

THE HIMACHAL PRADESH PUBLIC MONEYS (RECOVERY OF DUES) ACT, 2000

(ACT NO. 2 OF 2001)¹

(Received the assent of the Governor on 9th February, 2001 and was published in Hindi and English in R.H.P.Extra., dated 17.2.2001 at pages 5515-5523).

An Act to re-enact the law relating to the speedy recovery of certain dues of the State Government or the Himachal Pradesh Financial Corporation or any other Corporation notified by the State Government in this behalf or a Government Company or a Banking Company.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Fifty-first Year of the Republic of India, as follows:-

1. Short title, extent and commencement.- (1) This Act may be called the Himachal Pradesh Public Moneys (Recovery of Dues) Act, 2000.

(2) It extends to whole of the State of Himachal Pradesh.

(3) It shall come into force at once.

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

(a) "Banking Company" means,-

- (i) a Banking Company as defined in the Banking Regulation Act, 1949 (10 of 1949);
- (ii) the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955);
- (iii) a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959(38 of 1959);
- (iv) the Agricultural Finance Corporation Limited, a Company incorporated under the Indian Companies Act, 1956 (1 of 1956);
- (v) the National Bank for Agricultural Rural Development established under the National Bank of Agricultural and Rural Development Act, 1981 (61 of 1981);
- (vi) a corresponding new bank constituted under the Banking Companies (Acquisition and Transfer of Undertaking) Act, 1970 (5 of 1970);

1.. Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons see R.H.P. Extra., dated 29.12.2000, P. 4802 & 2807.

- (vii) any banking institution notified by the Central Government under section 51 of the Banking Regulation Act, 1949 (10 of 1949);
 - (viii) the Regional Rural Banks constituted under the Regional Rural Banks Act, 1976 (21 of 1976); and
 - (ix) a corresponding new Bank constituted under the Banking Companies (Acquisition and Transfer of Undertaking) Act, 1980 (40 of 1980);
- (b) "Collector" means a Collector of the District and includes any person appointed by the State Government to perform functions of the Collector under this Act;
- (c) "Corporation" means the Himachal Pradesh Financial Corporation established under the State Financial Corporation Act, 1951 (63 of 1951) and includes any other Corporation owned or controlled by the Central Government or the State Government which the State Government may, by notification specify;
- (d) "financial assistance" means any financial assistance rendered.-
- (i) for the purposes of vocational or technical training; or
 - (ii) for the construction of residential buildings; or
 - (iii) for providing drinking water, kuhl or pipe line; or
 - (iv) for the development of animal husbandry, agriculture or horticulture; or
 - (v) for the establishing, expanding, modernising, renovating or running any village or cottage industry, industrial undertaking or agro industry; or
 - (vi) for purposes of any other kind of planned development; or
 - (vii) for relief against distress; or
 - (viii) for loans under the National Loans Scholarship Scheme; or
 - (ix) for professional/specialised training, as may be notified, in the Official Gazette, by the State Government, in relation to which scholarship/stipend is paid out of the public funds and is imparted by the institutions of the State Government;
- (e) "Government Company" means a Government Company as defined in section 617 of the Companies Act, 1956 (1 of 1956) and which is notified as such by the State Government from time to time;

- (f) "industrial undertaking" includes any undertaking for the manufacture, preservation, storage or processing of goods, or mining or the hotel industry, or the transport of passengers or goods, or the generation or distribution of electricity or any other form of power or the maintenance, repair, testing or servicing of machinery, vehicles, vessels, motor boats, trailers or tractors or assembling, repairing or packing of any articles with the aid of machinery or power or fishing or providing shore facilities for fishing or maintenance thereof, or for the development of any contiguous area of land as an industrial estate or providing special or technical knowledge or other services for promotion of industrial growth;

Explanation. - The expression "processing of goods" includes any act or process for producing, preparing or making an article by subjecting any material to a manual, mechanical, chemical, electrical or any other like operation;

- (g) "sponsored scheme" means a scheme sponsored by way of financial assistance by the State Government or the Central Government under which the concerned Government, either-
- (i) advances money to the Corporation or the Government Company for the purposes of disbursing loans, advances, grants or subsidies or for the purpose of sale of goods on credit or hire purchase; or
 - (ii) guarantees or agrees to guarantee the payment of loan, advances, grant or subsidies or the payment of price of goods sold on credit or hire purchase; and
- (h) "State Government" means the Government of Himachal Pradesh.

