रजिस्ट्री सं॰डी॰एल॰-33004 /2000 REGISTERED No. DL-33004/2000

भारत का राजपत्र
The Gazette of India

असाधारण
EXTRAORDINARY
भाग II—खण्ड 1
PART II—Section 1
प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं॰ 4] नई दिल्ली, सोमवार, मार्च 27, 2000 / चैत्र 7, 1922
No. 4] NEW DELHI, MONDAY, MARCH 27, 2000/ CHAITRA 7, 1922

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

IndiaCode

## MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

### (Legislative Department)

*New Delhi, the 27th March, 2000/Chaitra 7, 1922 (Saka)*

The following Act of Parliament received the assent of the President on the 25th March, 2000, and is hereby published for general information:—

# THE RECOVERY OF DEBTS DUE TO BANKS AND FINANCIAL INSTITUTIONS (AMENDMENT) ACT, 2000

No. 1 OF 2000

[*25th March*, 2000.]

An Act further to amend the Recovery of Debts Due to Banks and Financial Institutions Act, 1993.

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

Short title and commencement.

**1.** (*1*) This Act may be called the Recovery of Debts Due to Banks and Financial Institutions (Amendment) Act, 2000.

(*2*) It shall be deemed to have come into force on the 17th day of January, 2000.

Substitution of designation.

**2.** In the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (hereinafter referred to as the principal Act), for the words "the Presiding Officer of the Appellate Tribunal", "the Presiding Officer of an Appellate Tribunal", "the Presiding Officer of a Tribunal or an Appellate Tribunal", wherever they occur, the words "the Chairperson of the Appellate Tribunal", "the Chairperson of an Appellate Tribunal", "the Presiding Officer of a Tribunal or the Chairperson of an Appellate Tribunal" shall respectively be substituted. 51 of 1993

Amendment of section 2.

**3.** In section 2 of the principal Act,—

(*i*) after clause (*e*), the following clause shall be inserted, namely:—

'(*ea*) "Chairperson" means a Chairperson of an Appellate Tribunal appointed under section 9;';

(*ii*) for clause (*g*), the following clause shall be substituted, namely:—

'(*g*) "debt" means any liability (inclusive of interest) which is claimed as due from any person 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 recoverable on, the date of the application;';

(*iii*) after clause (*j*), the following clause shall be inserted, namely:—

'(*ja*) "Presiding Officer" means the Presiding Officer of the Debts Recovery Tribunal appointed under sub-section (*1*) of section 4;'.

Amendment of section 7.

**4.** In section 7 of the principal Act,—

(*a*) in sub-section (*1*), for the words "with a Recovery Officer", the words "with one or more Recovery Officers" shall be substituted;

(*b*) in sub-section (*2*), for the words "The Recovery Officer", the words "The Recovery Officers" shall be substituted;

(*c*) in sub-section (*3*), for the words "Recovery Officer", the words "Recovery Officers" shall be substituted.

Amendment of section 8

**5.** In section 8 of the principal Act, after sub-section (*2*), the following sub-section shall be inserted, namely:—

"(*3*) Notwithstanding anything contained in sub-sections (*1*) and (*2*), the Central Government may authorise the Chairperson of one Appellate Tribunal to discharge also the functions of the Chairperson of other Appellate Tribunal.".

Amendment of section 13.

**6.** In section 13 of the principal Act, in the proviso, for the words "the said Presiding Officers shall be varied to their", the words "the Presiding Officer of a Tribunal or the Chairperson of an Appellate Tribunal shall be varied to his" shall be substituted.

Amendment of section 15.

**7.** In section 15 of the principal Act,—

(*a*) in sub-section (*1*), in the proviso, for the words "the said Presiding Officer", the words "the Presiding Officer of a Tribunal or the Chairperson of an Appellate Tribunal" shall be substituted;

(*b*) in sub-section (*2*), for the words "the Presiding Officer concerned", the words "the Presiding Officer of a Tribunal or the Chairperson of an Appellate Tribunal" shall be substituted;

(*c*) in sub-section (*3*), for the words "the aforesaid Presiding Officer", the words "the Presiding Officer of a Tribunal or the Chairperson of an Appellate Tribunal" shall be substituted.

