

THE KARNATAKA DEBT RELIEF ACT, 1976
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STATEMENTS OF OBJECTS AND REASONS

I

Act 25 of 1976.- The problem of Urban and Rural indebtedness from sources other than Government and institutional agencies has assumed serious dimension in recent time. One of the factor responsible being the tightness in the money market. Exorbitant rates of interest are being charged and mal-practices are being indulged. Agriculturists with small holding, landless agricultural labourers and the weaker sections of the community have all been exploited. The State Government, thereof, considered it necessary to provide adequate relief to the said categories. This is consistent with the 20point programme announced by the Prime Minister also.

Hence the Karnataka Debt Relief Ordinance, 1975 was issued declaring that debts owed by the aforesaid categories stood discharged.

The Bill is to replace the said Ordinance.

(Published in the Karnataka Gazette Part IV- 2A dated 22-1-1976 at page 54.)

II

Amending Act 63 of 1976.- With the operation of the Debt Relief Act the work of the Sub-Division Magistrates has increased manifold and they are finding it difficult to cope with the work of the disposal of applications after undergoing all formalities. It is therefore felt necessary that not only to give relief but also to ensure expeditious disposal of the cases and thus reaching the benefits of the Act to the weaker sections, it was found necessary to press in the service of Executive Magistrates in the implementation of the Act. Hence the Executive Magistrates, as may be authorised by State Government, are also empowered to administer the Act and give relief to the weaker sections as are available under the provisions of the Act.

Hence the Bill.

(Published in the Karnataka Gazette (Extraordinary) Part IV- 2A dated 8-11-1976 as NO. 4428 at page 3.)

KARNATAKA ACT NO. 25 OF 1976

(First published in the Karnataka Gazette Extraordinary on the Thirteenth day of March 1976)

THE KARNATAKA DEBT RELIEF ACT, 1976

(Received the assent of the President on the Twelfth day of March, 1976)

(As Amended by Act 63 of 1976)

An Act to provide relief from indebtedness to small farmers, landless agricultural labourers and weaker sections of the people in the State of Karnataka.

WHEREAS it is expedient to provide relief from indebtedness to small farmers, landless agricultural labourers and weaker sections of the people in the State of Karnataka;

BE it enacted by the Karnataka State Legislature in the Twenty-seventh Year of the Republic of India as follows:-

1. Short title, extent and commencement.- (1) This Act may be called the Karnataka Debt Relief Act, 1976.

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

(3) Sections 3, 4, 7 and 8 shall be deemed to have come into force on the twenty-first day of October, 1975, sections 5 and 6 shall be deemed to have come into force on the eleventh day of November, 1975 and section 9 shall be deemed to have come into force on the twenty-eighth day of November 1975.

2. Declaration.- It is hereby declared that this Act is for giving effect to the policy of the State towards securing the principles specified in Article 46 of the Constitution of India.

3. Definitions.- In this Act, unless the context otherwise requires, -

(a) 'agriculture' includes-,

- (i) horticulture;
- (ii) the raising of crops, grass or garden produce;
- (iii) dairy farming;
- (iv) poultry farming;
- (v) breeding of livestock;
- (vi) grazing,

but does not include the cutting of wood only;

(b) 'debt' means any liability in cash or in kind, whether decreed or not and includes any amount which is in substance a debt; but does not include arrears of taxes due to the Central or the State Government or a local authority;

(c) 'debtor' means,-

- (i) a small farmer; or
- (ii) a landless agricultural labourer; or
- (iii) a person belonging to the weaker sections of the people;

(d) "landless agricultural labourer" means a person who does not hold any land and whose principal means of livelihood is manual labour on land;

(e) 'small farmer' means a person who holds whether as owner, tenant, or mortgagee with possession or partly in one capacity and partly in another not more than one unit of land and who has no income from any source other than agriculture;

Explanation.- Where a person holds more than one category of land referred to in clause (f), the extent of land held by him shall be determined according to the following formula namely:-

Two hectares of unirrigated lands=one and one-fourth hectares of rainfed wet land=half hectare of land having facilities for growing one irrigated crop=half hectare of land used for growing plantation crops or grape or coconut or arecanut or for growing mulberry by irrigation=quarter hectare of land having perennial irrigation facilities or facilities for growing more than one irrigated crop in a year;

(f) "unit" means,-

- (i) two hectares of unirrigated lands; or
- (ii) one and one-fourth hectares of rainfed wet lands; or
- (iii) half hectare of land having facilities for growing one irrigated crop;
- (iv) half hectare of land used for growing plantation crops or grapes or coconut or arecanut ; or
- (v) half hectare of land used for growing mulberry by irrigation; or
- (vi) quarter hectare of land having perennial irrigation facilities or facilities for growing more than one irrigated crop in a year;

Explanation.- In this clause 'plantation crop' means cardamom, coffee, rubber and tea;

(g) 'weaker sections of the people' means persons not being small farmers or landless agricultural labourers, whose annual income from all sources does not exceed two thousand and four hundred rupees.

