

THE UTTAR PRADESH PUBLIC MONEYS (RECOVERY OF
DUES)

ACT, 1972

[U.P. ACT NO. 23 OF 1972]

ARRANGEMENT OF SECTIONS

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THE UTTAR PRADESH PUBLIC MONEYS (RECOVERY OF DUES)

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[U.P. ACT NO. 23 OF 1972]

(As passed by the Uttar Pradesh Legislature)

Amended by

U. P. Act no. 17 of 1975

U. P. Act no. 06 of 1992

[IN pursuance of the provisions of clause (3) of Article 348 of the Constitution of India, the Governor is pleased to order the publication of the following English translation of the Uttar Pradesh Lok Dhan (Deyon Ki Vasooli) Adhiniyam, 1972 (Uttar Pradesh Adhiniyana Sankhya 23 of 1972) as passed by the Uttar Pradesh Legislature and assented to by the President on April 28, 1972.]

**AN
ACT**

[to provide, with retrospective effect, for the speedy recovery of certain classes of dues payable to the State Government or to the Uttar Pradesh Financial Corporation or any other Corporation notified by the State Government in that behalf or to any nationalised or other Scheduled Bank or to a Government Company, and to validate certain acts done and proceedings taken in the past, and to provide for matters connected therewith]

It is hereby enacted In the Twenty-third year of the Republic of India as follows:

1 - Short title, extent and commencement- (1) This Act may be called the Uttar Pradesh Public Moneys (Recovery of Dues) Act, 1972.

(2) It extends to the whole of Uttar Pradesh.

(3) This section and Sections 2 to 5 shall be deemed to have come into force on December 4, 1965.

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

(a) "Corporation" means the Uttar Pradesh Financial Corporation established under the State Financial Corporation Act, 1951, and includes any other Corporation owned or controlled by the Central Government or the State Government and specified in a notification issued in that behalf by the State Government in the Official Gazette;

(b) "financial assistance" means any financial assistance—

(i) for establishing, expanding, modernising, renovating or running any industrial undertaking, or

(ii) for purposes of vocational training, or

(iii) for the development of agriculture, horticulture, animal husbandry or agro-industry, or

(iv) for purposes of any other kind of planned development, or

(v) for relief against distress;

(c) "Government Company" means a Government Company as defined in Section 617 of the Companies Act, 1956;

(d) "Industrial concern" has the meaning assigned to the expression in the State Financial Corporation Act, 1951, as amended from time to time;

(e) "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 for the development of any contiguous area of land as an industrial estate;

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

(f) "banking company" means the State Bank of India constituted under the State Bank of India Act, 1955, a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959, a corresponding new bank constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, or a banking company as defined in the Banking Regulation Act, 1949¹[or a financing bank or Central Bank as defined in the Uttar Pradesh Co-operative Societies Act, 1965 not being a land development bank]

(g) "State-sponsored scheme" means a scheme sponsored by way of financial assistance by the State Government under which the State Government either advances money to a banking company or a Government Company for the purpose of disbursing loans, advances or grants or for purposes of sale of goods on credit or hire-purchase or guarantees or agrees to guarantee the repayment of a loan, advance or grant or the payment of the price of goods sold on credit or hire-purchase²[and includes any other scheme of financial assistance, by a banking company or a Government company, which is declared to be a State-sponsored scheme by the State Government by notification in the Gazette]

¹ Ins by sec 2(i) of U.P.Act No 17 of 1975

² Ins by sec 2(ii) of U.P.Act No 17 of 1975

3 - Recovery of certain dues as arrears of land revenue- (1) Where any person is party,--

(a) to any agreement relating to a loan, advance or grant given to him or relating to credit in respect of, or relating to hire-purchase of goods, sold to him by the State Government or the Corporation, by way of financial assistance; or

(b) to any agreement relating to a loan, advance or grant given to him or relating to credit in respect of, or relating to hire-purchase of goods sold to him, by a banking company or a Government Company, as the case may be, under a State sponsored scheme; or

(c) to any agreement relating to a guarantee given by the State Government or the Corporation in respect of a loan raised by an industrial concern; or

(d) to any agreement providing that any money payable thereunder to the State Government ¹[or the Corporation] shall be recoverable as arrears of land revenue; and such person—

(i) makes any default in repayment of the loan or advance or any instalment thereof; or

(ii) having become liable under the conditions of the grant to refund the grant or any portion thereof, makes any default in the refund of such grant or portion or any instalment thereof; or

(iii) otherwise fails to comply with the terms of the agreement;--
then, in the case of the State Government, such officer as may be authorised in that behalf by the State Government by notification in the Official Gazette, and in the case of the Corporation or a Government Company the Managing Director ²[or where there is no Managing Director then the Chariman of the Corporation, by whatever name called] ³[or such officer of the Corporation or Government Company as may be authorised in that behalf by the Managing Director or the Chairman] thereof, and in the case of a banking company, the local agent, thereof, by whatever name called, may send a certificate to the Collector, mentioning the sum due from such person and requesting that such sum together with costs of the proceedings be recovered as if it were an arrear of land revenue.

