THE JAMMU AND KASHMIR DEBTORS' RELIEF RULES, 1977

Revenue Department Notification SRO-31 of 1977 dated 19th January, 1977.— In exercise of the powers conferred by section 36 of the Jammu and Kashmir Debtors' Relief Act, 1976, the Government hereby make the following rules, namely :—

1. *Short title and commencement*. —(1) These rules may be called the Jammu and Kashmir Debtors' Relief Rules, 1977.

(2) These shall come into force on the date on which the Jammu and Kashmir Debtors' Relief Act, 1976 comes into force.

2. Definitions.— In these rules unless the context otherwise requires,—

(a) "Act" means the Jammu and Kashmir Debtors' Relief Act, 1976 ;

(b) "Form" means a Form appended to these rules ;

(c) "Section" means a section of the Act ;

(d) All other words and expressions used in these rules shall have the same meaning as is assigned to these in the Act.

3. *Remuneration*. —(1) The Chairman shall be a whole-time officer.

(2) The Chairman and other members shall be paid such remuneration subject to such conditions as may be determined by the Government.

4. *Location of office and venue and time of sittings of a Board.* —(1) The Board shall have its office at such place as may be fixed by the Government and it may hold its sittings at such place within its territorial jurisdictions and at such time as may be fixed by the Chairman from time to time under intimation to the other members of the Board. No proceeding of Board held on a day declared to be a holiday shall be invalid merely because it was held on such a day.

(2) The Chairman shall sign, date and seal with the seal of the Board every notice, process, certificate and requisition issued or made by it.

5. *Record of proceedings*.— The proceedings of the Board shall be recorded and the records of the Board shall be maintained in Urdu.

6. *Conduct of business*.— The Chairman shall preside at every meeting of the Board and shall regulate the conduct of its business.

7. *Superintendence and control.* —(1) The Appellate Authority and the Board shall be subordinate to and under the control of the Government.

(2) Subject to the superintendence and control of the Government, the Board shall be subordinate to and under the control of the Appellate Authority to which appeals from orders passed by the Board lie.

8. *Application for settlement.* —(1) An application for settlement between a debtor and his creditor shall be accompanied by necessary process service fees in the form of judicial stamps.

(2) Every application shall be accompanied by all documents relied upon by the applicant for its disposal.

(3) An application under sub-section (1) of section 6 shall be in Form 1. An application under sub-section (2) of section 6 shall be in Form 2. Every such application shall be verified at the foot by the applicant or, on his behalf, by an authorised agent, who shall specify by reference to the numbered columns of the application what he verifies of his own knowledge and what he verifies upon information received and believed to be true. The verification shall be signed by the applicant or the authorised agent and shall state the date on which and the place at which it was signed. The application shall be presented to the Chairman either at the

office of the Board during office hours or at a place within his jurisdiction fixed by him for receiving applications.

(4) The Chairman shall on receipt of such application, cancel the court-fee stamp affixed to it by punching it, putting his initials, writing his name and recording the date of the receipt of the application on or across the stamp.

(5) A further and better statement of the nature of the claim or further and better particulars of any matter stated in any application may be admitted by the Chairman upon such terms as to costs and otherwise as may be just.

(6) An application found incomplete shall be returned by the Chairman to the applicant for completion and presentation within such time as may be fixed by him.

(7) An application found complete shall be entered in the register of applications.

9. *Preliminary enquiry on receipt of application.* —(1) The application shall be rejected if, upon enquiry, it is found that the amount sought to be settled is not'debt' or that the person liable therefor is not a 'debtor' within the meaning of the Act.

(2) Where the application is not rejected under sub-rule (1), further proceedings shall be taken according to the provisions of the Act and these rules.

10. *Particulars of debts and form of agreement.* —(1) The statement of debts owed to, and submitted by, a creditor in compliance with a notice under sub-section (1) of section 8 shall contain all the particulars indicated in sub-section (2) of section 6 and shall be, as far as is applicable, in

Form 2.

(2) An agreement under sub-section (1) of section 13 shall be in Form 3 and shall be authenticated by the signatures of the Chairman and the members of the Board who are present and shall be sealed with the seal of the Board at the place at which it held its sitting.

