

**THE MYMENSINGH PARTIALLY EXCLUDED AREAS
DEBT SETTLEMENT (TANKA TENANTS)
REGULATION, 1951**

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**THE MYMENSINGH PARTIALLY EXCLUDED
AREAS DEBT SETTLEMENT (TANKA TENANTS)
REGULATION, 1951**

East Bengal Regulation No. I of 1952

[5th March, 1952]

A Regulation to provide for the settlement of debts of tanka tenants of the Partially Excluded Areas of the district of Mymensingh.

WHEREAS it is expedient to provide for the settlement of the debts of the *tanka* tenants of the partially excluded areas of the district of Mymensingh in the manner hereinafter appearing;

AND WHEREAS by sub-section (2) of section 92 of the Government of India Act, 1935, the ¹ [Government] is empowered to make regulation for the peace and good Government of any area in which is for the time being a partially excluded area;

NOW, THEREFORE, the ² [Government], in exercise of the said powers and all other powers enabling it in that behalf, is pleased to make the following Regulation:-

Short title and commencement

1. (1) This Regulation may be called the Mymensingh Partially Excluded Areas Debt Settlement (*Tanka Tenants*) Regulation, 1951.

(2) It shall come into force on the date of its publication in the *Official Gazette*.

Definitions

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

(1) "award" means an award referred to in section 11 or, when it is modified by an order of the Appellate Officer under section 18 or by an order of the Certificate Officer under section 13, the award so modified;

¹ The word "Government" was substituted for the words "Governor" by Article 9 of the Bangladesh (Adaptation of Existing Laws) Order, 1972 (President's Order No. 48 of 1972).

² The word "Government" was substituted for the words "Governor of East Bengal" by Article 9 of the Bangladesh (Adaptation of Existing Laws) Order, 1972 (President's Order No. 48 of 1972).

(2) "Board" means a Debt Settlement Board established under section 3;

(3) "Certificate" and "Certificate Officer" have the same meanings as in the ¹[***] Public Demands Recovery Act, 1913;

(4) "Civil Court" means a Civil Court within the meaning of the ² [Bangladesh] Civil Courts Act, and includes any Court exercising appellate or revisional jurisdiction over any such Court;

(5) "debt" includes all liabilities incurred by a debtor prior to his application under section 6, in cash or in kind, secured or unsecured, whether payable under a decree or order of a Civil Court or under an award as defined in the ³[***] Agricultural Debtors Act, 1935, or otherwise and whether payable immediately or in future, and includes an arrear of *tanka rent*;

(6) "debtor" means a person owing any debt who has been a *tanka* tenant on the date of the commencement of this Regulation and includes the legal heirs of any such person;

(7) "prescribed" means prescribed by rules made under this Regulation and notified in the *Official Gazette*;

(8) "*Tanka* rent" means the fixed produce rent payable by a *tanka* tenant; and

(9) "*Tanka* tenant" means any person who under any system such as *tanka*, *chukti-barga*, or *dhanyakarari* holds or cultivates the land of another person on condition of delivering to that person a fixed produce rent.

3.(1) The ⁴[Government] may, by notification, establish one or more Boards for any local area specified in the notification.

Establishment
of Debt
Settlement
Boards

(2) Each Board shall consist of only one member, to be appointed by the ⁴[Government], who shall be either a Sub-Deputy Collector or Revenue-officer.

¹ The word "Bengal" was omitted by Article 6 of the Bangladesh (Adaptation of Existing Laws) Order, 1972 (President's Order No. 48 of 1972).

² The word "Bangladesh" was substituted for the words "East Pakistan" by Article 5 of the Bangladesh (Adaptation of Existing Laws) Order, 1972 (President's Order No. 48 of 1972).

³ The word "Bengal" was omitted by Article 6 of the Bangladesh (Adaptation of Existing Laws) Order, 1972 (Presidents Order No. 48 of 1972).

⁴ The word "Government" was substituted for the words "Provincial Government" by Article 8 of the Bangladesh (Adaptation of Existing Laws) Order, 1972 (President's Order No. 48 of 1972).

Power of
¹[Government] to
 dissolve a Board

4. (1) The ¹[Government] may at any time remove or transfer any member of a Board and appoint another member in his place.

(2) The ¹[Government] may, when occasion arises, dissolve any Board.

Delegation of
 power to
 Commissioner

5. The ¹[Government] may, by notification, delegate its powers under sections 3 and 4 to the Commissioner.

Application for
 settlement of
 debts

6. Subject to the provisions of section 7, a debtor may make an application for the settlement of his debts to a Board established for the local area within which he ordinarily resides, within two years of the establishment of the first Board. The application so made shall be accompanied by a statement of all debts of the applicant and such fee as may be prescribed.

