

SIND ACT No. IX OF 1941.¹

[THE SIND DEBT CONCILIATION ACT, 1941.]

[5th June, 1941].

An Act to make provision for the setting up of Debt Conciliation Boards to relieve agriculturists from indebtedness.

“WHEREAS it is expedient to relieve agriculturists from indebtedness by amicable settlement between them and their creditors; It is hereby enacted as follows:—

1. (1) This Act may be called the Sind Debt Conciliation Act, 1941.

Short title,
extent and
commence-
ment.

(2) It shall extend to the whole of the Province of Sind.

(3) It shall come into force on such date² as the Provincial Government may, by notification, direct.

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

Definitions.

(a) the expressions “land”, “holding” and “village” shall have the meanings assigned to them in the ³[Sind] Land Revenue Code, 1879;

Sind V
of 1879.

(b) “Board” means a Debt Conciliation Board established under section 3;

(c) “creditor” means a person to whom a debt is owing but shall not include a Co-operative Society;

(d) “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 wages, land revenue or anything recoverable as an arrear of land revenue, or any money for the recovery of which a suit is barred by limitation or any money advanced by a banking company as defined in section 277F of the ⁴* Companies Act, 1913, or any debt incurred for the purpose of trade or business not connected with agriculture;

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1913.

(e) “debtor” means an agriculturist whose debts ⁵* * * do not exceed fifty thousand rupees;

¹ For Statement of Objects and Reasons, see S. G. G., 1939, Pt. IV, pp. 576-577 and for proceedings in Assembly, see S. L. A. Debates, 1939, Vol. IX, Book No. 2, pp. 46-76, Book No. 3, pp. 24-38, Book No. 5, pp. 30-76, Vol. XIII, 1941, Book No. 12, pp. 17-47.

² Came into force w. e. f. 1st December, 1945, vide G. N., R. D., No. R-184-E(b)/II, dated 1st November 1945, see S. G. G., 1945, Pt. I, p. 1236.

³ Subs. by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind 5 of 1955), s. 3(4) (w. e. f. 30th May, 1951), for “Bombay”.

⁴ The word “Indian” omitted *ibid*, s. 4 (w. e. f. 30th May, [1951]).

⁵ The words “exceed one hundred rupees but” omitted by Sind 22 of 1948, s. 2.

Explanation.—In computing the total amount of debts for the purpose of this clause debts excluded under clause (d) shall also be taken into consideration.

(f) "agriculturist" shall have the same meaning as in the XVII of 1879.
 1[Sind] Agriculturists' Relief Act, 1879^{2*} * *

Explanation.—For the purposes of this clause 'hakabo' payable in respect of alienated land shall be deemed to be assessment and in calculating the assessment paid by the debtor twice the amount paid as 'hakabo' shall be reckoned as the assessment paid in respect of such land.

(g) "prescribed" means prescribed by rules made under this Act.

Establish-
ment of
Debt Conci-
liation
Board.

3. (1) The Provincial Government may establish one or more Debt Conciliation Boards for a district. ³[A Board shall consist of one member called the Conciliation Officer who shall be assisted by two Advisers, selected by him from a panel of twelve Advisers to be appointed by the Provincial Government for each district.] The Advisers shall advise the Conciliation Officer in the discharge of his functions under this Act and shall enter upon their duties after a notice has been issued under sub-section (1) of section 9.

⁴[(1A) A Board may act notwithstanding the absence of one of the two Advisers.]

(2) The Conciliation Officer shall be a person who holds or has held an office not lower in rank than that of a First Class Subordinate Judge or an Assistant Collector or a Deputy Collector of the first grade.

(3) The Provincial Government shall have the power to transfer a Conciliation Officer from one Board to another or to dissolve any Board; and from the date of such dissolution the Board shall cease to exist.

(4) When a Board is dissolved or otherwise ceases to exist, the Provincial Government may at any time establish another Board for the area for which the former Board was established and may declare the Board newly established to be the successor in office of the Board which has ceased to exist and such Board shall exercise all the powers under the Act.