11. *Intimation to Civil Courts.* —(1)Whenever an application for a settlement under section 4 has been made by a debtor, such debtor may apply to the Chairman of the Board concerned at any time up to the date of the final disposal of the proceedings, for the issue to such Civil Courts, as may be specified in the application, of an intimation to the effect that such application has been made to it and the Chairman of the Board shall thereupon issue such intimation. No court-fee shall be chargeable on such application. Such debtor may mention in the application under section 4 itself that such intimation to a particular court be sent.

(2) The intimation shall be in the form of a statement that an application has been made to the Board on a particular date and that the Board has the jurisdiction to hear such application. Such intimation shall be accompanied by a copy of the application for settlement so far as it relates to the debt or debts with which the Civil Court is concerned.

(3) On the conclusion of any proceedings before the Board, the Chairman shall, of his own motion or on an application, send an intimation to every Civil Court to which an intimation has been sent under sub-rule (2), stating the result of the proceedings and shall also send a similar intimation to any other Civil Court concerned, when so required by any of the parties.

(4) No charge shall be levied for the issue of such intimation or for the preparation of any copies required in connection therewith.

12. *Notice or summons and witness expenses*. —(1) A notice or summons under the Act shall be issued at the applicant's cost according to the scale of fees provided for Civil Courts and shall be payable in the form of Judicial stamps.

(2) Witness expenses shall be payable in cash in advance by the person seeking to summon a witness and such payment shall be made in accordance with the scale of witness expenses provided for Civil Courts.

(3) Where a person, summoned to produce a document, is not required to attend in person he shall be deemed to have complied with the summons if he causes such document to be produced.

13. *Procedure.* —(1) In all proceedings before the Board, the Chairman, or any other person authorised by him, shall make a memorandum of the substance of the evidence of every person giving evidence as the examination of such person proceeds. Such memorandum shall be read over to such person and on his admitting it to be correct, it shall be signed by the Chairman and the other members of the Board who are present.

(2) No punishment shall be imposed on a person under section 35 without giving such persons an opportunity of being heard.

14. *Form of order of the Board.*— An order made under section 16 by the Board shall be in

Form 4 and shall be signed by the Chairman and members of the Board who are present and sealed with the seal of the Board.

15. Certified copies under the Act. —(1) Rules relating to the issue of certified copies applicable to Civil Courts shall apply *mutatis mutandis* to the issue of copies by an authority acting under the Act :

Provided that a true copy of a settlement, registered under section 13, shall be issued by the Board, without any copying fee, on application accompanied by a court-fee of 35 paise.

(2) All copies issued under this rule shall be authenticated by the Chairman in the case of the Board and by any subordinate officer nominated in this behalf, in the case of the Appellate Authority or Government and such copies shall be deemed to be certified copies within the meaning of section 76 of the *[Jammu and Kashmir Evidence Act, 1977].

* Now Indian Evidence Act, 1872.

16. *Costs.*— The costs incidental to all proceedings before any authority acting under the Act shall be in the discretion of such authority and it shall have full powers to determine the amount to be paid as costs and the person by whom it is to be paid and to give necessary directions in this behalf.

17. *Manner of repayment of debt in instalments.* —(1) Where a debt is repayable in instalments the following procedure shall be followed, namely :—

(a) The creditor shall much before the first instalment of debt falls due, open a savings Bank Account in any branch of the Jammu and Kashmir Bank Ltd. and notify the particulars of the bank and the number of the Savings Bank Account to the debtor through the Board or, where a Board has been dissolved, through the successor-in-office of such Board.

(b) The Board or, where the Board has been dissolved the successor-in-office of such Board shall communicate to the debtor, as soon as may be, the particulars of the creditor, the particulars of the bank in which he has opened such account and the number of such account.

(c) The debtor shall thereupon credit instalments of debt in that savings Bank Account.

18. *Custody and preservation of records.* —(1) When the Board, or where records thereof have been transferred to a Civil Court under section 33 such Court, has completed any proceeding it shall send the record of such proceedings to the Revenue record room where such record shall be preserved in perpetuity.

(2) All registers compiled under these rules shall, when no longer needed, be sent to the Revenue record room and be preserved there in perpetuity.

19. *Monthly returns.* —(1) The Chairman of the Board shall, at the end of month, submit a return in

Form 5 to the Appellate Authority to whom he is subordinate so as to reach him not later than the tenth day of the next month. A copy of such return shall be submitted by the Chairman also to the Government.

