

*Repealed by W.P. Ordinance
15-7-1960*

SIND ACT No. VIII OF 1940¹.

[THE SIND AGRICULTURISTS RELIEF ACT, 1940.]

[25th April, 1940]

An Act to provide for the relief of indebted agriculturists in the Province of Sind.

WHEREAS it is expedient to provide for the relief of indebted agriculturists in the Province of Sind ; It is hereby enacted as follows :—

1. (1) This Act may be called the Sind Agriculturists Relief Act, 1940. .

(2) It extends to the whole of the Province of Sind.

(3) It shall come into force on such date² as the Provincial Government may, by notification in the *Official Gazette*, appoint.

CHAPTER I.

Preliminary.

2. In this Act, unless there is anything repugnant in the subject or context,—

(1) " person " includes an undivided Hindu family, but does not include a body corporate, a charitable or religious institution or an unincorporated company or association ;

(2) " agriculturist " means a person who at the date of the commencement of this Act—

(a) held land within the Province—

(i) ³[not exceeding 100 acres,] or

(ii) where such person is an undivided Hindu family ⁴[not exceeding 200 acres] ; and

¹ For Statement of Objects and Reasons, see S. G. G., 1940, Pt. IV, pp. 76—77; for the Report of the Select Committee, see *ibid.*, pp. 104—105 ; for proceedings in Assembly, see S. L. A. Debates, 1940, Vol. X—Book No. 9, pp. 39—47, Book No. 13, pp. 58—100.

² Came into force w.e.f. 1st July, 1940, vide G. N., H. D., No. 2096-H./40, dated the 21st June, 1940, see S. G. G., 1940, Pt. I, p. 1570.

³ Subs. by Sind 19 of 1943, s. 2 (a), for "not exceeding 50 acres, or not exceeding 100 acres if the land is irrigable exclusively on rain water".

⁴ Subs. *ibid.*, s. 2 (b), for "not exceeding 100 acres, or not exceeding 200 acres if the land is irrigable exclusively on rain water".

Short title,
extnt and
commence-
ment.

Definitions.

who derives his livelihood wholly or principally from agriculture carried on within the Province ; or

- (b) ordinarily engages personally in agricultural labour within the Province of Sind and does not hold any land within the Province.

¹[*Explanation I*].—A person who is a woman or a minor or is subject to any physical or mental disability shall be deemed to cultivate the land personally if it is cultivated by his or her servants or by hired labour.

²[*Explanation II*].—For the purpose of this clause—

- (a) one acre of land irrigable by the Lloyd Barrage Canals shall be reckoned as two acres ;
 (b) one acre of land irrigable by Canals other than the Lloyd Barrage Canals shall be reckoned as one acre ;
 (c) one acre of *sailabi* or *barani* land shall be reckoned as half an acre.]

(3) "holder" means a person who holds or occupies land within the meaning of the ³[Sind] Land Revenue Code, 1879, and the expression "to hold land" shall be construed accordingly;

(4) "debt" means any liability in cash or kind, whether secured or unsecured, due from an agriculturist whether payable under a decree or order of any civil court or otherwise.

3. Nothing in this Act shall affect debts and liabilities of an agriculturist falling under the following heads :—

(a) any revenue or tax payable to Government or any other sum due to it by way of loan or otherwise,

(b) any tax payable to a local authority or any other sum payable to such authority by way of loan or otherwise

(c) any liability in respect of any sum due to any co-operative society,

(d) any liability arising out of a breach of trust.

¹ The original explanation numbered as explanation I, by Sind 19 of 1943, s. 2 (c).

² Explanation II *ius. ibid.*

³ Subs. by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind 5 of 1955), s. 3 (i) (w. e. f. 30th May 1955), for "Bombay".

Certain
debts or
liabilities
not to be
affected.

(e) any liability in respect of maintenance whether under decree of court or otherwise,

(f) any wages due to an agricultural or other rural¹ [labourer],

(g) any debt or debts due to a woman at the date of the commencement of this Act who on that date had no other source of income sufficient for her maintenance, provided that the principal amount of the debt or debts did not exceed rupees three thousand,

(h) save as provided in clause (b) of sub-section (1) and sub-section (2) of section 12, debts incurred after the commencement of this Act.

Explanation.—“ Tax ” means any toll, rate, cess, fee or other impost leviable by Government or any local authority.

CHAPTER II.

Scaling down of debts and future rate of interest.