¹ Subs. by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind 5 of 1955), s. 7, Sch. III, for "Deccan".

² The words from "but shall not include a person" upto the end of the cl., omitted by Sind 26 of 1947, s. 2.

³ The original words "A Board shall consist of one member called the Conciliation Officer who shall be assisted by two Advisers" were subsequently amended by Sind 26 of 1947, s. 3 (1) and Sind 22 of 1948, s. 3 (w. o. f. 24th April, 1947), to read as above.

⁴ Ins. by Sind 26 of 1947, s. 3(2).

4. (1) A debtor or any of his creditors may apply to the Board appointed for the area in which the debtor ordinarily resides to effect a settlement between the debtor and his creditors.

Application for settlement between debtor and his creditors.

(2) No debtor or creditor shall make more than one application to a Board and where applications have been made by the debtor and any of his creditors, the applications made by the creditors shall be consolidated with the application made by the debtor.

(3) If applications for the settlement of the debts of the same debtor are made to more than one Board, such applications shall, in accordance with rules made under this Act, be transferred to and dealt with by one Board as one single application.

(4) In case of dispute it shall be competent to the Board to decide whether the debtor is an agriculturist or not and, subject to the provisions of sub-section (5), the decision of the Board shall be final.

(5) Any person aggrieved by an order passed under sub-section (4) may appeal against such order to the District Judge having jurisdiction in the area for which the Board is constituted:

Provided that where the District Judge is a member of the Board which passed the order no appeal shall lie against such order.

5. Every application to a Board shall be in writing and shall be signed and verified in the manner prescribed.

Verification of application.

6. (1) Every application presented by a debtor to the Board shall contain the following particulars, namely:—

Particulars to be stated in application.

(a) the place where he resides ;

(b) 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 ; and

(c) particulars of the debtor's property both moveable and immoveable (including claims due to him), a specification of the value thereof and the places where the same may be found and details of any mortgage, lien or charge subsisting thereon.

(2) Every application presented by the creditor shall contain the following particulars, namely:—

(a) the place where the debtor resides ; and

(b) the amount and particulars of his claim against such debtor.

Rejection of application.

7. If the application does not comply with any of the requirements mentioned in sections 5 and 6, the Board may return the application for amendment. If the application is not amended within the time fixed by the Board or within such further time as the Board may allow the application shall be rejected. The rejection of an application under this section shall preclude the applicant from making a second application within twelve months from the date on which the first application was rejected.

Procedure on application.

8. (1) On receipt of an application under section 4 the Board shall, unless it rejects the application under section 7, pass an order fixing a date and place for hearing the application.

(2) Notice of the order under sub-section (1) shall be served on the debtor and creditors in the manner prescribed.

(3) * * * * *

(4) If the application is made by a creditor the debtor shall, on his appearance, furnish the particulars mentioned in sub-section (1) of section 6 and notice shall be sent to all creditors specified by him.

Notice calling upon creditors to submit statements of debts.

9. (1) If, after examining the debtor, it is in the opinion of the Board practicable to attempt to effect a settlement between him and his creditors, a notice shall be issued and served and published in the manner prescribed, calling upon every creditor of the debtor to submit a statement of debts owed to such creditor by the debtor. Such statement shall be in writing and shall be signed and verified in the manner prescribed and shall be submitted to the Board within two months from the date of service or 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 directions, it may extend the period for the submission of his statement of the debt owed to him by not more than two months.

(2) Subject to the provisions of sub-section (3) where a creditor wilfully fails to submit a statement of the debt due to him in compliance with the provisions of sub-section (1) such debt shall, except where the application in respect of which the notice is issued under sub-section (1) is dismissed under section 13, be deemed for all purposes and all occasions to have been duly discharged.

(3) If a creditor proves to the satisfaction of the Board that the notice was not served on him or that he had no knowledge of publication thereof or that for some other sufficient reason he was unable

1 Sub-section (3) omitted by Sind 22 of 1948, s. 4.

to submit the statement, the Board may revive the debt if the creditor files an application in that behalf within two months after he becomes aware of the proceedings taken under this section.

