



SUPPLEMENT No. 2

TO

THE CYPRUS GAZETTE No. 2827 OF 10TH APRIL, 1940.

LEGISLATION.

THE STATUTE LAWS OF CYPRUS

No. 12 OF 1940.

**A LAW TO PROVIDE FOR THE RELIEF OF INDEBTEDNESS
OF AGRICULTURAL DEBTORS IN THE COLONY.**

W. D. BATTERSHILL,]
Governor.

[*9th April, 1940.*

BE it enacted by His Excellency the Governor and
Commander-in-Chief of the Colony of Cyprus as
follows :—

1. This Law may be cited as the Agricultural Debtors **Short title,**
Relief Law, 1940.

Interpre-
tation.

2. In this Law—

“action” includes all proceedings of a civil nature before any Court of Law ;

“agriculture” includes horticulture, sericulture and dairy farming and the use of land for any purpose of husbandry inclusive of the keeping or breeding of live stock, poultry or bees and the growing of fruits, vegetables and the like ;

“amount payable under an award” means an amount included under section 24 (1) (e) in an award as payable by a debtor in respect of any debt or any part of such amount which remains unpaid, together with any interest on such amount or part thereof which is due under the award ;

“award” means an award as made by a Board under section 21 (5) or section 23 ;

“Board” means the Debt Settlement Board established under the provisions of section 3 (1), and includes any members of the Board authorized under the provisions of section 8 ;

“Co-operative Society” means a co-operative society registered or deemed to be registered under the provisions of the Co-operative Societies Law, 1939 ;

“debt” includes all liabilities of a debtor in money or in kind secured or unsecured, whether payable under a judgment or order of a Court of Law or under any agreement for the sale of immovable property or otherwise, and whether payable presently or in future, and all liabilities of a debtor arising out of any transaction which is, in the opinion of the Board, in substance a loan : Provided that it shall not include the following :—

- (a) any amount the liability for the payment of which is only contingent ;
- (b) any share of the produce of land payable on account of land cultivated in partnership ;
- (c) any amount recoverable—
 - (i) as a tax or duty under the Tax Collection Law, 1932, or
 - (ii) as a penalty under the Fines and Penalties Recovery Law, 1883 ;

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3 of 1883

(d) any amount an action for the recovery of which is barred by lapse of time under the provisions of any law in force for the time being;

(e) any loan made by the Agricultural Bank of Cyprus Limited;

(f) any Government loan assigned to the Agricultural Bank of Cyprus Limited under the provisions of the Agricultural Bank of Cyprus Limited (Special Privileges) Laws, 1939, which Government loan when so assigned shall, for all the purposes of this Law, be deemed to be a loan made by the Agricultural Bank of Cyprus Limited;

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(g) any loan made by a Co-operative Society;

(h) all wages or salary of any clerk or servant in respect of services rendered to the debtor during two months next preceding the date of an application under section 9, not exceeding ten pounds;

(i) all wages of any labourer or workman not exceeding three pounds, whether payable for time or for piece-work, in respect of services rendered to the debtor during one month before the date of an application under section 9;

(j) all amounts, not exceeding in any individual case twenty pounds, due in respect of compensation under the Mines Regulations (Amendment) Law, 1925, the liability whereof accrued before the date of an application under section 9;

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“debtor” means a debtor—

(a) whose primary means of livelihood is agriculture; and

(b) who cultivates land by himself or by members of his family or by hired labourers; and

(c) who is the owner of immovable property the assessed value of which as shown in the books of the Land Registry Office does not in the aggregate exceed the sum of one thousand and five hundred pounds,

and includes a group of persons who join in making an application under section 10 (1);

“family” means the spouse, son, daughter, father and mother of the debtor, or any of them, who may be wholly or in part dependent upon the earnings of such debtor;

“member of the Board” and “members of the Board” include the Chairman of the Board and every Vice-Chairman of the Board;

“settlement” includes an amicable settlement and a compulsory settlement or adjustment made by order of the Board ;

“supplementary income” means any income derived by the debtor from any source other than agriculture.

Establishment of Debt Settlement Board.

3.—(1) The Governor may by notification in the *Gazette* establish a Debt Settlement Board for the purposes of this Law.

(2) The Board shall consist of such members as the Governor may from time to time determine to be appointed by the Governor: Provided that the majority of the members of the Board holding office for the time being shall possess legal qualifications or shall have experience in judicial proceedings.