Insertion of new section 17A.

**8.** After section 17 of the principal Act, the following section shall be inserted, namely:—

Power of Chairperson of Appellate Tribunal.

"17A. (*1*) The Chairperson of an Appellate Tribunal shall exercise general power of superintendence and control over the Tribunals under his jurisdiction including the power of appraising the work and recording the annual confidential reports of Presiding Officers.

(*2*) The Chairperson of an Appellate Tribunal having jurisdiction over the Tribunals may, on the application of any of the parties or on his own motion after notice to the parties, and after hearing them, transfer any case from one Tribunal for disposal to any other Tribunal.".

Substitution of new section for section 19

**9.** For section 19 of the principal Act, the following section shall be substituted, namely:—

Application to the Tribunal.

"19. (*1*) Where a bank or a financial institution has to recover any debt from any person, it may make an application to the Tribunal within the local limits of whose jurisdiction—

(*a*) the defendant, or each of the defendants where there are more than one, at the time of making the application, actually and voluntarily resides, or carries on business, or personally works for gain; or

(*b*) any of the defendants where there are more than one, at the time of making the application, actually and voluntarily resides, or carries on business, or personally works for gain; or

(*c*) the cause of action, wholly or in part, arises.

(*2*) Where a bank or a financial institution, which has to recover its debt from any person, has filed an application to the Tribunal under sub-section (*1*) and against the same person another bank or financial institution also has a claim to recover its debt, then, the later bank or financial institution may join the applicant bank or financial institution at any stage of the proceedings, before the final order is passed, by making an application to that Tribunal.

(*3*) Every application under sub-section (*1*) or sub-section (*2*) shall be in such form and accompanied by such documents or other evidence and by such fee as may be prescribed:

Provided that the fee may be prescribed having regard to the amount of debt to be recovered:

Provided further that nothing contained in this sub-section relating to fee shall apply to cases transferred to the Tribunal under sub-section (*1*) of section 31.

(*4*) On receipt of the application under sub-section (*1*) or sub-section (*2*), the Tribunal shall issue summons requiring the defendant to show cause within thirty days of the service of summons as to why the relief prayed for should not be granted.

(*5*) The defendant shall, at or before the first hearing or within such time as the Tribunal may permit, present a written statement of his defence.

(*6*) Where the defendant claims to set-off against the applicant's demand any ascertained sum of money legally recoverable by him from such applicant, the defendant may, at the first hearing of the application, but not afterwards unless permitted by the Tribunal, present a written statement containing the particulars of the debt sought to be set-off.

(*7*) The written statement shall have the same effect as a plaint in a cross-suit so as to enable the Tribunal to pass a final order in respect both of the original claim and of the set-off.

(*8*) A defendant in an application may, in addition to his right of pleading a set-off under sub-section (*6*), set up, by way of counter-claim against the claim of the applicant, any right or claim in respect of a cause of action accruing to the defendant against the applicant either before or after the filing of the application but before the defendant has delivered his defence or before the time limited for delivering his defence has expired, whether such counter-claim is in the nature of a claim for damages or not.

(*9*) A counter-claim under sub-section (*8*) shall have the same effect as a cross-suit so as to enable the Tribunal to pass a final order on the same application, both on the original claim and on the counter-claim.

(*10*) The applicant shall be at liberty to file a written statement in answer to the counter-claim of the defendant within such period as may be fixed by the Tribunal.

(*11*) Where a defendant sets up a counter-claim and the applicant contends that the claim thereby raised ought not to be disposed of by way of counter-claim but in an independent action, the applicant may, at any time before issues are settled in relation to the counter-claim, apply to the Tribunal for an order that such counter-claim may be excluded, and the Tribunal may, on the hearing of such application make such order as it thinks fit.

(*12*) The Tribunal may make an interim order (whether by way of injunction or stay or attachment) against the defendant to debar him from transferring, alienating or otherwise dealing with, or disposing of, any property and assets belonging to him without the prior permission of the Tribunal.

