

The Punjab Regulation of Accounts Act, 1930

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[The Punjab] Regulation of Accounts Act, 1930

(Punjab Act 1 of 1930)

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Received the assent of His Excellency the Governor on the 19th January, 1930, and that of His Excellency the Viceroy and Governor General on the 9th March, 1930 and was first published in the Punjab Government Gazette, dated the 21st March, 1930.

LEGISLATIVE AMENDMENTS

-Amended by Adaptation of Laws Order , 1937

-Amended by the Adaptation of Laws Order , 1948

-Amended by the Adaptation of Laws Order , 1950

-Amended by the Adaptation of Laws Order , 1951

-Amended by Punjab Act 44 of 1960

An Act to regulate the keeping of accounts of certain transactions.

Preamble.- Whereas it is expedient to make provision for regulating the keeping of accounts relating to certain transaction ²[Punjab], and whereas the previous sanction of the Governor General under section 80-A (3) of the Government of India Act has been obtained; it is hereby enacted as follows:

NOTE

Statement of objects and reasons.- A regulation of Accounts Bill was passed by the Punjab Legislative Council on 1st July, 1926; but in refusing either to commend this Bill for the final assent of the Governor-General or to return it to the Council for reconsideration, His Excellency Sir Malcolm Hailey in his address to the Council on 25th October, 1926, gave an assurance that

Government was convinced that legislation would be beneficial for the regulation of certain classes of accounts; and that steps would be taken to place a Government Bill on a somewhat simpler scope before the Council.

1. For Statement of Objects and Reasons.see Punjab Gazette,1929,Part V. pages 43-44

2. Subs for the words "East Punjab" by the Adaption of Laws Order 1950.

It was felt that the Bill as passed by Council was not calculated to effect the main object in view, viz, protection of the ignorant borrower without undue interference in trade and credit. In particular the definition of loan and money-lender appeared likely to prove a stumbling block to the practical utility of the Bill; while the penalty of nonsuiting provided in the case of non compliance with the provisions of the Bill seemed unnecessarily harsh.

In the present Bill which is the fulfilment of His Excellency Sir Malcolm Hailey's promise made to the Legislative Council in his address on 25th Oct.1926, the aim has been to secure as between certain classes of creditors and debtors an improved system of keeping accounts which will give to the latter a means of ascertaining periodically how their accounts stand and how they are composed. At the same time the Bill designedly avoids any unnecessary degree of regimentation which might tend unduly

to harass the lender and constrict the facilities for credit so useful in the rural system of economy.

Secondly by excepting certain classes of loans it expressly avoids interference with accounts, connected with trade and commerce.

Subject to these restrictions, the Bill is of general application. The term money – lender' has been throughout replaced by the term 'creditor' suitably defined. The definition of loan has been improved. The positive portion of the definition follow the definition given in the Usurious Loans Act and embodies the result of the experience gained by the courts in England in dealing with attempts made by money-lenders to evade the law.

The negative portion except a number of transactions from the operation of the Act with the object of avoiding undue interference with trade, commerce and industry.

The penalty of non-compliance with the provisions of the Bill has been greatly modified. If it is found that the creditor has failed to maintain the requisite ledger the Bill, while not permitting non suiting or even any reduction in the principal amount found due, renders obligatory the disallowance of costs and some portion of the interest, though it leaves the Court a discretion as to the exact amount of interest to be disallowed .Similarly if it is found that the creditor, though keeping the necessary ledger, has without lawful excuse failed to submit the periodical accounts to his debtor, the Bill provides that he will lose the interest for the period or periods for which he has defaulted.

1. Short title, extent and commencement.-

(1) This Act may be called the Punjab Regulation of Accounts Act,1930

2. It extends to ¹[Punjab]

3. It shall come into force on such date as the ²(State) Government may, by notification, appoint in this behalf.

Provided that this date shall not be earlier than six months or later than one year after the date of final publication of the rules made under section 6.

1. Subs. for the words "East Punjab" by the Adaptation of Laws Order, 1950

2. Subs. for the words "Provincial" by the Adaptation of Laws Order, 1950

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

(1) "Bank" means a company carrying on the business of banking and registered under any of the enactments relating to companies for the time being in force in the United Kingdom or in any of the Colonies or Dependencies thereof or in ¹[any Part A State or Part C State] or incorporated by an Act of Parliament ²[of the United Kingdom] or by Royal Charter or Letters Patent or by any Act of ³[Parliament].

(2) "Company" means a company registered under any of the enactments relating to companies for the time being in force in the United Kingdom or any of the Colonies or Dependencies thereof or in ⁴[any part A State of Part C State] or incorporated by an Act of Parliament ⁵[of the United Kingdom] or by the Royal Charter or Letters Patent and includes Life Assurance Companies to which the Indian Life Assurance Companies Act, 1912, applies.