Form 6 so as to reach it not later than the tenth day of the month following that to which it pertains.

20. *Registers.* —(1) The following registers shall be kept by the Board and written up under the supervision of the Chairman on every day that the Board holds its sittings :—

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(a) Register of applications for settlement of debts.

(b) Register of miscellaneous applications.

(c) Witness Expenses Register.

(d) Register Peshi.

(2) The aforesaid registers shall be maintained in the form prevailing in Civil Courts.

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FORM 1

[(See Rule 8(3)]

APPLICATION FOR SETTLEMENT OF DEBTS UNDER SECTION 6(1) OF THE JAMMU AND KASHMIR DEBTORS' ACT, 1976.

(Name of applicant)_____Son/Daughter/Wife/Widow of _____Surname of Village)_____ Teh._____Distt._____.

Particulars of debts, history thereof and purpose for which incurred

Debt Number	Date when debt was incurred	Principal				Purpose for which debt was incurred.	Name with description of creditor.	Rate with period of interest.
		Amount of cash received	Details of goods received in kind	Cash value of the goods mentioned in Col. 4.	Total Principal (in cash) (col.3 plus Col. 5)			
(1)	(2)	(3)	(4)	*(5)*	(6)	(7)	(8)	(9)

Has the applicant filed any application in respect of the debts herein mentioned be- fore this or another Board
(36)

Principal repaid.					Interest paid.			
Dates of repayment	In cash	Details of repayment made in kind	Cash value of goods mentioned in Col. 12	Total Cols. 11 and 13	In cash	In kind (give details).	Cash value of goods mentioned in Col. 16	Total of Cols 15 and 17.
(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)

I hereby verify the information given under cols._____to be true to my knowledge and belief and information given under Cols. _____ tobe true on the basis of information received and believed to be true by me.

Date_____
(Sd.)_____Applicant.
Place_____ Authorised Agent.

Details of Property held by the debtor—applicant

Total amount paid back (Col. 14 plus Col. 18)	Remarks	Cash		Other Movable property inclu- ing livestock			Landed Property			
		Place where kept	Amount	Place where kept.	Details of Property	Village	Khasra Number	Area	Class of soil.	Nature of right.
(19)	(20)	(21)	(22)	(23)	(24)	(25)	(26)	(27)	(28)	(29)

iovable property		Details of encumbrance on the property mention- ed in Cols. 21 and 32.			What is the applicants profession and source of livelihood and why is he unable to repay the debt.	
etails of operty	Nature of right	Property which is	Nature of encumbrance			
31)	(32)	(33)	(34)		(35)	

Signature of the applicant
or his authorised agent.

FORM 1*(concluded)*

INSTRUCTIONS

1. Where debt has been incurred jointly with other debtors, the applicant's share of debt and repayment alone should appear in Cols. 1 to 19 and the fact mentioned in column 20 that such and such person (s) is/are also joint debtor(s) to the same creditor.

2. Where the applicant is liable only as surety, the fact should be mentioned in Col. 20. Also mention the particulars of other sureties and the principal(s) jointly liable with the applicant.

3. In Col. 21, mention the name of the Bank/Post office, where deposited, giving also account/cash certificate numbers.

4. In Col. 36 indicate the name of the Board where the earlier application was made and the substance of the decision of that Board. Also mention subsequent developments e.g. appeal, revision and anything done in pursuance of the final decision.

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FORM 2

[See Rule 8(3)]

APPLICATION FOR SETTLEMENT OF DEBT UNDER SECTION 6(2) OF THE JAMMU AND KASHMIR DEBTORS' RELIEF

ACT, 1976.

(Name of the applicant)——————Son/Daughter/Wife,Widow of——————(Surname)————
Resident of——————Village——————Tehsil——————District——————.

