Ceiling on Land Holdings Act, 1960.[Explanation IV. [Inserted by U.P. Act No. 2 of 1979.] - Where a person has transferred any property before the commencement of this Act and any proceeding for the annulment of such transfer under the Provincial Insolvency Act, 1920 is pending on the date of such commencement, then the question whether the transferor is a marginal farmer or a small farmer shall be determined

only after considering the final orders made in such proceedings.]

3. Declaration.

- It is hereby declared that the provisions of this Act are for giving effect to the policy of the State towards securing the principles specified in clauses (b) and (c) of Article 39 of the Constitution.

Chapter II

Relief to Debtors

4. Discharge of debts.

- Notwithstanding anything contained in any law for the time being in force or in any contract, decree or other instrument having force by virtue of any such law and save as otherwise expressly provided in this Act-(a)every debt, together with any interest, payable on the date of commencement of this Act, by a debtor whose annual household income does not exceed two thousand and four hundred rupees, shall with effect from the date of such commencement, be deemed to be wholly discharged;(b)[every debt payable on the date of such commencement by a debtor whose annual household income exceeds two thousand and four hundred rupees shall be wholly discharged, if the debtor- [Inserted by U.P. Act No. 2 of 1979 and shall be deemed always to have been inserted.](i)has paid, in the discharge of his debt, a sum exceeding or equivalent to double the amount of principal in respect of the debt, at any time before such commencement, and such discharge shall be effective from the date of such commencement;(ii)pays after the date of such commencement, a sum which together with any sum already paid in the discharge of such debt, is equivalent to or exceeds double the amount of principal in respect of the debt, or the amount actually due whichever is less, and such discharge shall be effective from the date of such payment.]Explanation. - Nothing in this section shall be construed to entitle any debtor to the refund of any part of a debt already repaid by him or recovered from him before the commencement of this Act.

5. Consequence of discharge of debt.

- Where any debt payable by a debtor has been discharged under Section 4, then, notwithstanding anything contained in any law for the time being in force or in any contract, decree or other instrument, the following consequences shall, with effect from the date of such discharge, ensue, namely-(a)no such debt shall be recoverable from a debtor, or from or against any of his movable or immovable property, nor shall any such property be liable to be attached and sold or proceeded against in any manner in the execution of any decree or order relating to such debt;(b)no civil court shall entertain any suit or proceeding against such debtor for the recovery of any debt including interest, if any :[Provided that-(i)where a suit or proceeding is instituted jointly against such debtor and any other person, nothing in this clause shall apply to the maintainability of the suit or proceeding in so far as it relates to such other persons;(ii)where a suit is instituted against a debtor jointly in respect of a debt advanced before as well as after the commencement of this Act, nothing in this clause shall apply to the maintainability of the suit in respect of the debt advanced after such

commencement;] Provided further that the proviso to clause (b) shall mutatis mutandis apply to a suit or proceeding referred to in this clause as it applies to a suit or proceeding specified in that clause; (c) all suits and proceedings, including appeals, revisions, attachment or execution proceedings, pending on the date of commencement of this Act, for the recovery of any such debt against such debtor shall abate: Provided that nothing in this clause shall apply to the sale of- (i) any movable property, held and concluded before such commencement; or (ii) any immovable property, confirmed before such commencement; (d) every debtor undergoing detention in a civil prison in execution of any decree passed in respect of any such debt shall be released forthwith; (e) every movable property pledged by a debtor shall stand released in his favour and the creditor shall, [* * *] [The words 'if in possession of such property' was omitted by U.P. Act No. 2 of 1979.] be bound to return the same to the debtor. (f) [every mortgage of immovable property executed by a debtor shall stand redeemed and the mortgaged property shall be released in favour of the debtor.] [Substituted by U.P. Act No. 2 of 1979 and shall be deemed always to have been substituted.]

