

PUNJAB DEBTOR'S PROTECTION ACT, 1936

1936. Pb. Act 11] DEBTORS' PROTECTION THE PUNJAB DEBTORS PROTECTION ACT, 1936.
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PROTECTION 3 PUNJAB DEBTORS' PROTECTION ACT, 1936 Punjab Act No. 11 of 1936 (Received
the assent of His Excellency the Governor on the 16th April, 1936, and that of His Excellency the Viceroy
and Governor-General on the 30th May, 1936, and was first published in the Punjab Gazette, Extra-
ordinary, of the 6th June, 1936.] 1 Year 1936 2 No. 11 3 Short title The Punjab Debtors' Protection 1936
Act, 4 Whether repealed or otherwise affected by legislation Amended in part, Government of India
(Adaptation of Indian Laws) order, 1937 • Amended by Punjab Act IX of 1938 8 Amended by Punjab Act
X of 1939 Amended by Indian Independence (Adaptation of Bengal and Punjab Acts) order of 1950
(G.G.O. 40) 'Amended by East Punjab Act III of 1948 Amended by the Adaptation of Laws Order, 1959
Amended by the Adaptation of Laws (Third Amendment) Order, 1951 6 Amended by Punjab Act No. 18 of
1956 6 Extended to the territories, which immediately before the 1st November, 1956, were comprised in
the state of Patiala and East Punjab States Union by Punjab Act No 44 of 1960 Amended by the Punjab
Reorganisation (Chandigarh) (Adaptation of Laws on State and Concurrent Subjects) order 1968. For
Statement of Objects and Reasons, see Punjab Gazette 1935, Part I, page 249. For Report of the Select
Committee, see Punjab Gazette, 1935, Part V, pages 49-50, and for Proceedings in Council, see Punjab
Legislative Council Debates, Volume xxvi, pages 988-989, Volume xxvii, pages 1137—1174, 1177, 1210,
1238—1247 ; volume XXVIII, pages 903, 1003—1028. 2 For Statement of Objects and Reasons, see
Punjab Gazette (Extraordinary), 1933, page 42 ; and for Proceedings in Assembly, see Punjab Legislative
Assembly Volume [V, pages 696—704 and Volume V, pages 41 and 54. FJ: • Statement of Objects and
Reasons, see Punjab Gazette (Extraordinary), DJ, page 143 ; and for Proceedings in Assembly, see Punjab
Legislative Assembly Volume X, pages 77—90. 'FJC Statement of Objects and Reasons, see East Punjab
Gazette (Extraordinary), 19B, page 155 ; and for Proceedings in Assembly, see East Punjab Legis-
lative Assembly Debates, Volume 11, pages 5FJr Of object and Reasons see Punjab Government Gazette (Extra
ordinary), 1956 page 164. C For Statement of objects and Reasons, see Punjab Gazette (Extra ordinary),
1960, page 1945. Preamble. DEBTORS' PROTECTION [1936: Pb. Act 4 An Act to provide for the more
effective protection of debtors in 1[Punjab]. WHEREAS it is expedient for the more effective protec-
tion of debtors to modify the existing law on certain points and to amend the law with respect to persons
carrying on business as money-lenders AND WHEREAS the previous sanction of the Governor-
General under sub-section (3) of section 80-A Of the Government of India Act and the previous sanction of the
Governor under section 80-C of the said Act have been ob- tained. CHAPTER I.—PRELIMIN/ RY It is
hereby enacted as follows 1. (1) This Act may be called the Punjab Debtors' Short title, exten and commen-
ce- ment. Definitions. Protection Act, 1936. (2) It extends to 21 Union Territory of Chandigarh]. (3) It
shall come into force at once

2. 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 3[any Part A State or Part C State], or incorporated by an Act of Parliament 4[of the United
Kingdom], or by Royal Charter or Letters Patent or by any Act of 5[Parlia- ment]. iSubstituted for the
words "East Punjab" by the Adaptation of Laws (Third Amendment) Order, 1951. 2Substituted for the