(4) If the Board declines to revive the debt an appeal shall lie against such order to the District Judge having jurisdiction in the area for which the Board is constituted and the District Judge may reverse, modify or confirm the order of the Board :

Provided that where the District Judge is a member of the Board which passed the order no appeal shall lie against such order.

10. (1) Every creditor submitting a statement of the debts owed to him in compliance with a notice issued under sub-section (1) of section 9 shall furnish, along with such statement, full particulars of all such debts and shall at the same time produce all documents including entries in books of account on which he relies to support his claims, together with a true copy of every such document.

Procedure on submission of statement of debts.

(2) The 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 against the debtor in any suit brought by the creditor or by any persons claiming under him for the recovery of the debt :

Provided that the Board or the Court shall have the power to excuse for valid reasons any default or delay in producing the document or to grant reasonable time for producing the same in any proceeding pending before it.

11. The Board shall call upon the debtor and each creditor, respectively, to explain his case regarding each debt.

Power of Board to decide dispute as to the existence or amount of debts or assets.

(2) If there is a dispute as to the existence or the amount of the debt due to any creditor or the assets of any debtor, the Board may decide the matter after taking such evidence as may be adduced by all the parties concerned and such decision shall be binding on all parties in all proceedings before the Board :

Provided that a decree of a Civil Court relating to a debt shall be conclusive evidence as to the existence and amount of debt, unless the decree is *ex parte* or has been obtained by fraud or collusion or has been passed after the date of an application under section 4:

¹[Provided further, that, when the decree is *ex parte*, or, has been obtained by fraud or collusion, it shall be deemed to be cancelled for all purposes, and the judgment-creditor can take no proceedings on the said decree.]

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(3) An appeal against an order of the Board under sub-section (2) shall lie to the District Judge having jurisdiction in the area for which the Board is constituted :

Provided that where the District Judge is a member of the Board which passed the order the appeal shall lie to the Chief Court of Sind :

Provided further that when the amount of the debt is five hundred rupees or less no appeal shall lie against an order of the Board.

(4) The Board shall prepare a complete schedule of the creditors and of the assets and liabilities of the debtor.

Powers of Board.

12. (1) Subject to rules made under this Act, a Board may exercise all such powers connected with the summoning and examining of parties and witnesses and with the production of documents as are conferred on a Civil Court by the Code of Civil Procedure, 1908.

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(2) Any person present may be required by a Board to furnish any information or to produce any document then and there in his possession or power.

Dismissal of application.

13. (1) An application under section 4 may be dismissed by the Board at any stage of the proceedings,—

(a) if, for reasons to be stated in writing, the Board does not consider it practicable to effect a settlement of the debts ; or

(b) if, in the opinion of the Board, the applicant fails to pursue his application with due diligence :

Provided that when such applicant is a creditor, the Board, instead of dismissing such application, may substitute the debtor or any other creditor, who shall thereafter be deemed to be the applicant for the purposes of this Act ; or

¹ The proviso added by Sind 22 of 1948, s. 5(a).

² Explanation omitted by *ibid.*, s. 5(b).

(c) if the application includes a claim which, in the opinion of the Board, is collusive and is intended to defraud any creditor.

(2) The dismissal of an application under clause (c) of sub-section (1) shall not preclude the applicant from making a fresh application in respect of debts which are neither collusive nor intended to defraud any creditor :

Provided that no such application shall be entertained except after the expiry of six months from the date of the order made on the previous application.

(3) No order dismissing an application under sub-section (1) shall be passed by the Board unless the applicant has been afforded an opportunity to be heard in the matter.

14. (1) (a) When any creditor agrees in respect of any debt owing to him to an amicable settlement with the debtor, the Board shall embody such settlement in writing ; or Settlement of debts.

(b) when creditors to whom there is owing not less than forty per cent. of the total debt agree to an amicable settlement with the debtor, the Board, if it considers that an offer made by the debtor for the settlement of any debt not included in the amicable settlement is a fair offer which the creditor concerned ought reasonably to accept, may pass an order that the debt to which the offer relates shall be settled in accordance with such offer :

* * * * *

(2) The terms of any settlement of debt under sub-section (1) shall forthwith be reduced to writing in the form of an agreement recording the amounts payable to the creditors and the manner in which, the assets from 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 who have agreed to the amicable settlement.