(3) "Co-operative Society" means a society registered under the provisions of Co-operative Societies Act, 1912 (II of 1912).

(4) " Court includes a Court acting in the exercise of insolvency jurisdiction.

(5) "Creditor" means a person who in the regular course of business advances a loan as defined in this Act and shall include subject to the provisions of Section 3 the legal representatives and the successor-in-interest whether by inheritance, assignment or otherwise of the person who advanced the loan.

(6) "Interest" 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.

(7) "Loan " means an advance whether of money or in kind at interest and shall include any transaction which the court finds to be in substance a loan, but it shall not include-

(i) a deposit of money or other property in a Government Post Office Bank or any other Bank or in a company or with a co-operative society;

(ii) a loan to or by or a deposit with any society or association registered under the Societies registration Act, 1860, or under any other enactment;

(iii) a loan advanced by ⁶[the Central or any ⁷(State) Government] or by any local body authorized by ⁶ [the Central or any ⁷(State) Government];

1. Subs for the words "British India" by the Adaptation of Laws Order,1951.

2. Inserted by ibid.

3. Subs for the words"the Central Legislative " by Adaption of Laws (Third Amendment)Order,1951

4. Subs for the words "British India" by the Adaptation of Laws (Third Amendment) Order, 1951.

5. inserted by Adoption of laws (Third Amendment) Order, 1951.

6. Subs for the words" Government " by the Adaptation of Laws Order. 1937

7. Subs for the words "Provincial" by the Adaptation of Laws Order,1950.

(iv) a loan advanced by a bank, a co-operative society or a company whose accounts are subject to audit by a certificated auditor under the Companies Act;

(v) a loan advanced to a trader;

(vi) an advance made on the basis of a negotiable instrument as defined in the Negotiable Instrument Act, 1881, other, than a promissory note;

(vii) a transaction which is, in substance, a mortgage or a sale of immoveable property.

(8) "Prescribed" means prescribed by rules made under this Act;

(9) "Trader" means a person who in the regular course of business buys and sells goods or other property, whether movable or immoveable, and shall include-

a wholesale or a retail merchant,

a commission agent,

a broker,

a manufacturer,

a contractor,

a factory owner,

but shall not include a person who sells his own agricultural produce or cattle, or buys agricultural produce or cattle for his own use.

3. Duty of creditor to maintain and furnish accounts,-

(1) A creditor shall in order to comply with the provisions of this Act-

(a) regularly record and maintain an account for each debtor separately, of all transactions relating to any loan advanced to that debtor, in such manner as the ¹[State] Government may prescribe;

(b) furnish each debtor every six months with a legible statement of account signed by the creditor or his agent of any balance or amount that may be outstanding against such debtor on the 30th day of June or 15th Har and the 31st day of December or 15th Poh in each year, This statement of account shall include all transactions relating to the loan entered into during the six months to which the statement relates, and shall be sent, in such manner and in such form and containing such details as the ¹[State] Government may prescribe, on or before the 31st day of August or 15th Bhadon in the case of any balance outstanding on the 30th day of June or 15th Har and on or before the 28th day of February or 15th Phagan in the case of any balance outstanding on the 31st day of December or 15th Poh.

Explanation.-(i) The ¹[State] Government shall prescribe the forms and numerals in which the accounts required by this provision of this sub-section are to be maintained and furnished, and the creditor shall at his option use one of the following scripts and languages, namely-English, Urdu, Gurmukhi, Nagri or Mahajani : Provided that if the debtor in writing demands that the account be furnished in any one of the above scripts it shall be supplied to him in that script at his cost according to the scale prescribed;

1. Subs. for the word "Provincial" by the Adaptation of laws Order, 1950.

(ii) the prescribed accounts shall be so kept that items due by way of interest shall be shown as separate and distinct from the principal sum, and separate totals of principal and interest shall be maintained. The creditor shall not in the absence of agreement, include the interest of any portion of it in the principal sum; and the principal and interest shall be separately shown in the opening balance of each new six-monthly account:

provided that—

(i) if the loan has, since it was originally advanced, passed by inheritance or assignment to a widow or minor, such widow or minor shall not be bound to maintain and furnish the account prescribed by this section for a period of six months from the date of such passing;

(ii) nothing in this section shall be deemed to lay upon any person the duty of maintaining and furnishing the prescribed account in the case of loan where in the title to recover is sub-judice between two or more persons claiming as creditors adversely to each other unless and until the title has been finally decided by a court of competent jurisdiction.