6. Creditors to file statement, etc.

(1) Every creditor referred to in clause (e) of Section 5 shall, within such period as may be prescribed, furnish to the Tahsildar having jurisdiction over the area where such creditor has his ordinary place of business, a statement in such form as may be prescribed containing the names of all the persons who have pledged movable property with him, the nature and description of such property, the amount advanced and due as on the commencement of this Act, the rate of interest and such other particulars as may be prescribed. (2) A debtor referred to in clause (e) of Section 5 may also make an application to the Tahsildar having jurisdiction over the area where his creditor has his ordinary place of business for an order for the return of the movable property pledged by the debtor. (3) On receipt of a statement under sub-section (1) or an application under sub-section (2), and after such inquiry conducted in the manner prescribed, the Tahsildar shall by order, determine- (i) where a statement has been furnished by the creditor under sub-section (1), which of the persons who have pledged movable property with him are entitled to relief under Section 5; and (ii) where an application has been made by the debtor under sub-section (2), whether the debtor is entitled to relief under Section 5; and direct the creditor to produce, on or before the date specified in the order, the movable property pledged by such debtor. (4) Where the movable property pledged by the debtor is in the possession of any transferee of the creditor, the creditor shall redeem the said property from such transferee and produce it on or before the date specified in order referred to in sub-section (3). (5) If the creditor fails to produce the movable property as directed in the order under sub-section (3)- (a) the Tahsildar may enter any premises of the creditor or of the transferee of the creditor other than a bank referred to in clause (d) or clause (e) of Section 25, and search and seize the said property; and (b) where the movable property is in the possession of any of the banks referred to in clause (d) or clause (e) of section 25, the Tahsildar shall- (i) by an order, direct the said bank to deposit, on or before the date specified in the order, the movable property with the Tahsildar together with a statement specifying the amount due to the said institution in respect of the said property and simultaneously issue a certificate to the said bank to the effect that the amount due to the said bank in respect of the said property shall be recovered from the creditor as if it were an arrear of land revenue and paid to the said bank; and (ii) on the said bank depositing the said property with the Tahsildar, acknowledge in writing the receipt of the movable property and proceed

to recover from the creditor such amount as is due to the said bank in respect of the said property as if it were an arrear of land revenue, and on such recovery, pay the same to the said bank.(6)After such production or recovery or deposit of the movable property pledged, the Tahsildar shall deliver the said property to the debtor.(7)Pending determination of the question under sub-section (3), no creditor or the transferee of the creditor shall sell or pledge or otherwise dispose of any movable property pledged by the debtor.(8)Notwithstanding anything contained in sub-section (5) or in any other law for the time being in force, a Tahsildar-(a)may enter any premises of the creditor or of the transferee of the creditor other than a bank referred to in clause (d) or clause (e) of Section 25 and search and seize the movable property pledged by debtors and arrange for their safe custody;(b)shall proceed to determine which of the movable properties so seized are to be released to the debtors and pass orders accordingly.(9)The provisions of Sections 100 and 165 of the Code of Criminal Procedure, 1973, relating to search and seizure shall, so far as may apply to searches and seizures under sub-sections (5) and (8).

6A. [Release of immovable property. [Inserted by U.P. Act No. 2 of 1979.]

(1)A debtor referred to in clause (f), Section 5 may make an application to the Debt Settlement Officer having jurisdiction over the area within which such debtor ordinarily resides, or an order releasing the mortgaged property and for the grant of a certificate of redemption.(2)(a)On receipt of such application and after inquiry conducted in the manner prescribed, the Debt Settlement Officer shall pass an order releasing the mortgaged property, and grant a certificate of redemption in the prescribed form which shall be admissible as evidence of such redemption in any proceeding before any court or other authority.(b)The Debt Settlement Officer shall also direct the creditor or the transferee of the creditor-(i)to deliver possession of the mortgaged property to the debtor on or before the date, specified in the order, if the debtor is not already in possession of the mortgaged property; and(ii)to produce on or before the date specified in the order, the mortgage deed or other document and the Debt Settlement Officer shall make an endorsement of redemption of the mortgage deed or other document(3)Pending orders under sub-section (2), no creditor or the transferee of the creditor shall transfer or otherwise assign his interest in or exercise his right of foreclosure in respect of the property mortgaged by the debtor.(4)Where the mortgaged property has been transferred or any right therein has been assigned to any bank by the creditor, the Debt Settlement Officer shall recover from the creditor such amount as is due to such bank in respect of the said mortgaged property, as if it were an arrear of land revenue, and shall pay the same to the said bank.] [Substituted by U.P. Act No. 2 of 1979 and shall be deemed always to have been substituted.]