word 'Punjab' by the Punjab Re-organisation (Chandi- garh) (Adaptation of Laws on State and Concurrent Subjects) Order, 1968. 3Substituted for the words 'British India' by the Adaptation of Laws (Third Amendment) Order, 1951. 'Inserted by the Adaptation of Laws (Third Amendment) Order, 1951] • 'Substituted for the words "the Central Legislature" by the Adaptation of Laws (Third Amendment) order, 1951. The words "Central Legislature" dia been substituted for the words "Indian Legislature" by the Government of In (Adaptation of Indian Laws) order, 1937. 1936 : Pb. Act 11.] DEBTORS' PROTECTION 5 (2) "Company" means a company registered under any of the enactments relating to companies for the time being in force in the United King- dom or in any of the Colonies or Dependencies thereof, or in l[any Part A State or Part C State], or incorporated by an Act of Parliamnet 2[of the United Kingdom], or by Royal Charter or Letters Patent, and includes Life Assurance Companies to which the Indian Life Assurance VI of 1912 Companies Act, 1912, applies. (3) "Co-operative Society" means a society re- gistered under the provisions of Co-operative Societies Act, 1912. 11 of 1912 (4) "Court" includes a court acting in the exercise of insolvency jurisdiction. (5) "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. (6) "Loan" means an advance whether of money or in kind at interest and shall include any transaction which the court finds to be in sub- stance a loan, but it shall not include (i) a deposit of money or other property in a Post Office Savings 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 of 1860. enactment for the time being in force , tSubstituted for the words "British India" by the Adaptation of Laws (Third Amendment) Order, 1951. 21Inserted by ibid. 6 or 1913. xxvi of 1881. DEBTORS' PROTECTION (1936: Pb. Act 11. (iii) a loan advanced by the 1[Central Government) or by any local body authorized by the ILCentral Government] • (iv) a loan advanced by a bank, a co-operative society or a company whose accounts are sub- ject to audit by a certificated auditor under the Indian Companies Act, 1913 • (v) a loan advanced to a trader , (vi) an advance made on the basis of a negotiable instrument as defined in the Negotiable Instruments Act, 1881, other than a promis- sory note ; (vii) a transaction which is, in substance, a mort- gage or a sale of immovable property. (7) "Money-lender" means a person who, in the regular course of business, advances a loan as defined in this Act and shall include the legal representatives and the successors-in-interest, whether by inheritance, assignment or other- wise, of the person who advanced the loan. (8) "Trader" means a person who in the regular course of business buys and sells goods or other property, whether movable or immovable, and shall include— (i) a wholesale or a retail merchant, (ii) a commission agent, (iii) a broker, (iv) a manufacturer, (v) a contractor, (vi) a factory owner, but shall not include a person who sells his own agricultural produce or cattle, or buys agri cultural produce or cattle for his own use. 1Substituted for the words "State Government" by the Punjab Re-organisatiöü Chandigarh) (Adaptation of Laws on State and Concurrent Subjects) Order, 1968 1936 : Pb. Act 11.] DEBTORS' PROTECTION CHAPTER 11.—Execution of Decrees 7 3. In this Chapter, unless there is anything repugnant Definitions. in the subject or context,— (1) "land" means land which is not occupied as the site of any building in a town or village, and is occupied or has been let for agricultural purposes, or for purposes subservient to agri- culture, or for pasture, and includes the sites of buildings and other structures on such land ; (2) "Collector" means the Deputy Commissioner of a district or any omcer specially empowered by the 1[Central Government] to exercise the powers of a Collector under this Chapter; "Commissioner" means the Commissioner of 4. 5. 6. 6-A. 7. 8. 9. a division or any omcer specially empowered by the 1[Central Government] to exercise the powers of a Commissioner under this Chapter.] 3[OnzittedJ 3[OmittedJ 31 Omitted] 3[OmittedJ 3[OmittedJ 3[Omlittedl When custom is the rule of decision in regard to Exemption of succession to immovable property then, notwithstanding ancestral pro- perty from lia- any custom to the contrary, ancestral immovable property in the hands of a subsequent holder 4Lwhether, male or female and if female whether she holds as a limited owner or full owner] shall not be liable in the execution of a decree or order of a court relating to a debt incurred by any of his predecessors in interest : 1Sabstituted for the words "State by the Punjab Reorganisation (Chandigarh) (Adaptation of Laws on State and Concurrent Subjects) Order, 1968. 2Added by Punjab Act X of 1939, section 3. 30mitted by the Punjab Act No. 44 of 1960. 'laserted by Bast Punjab Act III of 1948, Section 2. DEBTORS' PROTECTION [1936 : Pb. Act 11. 8 Provided that when the debt has been expressly charged by way of mortgage on ancestral immovable pro- perty by a predecessor in interest, the court shall

determine the liability of such land as if this section had not been passed : Provided further, and subject to the foregoing proviso, that, in respect of a debt incurred before the commencement of this Act, ancestral property in the hands of a subsequent holder may be liable, only if all the following conditions are satisfied • First. That, before such liability is determined, the judgment-debtor shall be given sufficient opportunity to show cause against such liability. Second. That such liability was permitted by the rule of custom applicable to the judgment-debtor immediately before the commencement of this Act, and nothing in this section shall prevent the judgment debtor from proving the contrary. Third. That the decree-holder is able to show to the satisfaction of the court, that, at the time the debt was originally incurred, there was a subsisting judgment or order of a competent court, not in ex parte proceedings, holding that such a custom was applicable to the sub-tribe in the tahsil to which the judgment-debtor belongs. Fourth. That the judgment debtor is not able to show to the satisfaction of the court, that, at the time the debt was originally incurred, there was a subsisting judgment or order of a competent court, not in ex parte proceedings, holding to the contrary and subsequent to the judgement relied upon by the decree-holder