(3) The order under clause (b) of sub-section (1) shall be in the form of an award and shall specify such details as may be prescribed.

²[(4)] ³[An agreement made under sub-section (2) or an award passed under sub-section (3) shall be got registered under the ⁴[*]Registration Act, 1908, by the Conciliation Officer through any person interested in the registration.]

¹ The proviso omitted by Sind 22 of 1948, s. 6(a).

² The brackets and figure "(4)" ins. by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind 5 of 1955), s. 7, Sch. III.

³ Subs. by Sind 22 of 1948, s. 6 (b), for the original sub-section (4).

⁴ 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 1951).

L (iv) 693-C—13.

²[The provisions of the said ²[*] Registration Act, 1908, shall, so far as may be and so far as consistent with the provisions of this Act and any rules made thereunder, apply to the registration of any such agreement or award.] XVI of 1908.

(5) For the purpose of the registration of an agreement or award under sub-section (4) the Conciliation Officer shall be deemed to be an officer of Government empowered to execute such agreement or award within the meaning of section 88 of the ²[*] Registration Act, 1908. XVI of 1908.

3 (6) * * * * *

(7) If after the making of an agreement under sub-section (2) or the framing of an award under sub-section (3) any debt is disallowed or allowed on appeal under sub-section (3) of section 11, whether wholly or in part, the agreement or award, as the case may be, shall be modified by the Board in accordance with the order passed on such appeal.

⁴[14-A. Notwithstanding anything contained in this Act, or in the ²[*] Registration Act, 1908, an agreement made under sub-section (2) or an award passed under sub-section (3) of section 14 of this Act, which has not hereinbefore been presented for registration within the period of 30 days prescribed by the said Act, may be presented or represented within 60 days from the commencement of this Act.]

15. (1) The Revenue Commissioner for Sind may, subject to rules made under this Act, transfer from one Board to another, for disposal, applications made under section 4.

(2) A Board to which an application is transferred under sub-section (1) may continue the proceedings in connection with the application from the stage which has been reached when the application is transferred.

16. In any scheme of debt conciliation under this Act, such properties as are exempt from attachment under the Code of Civil Procedure, 1908, shall not be taken into account and shall be left to the judgment debtor free from any liability for his debts. V of 1908.

17. In any scheme of debt conciliation under this Act, no creditor shall be allowed a greater amount in satisfaction of both principal and interest than twice the amount of principal originally borrowed :

¹ Added by Sind 22 of 1948, s. 6(c).

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 1951).

³ Sub-section (6) omitted by Sind 22 of 1948, s. 6(d).

⁴ S. 14-A added *ibid*, s. 7.

Transfer of application.

Properties exempt from attachment not to be taken into account.

Maximum amount allowable in satisfaction of a debt.

Provided that interest shall not be allowed at a rate exceeding nine per cent. per annum simple ;

1* * * * *

18. (1) If no amicable settlement is arrived at under sub-section (1) of section 14 within ²[two years] of the date of issue of the notice under sub-section (1) of section 9, the application made under section 4 shall be dismissed and, if the Board considers that the debtor has made any creditor a fair offer which the creditor ought reasonably to accept, it shall proceed under section 24. Power of Board to dismiss application.

(2) In computing the period of ²[two years] under sub-section (1) the period during which an appeal in any proceeding upon application under section 4 is pending shall be excluded.

(3) When the application is dismissed under sub-section (1), no second application shall lie before the expiry of three years from the date on which the first application was dismissed :

Provided that in proceedings upon such second application the amount of any debt due under a decree obtained by a creditor after the dismissal of the first application shall not be varied without the consent of such creditor unless it is proved to the satisfaction of the Board that such decree was obtained by fraud or collusion.

(4) If the second application made under sub-section (3) is dismissed no fresh application shall lie under this Act.