1 Ins by sec 3(i)(a) of U.P.Act No 17 of 1975

2 Ins by sec 3(i)(b) of U.P.Act No 17 of 1975

3 Ins by sec 2 of U.P.Act No 06 of 1992(w.e.f.9-10-1991)

(2) The Collector on receiving the certificates shall proceed to recover the amount stated therein as an arrear of land revenue.

(3) No suit for the recovery of any sum due as aforesaid shall lie in the civil court against any person referred to in sub-section (1).

1[(4) In the case of any agreement referred to in sub-section (1) between any person referred to in that sub-section and the State Government or the Corporation, no arbitration proceedings shall lie at the instance of either party either for recovery of any sum claimed to be due under the said sub-section or for disputing the correctness of such claim:

Provided that whenever proceedings are taken against any person for the recovery of any such sum he may pay the amount claimed under protest to the officer taking such proceedings, and upon such payment the proceedings shall be stayed and the person against whom such proceedings were taken may make a reference under or otherwise enforce an arbitration agreement in respect of the amount so paid, and the provisions of Section 183 of the Uttar Pradesh Land Revenue Act, 1901, or Section 287-A of the Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950, as the case may be, shall mutatis mutandis apply in relation to such reference or enforcement as they apply in relation to any suit in the civil court.

(5) Save as otherwise expressly provided in the proviso to sub-section (4) of this section or in Section 183 of the U.P. Land Revenue Act, 1901 or Section 287-A of the Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 every certificate sent to the Collector under sub-section (1) shall be final and shall not be called in question in any original suit, application (including any application under the Arbitration Act, 1940) or in any reference to arbitration and no injunction shall be granted by any court or other authority in respect of any action taken or intended to be taken in pursuance of any power conferred by or under this Act.]

4 – Savings- (1) Nothing in Section 3, shall—

(a) affect any interest of the State Government, the Corporation, a Government Company or any Banking Company, in any property created by any mortgage, charge, pledge or other encumbrance; or

(b) bar a suit or affect any other right or remedy against any person other than a person referred to in that section, in respect of a contract of

indemnity or guarantee entered into a relation to an agreement referred to in that section or in respect of any interest referred to in clause (a).

(2) Where the property of any person referred to in Section 3 is subject to any mortgage, charge, pledge or other encumbrance in favour of the State Government, or Corporation, a Government company or banking company, then—

(a) in every case of a pledge of goods, proceedings shall first be taken for sale of the thing pledged, and if the proceeds of such sale are less than the sum due, then proceedings shall be taken for recovery of the balance as if it were an arrear of land revenue:

Provided that where the State Government is of opinion that it is necessary to do so for safeguarding the recovery of the sum due to it or to the Corporation, Government Company or banking company, as the case may be, it may for reasons to be recorded, direct proceedings to be taken for recovery of the sum due, as if it were an arrear of land revenue before or at the same time as proceedings are taken for sale of the thing 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 of the defaulter therein, shall first be sold in proceedings for recovery of the sum due from that person as if it were an arrear of land revenue, and any other proceeding may be taken thereafter only if the Collector certifies that there is no prospect of realisation of the entire sum due through the first mentioned process within a reasonable time.

5 – Repeal- The Public Moneys (Recovery of Dues) Act, 1965, is hereby repealed.

6 – Validation- Notwithstanding the repeal of the Public Moneys (Recovery of Dues), Act, 1965, by Section 5, and notwithstanding any judgment, decree or order of any court or tribunal, any action taken or purported to have been taken, or anything done or purported to have been done, between 4 December, 1965 and the commencement of this Act, by the State Government or by the Corporation or a Government Company or the State Bank of India or other Scheduled Bank, or by any officer of the State Government or of such Corporation, Company or Bank, or by any Collector or other Revenue Official or by a Receiver appointed or purported to have been appointed by the Collector, including any notification issued, certificate issued or sent, appointment of Receiver made or other proceedings taken for recovery of any amount as an

arrear of land revenue under or in pursuance of the said Act shall in so far as it is not inconsistent with this Act be deemed to be valid and to have been taken or done under or in pursuance of the corresponding provisions of this Act.

7 – Repeal- The Uttar Pradesh Public Moneys (Recovery of Dues) Ordinance, 1972 is hereby repealed.