

THE RECOVERY OF DEBTS AND BANKRUPTCY ACT, 1993

ARRANGEMENT OF SECTIONS

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THE RECOVERY OF DEBTS AND BANKRUPTCY ACT, 1993

ACT NO. 51 OF 1993

[27th August, 1993.]

An Act to provide for the establishment of Tribunals for expeditious adjudication and recovery of debts due to banks and financial institutions ¹[insolvency resolution and bankruptcy of individuals and partnership firms] and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Forty-fourth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. Short title, extent, commencement and application.—(1) This Act may be called the Recovery of Debts ²[and Bankruptcy] Act, 1993.

(2) It extends to the whole of India except the State of Jammu and Kashmir*.

(3) It shall be deemed to have come into force on the 24th day of June, 1993.

(4) ³[Save as otherwise provided, the provisions of this Code] Act shall not apply where the amount of debt due to any bank or financial institution or to a consortium of banks or financial institutions is less than ten lakh rupees or such other amount, being not less than one lakh rupees, as the Central Government may, by notification, specify.

2. Definitions.—In this Act, unless the context otherwise requires,—

(a) “Appellate Tribunal” means an Appellate Tribunal established under sub-section (1) of section 8;

(b) “application” means an application made to a Tribunal under section 19;

(c) “appointed day”, in relation to a Tribunal or an Appellate Tribunal, means the date on which such Tribunal is established under sub-section (1) of section 3 or, as the case may be, sub-section (1) of section 8;

(d) “bank” means—

(i) banking company;

(ii) a corresponding new bank;

(iii) State Bank of India;

(iv) a subsidiary bank; or

(v) a Regional Rural Bank;

⁴[(vi) a multi-State co-operative bank;]

(e) “banking company” shall have the meaning assigned to it in clause (c) of section 5 of the Banking Regulation Act, 1949 (10 of 1949);

⁵[(ea) “Chairperson” means a Chairperson of an Appellate Tribunal appointed under section 9;]

(f) “corresponding new bank” shall have the meaning assigned to it in clause (da) of section 5 of the Banking Regulation Act, 1949 (10 of 1949);

⁶[(g) “debt” means any liability (inclusive of interest) which is claimed as due from any person ⁷[or a pooled investment vehicle as defined in clause (da) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956)] by a bank or a financial institution or by a consortium of banks or financial institutions during the course of any business activity undertaken by the bank or the financial institution or the consortium under any law for the time being in force, in cash or otherwise, whether secured or unsecured, or assigned, or whether payable under a decree or order of any civil court or any arbitration award or otherwise or under a mortgage and subsisting on, and legally

1. Ins. by Act 31 of 2016, s. 249 and the Fifth Schedule (w.e.f. 1-12-2019).

2. Subs. by s. 249 and the Fifth Schedule, *ibid* for “Due to Banks and Financial Institutions” (w.e.f. 1-12-2019).

3. Subs. by s. 249 and the Fifth Schedule, *ibid* for “The provision of this Code” (w.e.f. 1-12-2019).

4. Ins. by Act 1 of 2013, s. 12 (w.e.f. 15-1-2013).

5. Ins. by Act 1 of 2000, s. 3 (w.e.f. 17-1-2000).

6. Subs. by s. 3, *ibid.*, for clause (g) (w.e.f. 17-1-2000).

*. *Vide* notification No. S.O. 3912(E), dated 30th October, 2019, this Act is made applicable to the Union territory of Jammu and Kashmir and the Union territory of Ladakh.

7. Ins. by Act 13 of 2021, s. 160 (w.e.f. 1-4-2021).

recoverable on, the date of the application ¹[and includes any liability towards debt securities which remains unpaid in full or part after notice of ninety days served upon the borrower by the debenture trustee or any other authority in whose favour security interest is created for the benefit of holders of debt securities or;]

¹[(*ga*) “debt securities” means debt securities listed in accordance with regulations made by the Securities Exchange Board of India under the Securities and Exchange Board of India Act, 1992 (15 of 1992);]

(*h*) “financial institution” means—

(*i*) a public financial institution within the meaning of section 4A of the Companies Act, 1956 (1 of 1956);

²[(*ia*) the securitisation company or reconstruction company which has obtained a certificate of registration under sub-section (4) of section 3 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);]

¹[(*ib*) a debenture trustee registered with the Board and appointed for secured debt securities;]

(*ii*) such other institution as the Central Government may, having regard to its business activity and the area of its operation in India, by notification, specify;

¹[(*ha*) “financial lease” means a lease under a lease agreement of tangible asset, other than negotiable instrument or negotiable document, for transfer of lessor's right therein to the lessee for a certain time in consideration of payment of agreed amount periodically and where lessee becomes the owner of the such assets at the expiry of the term of lease or on payment of the agreed residual amount, as the case may be;]