3. Recovery of certain dues as arrears of land revenue. - (1) Where any person either as principal or as surety or as guarantor is a party-

- (a) (i) to any agreement or bond, relating to a loan, advance grant, subsidy, financial assistance, stipend or scholarship given under that agreement or relating to credit in respect of, or relating to hire purchase of goods sold by the State Government, Government Company, Banking Company, or Corporation by way of financial assistance; or
- (ii) to any agreement relating to loan, advance, grant or subsidy given under that agreement or relating to credit in respect of, or relating to hire purchase of, goods sold by the State Government, a Banking Company, a Corporation or a Government Company as the case may be, under a sponsored scheme; or

- (b) to any agreement relating to a guarantee given by the State Government, Government Company, Banking Company or a corporation in respect of a loan raised by an industrial undertaking; or
- (c) to any agreement providing that any money payable thereunder to the State Government shall be recoverable as arrears of land revenue; or
- (d) to any agreement to sell or distribute goods or any other article supplied by/or through the State Government and such person-
 - (i) makes any default in the repayment of the loan, advance, stipend or scholarship or any instalment or interest thereof; or
 - (ii) having become liable under the conditions of the grant to refund the grant or any portion thereof, makes any default in repayment of such grant or portion or instalment thereof; or
 - (iii) having become liable to pay the price of the goods or any other article or interest thereof, fails to pay the same or part thereof; or
 - (iv) otherwise fails to comply with the terms of the agreement;

then, in case of the State Government, such officers as may be authorised in this behalf by the State Government, by notification in the Official Gazette, and in the case of Banking Company, Corporation or the Government Company, the Managing Director or any other officer not below the rank of Divisional Manager specifically authorised in this behalf, thereof, by whatever name called, may without prejudice to any other mode of recovery under any other law for the time being in force, send a certificate to the Collector, mentioning the sum due from such person and requesting that such sum together with the costs of the proceedings or any other sum be recovered as if it were an arrear of land revenue.

(2) A certificate sent under sub-section(1) shall be conclusive proof of the matter stated therein and the Collector on receiving such certificate shall proceed to recover the amount stated therein as an arrear of land revenue.

(3) Nothing in sub-section (1) shall affect any interest of the State Government, a Banking Company, a Corporation or a Government Company, in any property created by mortgage, charge, pledge or any other encumbrance.

(4) Where the property of any person referred to in sub-section(1) is subject to any mortgage, charge, pledge or other encumbrance in favour of the State Government, a Banking Company, a Corporation or a Government Company, as the case may be, then-

- (a) in every case of a pledge of goods, proceedings shall first be taken for the sale of goods so pledged and if the proceeds of such sale

are less than the sum due, then proceedings shall be taken for recovery of the balance against the other property of such person:

Provided that where the State Government is of the opinion that it is necessary so to do for safeguarding the recovery of the sum due to it or to a Banking company, a Corporation or a Government Company, as the case may be, it may, for reasons to be recorded in writing, direct proceedings to be taken against the other property then the goods pledged before or at the same time as the proceedings are taken for the sale of goods pledged.

- (b) in every case of a mortgage, charge or other encumbrance on immovable property, such property or, as the case may be, the interest therein of the person referred to in sub-section (1) shall first be sold in proceedings for recovery of the sum due from that person and any other proceedings may be taken only if the Collector certifies that there is no prospect of realisation of the sum due through the first mentioned process within a reasonable time.

(5) Where Government dues are recoverable from the person mentioned in section 3 in addition to dues of Government Company, Banking Company or Corporation, priority will be given to Government dues in recovery as arrears of land revenue.

4. Collection charges.- A Banking Company, a Corporation or a Government Company availing the services of the Collector under section 3 shall pay collection charges to the State Government at such rates, as may be notified in the Official Gazette by the State Government, from time to time.

5. Repeal and Savings.- (1) The Himachal Pradesh Public Moncys (Recovery of Dues) Act, 1973 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Act, shall be deemed to have been done or taken under the Corresponding provisions of this Act.

THE SALARIES AND ALLOWANCES OF MINISTERS (HIMACHAL PRADESH) AMENDMENT ACT, 2001

ARRANGEMENT OF SECTIONS

Sections:

1. Short title.
2. Substitution of section 7.