10. Notwithstanding anything to the contrary contained in any other enactment for the time being in force attachment or sale.(1) standing crops, other than cotton and sugarcane, shall not be liable to attachment or sale in the execution of a decree (2) standing trees apart from the land on which they stand shall not be liable to sale in the execution of a decree or an order of a court. DEBTORS' PROTECTION 1936: Pb. Act 111 9 Such portion of the judgment-debtor's land, not exceeding fifty per centum thereof, shall be liable to attachment or sale in the execution of a decree for the payment of money is in the opinion of the court, having regard to the judgment-debtor's income from all sources except such income as is dependent on the will of another person, is sufficient to provide for the maintenance of the judgment-debtor and the members of his family who are dependent on him.] 11. (1) Notwithstanding any thing to the contrary barred contained in any other enactment for the time being in force, where an application has been made to execute a decree passed after the commencement of this Act against a debtor as defined in sub-section (2) of section 7 of the VII Of Punjab Relief of Indebtedness Act, 1934, and not being a 1934. decree granting an injunction, no order for the execution of the same decree shall be made upon any fresh application presented after the expiration of six years from— of 1908. (a) the date of the decree sought to be executed; or (b) where the decree or any subsequent order directs any payment of money or the delivery of any property to be made at a certain date or at recurring periods, the date of the default in making the payment or delivery in respect of which the applicant seeks to execute the decree. (2) Nothing in this section shall be deemed— (a) to preclude the Court from ordering the execution of a decree upon an application presented after the expiration of the said term of six years, where the judgment-debtor has, by fraud or force, prevented the execution of the decree at some time within six years immediately before the date of the application ; or (b) to limit or otherwise affect the operation of article 183 of the First Schedule to the Indian Limitation Act, 1908. I clause(3) added by Punjab Act No. 44 of 1960, section 3 (2) and the Schedule. [1936 : Pb. Act 11 DEBTORS' PROTECTION 10 Code of Civil Procedure, 1908, no decree for the payment of money shall be executed by the sale without attachment or by the appointment of a receiver of land or the or land or an interest in land, which under any law for the time being in force, is exempt from attachment or sale.) Power to direct 2111B. The Court time on the application. payment of decretal tion of a judgment-debtor, after notice to the decree, holder, direct that the amount of any decree passed against amount by instal- him, whether before or after the commencement of ment. Punjab Money-lending and Debtors' protection Laws (Extension and Amendment) Act, 1960, in respect of a loan shall be paid in such number of instalments and subject to such conditions, on the rates fixed by It, having regard to the circumstances of the judgment. debtor and the amount of the decree, as it considers fit. During the pendency of an enquiry under this section, the court may, subject to such conditions, as it may impose, order the stay of execution of the decree. Such order shall be deemed to have been passed under section 47 of the Code of Civil Procedure, 1908. IIC. No money-lender shall receive from a debtor or Prohibition of charge for intending debtor any sum other than reasonable costs of investigating title to the property, costs of stamp, registration of documents and other usual out of pocket expenses in cases where an agreement between the parties includes a stipulation that property is to be given as security or by way of mortgage and where both parties have agreed to such costs and reimbursement thereof or where such costs, charges or expenses are leviable under any law of the time being in force.] Inserted by Punjab Act IX Of 1938, section 2. *Section 11B and IIC inserted by Punjab

Act No. 44 Of 1960, section 3(2) and the schedule. DEBTORS' PROTECTION 1936: Pb. Act 11.1
CHAPTER III.—BURDEN OF PROOF 11 12. Notwithstanding anything to the contrary con- Burden of
proof tained in any other enactment for the time being in force, of consideration. the burden' of proving
that any- consideration alleged to have been paid by a money-lender actually passed shall be on him ;
unless the consideration is acknowledged by a debtor in his own handwriting or has been endorsed by the
registering officer acting under clause (c) of sub-section of (1) of section 58 of the Indian Registration Act,
1908, 1908. as having been paid in his presence.