(*13*) (*A*) Where, at any stage of the proceedings, the Tribunal is satisfied, by affidavit or otherwise, that the defendant, with intent to obstruct or delay or frustrate the execution of any order for the recovery of debt that may be passed against him,—

(*i*) is about to dispose of the whole or any part of his property; or

(*ii*) is about to remove the whole or any part of his property from the local limits of the jurisdiction of the Tribunal; or

(*iii*) is likely to cause any damage or mischief to the property or affect its value by misuse or creating third party interest,

the Tribunal may direct the defendant, within a time to be fixed by it, either to furnish security, in such sum as may be specified in the order, to produce and place at the disposal of the Tribunal, when required, the said property or the value of the same, or such portion thereof as may be sufficient to satisfy the certificate for the recovery of debt, or to appear and show cause why he should not furnish security.

(*B*) Where the defendant fails to show cause why he should not furnish security, or fails to furnish the security required, within the time fixed by the Tribunal, the Tribunal may order the attachment of the whole or such portion of the properties claimed by the applicant as the properties secured in his favour or otherwise owned by the defendant as appears sufficient to satisfy any certificate for the recovery of debt.

(*14*) The applicant shall, unless the Tribunal otherwise directs, specify the property required to be attached and the estimated value thereof.

(*15*) The Tribunal may also in the order direct the conditional attachment of the whole or any portion of the property specified under sub-section (*14*).

(*16*) If an order of attachment is made without complying with the provisions of sub-section (*13*), such attachment shall be void.

(*17*) In the case of disobedience of an order made by the Tribunal under sub-sections (*12*), (*13*) and (*18*) or breach of any of the terms on which the order was made, the Tribunal may order the properties of the person guilty of such disobedience or breach to be attached and may also order such person to be detained in the civil prison for a term not exceeding three months, unless in the meantime the Tribunal directs his release.

(*18*) Where it appears to the Tribunal to be just and convenient, the Tribunal may, by order,—

(*a*) appoint a receiver of any property, whether before or after grant of certificate for recovery of debt;

(*b*) remove any person from the possession or custody of the property;

(*c*) commit the same to the possession, custody or management of the receiver;

(*d*) confer upon the receiver all such powers, as to bringing and defending suits in the courts or filing and defending applications before the Tribunal and for the realization, management, protection, preservation and improvement of the property, the collection of the rents and profits thereof, the application and disposal of such rents and profits, and the execution of documents as the owner himself has, or such of those powers as the Tribunal thinks fit; and

(*e*) appoint a Commissioner for preparation of an inventory of the properties of the defendant or for the sale thereof.

(*19*) Where a certificate of recovery is issued against a company registered under the Companies Act, 1956, the Tribunal may order the sale proceeds of such company to be distributed among its secured creditors in accordance with the provisions of section 529A of the Companies Act, 1956 and to pay the surplus, if any, to the company.

1 of 1956.

(*20*) The Tribunal may, after giving the applicant and the defendant an opportunity of being heard, pass such interim or final order, including the order for payment of interest from the date on or before which payment of the amount is found due up to the date of realisation or actual payment, on the application as it thinks fit to meet the ends of justice.

(*21*) The Tribunal shall send a copy of every order passed by it to the applicant and the defendant.

(*22*) The Presiding Officer shall issue a certificate under his signature on the basis of the order of the Tribunal to the Recovery Officer for recovery of the amount of debt specified in the certificate.

(*23*) Where the Tribunal, which has issued a certificate of recovery, is satisfied that the property is situated within the local limits of the jurisdiction of two or more Tribunals, it may send the copies of the certificate of recovery for execution to such other Tribunals where the property is situated:

Provided that in a case where the Tribunal to which the certificate of recovery is sent for execution finds that it has no jurisdiction to comply with the certificate of recovery, it shall return the same to the Tribunal which has issued it.

(*24*) The application made to the Tribunal under sub-section (*1*) or sub-section (*2*) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the application finally within one hundred and eighty days from the date of receipt of the application.

(*25*) The Tribunal may make such orders and give such directions as may be necessary or expedient to give effect to its orders or to prevent abuse of its process or to secure the ends of justice.".

Amendment of section 27.