19. Where an agreement or an award registered under sub-section (4) of section 14 relates to a debt which is secured by a mortgage, lien or charge on any immoveable property or by the pledge or hypothecation of any moveable property of a debtor, such mortgage, lien, charge, pledge or hypothecation shall subsist to the extent of the amount payable to the creditor in respect of such debt in accordance ³[with] the terms of the agreement or of the award until such amount has been paid or the property has been sold for the satisfaction of such debt. Existing mortgage, lien, charge, pledge or hypothecation to subsist.

20. (1) If a debtor defaults in paying any amount due in accordance with the terms of an agreement or an award registered under sub-section (4) of section 14 such amount shall be recoverable by the Collector, in the manner hereinafter indicated, on the application of the creditor made to the Collector within 90 days of the date of default. Recovery of sums due under agreement or award.

¹ The second proviso omitted by Sind 22 of 1948, s. 8.

² Subs. by *ibid*, s. 9, for "twelve months".

³ Subs. by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind 5 of 1955), s. 7, Sch. III, for "of".

(2) Secured debts shall be recoverable from the property on which they are secured as if a decree for the amount of such debts had been passed by a civil court and transferred to the Collector for execution under section 68 of the Code of Civil Procedure, 1908.

V of 1908.

(3) Notwithstanding anything contained in any law for the time being in force, unsecured debts shall be recoverable from the property of the debtor : provided that in effecting the recovery the Collector shall proceed in the following order, that is to say, the amount shall be recovered—

firstly, by the sale of moveable property of the debtor ;

secondly, * * * * *

thirdly, if the Collector is of opinion that the amount can be raised by leasing on payment of a premium or by mortgaging such agricultural land of the debtor as in the opinion of the Collector is not required for the support of the debtor and of the members of the family dependent on him, by taking possession of such land and by leasing on payment of a premium or mortgaging the whole or any part of such property ;

fourthly, * * * * *

(4) Where the Collector has, under sub-sections (1), (2) and (3), recovered any amount which was payable in accordance with the terms of an agreement or an award he shall proceed to make payments as follows :—

(a) he shall, in the first instance, apply the sum realised from the sale of any portion of the property referred to in section 19 to the payment of any amount payable under the agreement or award on account of a debt which is secured by a mortgage, lien, charge, pledge or hypothecation of or on such property in order of priority determined in accordance with the provisions of the Transfer of Property Act, 1882, and, if the said sum is insufficient to meet such payments, the amounts which have remained unpaid shall rank equally with unsecured debts ;

IV of 1882.

(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 or the award the sum of the surplus and of the proceeds realized 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 amounts ;

1 These cls. omitted by Sind 22 of 1948, s. 10.

(c) if the sum of the surplus and sale proceeds referred to in clause (b) is insufficient to meet the payment of secured debts which have been ranked with unsecured debts and unsecured debts, all such debts 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.

(5) Where the Collector fails, under sub-sections (1), (2) and (3) to recover any part of the amount referred to therein, he shall certify that it is irrecoverable by him and thereupon any amount which was payable under such agreement or award but has not been paid shall be recoverable as if a decree of a civil court had then been passed for its payment.

(6) An appeal against an order passed by the Collector under this section shall lie to the Revenue Commissioner for Sind.

21. (1) If a creditor refuses to accept any amount tendered to him by his debtor in accordance with the terms of an agreement or award registered under sub-section (4) of section 14 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 to deposit such amount with him.

Power to deposit amount of instalment with Collector.

(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.

22. (1) If it appears to the Collector that the applicant is entitled to make the deposit under section 21, he shall receive such deposit and give a receipt therefor.

Grant of receipt for deposit.

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.

(3) A debtor who has made a deposit under section 21, shall be held to have fulfilled the terms of the agreement or award.

Bar of suits
and other
legal pro-
ceedings.

23. No suit or other legal proceeding shall be instituted against the Crown or any officer of the Crown in respect of anything done or purporting to have been done regarding a deposit under this Act, but nothing in this section shall prevent any person entitled to recover the amount from recovering it from any person to whom it has been paid under sub-section (2) of section 22.

Grant of
certificate
in respect
of certain
debts.