7. Finality of Tahsildar's order.

- Every order of the Tahsildar under Section 6 shall, subject to appeal under Section 8, be final and shall not be called in question in any court

8. Appeal against Tahsildar's order.

(1) Any person aggrieved by an order made [by the Tahsildar under Section 6 or by the Debt Settlement Officer under Section 6-A] [Substituted by U.P. Act No. 2 of 1979.] may, within such period and in such manner as may be prescribed, prefer an appeal to the Appellate Officer. (2) In deciding the appeal, the Appellate Officer shall follow such procedure as may be prescribed and the decision of such officer on such appeal shall be final and shall not be called in question in any court

9. Special provisions regarding interest.

- No interest shall accrue in respect of any debt payable by a debtor, after the commencement of this Act. (2) The interest payable on any debt for any period before such commencement shall be calculated at the rate applicable to the debt under the law, custom or contract, or at a rate of six per cent, per annum, whichever is less, and credit shall be given for all sums paid or credited first towards interest and the balance, if any, towards the principal.

Chapter III

Moratorium on Debts Recoverable from Small Farmers

10. Stay of recovery of certain debt.

(1) No suit for recovery of any debt or part thereof including interest thereon due from a small farmer on the date of commencement of this Act shall be instituted against him and every suit for such relief already pending shall remain stayed for a period of one year from the date of such commencement. (2) All proceedings in execution of any decree for money or proceedings for making final and preliminary decree for foreclosure or sale, or proceedings in execution of any final decree for sale passed by a civil court on the basis of a liability incurred before the date of such commencement in which the judgment-debtor or defendant is a small farmer shall be stayed against judgment-debtor or defendant on an application made by him for a period of one year from the said date. (3) All attachments of growing crops, agricultural produce, live-stock and other movable property of perishable nature, made in execution of decree stayed under [* * *] [Omitted by U.P. Act No. 2 of 1979.] sub-section (2) shall stand withdrawn.

11. Release from detention.

(1) Every small farmer undergoing detention in a civil prison in execution of any decree or order in respect of a debt shall be released. (2) No small farmer shall in any case be liable to arrest or detention in civil prison in execution of any such decree for a period of one year from the commencement of this Act.

12. Power of State Government to extend the period of stay.

- The State Government may by notification extend the period of one year referred to in Section 10 or Section 11 by a further period [not exceeding two years.] [Substituted by U.P. Act No. 2 of 1979.]

13. Certain provisions to apply to small farmers.

- The provisions of Section 9 shall mutatis mutandis apply to a small farmer as they apply to a debtor.

14. Certain transfer to be voidable.

- [Every transfer of immovable property made on or after October 10, 1975 by a small farmer] [Substituted by U.P. Act No. 2 of 1979 and shall be deemed always to have been substituted.] against whom proceedings in execution have been stayed under this Act or under any of the enactments repealed by sub-section (1) of Section 36 shall be voidable at the option of the creditor whose claim against such small farmer is defeated or delayed.

15. Exclusion of period of limitation.

- In computing the period of limitation for any suit, appeal, application or other proceeding for the recovery of a debt (including an application for the execution of a decree passed in such suit, appeal or proceeding), the period during which such proceedings remained barred or stayed under this Chapter shall be excluded.