Application for
 settlement of
 joint debts

7. (1) An application may be made under section 6 for the settlement of a debt for which two or more persons are jointly liable if all such persons are debtors and they all join in making such application.

(2) Notwithstanding the provisions of sub-section (1), if a debtor is jointly liable with other debtors or other persons for any debt such debtor may make an application under section 6 for relief in respect of his liability in regard to such debt.

Form and manner
 of application
 under section 6
 and verification
 of such
 application

8. Every application under section 6 shall be made in the prescribed form and shall be signed and verified in the prescribed manner.

Further
 statements of
 debts

9. (1) On receipt of an application under section 6, the Board shall, in the prescribed manner, serve a notice on every creditor whose name and address are given in the application and also publish a general notice requiring all creditors to submit a statement of debts in the prescribed form within one month of the date of service of the notice, or publication of the general notice, whichever is later,

¹ The word "Government" was substituted for the words "Provincial Government" by Article 8 of the Bangladesh (Adaptation of Existing Laws) Order, 1972 (President's Order No. 48 of 1972).

and further requiring them to produce on a date later, and further requiring them to produce on a date specified in the notice all documents by which they intend to prove any debt owing to them together with a true copy of each such document:

Provided that, if the Board is satisfied that any creditor is for good and sufficient cause unable to comply with such notice, it may extend the period for the submission of his statement of debt or the production of his documents and true copies thereof.

(2) If any creditor fails to submit his statement of debts or produce his documents under sub-section (1), the Board may pass an order in writing declaring that the amount of any debt due to him from the debtor on the date of such order shall, for the purposes of this Regulation, be deemed to be the amount stated in the statement of debts submitted by the debtor, and that no debt of which the creditor has failed to submit a statement, other than a debt which the debtor has included in his statement of debt, shall be payable.

(3) No document relating to a debt regarding which a creditor has failed to submit a statement under sub-section (1) and no document which has not been produced by him as required by that sub-section, shall be admissible in evidence in any Civil or Revenue Court against the debtor or his successor-in-interest in any suit or proceeding by the creditor or by any person claiming under him for the recovery of the debt to which such document relates.

(4) If a creditor duly files a true copy of any original document in compliance with the notice under sub-section (1), the Board shall mark the original document and keep the copy after verifying its correctness, and return the original to the creditor.

Board to decide certain questions and to determine amount of debts

10. (1) If any question arises whether a person is a tanka tenant or not, or whether a liability is a debt or not, within the meaning of this Regulation, or if there is any doubt or dispute as to their existence of any debt, the Board shall decide such question, doubt or dispute.

(2) After considering the statements of debt submitted under section 6 and sub-section (1) of section 9 and the evidence produced, if any, and after giving an opportunity to the parties to appear and be heard, the Board shall, in accordance with rules made under this Regulation, determine in respect of each debt the amount of the principal and the amount of the arrears of interest, if any, due thereon up to the date of such determination.

(3) When the principal and the arrears of interest, if any, in respect of all debts owed by the debtor have been determined under sub-section (2), the Board shall, after giving the parties an opportunity of being heard and in accordance with rules made under this Regulation, determine the total assets of the debtor, the annual income of the debtor from such assets, the amount of expenditure that the debtor may have reasonably to incur annually and the amount that the debtor may be in a position to pay each year towards the liquidation of his debts.

(4) When the amount that the debtor may be in a position to pay each year towards the liquidation of his debts has been determined under sub-section (3), twenty times such amount shall be deemed to be the total paying capacity of the debtor.

(5) If the total amount of the debts owed by the debtor as determined under sub-section (2) exceeds his total paying capacity referred to in sub-section (4), the Board shall scale down all such debts, proportionately to the total paying capacity so that the aggregate of the scaled down debts becomes equivalent to, and does not exceed, such total paying capacity.

(6) The debts determined under sub-section (2) or, when such debts are liable to be scaled down under sub-section (5), the debts so scaled down shall be deemed to be the debts payable by the debtor, and the Board shall pass an order directing the debtor to pay to his creditors the debts so payable in such number of annual instalments not exceeding twenty, as it may fix subject to the rules prescribed in this behalf by the ¹[Government].

11. (1) When an order has been passed under sub-section (6) of section 10, the Board shall embody such order in an award in the prescribed form on payment of such fee as may be prescribed by the ¹[Government].

Award and its effect

(2) At a place and time of which notice shall be given to the parties in the prescribed manner the award shall be explained to the parties present and shall be signed by the Board; but the validity of an award shall not be affected by the absence of any of the parties.

(3) From the date of the signing of the award under sub-section (2) it shall, notwithstanding anything contained in any other law for the time being in force or in any contract and in supersession of all previous decrees or orders of any Civil or Revenue Court and of all awards under the ²[***] Agricultural Debtors Act, 1935, in respect of the debts mentioned in it, be binding on the debtor and his creditors and the successors-in-interest of such debtor and creditors.