4. Relief from indebtedness.- Notwithstanding anything in any law for the time being in force or in any contract or instrument having force by virtue of any such law and save as otherwise expressly provided in this Act, with effect from the date of commencement of this section,-

(a) every debt advanced before the commencement of this section including the amount of interest, if any, payable by the debtor to the creditor shall be deemed to be wholly discharged;

(b) no Civil Court shall entertain any suit or proceeding against the debtor for the recovery of any amount of such debt including interest, if any:

Provided that where a suit or proceeding is instituted jointly against the debtor and any other person nothing in this section shall apply to the maintainability of the suit or the proceeding in so far as it relates to such other person:

(c) all suits and proceedings (including appeals, revisions, attachments or execution proceedings) pending on the said date against any debtor for the recovery of any such debt shall abate:

Provided that nothing in this clause shall apply to the sale of,-

(i) any movable property held and concluded before the commencement of this section:

(ii) any immovable property confirmed before such commencement;

(d) every 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;

(e) every movable property pledged by a debtor shall stand released in favour of such debtor and the creditor shall be bound to return the same to the debtor forthwith and where the creditor fails to do so the debtor shall on application made to the Sub-Divisional Magistrate ¹[or any other executive Magistrate authorised by the State Government in this behalf]¹ having jurisdiction over the place where the debtor resides be entitled to the return of the same;

1. Inserted by Act 63 of 1976 w.e.f. 27.10.1976

(f) every mortgage executed by the debtor in favour of the creditor shall stand redeemed and the mortgaged property shall be released in favour of such debtor and where the creditor fails to do so, the Sub-Divisional Magistrate ¹[or any other executive Magistrate authorised by the State Government in this behalf]¹ having jurisdiction over the place where the mortgaged property is situate may *suo motu* or on application of the debtor and after such inquiry as he may deem fit, put the debtor in possession of the mortgaged property.

1. Inserted by Act 63 of 1976 w.e.f. 27.10.1976

Explanation.- Nothing in this section shall be construed as entitling any debtor for refund of any part of any debt already repaid by him or recovered from him before the commencement of this section.

5. Creditors to file statement, etc.- (1) Every creditor referred to in clause (e) of section 4 shall, within forty five days from the eleventh day of November, 1975 furnish to the Sub-Divisional Magistrate ¹[or any other executive Magistrate authorised by the State Government in this behalf, (hereinafter called 'the executive Magistrate')]¹ having jurisdiction over the area where such creditor has his ordinary place of business a statement containing the names of all the debtors who have pledged articles with him, the nature and description of the articles pledged, the amount advanced and due as on 21st October, 1975 and such other particulars as may be prescribed.

1. Inserted by Act 63 of 1976 w.e.f. 27.10.1976

(2) On receipt of such statement and after such summary inquiry conducted in the manner provided in the Karnataka Land Revenue Act, 1964 as he considers necessary, the Sub-Divisional Magistrate ²[or the executive Magistrate, as the case may be,]² shall by order, determine which of the debtors are entitled to relief under section 4 and direct the creditor to produce on or before the date specified in the order the articles pledged by such debtors.

(3) If the creditor fails to produce the article as directed in the order under sub-section (2) the Sub-Divisional Magistrate ¹[or the executive Magistrate, as the case may be]¹ may recover possession of the articles from the creditor and for this purpose shall exercise the same powers as are invested in him under the Code of Criminal Procedure, 1973 regarding search and seizure.

1. Inserted by Act 63 of 1976 w.e.f. 27.10.1976

(4) After such production or recovery of the article pledged, the Sub- Divisional Magistrate ¹[or the executive Magistrate, as the case may be,]¹ shall deliver the article to the debtor.

1. Inserted by Act 63 of 1976 w.e.f. 27.10.1976

(5) Every creditor referred to in clause (f) of section 4, shall within 45 days from the first day of March 1976 furnish to the Sub- Divisional Magistrate ¹[or the executive Magistrate, as the case may be,]¹ having jurisdiction over the area where such creditor ordinarily resides a statement containing the names of all the debtors who have mortgaged properties to him, the full description of such properties, the amount advanced and due as on 21st October, 1975 and such other particulars as may be prescribed. On receipt of such statement the Sub-Divisional Magistrate ¹[or the executive Magistrate, as the case may be,]¹ shall by order, determine which of the debtors are entitled to the relief under section 4 and direct the creditor to make an endorsement of discharge on the mortgage deed and deliver the same to the debtor. Where such property is in possession of the creditor he shall deliver the same to the debtor. If the creditor fails so to do, the Sub-Divisional Magistrate ¹[or the executive Magistrate, as the case may be,]¹ shall himself record the fact of discharge and issue a certificate to that effect to the debtor and also deliver possession of the property to the debtor by using such force as may be necessary.