24. (1) Where, during the hearing of any application made under section 4, any creditor refuses to agree to an amicable settlement, and if no order has been passed under clause (b) of sub-section (1) of section 14, in respect of the debts due to such creditor, the Board shall, if it is of opinion that the debtor has made such creditor a fair offer which the creditor ought reasonably to accept, grant the debtor a certificate in such form as may be prescribed, in respect of the debts owed by him to such creditor.

The Board in coming to a decision whether the offer made is fair or not, may take into consideration—

(i) the fall or rise in the value of land and its produce in the locality ;

(ii) the amount of consideration actually received ;

(iii) the reasonableness of the rates of interest ;

(iv) the onerous conditions, if any, subject to which the loan was granted ;

(v) whether at any time, the creditor or the debtor was offered settlement of the debt in full or part and if so what the terms were ; and

[(vi) the debtor's capacity to repay his debts.]

Power of
Court to
disallow
cost or
interests.

(2) Where any creditor sues in a Civil Court for the recovery of a debt in respect of which a certificate has been granted under sub-section (1), the Court shall, notwithstanding the provisions of any law for the time being in force, not allow the plaintiff ¹[any costs in such suit or any interest on the debt²[as determined under sub-section (2) of section 11] after the date of such certificate].

¹ Subs. by Sind. 26 of 1947, s. 4(1), for the original cl. (vi).

² Subs. *ibid.*, s. 4 (2), for the words from " any cost " upto the end of the sub-section.

³ Added by Sind. 22 of 1948, s. 11.

(3) Where after the registration of an agreement under sub-section (4) of section 14, any unsecured creditor sues for the recovery of a debt incurred before the date of such agreement and in respect of which a certificate has been granted under sub-section (1) or any creditor sues for the recovery of a debt incurred after the date of the application under section 4, any decree passed in such suit shall, notwithstanding anything contained in the Code of Civil Procedure, 1908, not be executed as against the assets, if any, set apart in the agreement for the satisfaction of the agreed debts until all amounts recorded as payable under such agreement have been paid.

Decrees in suits after registration of agreement not to be executed.

v of
1908.

25. No Civil Court shall entertain—

Bar of Civil Suits.

(a) any suit in respect of—

(1) any matter pending before a Board in proceedings in which a notice has been ordered to be issued under sub-section (1) of section 9, or

(2) the validity of any procedure or the legality of any agreement or award made under this Act, or

(3) the recovery of any debt payable under an agreement or award registered under sub-section (4) of section 14, from any person who as a debtor, was party to such agreement or award; or

(4) the recovery of any debt which has been deemed to have been duly discharged under sub-section (2) of section 9 except a debt which is revived under sub-section (3) or sub-section (4) of that section; or

(b) any application to execute a decree the execution of which is suspended under sub-section (3) of section 24.

26. (1) Every transfer of property made, with intent to defeat or delay the creditors of the debtor or to give a preference to one creditor over the other creditors, within six months next before the date of an application under section 4 or after such an application has been made and until the agreement or award registered in pursuance of such application has been fully carried out, shall be voidable by order of the Board on application by the creditors so defeated or delayed or affected by such preference.

Avoidance of certain transfers of Debtors' property.

(2) An appeal against an order of the Board under this section shall lie to the District Judge having jurisdiction in the area for which the Board is constituted:

Provided that where the District Judge is a member of the Board which passed the order and the value of the property transferred, at the date of the transfer, exceeds rupees two thousand the appeal shall lie to the Chief Court of Sind.

Alienation made with sanction of Board not to be considered as a fraudulent preference.

27. Any alienation of land for a fair price made with the sanction of the Board in pursuance of or to carry out the agreement or award mentioned in section 14, shall not be considered as a fraudulent preference under ^{1*} * * * * * the Provincial Insolvency Act, 1920, nor shall such alienation be voidable under section 53 of the Transfer of Property Act, 1882. V of 1920.
IV of 1882.

Bar of appeal or revision.

28. Except as expressly provided in this Act, no appeal or application for revision shall lie against any order passed by a Board.

