

The Jammu and Kashmir Regulation of Accounts Act, 2001 (1944 A.D.)

JAMMU & KASHMIR

India

The Jammu and Kashmir Regulation of Accounts Act, 2001 (1944 A.D.)

Act 14 of 2001

- Published on 2 November 1944
- Commenced on 2 November 1944
- [This is the version of this document from 2 November 1944.]
- [Note: The original publication document is not available and this content could not be verified.]

The Jammu and Kashmir Regulation of Accounts Act, 2001 (1944 A.D.) Act No. 14 of 2001 [Received the assent of His Highness the Maharaja Bahadur on 2nd November, 1944/18th Kartik, 2001 and published in Government Gazette dated 14th Poh, 2001/28th December, 1944.] An Act to regulate the keeping of accounts of certain transactions. Preamble. - Whereas it is expedient to make provision for regulating the keeping of accounts relating to certain transactions in the Jammu and Kashmir State; It is hereby enacted as follows:-

1. Short title, extent and commencement.

(a) This Act may be called the Jammu and Kashmir Regulation of Accounts Act, 2001. (b) It shall extend to the Jammu and Kashmir State. (c) [It shall come into force on such day as the Government may, by notification in the Government Gazette, appoint in this behalf: Provided that this day shall not be earlier than six months or later than one year after the date of final publication of the rules made under section 6.] [Act came into force from 1st day of Kartik, 2003 under Government Order No. 5-L/2003. (G.G 24-6-2003).]

2. Definitions.

- In this Act, unless there is anything repugnant in the subject or context, - (a) "bank" means a company carrying on the business of banking; (b) "company" means a company as defined in the Jammu and Kashmir Companies Act for the time being in force; (c) "co-operative society" means a society registered or deemed to be registered under the provisions of the Jammu and Kashmir Co-operative Societies Act; (d) "creditor" means a person who in the regular course of business advances a loan as defined in this Act, and shall include, subject to the provisions of section 3, the legal representatives and the successor-in-interest whether by inheritance, assignment or otherwise

of the person who advanced the loan;(e)"interest" includes the return to be made over and above what was lent, whether the same is charged or sought to be recovered specifically by way of interest or otherwise;(f)"loan" means an advance whether of money or in kind at interest and shall include any transaction which the Court finds to be in substance a loan, but it shall not include-(i)a deposit of money or other property in a Government Post Office Bank or any other bank or in a company or with a co-operative society,(ii)a loan advanced by Government or by any local body authorised by Government,(iii)a loan advanced by a bank, a co-operative society or a company whose accounts are subject to audit by a certified auditor under any law for the time being in force in the State,(iv)a loan advanced to a trader,(v)an advance made on the basis of a mortgage deed ;(g)"prescribed" means prescribed by rules made under this Act.

3. Duty of creditor to maintain and finish accounts.

(1)A creditor shall, in order to comply with the provision of this Act,-(a)regularly reward and maintain an account for each debtor separately, of all transactions relating to any loan advanced to that debtor, in such manner as the Government may prescribe ;(b)furnish each debtor every six months with a legible statement of account signed by the creditor or his agent of any balance or amount that may be outstanding against such debtor on the last date of Assuj, or on the last date of the month of Chet in every year. This statement of account shall include all transactions relating to the loan entered in to during the six months to which the statement relates, and shall be sent, in such manner and in such form and containing such details as the Government may prescribe, within one month after the last date of the said six months.Explanation. - (i) The Government shall prescribe the forms and numerals in which the accounts required by this provision of this sub-section are to be maintained and furnished.(ii)The prescribed accounts shall be so kept that items due by way of interest shall be shown as separate and distinct from the principal sum, and separate totals of principal and interest shall be maintained. The creditor shall not include the interest or any portion of it in the principal sum; and the principal and interest shall be separately shown in the opening balance of each new six monthly account:Provided that-(a)if the loan has, since it was originally advanced, passed by inheritance or assignment to a widow or minor, such widow or minor shall not be bound to maintain and furnish the account prescribed by this section for a period of six months from the date of such passing ;(b)nothing in this section shall be deemed to lay upon any person the duty of maintaining and furnishing the prescribed account in the case of a loan wherein the title to recover is sub-judice between two or more persons claiming as creditors adversely to each other unless and until the title has been finally decided by a Court of competent jurisdiction.(2)Entries in the account prescribed under clause (a) of sub-section (1) shall be deemed to be regularly kept in the course of business for the purposes of section 34, Evidence Act, 1977, and copies of such entries certified in such manner as may be prescribed shall be admissible in evidence for any purposes in the same manner and to the same extent as the original entries.Explanation. - A person to whom a statement of account has been sent under clause (b) of sub-section (1) shall not be bound to acknowledge or deny its correctness and his failure to protest shall not be deemed to be an admission of the correctness of the account.

4. Penalty for non-compliance with the provisions of section 3.

- Notwithstanding anything contained in any other enactment in force for the time being, -(a) in any suit or proceeding relating to a loan, the Court shall, before deciding the claim on the merits, frame and decide the issue, whether the creditor has complied with the provisions of clauses (a) and (b) of sub-section (1) of section 3; (b) if the Court finds that the provisions of clause (a) of sub-section (1) of section 3 have not been complied with by the creditor, the Court shall, if his claim is established in whole or in part, disallow the whole or a portion of the interest found due, as may seem reasonable to the Court in the circumstances of the case and shall disallow costs; (c) if the Court finds that the provisions of clause (b) of sub-section (1) of section 3 have not been complied with by the creditor the Court shall, in computing the amount of interest due upon the loan, exclude every period for which the creditor omitted duly to furnish the account as required by clause (b) of sub-section (1) of section 3; provided that if the creditor has, after the time prescribed in that clause, furnished the account and he satisfied the Court that he had sufficient cause for not furnishing earlier, the Court may, notwithstanding such omission, include any such period or periods for the purposes of computing the interest. Explanation. - A person who has kept his account and sent his six monthly statements in the form and manner prescribed in clauses (a) and (b) of sub-section (1) of section 3 shall be held to have complied with the provisions of these clauses, in spite of errors and omissions, if the Court finds that the errors and omissions are accidental and not material and that the accounts have been kept in good faith with the intention of complying with the provisions of these clauses.

5. Savings.

- The provisions of this Act shall not apply to any loan advanced before the commencement of this Act.

6. Power of Government to make rules.

(1) The Government may make [rules] [For rules see C.Q. No. 667-C of 1945 dated 31st July, 1945 G.G. dated 1st Bhadon, 2002.], not inconsistent with this Act, for the purposes of carrying out all or any of the provisions of this Act. (2) In particular and without prejudice to the generality of the foregoing power, the Government may make rules-(i) prescribing the forms and numerals to be used in the accounts required by sub-section (1) of section 3 ; (ii) prescribing the manner in which the accounts required by clause (b) of sub-section (1) of section 3 shall be furnished by the creditor to the debtor, the forms to be used, and the details to be incorporated therein.