Particulars and the history of the applicant' s claim against the debtor mentioned in Col. (1)							
Name with particulars and resid-ence of the ——— (1) ———	Debt Number ——— (2) ———	Date when debt was advanced ——— (3) ———	Principal				Rate with period of interest ——— (8) ———
			Amount paid in cash ——— (4) ———	Detail of goods loaned. ——— (5) ———	Cash value of goods mention-ed in Col. 5 ——— (6) ———	Total Principal (in cash) (Col. 4 plus Col. 6). ——— (7)	

Repayments

Principal					Interest				
Dates of repayment	In cash.	Details of repayment made in kind.	Cash value of goods mentioned10 in Col. 11	Total of Cols. 10 and 12	In cash.	In kind (give details)	Cash value of goods mentioned in Col. 15	Total Cols. 14 and 16	Total amount repaid (Col. 13 plus Col. 17.
(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)

Details of the property held by the debtor

Balance			Cash		Other movable property	
Principal	Interest	Total	Place where kept.	Amount	Place where kept	Details of property.
(19)	(20)	(21)	(22)	(23)	(24)	(25)

Details of property held by the debtor

Landed property					Other immovable property			Details of encumbrance on the property	
Village	Khasra No.	Area	Class of soil.	Nature of	Village	Details of property.	Nature of	Property which	Nature of encumbranc
(26)	(27)	(28)	(29)	(30)	(31)	(32)	(33)	(34)	(35)

Names and particulars of the other creditors as far as these are known to the applicant.	Has the applicant filed any application previously in respect of this *debt give details and the final	Has the liability been incurred by the debtor himself or it has devolved upon him by	Remarks
(36)	(37)	(38)	(39)

*before the same or another board? If so.

I hereby verify the information given under cols____ to be true to my knowledge and belief and the information given under cols.____ to be true on the basis of information received and believed to be true.

Signature of the applicant or his authorised agent

Date

Place

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FORM 2 —*(concluded)*

INSTRUCTIONS

1. Where the debtor, mentioned in Col. 1, is liable only as a surety, the fact should be mentioned in Col. 39.

2. In Col. 22 mention the name of the post-office/bank where the debtor's cash is deposited, giving also account/cash certificate number.

3. In Col. 37 indicate the name of the board where the earlier application was made, and the substance of the decision of that board. Also mention subsequent developments, e.g. appeal, revision or anything done in pursuance of the final decision.

FORM 3

[See Rule 10(2)]

BEFORE THE DEBT CONCILIATION BOARD _____.

Case No._____of_____.

1. (Name with particulars of the debtor)_____.
2. (Name with particular of the creditor/creditors)_____

_____

APPLICATION FOR SETTLEMENT OF DEBT

AGREEMENT

We, the parties to the above case, have, as a result of amicable settlement arrived at with the good offices of the Board between ourselves and in full and final settlement of the debt(s) due to the aforementioned creditor(s) and outstanding against the aforementioned debtor, agreed today_____dated_____that the debtor hereinabove mentioned shall pay an amount of Rs._____to creditor/creditors in _____*(specify shares) in lump sum on_____(specify date)/in instalments at intervals of_____months.

The parties have further agreed that interest at_____(specify rate)___per cent per annum or part thereof shall be payable by the debtor in default of payment on due date of the debt in *lump/_____(state number) instalment of the debt.

Signature/left-hand thumb impression(s) of the debtor.

Signature(s)/left-hand thumb impression(s) of creditor(s).

This agreement has been read out and explained to the parties on this_____ day of_____month of _____and they have admitted it to be correct. The aforementioned debtor has paid to_____creditor(s) a sum of Rs._____in our presence in *lump/as first instalment.

(Sd.)_____ (Sd.)_____ (Sd.)_____(Sd.)_____

Chairman, Member Member Member

Seal of the Board

Place:

* Score out the portion not applicable.

FORM 4

[See rule 14]

Before the Debt Conciliation Board_____.

1. Name with particulars of the debtor(s)_____.

2. Name with particulars of the creditor(s)_____.

Application for settlement of debt

Order

This is an application for settlement of claims(s) for which Shri/Sarva Shri_____is/are liable.

(Here give in brief the substance of the preliminary enquiry conducted under rule 9).

It has been found that the claim(s) sought to be settled is/are 'debt' and the person(s) Shri/Sarva Shri_____liable thereof is/are 'debtor(s)' within the meaning of the Jammu and Kashmir Debtors'Relief Act, 1976 and accordingly this application is treated as being made under section 4 of the aforesaid Act.