(2) Entries in the account prescribed under clause (a) to sub-section (1) shall be deemed to be regularly kept in the course of business for the purposes of section 34, Indian Evidence Act, 1872 and copies of such entries certified in such manner as may be prescribed shall be admissible in evidence for any purpose in the same manner and to the same extent as the original entries.

Explanation.—A person to whom a statement of account has been sent under clause (b) of sub-

section (1) shall not be bound to acknowledge or deny its correctness and his failure to protest shall not, by itself, be deemed to be an admission of correctness of the account.

4. Penalty for non-compliance with the provisions of section 3. –

Notwithstanding anything contained in any other enactment in force for the time being–

(a) In any suit or proceeding relating to a loan the court shall before deciding the claim on the merits, frame and decide the issue, whether the creditor has complied with the provisions of clauses (a) and (b) of sub-section (1) of section 3 ;

(b) If the court finds that the provisions of clause (a) of sub-section (1) of section 3 have not been complied with by the creditor, the court shall, if the plaintiff's claim is established in whole or in part, disallow the whole or a portion of the interest found due, as may seem reasonable to the court in the circumstances of the case and shall disallow costs;

(c) If the courts finds that the provisions of clause (b) of sub-section (1) of section 3 have not been complied with by the creditor, the court shall in computing the amount of interest due upon the loan exclude every period for which the creditor omitted duly furnish the account as required by clause (b) of sub-section (1) of section 3:

Provided that if the credited has after the time prescribed in that clause furnished the account and the plaintiff satisfies the court that he had sufficient cause for not furnishing it earlier, the court may, notwithstanding such omission, include any such period or periods for the purpose of computing the interest.

Explanation-a person who has kept his account and sent his six-monthly statements of accounts in the form and manner prescribed in clauses (a) and (b) of subsection (1) of section 3 shall be held to have complied with the provisions of these clauses, inspite of errors and omissions, if the court finds that the errors and omissions are accidental and not material and that accounts have been kept in good faith with the intention of complying with the provisions of these clauses.

1[4A. Receipt for re-payment of loan.- (1) Every creditor, who receives re-payment from his debtor on account of any loan advanced to him, shall forthwith give a receipt therefor.

2) Notwithstanding anything contained in any other enactment for the time being in force, in any suit or proceeding relating to a loan, if the court finds that the provisions of sub-section(1) have not been complied with by the creditor it shall, if the plaintiff 's claim is established in whole or in part disallow the whole or any portion of the interest found due, as may seem reasonable to the court in the circumstances of the case, and may also disallow costs .

(3) The provisions of the section shall not apply to any loan made before the commencement of the Punjab Moneylending and Debtor's Protection laws (Extension and Amendment) Act, 1960, unless any fresh transaction in respect of such loan is made after such commencement.)

5. Savings:- The provisions of this Act shall not apply to any loan advanced before the commencement of this Act:

Provided that if any fresh transaction relating to a loan advanced before the commencement of this Act is made after the commencement of this Act, such transaction shall be subject to the provisions of this Act.

6. Powers of State Government to make rules.-

(1) The State Government may make rules not inconsistent with the Act for the purposes of carrying out all or any of the provisions of this Act.

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

(i) prescribing the forms and numerals to be used in the accounts required by subsection (1) of section 3;

(ii) prescribing the manner in which the accounts required by clause (b) of subsection (1) of section 3 shall be furnished by the creditor to the debtor the forms to be used, and the details to be incorporated therein and the scale of costs to be paid by such debtors as may demand that the account required by this clause should be furnished in one of the particular script mentioned in Explanation (i) of this clause:

Provided that before making any rules under the provisions of this section, the ²(State) Government shall, in addition to observing the procedure laid down in section 21 of the Punjab General Clauses Act, 1898, publish by notification a draft of the proposed rules for the information of persons likely to be affected thereby, at least thirty days before a meeting of the ²[Punjab] Legislative ³[Assembly]. The ²[State] Government shall defer consideration of such rules until after the meeting of the ²[Punjab] Legislative ³[Assembly] next following the publication of the draft, in order to give member of the ³[Assembly] an opportunity to introduce a motion for discussing the draft.

1. Inserted by Pb Act 44 of 1960 section 3 and Schedule.

2. Subs. for the word "Provincial" by the Adaptation of Laws Order, 1950.

3. Subs. for the word "Council" by the Government of India [Adaptation of Indian Laws) Order, 1937.

(ii) the prescribed accounts shall be so kept that items due by way of interest shall be shown as separate and distinct from the principal sum, and separate totals of principal and interest shall be maintained. The creditor shall not in the absence of agreement, include the interest or any portion of it in the principal sum; and the principal and interest shall be separately shown in the opening balance of each new six-monthly account:

Provided that-

(i) if the loan has, since it was originally advanced, passed by inheritance or assignment to a widow or minor, such widow or minor shall not be bound to maintain and furnish the account prescribed by this section for a period of six months from the date of such passing;

(ii) nothing in this section shall be deemed to lay upon any person the duty of maintaining and furnishing the prescribed account in the case of loan wherein the title to recover is sub-judice between two or more persons claiming as creditors adversely to each other unless and until the title has been finally decided by a court or competent jurisdiction.