Chapter IV

Scaling Down of Debts of Small Farmers

16. Appointment of debt settlement officers.

- The State Government may for the purposes of settlement of debt between the small farmers and their creditors, by notification, appoint Debt Settlement Officers and may likewise define the areas within which they shall exercise jurisdiction.

17. Application for determination of debt.

(1)A small farmer may, within a period of [two years] [Substituted by U.P. Act No. 2 of 1979.] from the date of commencement of this Act apply to the Debt Settlement Officer for the area in which such farmer resides or holds any land for determination of his debts.(2)Unless the small farmer has already made an application under sub-section (1), any of his creditors may likewise make an application to the same authority to which, and in the manner in which, the small farmer might have applied under that sub-section for the determination of the debt in question.(3)Every application

under this section shall be signed and verified by the applicant in the manner prescribed by the Code of Civil Procedure, 1908 for signing and verification of plaints; Provided that in the case of an application under sub-section (2), the creditor shall be bound to verify the contents only in so far as they are known to him. (4) If applications are made to more than one authority in respect of the same debt, such application shall, subject to such rules as may be made in this behalf, be transferred to and dealt with by one authority.

18. Particulars to be stated in application.

- Every application presented by a small farmer under Section 17 shall contain the following particulars, namely- (a) the name of the small farmer and the place where he resides or holds land; (b) the name and address of the creditor; (c) the particulars of all debts payable by a small farmer to each creditor; (d) the particulars of all properties of the small farmer together with the approximate value of such property and the place or places at which they are to be found; (e) [the particulars of the annual household income of the small farmer ; [Substituted by U.P. Act No. 2 of 1979.]] (f) the gross value of the agricultural produce for the year referred to in Section 20.]

19. Determination of debt.

- On receipt of the application under Section 17, the Debt Settlement Officer shall, after giving an opportunity to the parties concerned to appear and be heard, determine in respect of the debt in question the amount of the principal and the amount of interest [at the rate specified in sub-section (2) of Section 9] [Substituted by U.P. Act No. 2 of 1979 and shall be deemed always to have been substituted.] up to the date of commencement of this Act. (2) Every decision of the Debt Settlement Officer determining the amount of debt under sub-section (1) shall, subject to the result of an appeal under Section 23, be final and shall not be called in question in any civil court. (3) The procedure to be followed by the Debt Settlement Officer in any proceeding under this Chapter shall be such as may be prescribed.

20. Maximum liability of a small farmer.

- Notwithstanding anything contained in any other law for the time being in force, or in any contract, decree, or other instrument, the liability of a small farmer to repay any debt [including] [Substituted by U.P. Act No. 2 of 1979.] interest shall not exceed twenty per cent of the gross value of agricultural produce for the year preceding the year in which the application under Section 17 is made multiplied by seven and such liability shall be spread over a period of seven years to be reckoned from the date of its determination under Section 19.

21. Excess amount of debt to be discharged.

- [(1) Every debt in excess of the amount determined under Section 19 to be payable by a small farmer shall with effect from the date of such determination, stand discharged and shall not be recoverable. (2) Every debt payable by a small farmer on the date of commencement of this Act in

respect of which no application is made under Section 17 shall, on the expiry of the period referred to in sub-section (1) of that section and subject to the provisions of Section 33 stand discharged and shall not be recoverable.] [Existing Section was substituted as sub-section (1) and (2) thereof was substituted by U.P. Act No. 2 of 1979.]

22. Bar to certain suits.

- Notwithstanding anything contained in any law for the time being in force-(a)no civil or revenue court shall entertain a suit, application or proceeding against a small farmer in respect of any debt to which the provisions of this Chapter apply;(b)every such suit, application or proceeding pending before any such court on the date of commencement of this Act shall abate;(c)no decree of a civil court in relation to the debt to which the provisions of this Chapter apply shall be executed.