1. Inserted by Act 63 of 1976 w.e.f. 27.10.1976

(6) Every order of the Sub- Divisional Magistrate ¹[or the executive Magistrate, as the case may be,]¹ under this section shall be final.

1. Inserted by Act 63 of 1976 w.e.f. 27.10.1976

(7) No legal practitioner shall be allowed to appear in the proceedings before the Sub-Divisional Magistrate ¹[or the executive Magistrate, as the case may be,]¹ under this section.

1. Inserted by Act 63 of 1976 w.e.f. 27.10.1976

(8) Pending determination of the question under sub-section (2), no creditor shall sell or dispose of the articles pledged.

(9) Notwithstanding anything in the proceeding sub-section the Sub- Divisional Magistrate ¹[or the executive Magistrate, as the case may be,]¹ may, on application made by a debtor or otherwise, enter any premises of the creditor and search and seize articles pledged by debtors and arrange for their safe custody. Thereafter he shall proceed to determine which of the articles so seized, are to be released to the debtors and pass orders accordingly.

1. Inserted by Act 63 of 1976 w.e.f. 27.10.1976

6. Penalty.- (1) Any person failing to furnish the statement or to comply with the order made under section 5 or otherwise contravening the provisions of section 5 shall be liable to imprisonment for a term which shall not be less than three months but which may extend to one year and with fine which shall not be less than one thousand rupees but which may extend to five thousand rupees.

(2) Every offence punishable under sub-section (1) shall be cognizable.

7. Burden of proof.- Notwithstanding anything in any law, in any suit or proceeding, the burden of proving that the debtor is not entitled to protection of this Act shall lie on the creditor.

8. Certain debts and liabilities not to be affected.- Nothing in this Act shall affect the following categories of debts and liabilities of small farmers, landless agricultural labourers and weaker sections of the people, namely:-

- (a) any rent due in respect of any property let out to such debtor;
- (b) any amount due under a hire purchase agreement;
- (c) any amount recoverable as arrears of land revenue;
- (d) any liability arising out of breach of trust or any tortuous liability;
- (e) any liability in respect of wages or remuneration due as salary or otherwise for services rendered;
- (f) any liability in respect of maintenance whether under a decree of a court or otherwise;
- (g) a debt due to,-
 - (i) the Central Government or any State Government ;
 - (ii) any local authority;
 - (iii) a credit agency as defined in the Karnataka Agricultural Credit Operations and Miscellaneous Provisions Act, 1974(Karnataka Act No. 2 of 1975);
 - (iv) any Government company within the meaning of the Companies Act, 1956;
 - (v) the Life Insurance Corporation of India;
 - (vi) a Co-operative Society; and
- (h) any debt which represents the price of goods purchased by such debtor.

9. Power to make rules.- The State Government may, by notification in the official Gazette make rules to carry out the purposes of this Act.

10. Repeal of Karnataka Ordinance Nos. 15 of 1975 , 19 of 1975 and 21 of 1975.-
 (1) The Karnataka Debt Relief Ordinance 1975 (Karnataka Ordinance No. 15 of 1975), the Karnataka Debt Relief (Amendment) Ordinance, 1975, (Karnataka Ordinance No. 19 of 1975) and the Karnataka Debt Relief (Second Amendment Ordinance, 1975 (Karnataka Ordinance No. 21 of 1975) are hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken under the said Ordinances, shall be deemed to have been done or taken under the corresponding provisions of this Act.

THE KARNATAKA DEBT RELIEF ACT, 1976 has been amended by the following Acts, namely.-

Amendments (Chronological)

Sl. No.	Act No. and Year	Sections Amended	Remarks
1	25 of 1976	-	Sections 3,4,7 and 8 w.e.f. 21.10.1975, sections 5 and 6 w.e.f. 11.11.1975, section 9 w.e.f. 28.11.1975
2.	63 of 1976	4(e)(f), 5(1) to (7) (9)	w.e.f. 27.10.1976

Amendments (Section-wise)

Sections	No and Year of the Act	Remarks
4(e)(f)	63 of 1976	w.e.f. 27.10.1976
5(1) to (7) (9)	63 of 1976	w.e.f. 27.10.1976