(2) Entries in the account prescribed under clause (a) to sub-section (1) shall be deemed to be regularly kept in the course of business for the purposes of section 34, Indian Evidence Act, 1872 and copies of such entries certified in such manner as may be prescribed shall be admissible in evidence for any purpose in the same manner and to the same extent as the original entries.

Explanation:- A person to whom a statement of account has been sent under clause (b) of sub-section(1) shall not be bound to acknowledge or deny its correctness and his failure to protest shall not, by itself, be deemed to be and admission of correctness of the accounts.

4. Penalty for non-compliance with the provisions of section 3.—

Notwithstanding anything contained in any other enactment in force for the time being—

(a) in any suit or proceeding relating to a loan the court shall before deciding the claim on the merits, frame and decide the issue, whether the creditor has complied with the provisions of clauses (a) and (b) of sub-section (1) of section 3;

(b) if the court finds that the provisions of clause (a) of sub-section (1) of section 3 have not been complied with by the creditor, the court shall, if the plaintiff's claim is established in whole or in part, disallow the whole or a part of the interest found due, as may seem reasonable to the court in the circumstances of the case and shall disallow costs;

(c) if the court finds that the provision of clause (b) of sub-section (1) of section 3 have not been complied with by the creditor, the court shall in computing the amount of interest due upon the loan exclude every period for which the creditor omitted duly to furnish the account as required by clause (b) of sub-section (1) of section 3:

Provided that if the creditor has after the time prescribed in that clause furnished the account and the plaintiff satisfies the court that he had sufficient cause for not furnishing it earlier, the court may, notwithstanding such omission, include any such period or periods for the purpose of computing the interest.

Explanation:— A person who has kept his account and sent his six-monthly statements of accounts in the form and manner prescribed in clauses (a) and (b) of sub-section (1) of section 3 shall be held to have complied with the provisions of these clauses, in spite of errors and omissions, if the court finds that the errors and omissions are accidental and not material and that accounts have been kept in good faith with the intention of complying with the provisions of these clauses.

4A. Receipt for repayment of loan— (1) Every creditor, who receives repayment from his debtor on account of any loan advanced to him, shall forthwith give a receipt therefor.

(2) Notwithstanding anything contained in any other enactment for the time being in force, in any suit or proceeding relating to a loan, if the court finds that the provisions of sub-section (1) have not been complied with by the creditor it shall, if the plaintiff's claim is established in whole or in part, disallow the whole or any part of the interest found due, as may seem reasonable to the court in the circumstances of the case, and may also disallow costs.

(3) The provisions of this section shall not apply to any loan made before the commencement of the Punjab Moneylending and Debtors' Protection Laws (Extension and Amendment) Act, 1960, unless any fresh transaction in respect of such loan is made after such commencement.

(5) Savings—

The provisions of this Act shall not apply to any loan advanced before the commencement of this Act:

Provided that if any fresh transaction relating to a loan advanced before the commencement of this Act is made after the commencement of this Act, such transaction shall be subject to the provisions of this Act.

(6) Powers of State Government to make rules:-

(1) The State Government

may make rules not in consistent with the Act for the purposes of carrying out all or any of the provisions of this Act.

(2) In particulars, and without prejudice to the generality of the forgoing power, the ²(State) Government make rules—

(i) prescribing the forms and numerals to be used in the accounts required by the sub- section 3;

(ii) prescribing the manner in which the accounts required by clause (b) of sub-section (1) of section 3 shall be furnished by the creditor to the debtor, the forms to be used, and the details to be incorporated therein and the scale of costs to be paid by such debtors as may demands that the accounts required by this clause should be furnish in one of the particulars scripts mentioned in Explanation (i) of this clause:

Provided that before making any rules under the provisions of this section, the ²[State] Government shall, in addition to observing serving the procedure laid down in section 21 of the Punjab General Clauses Act, 1898, publish by notification a draft of the proposed rules for the information of persons likely to be affected thereby, atleast 30 days before a meeting of the Punjab Legislative [Assembly]. The ²[State] Government shall defer consideration of such rules until after the meeting of the Punjab Legislative ³[Assembly] next following the publication of the draft, in order to give member of the ³[Assembly]an opportunity to introduce a motion for discussing the draft.

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