23. Appeal.

(1)Any person aggrieved by an order determining the debt under Section 19 may, within thirty days from the date of such determination, prefer an appeal in the prescribed manner to the appellate officer.(2)The procedure to be followed by an Appellate Officer and the fees payable in respect of such appeal shall be such as may be prescribed.(3)The Appellate Officer may, after giving the parties an opportunity of being heard either confirm or modify the order appealed against or direct the Debt Settlement Officer to take such action as the Appellate Officer thinks fit.(4)Every order made by the Appellate Officer under this section shall be final and shall not be called in question in any court.

24. Execution of order of Appellate Officer and the Debt Settlement Officer.

- Every order of the Appellate Officer under Section 23, and subject thereto, every order of the Debt Settlement Officer determining a debt payable by a small farmer shall be executed by the Munsif having territorial jurisdiction as if it were a decree or order passed by that court.

Chapter V

Exemptions

25. Provisions of the Act not to apply to certain debts or liabilities.

- Nothing in this Act shall affect any debt or other liabilities (including any liability to pay interest) of a debtor or a small farmer falling under any of the following heads, namely-(a)any debt (including any tax, cess or fee) due to the Central Government, any State Government or a local authority;(b)any debt due to a Government Company within the meaning of Section 617 of the Companies Act, 1956 ;(c)any debt due to the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956, or any other corporations established by or under any law for the time being in force;(d)any debt due to -(i)a banking company as defined in the Banking Regulation Act, 1949;(ii)the State Bank of India constituted under the State Bank of India Act,

1955;(iii)a subsidiary bank, as defined in the State Bank of India (Subsidiary Banks) Act, 1959;(iv)a corresponding new bank constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970;(v)any banking institution notified by the Central Government under Section 51 of the Banking Regulation Act, 1949 ;(vi)the Agricultural Refinance and Development Corporation constituted under the Agricultural Refinance and Development Corporation Act, 1963 ;(vii)the U.P. State Agro-Industrial Corporation Ltd., a company incorporated under the Companies Act, 1956;(viii)the Agricultural Finance Corporation Ltd., a corporation incorporated under the Companies Act, 1956;(ix)a Regional Rural Bank established under the Regional Rural Banks Act, 1976; and(x)any other financial institutions notified by the State Government as a bank for the purposes of this Act;(e)any debt due to a co-operative society including a land development bank registered or deemed to be registered under the Uttar Pradesh Co-operative Societies Act, 1965;(f)any rent due in respect of any property including agricultural land let out to a debtor or a small farmer;(g)any liability arising out of breach of trust or any tortious liability;(h)any liability in respect of wages or remuneration due as salary or otherwise for services rendered;(i)any liability in respect of maintenance whether under a decree of civil court or otherwise;(j)any debt which represents the price of property whether movable or immovable, purchased by a debtor or small farmer or any amount due under a hire-purchase agreement;(k)any advance of money given to the debtor or a small farmer by a person as the price of goods or property to be sold later on;(l)any advance of wages whether in cash or in kind, or partly in cash or partly in kind, made to a debtor or a small farmer at his instance by a person in pursuance of a contract of service for a specified period:Provided that the rate of wages settled is not less than the minimum rate of wages fixed by law;(m)any compensation payable on account of partition or division of property or any compensation referred to in Section 29-A of the Uttar Pradesh Consolidation of Holdings Act, 1953 ;(n)any advance of loan given to debtor [or the Small farmer] [Inserted by U.P. Act No. 2 of 1979 and be deemed always to have been inserted.] by his employer for any specific purpose, such as, for festival, medical treatment, meeting any educational, marriage or funeral expenses and the like ;(o)any sum recoverable as arrears of land revenue:(p)[every liability incurred or arising under a chit conducted under any chit fund scheme: [Inserted by U.P. Act No. 2 of 1979.](q)every debt due to a widow ;(r)every dower debt;(s)every debt arising out of breach of contract of service].