4. (1) Notwithstanding any law, custom, contract or decree of court to the contrary, all debts payable by an agriculturist at the commencement of this Act, shall be scaled down in accordance with the provisions of this Chapter.

(2) No sum in excess of the amount as so scaled down shall be recoverable from such agriculturist or from any² [property] belonging to him ; nor shall³ [such] property be liable to be attached and sold or proceeded against in any manner in the execution of any decree against him in so far as such decree is for an amount in excess of the sum as scaled down under this Chapter.

5. Debts incurred before the 1st October 1932 shall be scaled down in the manner mentioned hereunder, namely :—

(1) All interest outstanding on the 1st October 1939 in favour of any creditor of an agriculturist whether the same be payable under law, custom or contract or under a decree of court and whether the debt or other obligation has ripened into a decree or not, shall be deemed to be discharged, and only the principal or such portion thereof as may be outstanding shall be deemed to be the amount repayable by the agriculturist on that date.

¹ Subs. by Sind 19 of 1943, s. 3, for “labour”.

² Subs. *ibid.*, s. 4 (a), for “land or interest in land”.

³ Subs. *ibid.*, s. 4 (b), for “his”.

Debts payable by agriculturists to be scaled down:

Provision for debts incurred before 1st October 1932.

(2) Where an agriculturist has paid to any creditor twice the amount of the principal whether by way of principal or interest or both, such debt, including the principal, shall be deemed to be wholly discharged.

(3) Where the sums repaid by way of principal or interest or both fall short of twice the amount of the principal, such amount only as would make up this shortage, or the principal amount or such portion of the principal amount as is outstanding, whichever is smaller, shall be re-payable.

(4) Nothing contained in sub-sections (1), (2) and (3) shall be deemed to require the creditor to refund any sum which has been paid to him, or to increase the liability of a debtor to pay any sum in excess of the amount which would have been payable by him if this Act had not been passed.

6. Debts incurred on or after the 1st October 1932 shall be scaled down in the manner mentioned hereunder, namely :—

Provision
for debts
incurred on
or after
1st October
1932.

(1) Interest shall be calculated up to the commencement of the Act at the rate applicable to the debt under the law, custom, contract or decree of court under which it arises or at six per cent. per annum simple interest, whichever is less, and credit shall be given for all sums paid towards interest, and only such amount as is found outstanding, if any, for interest thus calculated shall be deemed payable together with the principal amount or such portion of it as is due :

Provided that any part of the debt which is found to be a renewal of a prior debt shall be deemed to be a debt contracted on the date on which such prior debt was incurred, and if such debt has been contracted prior to the 1st October 1932 shall be dealt with under the provisions of section 5.

(2) Nothing herein contained shall be deemed to require the creditor to refund any sum which has been paid to him or to increase the liability of the debtor to pay any sum in excess of the amount which would have been payable by him if this Act had not been passed.

7. Where the liability under a mortgage, promissory note, bond, decree or other obligation is renewed or included in a fresh document in favour of the same creditor, the principal originally advanced by the creditor together with such sums, if any, as have been subsequently advanced as principal, shall alone be treated as the principal sums re-payable by the agriculturist under this Act.

Renewal
of old debts.

Where ¹[a debt arising under] a mortgage, promissory note, decree or other obligation is claimed by a creditor by reason of an assignment in his favour the principal sum shall be deemed to be the sum advanced to the debtor at the inception of the transaction unless it is proved that the assignment was taken at the instance of the debtor in which case the amount paid by the assignee for the assignment shall be treated as the principal sum due to the assignee.

Exceptions.

9. Nothing contained in sections 5 and 6 shall affect—

(i) any mortgage by virtue of which the mortgagee is in possession of the property mortgaged, where no rate of interest is stipulated as due to the mortgagee, or

(ii) any liability for which a charge is provided under section 55, clause 4, sub-clause (b) of the Transfer of Property Act, 1882, or ^{IV of 1882.}

(iii) any liability in respect of any sum due to any public company as defined in the ² * Companies Act, 1913, ^{VII of 1913.} or to any scheduled bank as defined by ³[clause 2(I)(c) of the State Bank of Pakistan Order, 1948], if the interest payable in respect of the liability is not more than six per cent. per annum. ^{G. G. O. XI of 1948.}

10. Where a debt payable by an agriculturist includes any sum decreed as costs by any court, or sums lawfully expended by a mortgagee or other person in order to preserve the property mortgaged, such sum or sums together with simple interest at six per cent. per annum shall be recoverable in addition to the sum recoverable under the provisions of sections 5 and 6.