The Board has used its best endeavours to induce the parties to arrive at an amicable settlement. The creditor/creditors have, however, refused to agree to an amicable settlement. The parties have produced evidence before the Board. (Substance of the evidence produced before the Board and the finding of the Board).

The Board has found that in this case,—

*(a) the debtor(s) has/have originally incurred a debt(s) of Rs._____as indicated in Col. 3 of the sub-joined statement and that he/they has/have repaid to his/their creditor(s) in cash/kind/or partly in kind and partly in cash an amount equal to the principal sum and half of the principal sum as shown in Col. 6 of the aforementioned statement and that there is no money outstanding against the debtor(s). The claim of the creditor(s) is, therefore, dismissed and the outstanding shown against the debtor(s) shall be deemed to have been fully discharged.

*(b) the debtor(s)

*(b) the debtor(s) has/have repaid more than 150% of the principal sum to the creditor/creditors as according to Cols. 6 and 8 of the sub-joined statement. The excess thus paid to the creditors by him/them is Rs._____. A decree for Rs._____ with costs is accordingly passed in favour of the debtor(s) against the creditor/ creditors, (Name of the creditor/creditors)_____.

*(c) the debtor(s) has/have so far paid an amount of Rs._____as indicated in Col. 6 of sub-joined statement, while an amount of Rs._____(see

* Of (a), (b) and (c) strike out those that are not applicable

Col. 7 of the same statement) is still payable by him/them to the creditor/creditors. The debtor(s) is/are a poor man/men and not in a position to liquidate the balance debt in lump or within short time. It is accordingly ordered that the balance debt of Rs._____be paid by the debtor(s) to the creditor/creditors in instalments at intervals of_____months, the first instalment to be paid on_____ (specify the date).

Name of the debtor with particulars	Name of the creditor with particulars	Total amount advanced as debt by the creditor to the debtor. (Where goods have been advanced, cash value of such goods need only be mentioned. Where advance has been made, partly in cash and

partly in kind, the aggregate amount of the debt in cash should only be mentioned.)

1	2	3	
Maximum permissible interest.	Maximum permissible amount to be repaid by the debtor.	Amount actually repaid till the application for settlement of debt was made.	Balance amount to which the creditor is entitled.
4	5	6	7

Where the debtor has already paid more than 150% of the principal, the excess amount so paid by him to the creditor.

Details of instalments if any

8	9

Order announced.

Dated_____Place_____.

Chairman Member Member Member

(Names and Signature of the Chairman of the Board)

Seal of the Board.

(Names and signatures of the other Members of the Board)

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FORM 5

[See Rule 19(1)]

Office of the Debt Conciliation Board_____.

Return of cases for the month of_____19_____.

Cases pending at the end of the last month		Cases instituted during the month under report		Total number of cases	
No. of cases	Extent of debt involved. (Rs.)	No. of cases	Extent of debt involved. (Rs.)	No. of cases	Extent of debt involved. (Rs.)
1	2	3	4	5	6

Disposals during the month under report

No. of cases		Extent of debt involved (Rs)	Extent of consequent reduction in debts (Rs)		
By Conciliation	Otherwise		By Conciliation.	Otherwise	Total
7	8	9	10	11	12

Cases pending at the end of the month under report

No. of cases	Extent of debt involved (Rs.)
13	14

Place_____ Chairman.

Dated_____

No._____ Submitted in original to the:—

Dated_____

(a) (Appellate Authority)_____.

(b) Secretary to Government, Revenue Department, Jammu/Srinagar for information.

_____

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FORM 6

[See Rule 19 (2)]

Office of the Appellate Authority_____. Return of case for the month_____19____.

Number of cases pending at the end of the last month				Cases instituted during the month under report			
Appeals	Transfer applica-tions.	Misc.	Total	Appeals	Transfer applica-tions.	Misc.	Total
1	2	3	4	5	6	7	8
Total				Disposals during the month under report			
Appeals	Transfer applica-tions.	Misc.	Total	Appeals	Transfer applica-tions.	Misc.	Total
9	10	11	12	13	14	15	16
Pending at the close of the month							
Appeals 17		Transfer applications 18		Misc. 19		Total 20	

Place :

Date :

Appellate Authority_____

No._____ Dated_____

Submitted in original to_____

the Secretary to Government,

Revenue Department, Jammu/Srinagar for information.

_____