(4) When an award is made as regards any debt which is secured by a mortgage, lien or charge on any immovable subsist to the extent of the amount payable in respect of such debt under the award until such amount has been paid; but the Board may order restoration of possession of the property to the debtor.

12. (1) On an application being made to it and after hearing the parties the Board may review any order made by it as may be necessary to meet the ends of justice.

Review of order

¹ The word "Government" was substituted for the words "Provincial Government" by Article 8 of the Bangladesh (Adaptation of Existing Laws) Order, 1972 (President's Order No. 48 of 1972).

² The word "Bengal" was omitted by Article 6 of the Bangladesh (Adaptation of Existing Laws) Order, 1972 (Presidents Order No. 48 of 1972).

(2) Clerical mistakes in the award arising from any accidental slip and omission may at any time be corrected by the Board of its own motion or on the prayer of the parties.

Recovery of amounts included in an award

13. If by the date fixed, the debtor fails to pay any amount payable under an award, such amount shall be recoverable as a public demand under the ¹[***] Public Public Demands Recovery Act, 1913, on the filing of an application within the prescribed time by the creditor to whom the amount is due:

Provided that the Certificate Officer, if satisfied that there is good reason for the failure to pay by the fixed date, may allow time to the debtor for payment of the amount due and may also further direct that a similar period of time shall be given to the debtor for payment of any other amount under the award after the date fixed therein for payment thereof and the award shall be deemed to be modified accordingly.

Bar to the transfer of immovable property by a debtor

14. (1) On or after the date of his application under section 6, the debtor shall not, except with the written permission of the Collector of the district, be entitled to transfer any immovable property by private sale, lease, gift, mortgage or otherwise till his application is dismissed under section 16 or, if the application is not so dismissed, till all amounts payable under the award made on such application have been fully paid.

(2) Any transfer made in contravention of sub-section (1) shall be null and void.

Bar to execution of decrees against immovable properties of a debtor and provision regarding certain suits and proceedings

15. (1) After the commencement of this Regulation, no Civil or Revenue Court shall execute any decree or certificate against any immovable property of a debtor till the time for making an application under section 6 expires.

¹ The word "Bengal" was omitted by Article 6 of the Bangladesh (Adaptation of Existing Laws) Order, 1972 (Presidents Order No. 48 of 1972).

(2) When, for the recovery or settlement of any debt included in an application made to a Board under section 6, any suit or proceeding including a proceeding in execution of a decree or certificate is pending in a Civil or Revenue Court or any proceeding is pending in a Debt Settlement Board established under the ¹[***] Agricultural Debtors Act, 1935, or any decree or order has been passed by any such Court, the Board shall forthwith give a notice of such application to such Court or Debt Settlement Board in the prescribed manner.

(3) When any such application is dismissed under section 16, or any award is made on such application under section 11, the Board shall also give a notice of such dismissal or award to such Court or Debt Settlement Board in the prescribed manner.

(4) On receipt of a notice under sub-section (2), the Civil or Revenue Court or the Debt Settlement Board, as the case may be, shall suspend further proceedings in respect of such suit or proceeding till it receives any notice under sub-section (3) as to the dismissal of the application, and if an award is made in respect of any such debt under section 11, such suit or proceeding shall abate, or if any decree or order has been passed by any Civil or Revenue Court or any award has been made under the ¹[***] Agricultural Debtors Act, 1935, in respect of such debt, such decree, order or award shall be null and void.

(5) When a debtor has applied under section 6 for the settlement of his debts, no Civil or Revenue Court shall entertain any suit, application or proceeding for the recovery of any debt from the debtor.

(6) No Civil or Revenue Court shall execute any decree or certificate against any immovable property of the *tanka* tenant for the recovery of any debt incurred by him subsequent to the filing of the application under section 6, till the application is dismissed under section 16 or, if an award is made on such application, till the amounts payable under such award are fully paid off:

¹ The word "Bengal" was omitted by Article 6 of the Bangladesh (Adaptation of Existing Laws) Order, 1972 (Presidents Order No. 48 of 1972).

Provided that nothing in this sub-section shall bar the execution of a Civil Court decree or any certificate under the Public Demands Recovery Act, 1913, for recovery of money rent accruing subsequent to the filing of an application under section 6, with the previous permission of the Board.

(7) In calculating the period of limitation applicable to a suit or proceeding or to an application for the execution of a decree or order, the time during which the institution of such suit or proceeding or the execution of such decree or order is barred under this section shall be excluded.

Dismissal of application

16. An application under section 6 may be dismissed by the Board, at any stage of its proceedings, in respect of all or any of the debts to which it relates, if, in the opinion of the Board, the applicant fails to pursue his application with due diligence, or he is attempting to use the provisions of this Regulation with a view to defraud any person, or he has transferred any property after the date of the commencement of this Regulation with a view to defraud any creditor.