Power of Board to review its order.

29. A Board may, on application from any person interested made within ninety days of the passing of an order, or on its own motion at any time, review any order passed by it and pass such order in reference to it as it thinks fit :

Provided that no order shall be varied or reversed unless notice has been given to the persons interested to appear and be heard in support of such order.

Appearance of parties before Board.

30. In any proceedings before a Board any party may appear in person or, with the permission of the Board, by an agent authorised in writing who shall not be a legal practitioner :

Provided that the Board may grant permission to appear by a legal practitioner if the amount involved in the application made under section 4 exceeds two thousand rupees.

Stay of pending suits or other proceedings.

31. When an application has been made to a Board under section 4 and notice has been ordered to issue thereon under subsection (1) of section 9 any suit or other proceedings then pending before a Civil Court in respect of any debt for the settlement of which application has been made shall not be proceeded with until the Board has dismissed the application.

Report by Board regarding sums due to Government.

32. Where in the course of an inquiry into an application made under section 4, a Board finds that there is any sum owing to Government on account of loans advanced under the Agriculturists Loans Act, 1884, or the Land Improvement Loans Act, 1883, or otherwise, or that any sum is due to a Co-operative Society the Board shall report this fact to the Collector or the Registrar of Co-operative Societies, as the case may be. XII of 1884
XIX of 1883.

Computation of period of limitation for suits and proceedings.

33. (1) In calculating the period of limitation for any suit filed in, or proceedings before, a Civil Court for the recovery of a debt which was the subject of any proceedings under

1 The words "the Presidency Towns Insolvency Act, 1909, and" rep. by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind 5 of 1955), s. 6, Sch. II.

this Act, the time during which such proceedings were pending as well as the time taken for the obtaining of certified copies of the order of the Board shall be excluded.

(2) The period during which proceedings under this Act have been pending including the actual period fixed in the agreement or award for payment of all the debts shall, in all suits filed or proceedings taken in Civil Courts to recover debts, be excluded from computation under section 48 of the Code of Civil Procedure, 1908, or under the ¹* Limitation Act, 1908.

V of 1908.
IX of 1908.

34. Conciliation Officers and Advisers shall be deemed to be public servants within the meaning of the ²[Pakistan] Penal Code.

XLV of 1960.

Conciliation Officers and Advisers deemed to be 'public servants'.

35. All proceedings under this Act shall be deemed to be judicial proceedings within the meaning of section 228 of the ²[Pakistan] Penal Code.

XLV of 1960.

Proceedings deemed to be judicial proceedings.

36. (1) The Provincial Government may make rules³ to carry out all or any of the purposes of this Act and not inconsistent therewith.

Power to make Rules.

(2) In particular and without prejudice to the generality of the foregoing power, they shall have power to make rules—

(a) with reference to all matters expressly required or allowed by this Act to be prescribed ;

(b) regulating the procedure before a Board ;

(c) prescribing the charges to be made by a Board for anything done under this Act and the persons by whom and the manner in which such charges shall be paid ;

(d) prescribing the records to be kept and the returns to be made by a Board ;

(e) prescribing the allowances, if any, to be paid to the Conciliation Officers and Advisers ;

(f) regulating the power of a Board to summon parties and witnesses and the production of documents under section 12 and the grant of expenses to witnesses ; and

(g) prescribing the place at which and the manner in which an agreement or award shall be registered under sub-section (4) of section 14.

¹ 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, 1951).

² Subs. *ibid*, for " Indian ".

³ For Rules, see G. N., H. D. No. 2791-H/41, dated 30th October 1943, S. G. C., 1944 Pt. IV-A, pp. 32—50.

(3) All rules made under this Act shall be subject to the condition of the rules being made after previous publication.

(4) In making any rule the Provincial Government may direct that a breach thereof shall be punishable with fine which may extend to fifty rupees, and in case of a continuing breach with fine which may extend to ten rupees for every day during which the breach continues after the first breach.

(5) Rules made under this Act shall be laid upon the table of the Sind Legislative Assembly at the session of the 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 in the *Official Gazette* be deemed to have come into force.