**10.** In section 27 of the principal Act, in sub-section (*4*), after the words "is reduced", the words "or enhanced" shall be inserted.

Amendment of section 28.

**11.** In section 28 of the principal Act, after sub-section (*4*), the following sub-section shall be inserted, namely:—

"(*4A*) The Recovery Officer may, by order, at any stage of the execution of the certificate of recovery, require any person, and in case of a company, any of its officers against whom or which the certificate of recovery is issued, to declare on affidavit the particulars of his or its assets.".

Substitution of new section for section 30.

**12.** For section 30 of the principal Act, the following section shall be substituted, namely:—

Appeal against the order of Recovery Officer.

"30. (*1*) Notwithstanding anything contained in section 29, any person aggrieved by an order of the Recovery Officer made under this Act may, within thirty days from the date on which a copy of the order is issued to him, prefer an appeal to the Tribunal.

(*2*) On receipt of an appeal under sub-section (*1*), the Tribunal may, after giving an opportunity to the appellant to be heard, and after making such enquiry as it deems fit, confirm, modify or set aside the order made by the Recovery Officer in exercise of his powers under sections 25 to 28 (both inclusive).".

Amendment of section 31.

**13.** In section 31 of the principal Act, in sub-section (*2*), in clause (*b*), the words "or *de novo*" shall be omitted.

Insertion of new section 31A.

**14.** After section 31 of the principal Act, the following section shall be inserted, namely:—

Power of Tribunal to issue certificate of recovery in case of decree or order.

"31A. (*1*) Where a decree or order was passed by any court before the commencement of the Recovery of Debts Due to Banks and Financial Institutions (Amendment) Act, 2000 and has not yet been executed, then, the decree-holder may apply to the Tribunal to pass an order for recovery of the amount.

(*2*) On receipt of an application under sub-section (*1*), the Tribunal may issue a certificate for recovery to a Recovery Officer.

(*3*) On receipt of a certificate under sub-section (*2*), the Recovery Officer shall proceed to recover the amount as if it was a certificate in respect of a debt recoverable under this Act.".

Substitution of new section for section 32.

**15.** For section 32 of the principal Act, the following section shall be substituted, namely:—

Chairperson, Presiding Officer and staff of Appellate Tribunal and Tribunal to be public servants.

"32. The Chairperson of an Appellate Tribunal, the Presiding Officer of a Tribunal, the Recovery Officer and other officers and employees of an Appellate Tribunal and a Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.". 45 of 1860.

Amendment of section 34.

**16.** In section 34 of the principal Act, in sub-section (*2*), for the words, brackets and figures "and the Sick Industrial Companies (Special Provisions) Act, 1985, the words, brackets and figures", the Sick Industrial Companies (Special Provisions) Act, 1985 and the Small Industries Development Bank of India Act, 1989" shall be substituted. 1 of 1986. 39 of 1989.

Amendment of section 36.

**17.** In section 36 of the principal Act,—

(*a*) in sub-section (*2*),—

(*i*) in clause (*a*), for the words "the Presiding Officers", the words "the Chairpersons, the Presiding Officers" shall be substituted;

(*ii*) in clause (*b*), for the words "the Presiding Officers of the Tribunals and Appellate Tribunals", the words "the Chairpersons of Appellate Tribunals and the Presiding Officers of the Tribunals" shall be substituted;

(*b*) for sub-section (*3*), the following sub-section shall be substituted, namely:—

"(*3*) Every notification issued under sub-section (*4*) of section 1, section 3 and section 8 and every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the notification or rule or both Houses agree that the notification or rule should not be issued or made, the notification or rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification or rule.".

Repeal and saving.

**18.** (*1*) The Recovery of Debts Due to Banks and Financial Institutions (Amendment) Ordinance, 2000, is hereby repealed. Ord. 1 of 2000.

(*2*) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

IndiaCode

RAGHBIR SINGH,
*Secy. to the Govt. of India.*

PRINTED BY THE MANAGER, GOVERNMENT OF INDIA PRESS (PLU), MINTO ROAD, NEW DELHI
AND PUBLISHED BY THE CONTROLLER OF PUBLICATIONS, DELHI, 2000.

IndiaCode