Bar to jurisdiction of Civil Court in certain matters and protection of action taken under this Regulation

17. (1) No order of a Board or of a Certificate Officer or of a Collector passed under any provision of this Regulation shall be called in question in any Civil Court.

(2) No suit, prosecution or other legal proceeding shall lie against any Board or any other officer for anything which is done or intended to be done in good faith in pursuance of this Regulation or any rules made thereunder.

(3) No suit or other legal proceeding shall lie against the Government for any damage caused or likely to be caused or for any injury suffered or likely to be suffered by virtue of any provision of this Regulation or by anything done or intended to be done in good faith in pursuance of this Regulation or any rules made thereunder.

18. An appeal shall lie against an order passed by the Board or a Certificate Officer under this Regulation to the Sub-divisional Officer of the local area, if preferred within 30 days from the date of the order appealed against, and the decision of the Board or the Certificate Officer, subject to the order of the Sub-divisional Officer on appeal, shall be final.

Appeal

19. (1) A Board shall, in all proceedings under this Regulation, be subject to the control of the ¹[Government].

Control over Board

(2) Any person empowered by the ¹[Government] in this behalf may inspect or cause to be inspected any property, books or documents in the possession or under the control of the Board and require the Board to furnish such statements, accounts, reports, copies of documents or such other information relating to the proceedings and duties of the Board, as he thinks fit to call for.

20. (1) No legal practitioner as defined in the Legal Practitioners Act, 1879, shall represent any party in any proceedings before a Board, nor shall any other agent, without the permission of the Board, represent any party in any such proceedings.

Proceedings before a Board

(2) The procedure to be followed by a Board or in appeal in any proceedings shall, subject to the provisions of this Regulation, be in accordance with the rules prescribed under this Regulation.

21. (1) Every award made under this Regulation shall be registered under the Registration Act, 1908, by the Board in such manner and within such period as may be prescribed.

Registration of awards

(2) A Member of the Board shall be deemed to be an officer of Government empowered to execute such instrument within the meaning of section 88 of the Registration Act, 1908.

¹ The word "Government" was substituted for the words "Provincial Government" by Article 8 of the Bangladesh (Adaptation of Existing Laws) Order, 1972 (President's Order No. 48 of 1972).

Power of Board to require attendance of persons and production of documents and to receive evidence

22. (1) A Board may exercise all such power connected with the summoning and examining of parties and witnesses and with the production of documents as are conferred on Civil Court by the Code of Civil Procedure, 1908.

(2) Any person present may be required by a Board to furnish any information or to produce then and there any document relevant to any matter in dispute in his possession or power.

Penalties

23. (1) Whoever-

(a) intentionally makes any false statement in writing or makes any false statement which has been recorded whether on oath or not before any Board or an Appellate Officer, in any proceeding under this Regulation;

(b) intentionally produces before a Board any false copy or translation of a document;

(c) falsely personates another and in such assumed character produces any document or makes any admission or statement or does any other act in any proceeding under this Regulation; or

(d) abets any act punishable under this section, shall, on conviction, be liable to imprisonment for a term which may extend to three years or to fine, or to both.

(2) No prosecution for any offence under sub-section (1) of this section shall be commenced except by, or with the written permission of, the Collector of the district.

Power to make rules

24. (1) The Government may make rules for carrying out the purposes of this Regulation.

(2) In particular and without prejudice to the generality of the foregoing power, the Government may make rules to provide for all or any of the following matters, namely:-

(a) the form of the application referred to in section 8, the manner of signing and verifying such application and the particulars it shall contain;

- (b) the manner of service of the notices and the form of the statement of debts referred to in section 6 and sub-section (1) of section 9;
 - (c) the manner of marking an original document under sub-section (4) of section 9;
 - (d) the determination of the amount of the principal and the amount of the arrears of interest in respect of a debt under sub-section (2) of section 10;
 - (e) the determination of the total assets, the annual income and the annual expenditure of a debtor under sub-section (3) of section 10;
 - (f) the number of annual instalments for the payment of debts referred to in sub-section (3) of section 10;
 - (g) the form of an award referred to in sub-section (1) and the manner of giving a notice referred to in sub-section (2) of section 11;
 - (h) the time for making an application under section 13;
 - (i) the manner of giving notice under sub-section (2) and (3) of section 15;
 - (j) the form and manner of filing an appeal under section 18;
 - (k) the mode of inspection under sub-section (2) of section 19;
 - (l) the representation of parties before a Board, subject to the provisions of sub-section (1) of section 20;
 - (m) the exercise of the powers of a Board referred to in sub-section (1) of section 22;
 - (n) the scale of fees and process fees in connection with any provision under this Regulation and the manner of payment of such fees.
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