(*i*) “notification” means a notification published in the Official Gazette;

(*j*) “prescribed” means prescribed by rules made under this Act;

³[(*ja*) “Presiding Officer” means the Presiding Officer of the Debts Recovery Tribunal appointed under sub-section (1) of section 4;]

¹[(*jb*) “property” means—

(*a*) immovable property;

(*b*) movable property;

(*c*) any debt or any right to receive payment of money, whether secured or unsecured;

(*d*) receivables, whether existing or future;

(*e*) intangible assets, being know-how, patent, copyright, trade mark, licence, franchise or any other business or commercial right of similar nature, as may be prescribed by the Central Government in consultation with Reserve Bank;]

(*k*) “Recovery Officer” means a Recovery Officer appointed by the Central Government for each Tribunal under sub-section (1) of section 7;

(*l*) “Regional Rural Bank” means a Regional Rural Bank established under section 3 of the Regional Rural Banks Act, 1976 (21 of 1976);

¹[(*la*) “secured creditor” shall have the meaning as assigned to it in clause (*zd*) of sub-section (1) of section 2 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);]

1. Ins. by Act 44 of 2016, s. 26 (w.e.f. 1-9-2016).

2. Ins. by Act 30 of 2004, s. 19 (w.e.f. 11-11-2004).

3. Ins. by Act 1 of 2000, s. 3 (w.e.f. 17-1-2000).

(*lb*) “security interest” means mortgage, charge, hypothecation, assignment or any other right, title or interest of any kind whatsoever upon property, created in favour of any bank or financial institution and includes—

(*a*) such right, title or interest upon tangible asset, retained by the bank or financial institution as owner of the property, given on hire or financial lease or conditional sale which secures the obligation to pay any unpaid portion of the purchase price of the asset or an obligation incurred or any credit provided to enable the borrower to acquire the tangible asset; or

(*b*) such right, title or interest in any intangible asset or licence of any intangible asset, which secures the obligation to pay any unpaid portion of the purchase price of the intangible asset or the obligation incurred or any credit extended to enable the borrower to acquire the intangible asset or licence of intangible asset;]

(*m*) “State Bank of India” means the State Bank of India constituted under section 3 of the State Bank of India Act, 1955 (23 of 1955);

(*n*) “subsidiary bank” shall have the meaning assigned to it in clause (*k*) of section 2 of the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959);

(*o*) “Tribunal” means the Tribunal established under sub-section (*I*) of section 3.

CHAPTER II

ESTABLISHMENT OF TRIBUNAL AND APPELLATE TRIBUNAL

3. Establishment of Tribunal.—(*I*) The Central Government shall, by notification, establish one or more Tribunals, to be known as the Debts Recovery Tribunal, to exercise the jurisdiction, powers and authority conferred on such Tribunal by or under this Act.

¹[(*IA*) The Central Government shall by notification establish such number of Debts Recovery Tribunals and its benches as it may consider necessary, to exercise the jurisdiction, powers and authority of the Adjudicating Authority conferred on such Tribunal by or under the Insolvency and Bankruptcy Code, 2016 (31 of 2016).]

(2) The Central Government shall also specify, in the notification referred to in sub-section (*I*), the areas within which the Tribunal may exercise jurisdiction for entertaining and deciding the applications filed before it.

4. Composition of Tribunal.—(*I*) A Tribunal shall consist of one person only (hereinafter referred to as the Presiding Officer) to be appointed, by notification, by the Central Government.

²[(2) Notwithstanding anything contained in sub-section (*I*), the Central Government may—

(*a*) authorise the Presiding Officer of any other Tribunal established under any other law for the time being in force to discharge the function of the Presiding Officer of a Debt Recovery Tribunal under this Act in addition to his being the Presiding Officer of that Tribunal; or

(*b*) authorise the judicial Member holding post as such in any other Tribunal, established under any other law for the time being in force, to discharge the functions of the Presiding Officer of Debts Recovery Tribunal under this Act, in addition to his being the judicial Member of that Tribunal.]

5. Qualifications for appointment as Presiding Officer.—A person shall not be qualified for appointment as the Presiding Officer of a Tribunal unless he is, or has been, or is qualified to be, a District Judge.

³[**6. Term of office of Presiding Officer.**— The Presiding Officer of a Tribunal shall hold office for a term of five years from the date on which he enters upon his office and shall be eligible for reappointment:

Provided that no person shall hold office as the Presiding Officer of a Tribunal after he has attained the age of sixty-five years.]

1. Ins. by Act 31 of 2016, s. 249 and the Fifth Schedule (w.e.f. 1-12-2019).

2. Subs. by Act 44 of 2016, s. 27, for sub-section (2) (w.e.f. 1-9-2016).

3. Subs. by s. 28, *ibid.*, for section 6 (w.e.f. 1-9-2016).