Chapter VI

Miscellaneous

26. Penalty.

(1)Every person who, after the date of commencement of this Act-(a)recovers any debt or part thereof including interest from a debtor or a small farmer in contravention of the provision of this Act; or(b)intentionally makes any false statement before any officer or authority in proceedings under this Act; or(c)intentionally produces before any officer or authority any false document; or(d)abets any such Act, shall, on conviction, be liable to imprisonment for a term which may extend to six months or fine which may extend to two thousand rupees or with-both.(2)Every person who fails to furnish the statement referred to in sub-section (1) of Section 6, or to comply with the order made or direction given under the said section or otherwise contravenes the provisions of the said

section shall be liable to imprisonment for a term which may extend to one year, or with fine which may extend to Rs. 5,000 or with both.(3)Every offence punishable under sub-section (1) or sub-section (2) shall be cognizable.(4)Every offence punishable under sub-section (1) shall be tried in a summary way and the provisions of Sections 262 to 265 (both inclusive) or the Code of Criminal Procedure, 1973, shall, as far may be, apply to such trial.

27. Offence by companies.

(1)Where an offence under this Act has been committed by a company every person, who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly; Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.(2)Notwithstanding, anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer of the company, shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. Explanation. - For the purpose of this section - (a)'company' means any body corporate and includes a firm or other association of individuals, and. (b)'director' in relation to a firm means a partner in the firm.

28. Burden of proof.

- In any suit or proceeding, the burden of proving that the debtor [or the Small farmer] [Inserted by U.P. Act No. 2 of 1979.] is not entitled to the protection of this Act shall, notwithstanding anything contained in any law for the time being in force, lie on the creditor.

29. Powers of Officers.

(1)A Tahsildar or a Debt Settlement Officer or an Appellate Officer may exercise all such powers connected with the summoning and examining of parties and witnesses and with the production of documents [and consolidation of cases] [Substituted by U.P. Act No. 2 of 1979.] as are conferred on a civil court by the Code of Civil Procedure, 1908.(2)Every proceeding before an officer referred to in sub-section (1) shall be deemed to be a judicial proceeding for purposes of Sections 193 and 228 of the Indian Penal Code.

30. Finality of decisions.

- If any question arises in any proceeding under this Act whether a loan or liability is a debt or not or whether a person is a debtor or a small farmer or not, the decision of the Tahsildar or the Debt Settlement Officer, as the case may be, shall, subject to the result of an appeal under Section 8 or

Section 23, be final, and shall not be called in question in any court.

31. Jurisdiction of civil court.

- Notwithstanding anything contained in any law for the time being in force, no civil court shall entertain-(a)any suit, application or proceeding to question the validity of any procedure or the legality of any order passed under this Act;(b)any suit or application for injunction affecting any proceedings under this Act;(c)any appeal or revision otherwise than in accordance with the provisions of this Act.

32. [Prohibition of appearance of legal practitioner.] [Substituted by U.P. Act No. 2 of 1979.]

- No party to any proceeding under this Act shall be entitled to be represented by a legal practitioner.Explanation. - In this section the expression 'legal practitioner' shall have the meaning assigned to it in Section 2 of the Advocates Act, 1961.

33. Application of Limitation Act.

- The provisions of Sections 4, 5 and 12 of the Limitation Act, 1963, shall apply to the proceedings under this Act.

34. Power to remove difficulty.

(1)If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by notified order make such provision or give such direction not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for the removal of the difficulty.(2)No order under sub-section (1) shall be issued after two years from the date of commencement of this Act.

35. Power to make rules.

- The State Government may, by notification, make rules for carrying out the purposes of this Act.

36. Repeal and savings.

(1)The Uttar Pradesh Landless Agricultural Labourers Debt Relief Act, 1975 (U.P. Act No. 12 of 1975), the Uttar Pradesh Rural Weaker Sections (Moratorium on Recovery of Debts) Act, 1975 (U.P. Act No. 51 of 1975), and the Uttar Pradesh Debt Relief (Second) Ordinance, 1977 (U.P. Ordinance No. 13 of 1977), are hereby repealed.(2)Notwithstanding such repeal, anything done or any action taken under any of the enactments repealed by sub-section (1) shall be deemed to have been done or taken under this Act.