

THE WEST PAKISTAN RELIEF OF INDEBTEDNESS ORDINANCE, 1960

(W.P Ordinance No.XV of 1960).

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' Omitted vide. Khyber Pakhtunkhwa Adapt .of Laws Order, 1975.

THE WEST PAKISTAN RELIEF OF INDEBTEDNESS ORDINANCE, 1960
(WEST PAKISTAN ORDINANCE No.XV 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.

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. (1) This Ordinance may be called the West Pakistan Relief of Indebtedness Ordinance, 1959.

(2) It extends to the whole of the ' [Province of Khyber Pakhtunkhwa] except the [Tribal Areas.]

2. 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, and an arbitrator

appointed with the consent of the parties or by an order of a Court;

(b) "debt" includes all liabilities of a debtor in cash or in kind, secured or

" Insection-1, in subsection (2), for the words "Province of West Pakistan", the words "North-West Frontier Province", subs. by Khyber Pakhtunkhwa Adapt. of laws Order, 1975 and then subs vide Khyber Pakhtunkhwa Act No.IV of 2011.
>. Subs. for the words "Federal Capital and the Special Areas.By W.P. No. VII of 1964.

Preamble.

Short title and
extent.

Definitions.

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, or any bank which is a "scheduled bank" as defined in the State Bank of Pakistan Act, 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

(iii) | Whose total assets do not exceed five thousand rupees.

Explanation:- A debtor shall not lose his status as such;

(i) through involuntary un-employment 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. Notwithstanding anything contained in any agreement or any law for the time Powers of the being in force, no Court shall pass or execute a decree or give effect to an award in Court to limit respect of a debt for a larger sum than twice the amount of the sum found by the aes able in Court to have been actually advanced less any amount already received by the certain cases.

creditor.

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

(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.

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

7. Notwithstanding anything contained in the Code of Civil Procedure, 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 house 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 dependents 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. Notwithstanding anything contained in the Code of Civil Procedure, 1908, animals, including milch animals, belonging to the debtor, shall not be liable to attachment or sale in execution of decree, if such animals, in the opinion of the Court, are necessary for the maintenance of the debtor or his family.]

9. 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 sections 7 or 8 shall be void.

10. 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 installments 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.

' Section (5), omitted by Khyber Pakhtunkhwa Ord. No. VI of 1980.

>. Section-8, subs. by Khyber Pakhtunkhwa Ord. No. III of 1985.

Exemption from
the provisions
of Order XXI,
Rule 2 (3) of
the Civil
Procedure
Code.

Exemption of
houses, etc.
from attachment
or sale.

Exemption of
animals from
attachment or
sale.

Agreement for
waiving
exemption void.

Powers of Court
to order
payment of
amount due on
mortgage by
installments.

11. 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 installments 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. 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. (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.

3[14. The North-West Frontier Province Debtors Relief Act, 1939, is hereby repealed].

SCHEDULE "[* * *]

Powers of Court
to direct
payment of
amount decreed
by installments.

Interest after the
commencement
of this
Ordinance.

Power to make
rules.

Repeal.

' In the districts of Hyderabad, Dadu, Thatta, Sanghear, Tharparkar, Khairpur, Sukkur, Jacobabad, Nawabshah and Larkana, r shall be charged interest on any debt incurred by him after 1st May, 1961, at a rate higher than 6% per annum simple interest

secured loans and 12 /2% per annum simple interest for unsecured loans, see Gazette of West Pakistan, 1961 Part I, P. 242.

2 For the West Pakistan 1961, Relief of Indebtedness Rules, see Garette of Wast Pakistan 1961, Part I. P. 281.

*. Section-14, subs. by Khyber Pakhtunkhwa Adapt. of Laws Order, 1975.

* Schedule omitted vide order *ibid.*