

ORISSA ACT 5 OF 1981
THE ORISSA DEBT RELIEF ACT, 1980

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ORISSA ACT 5 OF 1981

* THE ORISSA DEBT RELIEF ACT, 1980

[Received the assent of the President on the 25th February 1981, first published in an extraordinary issue of the *Orissa Gazette*, dated the 13th March 1981].

AN ACT TO PROVIDE FOR RELIEF FROM INDEBTEDNESS TO THE SMALL FARMERS,
RURAL ARTISANS AND AGRICULTURAL LABOURERS

BE it enacted by the Legislature of the State of Orissa in the Thirty-first Year of the Republic of India, as follows :—

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the *Orissa Debt Relief Act, 1980*.

(2) It extends to the whole of the State of Orissa.

(3) It shall come into force at once.

Definition

2. In this Act, unless the context otherwise requires—

(a) "agricultural labourer" means a person who follows any one or more of the following agricultural operations in the capacity of a labourer on hire or exchange, whether paid in cash or in kind or partly in cash and partly in kind and who does not hold more than one standard acre of land and whose annual income does not exceed two thousand and four hundred rupees :—

(i) farming including cultivation and tillage of soil, etc.

(ii) dairy farming,

(iii) production, cultivation, growing and harvesting of any horticultural commodity,

(iv) raising of livestock, bees or poultry; and

(v) 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 storage or to market or to carriage for transportation of farm products;

(b) "bank" means—

(i) a banking company as defined in the Banking Regulation Act, 1949 ; 10 of 1949

(ii) the State Bank of India constituted under the State Bank of India Act, 1955 ; 23 of 1955

(iii) a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 ; 38 of 1959

(iv) a corresponding new Bank constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 ; 5 of 1970

(v) the Agricultural Refinance and Development Corporation, constitute under the Agricultural Refinance and Development Corporation Act, 1963 ; 10 of 1963

(vi) the Agricultural Finance Corporation, a Company incorporated under the Companies Act, 1956 ; 1 of 1956

(vii) a Regional Rural Bank established under the Regional Rural Banks Act, 1976; and 21 of 1976

(viii) any other financial institution notified by the State Government in the official Gazette as a bank for the purposes of this Act ;

(c) "Civil Court" includes

(i) any court exercising jurisdiction under the Provincial Insolvency Act, 1920 ; and

(ii) a court exercising powers under the Provincial Small Cause Courts Act, 1937 ;

(d) "co-operative society" means a society registered or deemed to have been registered under the Orissa Co-operative Societies Act, 1962 ;

(e) "debt" means all liabilities to a money-lender in cash or kind, secured or otherwise including any transaction which is in substance a debt and subsisting on the date of the commencement of this Act whether due or not.

(f) "money-lender" means a money-lender as defined in the Orissa Money-Lenders Act, 1939.

(g) "rural artisan" means a person who does not hold any agricultural land and whose principal means of livelihood is production or repair of traditional tools, implements and other articles or things used for agriculture or purposes ancillary thereto and also a person who normally earns his livelihood by practising a craft either by his own labour or by the labour of the members of his family in the rural area and whose annual income does not exceed two thousand and four hundred rupees.

(h) "scheduled debtor" means a persons who is a small farmer or a rural artisan or an agricultural labourer and who is ordinarily resident in the State of Orissa,

(i) "small farmer" means a farmer who owns and measuring not more than one standard acre, and whose principal source of income is agriculture or any allied occupation,

(j) "standard acre" means a standard acre as defined in the Orissa Land Reforms Act, 1960.

Discharge of debt scheduled debtors and consequences of such discharge.

(1) Notwithstanding anything to the contrary contained in any contract or other instrument having force of law by virtue of any such law, and save as otherwise expressly provided by section 5, every debt incurred by a scheduled debtor before the commencement of this Act including the amount of interest, if any, payable on such debt shall be deemed to have been wholly discharged, and—

(a) no such debt due from a scheduled debtor shall be recoverable from him or from any movable or immovable property belonging to him, nor shall any such property be liable to be attached or sold or be 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 a scheduled debtor for the recovery of such debt or any portion thereof or any interest due thereon.

Provided that where a suit or proceeding is instituted jointly against a scheduled debtor and any other person, this clause shall apply to the maintainability of a suit or proceeding in so far as it relates to such other person;

(c) no proceedings in execution and attachment), pending on the date of commencement of this Act for the recovery of any such debt or interest due thereon shall be entertained.

Provided that where a suit or proceeding is pending jointly against a scheduled debtor and any other person, this clause shall apply to the maintainability of a suit or proceeding in so far as it relates to such other person.

* For the Bill see Orissa Government Explanatory dated the 23rd September 1960 (No. 1201)

Provided further that if a writ of execution proceeding against a scheduled debtor has been confirmed before the commencement of this Act, the writ shall not be affected by the provisions of this Act, nor shall it abate;

- (d) every scheduled debtor undergoing detention in a civil prison in execution of any decree for money passed against him by a Civil Court in respect of any such debt shall be released; and
- (e) every property of a scheduled debtor shall, on the commencement of this Act, stand released in favour of such debtor, and the creditor shall be bound to return the same to the debtor forthwith.

(2) Nothing in this section shall be construed to entitle any scheduled debtor to refund of any part of a debt already repaid by him or recovered from him before the commencement of this Act.

Agreement for working as labourer in lieu of debt to be void.

4. An agreement, whether entered into before or after the commencement of this Act, whereunder a scheduled debtor or any member of his family is required to work as a labourer or otherwise in lieu of a debt, shall be void and any such custom or tradition shall cease to prevail.

2. Amendment of Section 6-D.

Certain debts and liabilities not to be effected.

5. Nothing in this Act shall affect the following categories of debts and liabilities of scheduled debtor:—

- (a) any liability in respect of maintenance of a scheduled debtor or a member of a court or not;
- (b) any debt due to—
 - (i) the Central Government or any State Government,
 - (ii) any local authority,
 - (iii) any bank,
 - (iv) any co-operative society;
- (c) any rent due in respect of any property let out to a debtor;
- (d) any liability arising out of breach of trust or any tortious liability;
- (e) any liability in respect of wages or remuneration due as salary or otherwise for services rendered; and
- (f) any debt which represents the Price of goods purchased by a debtor.

Penalties

6. If any person wilfully contravenes any provision of this Act, or of any rule made thereunder or fails to comply with any lawful order made thereunder or contravenes any such order, he shall be punishable with imprisonment of either description which may extend to two years or with fine which may extend to two thousand rupees or with both:

Provided that no court shall take cognizance of any offence under this section except with the previous sanction of the Collector of the district.

Power of State Government to make rules.

7. The State Government may make rules, not inconsistent with the provisions of this Act to carry out all or any of the purpose of this Act.

Power to remove difficulties.

8. (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order do anything not inconsistent with such provisions which appears to them to be necessary or expedient for the purpose of removing the difficulty.

Repeal

(2) No order under sub-section (1) shall be made after the expiration of a period of three years from the commencement of this Act.

9. Section 12 of the Orissa Money-Lenders (Amendment) Act, 1975, is hereby repealed. Orissa Act 54 of 1975.