Provision as to costs, etc., in certain cases.

11. All debts which have been scaled down under the provisions of this Act shall, so far as any sum remains payable thereunder, carry from the date up to which they have been scaled down interest on the principal amount due on that date at the rate previously applicable under law, custom, contract or otherwise:

Rate of interest payable by agriculturists on old loans.

Provided that it shall not in any case exceed six per cent. per annum simple interest.

¹ Ins. by Sind 19 of 1943, s. 5.

² The word "Indian" omitted by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind 5 of 1955), s. 4 (w. e. f. 30th May, 1955).

³ Subs. *ibid*, s. 7, Sch. III, for "section 2(e) of the Reserve Bank of India Act, 1934".

12. (1) Where an agriculturist falling within sub-clause (b) of clause (2) of section 2 has incurred any debt for the purpose of cultivating land and such debt is due by him to the person who holds the land so cultivated the following provisions shall have effect, namely :—

Special provision for certain debts.

(a) any such debt outstanding on the 1st January 1939 shall be deemed to have been wholly discharged ;

(b) notwithstanding any law, custom, contract or decree of court to the contrary no interest shall be payable on any such debt incurred after the 1st January 1939 :

Sind V
of
1879.

Provided that, subject to the provisions of section 138 of the [Sind] Land Revenue Code, 1879, any such debt incurred in the revenue year then current, shall, if not otherwise discharged be recoverable by the holder, in preference to all other claims, from the share of the agriculturist in the crop of the land for cultivating which the debt was incurred :

V of
1908.

Provided further that the provisions of rule 12 of order XXXVIII of the Code of Civil Procedure, 1908, shall not apply to a suit to recover such debt.

2(2) * * * * *

(3) Nothing herein contained shall be deemed to require the creditor to refund any sum which has been paid to him.

CHAPTER III.

Procedure and Miscellaneous.

V of
1908.

13. Where before the commencement of this Act, a court has passed a decree for the re-payment of a debt, it shall, on the application of any judgment-debtor who is an agriculturist or in respect of a Hindu joint family debt, on the application of any member of the family whether or not he is the judgment-debtor or on the application of the decree-holder, within 90 days of the commencement of this Act, apply the provisions of this Act to such decree and shall, notwithstanding anything contained in the Code of Civil Procedure, 1908, amend the decree accordingly or enter satisfaction, as the case may be :

Amendment of certain decrees.

¹ Subs. by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind 5 of 1955), s. 3(i) (w. e. f. 30th May 1951), for "Bombay".

² Sub-section (2) omitted by Sind 19 of 1943, s. 6.

³ The provisions of this section shall have effect subject to the provisions of section 7 of the Sind Agriculturists Relief (Amendment) Act, 1943 (Sind 19 of 1943).

Provided that all payments made or amounts recovered, whether before or after the commencement of this Act, in respect of any such decree shall first be applied in payment of all costs as originally decreed to the creditor.

Stay of
execution
proceedings.

14. Every court executing a decree passed against a person entitled to the benefits of this Act, shall, on application, stay the proceedings until the court which passed the decree has passed orders on an application made or to be made under section 13:

Provided that where within 90 days after the application for stay has been granted the judgment-debtor does not apply to the court which passed the decree for relief under section 13 or where an application has been so made and is rejected, the decree shall be executed as it stands, notwithstanding anything contained in this Act to the contrary.

Explanation.—The expression “the court which passed the decree” shall have the same meaning as in the Code of Civil Procedure, 1908. V of
1908.

Adjudica-
tion in
insolvency.

15. Nothing contained in this Act shall apply to the debts payable by any person who has been adjudicated an insolvent, if prior to the coming into force of this Act, a dividend has been declared out of his assets. If a dividend has not been so declared this Act shall apply to the debts payable by such person if he would have been an agriculturist within the meaning of this Act but for his adjudication in insolvency.

Power to
make rules.

16. (1) The Provincial Government may make rules for carrying into effect the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, the Provincial Government may make rules —

(a) in regard to any matter which is required to be, or may be, prescribed by this Act;

(b) for removing any difficulty in giving effect to the provisions of this Act.

(3) The power to make rules conferred by this section shall be subject to the condition of the rules being made after previous publication.

(4) Rules made under this section shall be laid upon the table of the Sind Legislative Assembly at the session of the said Assembly next following and shall be liable to be modified or rescinded by a resolution of the said Assembly and the modification or rescission so made shall, after publication by notification in the *Official Gazette*, be deemed to have come into force.