

THE WEST PAKISTAN RELIEF OF INDEBTEDNESS
ORDINANCE, 1960

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SCHEDULE

THE WEST PAKISTAN RELIEF OF INDEBTEDNESS ORDINANCE, 1960

WEST PAKISTAN ORDINANCE No. of 1960

[27" April, 1960]

AN

ORDINANCE

to amend and consolidate the law relating to the relief of indebtedness in the Province of West Pakistan.

Preamble. WHEREAS it is expedient to amend and consolidate the law relating to the relief of indebtedness in the Province of West Pakistan;

NOW, THEREFORE, in pursuance of the Presidential Proclamation of the seventh day of October, 1958, and having received the previous instructions of the President, the Governor of West Pakistan is pleased, in exercise of all powers enabling him in that behalf, to make and promulgate the following Ordinance:—

1. Short title and extent. (1) This Ordinance may be called the West Pakistan Relief of Indebtedness Ordinance, 1960.

1[(2) It extends to the whole of the Province of West Pakistan, except the Tribal Areas.]

2. Definitions. In this Ordinance, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them, that is to say—

(a) "Court" or "Civil Court" includes a Court of insolvency, a receiver appointed under the Provincial Insolvency Act, 1920 (V of 1920), and an arbitrator appointed with the consent of the parties or by an order of a Court;

(d) "debt" includes all liabilities of a debtor in cash or in kind, secured or unsecured, payable under a decree or order of a Civil Court or otherwise, whether mature or not, but shall not include debts incurred for the purposes of trade, arrears of wages, land-revenue or anything recoverable as arrears of land-revenue, or taxes or rates payable to Government or any local authority, or any debt which is barred by the law of limitation or a debt due to a co-operative bank, co-operative society or any banking company registered under the Companies Act, 1913(VII of 1913), or any bank which is a "scheduled bank" as defined in the State Bank of Pakistan Act, 1956(X XXIII of 1956);

(c) "debtor" means a person who owes a debt; and—

(i) who both earns his livelihood mainly by agriculture and is either a land-owner or tenant of agricultural land; or

(ii) who earns his livelihood as a village artisan paid in cash or kind for work connected with agriculture; or

'Subs. by the West Pakistan Laws (Extension to Karachi) Ordinance, 1964 (W. P. Ord. No. VII of 1964), s

(iii) | whose total assets do not exceed five thousand rupees;
Explanation.— A debtor shall not lose his status as such;

(i) through involuntary unemployment or on account of incapacity, temporary or permanent, by bodily infirmity, or, if he is or has been in the Armed Forces of Pakistan, only on account of his pay and allowances or pension exceeding his income from agricultural sources;

(ii) by reason of the fact that he derives income by using his plough cattle for purposes of transport;

(iii) only because he does not cultivate with his own hands;

(d) “interest” means rate of interest and includes the return to be made over and above what was actually lent whether the same is charged or sought to be recovered specifically by way of interest or otherwise.

3. Powers of the Court to limit interest recoverable in certain cases. Notwithstanding anything contained in any agreement or any law for the time being in force, no Court shall pass or execute a decree or give effect to an award in respect of a debt for a larger sum than twice the amount of the sum found by the Court to have been actually advanced less any amount already received by the creditor.

4. Deposit in Court. (1) Any person who owes money may at any time deposit in Court a sum of money in full or part payment to his creditor.

(2) The Court, on receipt of such deposit, shall give notice thereof to the creditor and shall, on his application, pay the sum to him.

(3) From the date of such deposit, interest shall cease to run on the sum so deposited.

5. Immunity from arrest. No debtor shall be arrested or imprisoned in execution of a decree for money, whether passed before or after the commencement of this Ordinance.

6. Exemption from the provisions of Order XXI, Rule 2(3) of the Civil Procedure Code. Nothing in Order XXI, Rule 2, sub-rule (3) of the Code of Civil Procedure, 1908(V of 1908), shall apply to an adjustment or payment made by a debtor.

7. Exemption of houses, etc., from attachment or sale. Notwithstanding anything contained in the Code of Civil Procedure, 1908(V of 1908), the houses and other buildings (with the materials and the sites thereof and the land immediately appurtenant thereto and necessary for their enjoyment) belonging to a debtor, shall not be liable to attachment or sale in execution of any decree, if such houses and other buildings are not proved by the decree holder to have been let out on rent or lent to persons other than the debtor's father, mother, wife, son, daughter, daughter-in-law, brother, sister or other dependent or left vacant for a period of a year or more:

Provided that the protection afforded by this section shall not extend to any property specifically charged with the debt sought to be recovered.

8. Exemption of milch animals, etc., from attachment or sale. Notwithstanding anything contained in the Code of Civil Procedure, 1908(V of 1908), milch animals, whether in milk or in calf,

kids, calves, animals used for the purpose of transport or draught, carts and open spaces or enclosures required by the debtor in case of need for tying cattle, parking carts or stacking fodder or manure shall not, if they belong to a debtor, be liable to attachment or sale in execution of any decree.

9. Agreement for waiving exemption void. Notwithstanding any other law for the time being in force any agreement by which a debtor agrees to waive any benefit of any exemption under section 7 or 8 shall be void.

10. Powers of Court to order payment of amount due on mortgage by instalments. Notwithstanding anything contained in any law for the time being in force or in any contract, a Court may, at the time of passing a decree in any suit relating to a mortgage by which any loan is secured, order that payment of any amount decreed in such suit shall be made in such number of instalments and on such dates and subject to such conditions as, having regard to the circumstances of the debtor and the amount of the decree, it considers fit.

11. Powers of Court to direct payment of amount decreed by instalments. Notwithstanding anything contained in any law for the time being in force or in any contract, a Court may, at any time, on the application of a judgment debtor, after notice to the decree holder, direct that the amount of any decree, whether passed before or after the commencement of this Ordinance, in respect of a debt, including any decree in a suit relating to a mortgage by which any loan is secured, shall be paid in such number of instalments and on such dates and subject to such conditions as, having regard to the circumstances of the judgment debtor and the amount of the decree, it considers fit.

12. Interest after the commencement of this Ordinance. Government may, by notification in the Official Gazette, direct that in any specified area no debtor shall be charged interest on any debt incurred by him after the date of the notification at a rate higher than that specified in the notification.

13. Power to make rules. (1) Government may, after previous publication, make rules for carrying into effect the provisions of this Ordinance.

(2) In particular and without prejudice to the generality of the foregoing powers such rules may provide—

(a) for determining the Court into which moneys may be deposited under the provisions of section 4;

(b) for the procedure for keeping accounts of such deposits and the manner in which notices are to be served on creditors and payments made to them.

14. Repeal. The enactments specified in the Schedule are hereby repealed to the extent mentioned in the fourth column thereof.

SCHEDULE

(See section 14)

Year	No.	Short Title	Extent of repeal
1	2	3	4

1934	VII	The Punjab Relief of Indebtedness Act, 1934.	Sections 30 to 36.
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1934	VII	The Punjab Relief of Indebtedness Act, 1934, in its application to the former Bahawalpur State.	Sections 30 to 36.
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1937	IV	The North-West Frontier Province Petty Zamindars Relief Act, 1936.	The whole.
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1939	IV	The North-West Frontier Province Agriculturists Debtors' Relief Act, 1939.	The whole.
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1940	VU	The Sind Agriculturists Relief Act, 1940.	The whole.
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