(3) From among the members of the Board, the Governor—

(a) shall appoint a Chairman, and

(b) may appoint such number of Vice-Chairmen as he may from time to time determine.

(4) Every member of the Board shall hold office during the pleasure of the Governor who may at any time revoke any appointment made under sub-section (2) or (3).

(5) Every appointment or revocation of appointment made under this section shall be published in the *Gazette*.

(6) Every member of the Board may receive such remuneration or salary as the Governor may determine.

Principal office of Board to be at Nicosia.

4. The principal office of the Board shall be situated at Nicosia, and the Governor may from time to time by notification in the *Gazette* appoint towns or villages at which sub-offices of the Board shall be established.

Appointment of officers and servants of the Board.

5. The Governor may from time to time appoint officers and servants of the Board who shall perform such duties as may be assigned to them by the Chairman of the Board and who may receive such remuneration or salary as the Governor may determine.

Jurisdiction of Board.

6. In the exercise of the powers conferred upon the Board by this Law the Board shall have jurisdiction throughout the Colony, and for this purpose the Board shall hold sittings at such towns or villages as the Chairman may from time to time direct.

Powers of Chairman to regulate duties of members of Board.

7. The disposition and distribution of the duties of the several members of the Board shall be regulated from time to time by the Chairman.

8.—(1) Every application or matter which by this Law the Board is empowered to hear or determine shall be heard and determined by the Chairman and not less than two members of the Board :

Quorum of Board.

Provided that any two or more members of the Board if authorized in that behalf by the Chairman by an instrument in writing under his hand may hear and determine any such application or matter and in every such case every order, decision or award made in respect thereof by such members shall be deemed to have been made by the Board :

Provided further that whenever any application or matter is heard by two members of the Board and the two members differ in opinion, such difference shall be reported by them to the Chairman of the Board who shall thereupon authorize by an instrument in writing under his hand any other member of the Board to hear and determine, together with the original two members, such application or matter.

(2) At least one of the members of the Board who possess legal qualifications or have experience in judicial proceedings shall be present at every sitting of the Board at which any application or matter is being heard or determined.

9.—(1) Subject to the provisions of section 10, a debtor may make an application for the settlement of his debts to the Board within a period of one year after the establishment of the Board.

Application to Board for settlement of debts.

(2) Unless the debtor has already made an application under sub-section (1), any of his creditors may make, within the period in that sub-section mentioned, an application to the Board.

(3) Notwithstanding anything contained in sub-section (1), a Board may for good and sufficient reason entertain a further application in respect of any debt incurred before the date of a first application under sub-section (1) or sub-section (2), except when such application under either of the said sub-sections has been dismissed under section 15 (3) or under section 19 (1) (b) (ii) or section 19 (2).

(4) The Board shall not entertain any further application for the settlement of any debt which has been incurred by a debtor after the date of an application under sub-section (1) or sub-section (2).

10.—(1) An application may be made under section 9 (1) for the settlement of—

Application for settlement of joint debts.

(a) a debt for which two or more persons are jointly liable or jointly and severally liable either as

principal debtors or otherwise if all such persons are debtors within the meaning of this Law and they all join in making such application, or

- (b) a debt for which two or more persons are liable as heirs of a deceased debtor within the meaning of this Law if one of such persons is a debtor within the meaning of this Law and they all join in making such application,

and the Board may pass orders under this Law regarding any debt to which such application relates and such orders shall not be questioned in any action in any Court of Law.

(2) If a debtor within the meaning of this Law is jointly liable or jointly and severally liable as a principal debtor or otherwise with other persons who are not debtors within the meaning of this Law, such debtor (hereinafter in this sub-section called "the applicant") may make an application to the Board under section 9 (1) in respect of his liability in regard to such debt, and the Board, after consideration of the facts and circumstances of the case, may pass such order as it thinks fit under this Law regarding the debt so far as the applicant is concerned, and such order of the Board shall not be questioned in any action in any Court of Law :

Provided that—

- (a) where the applicant is jointly liable but not jointly and severally liable with any such other person as aforesaid for a debt and the liability of the applicant in regard to the debt has been determined by such order, the order shall not affect the liability of such other person in regard to such debt ;
- (b) where the applicant is jointly and severally liable as principal debtor with any such other person as aforesaid for a debt and the liability of the applicant in regard to the debt has been determined by such order, the liability of such other person shall be co-extensive with the liability of the applicant in respect of the part of the debt as so determined, or as so determined and as subsequently settled in consequence of any amicable settlement or compulsory settlement or reduction thereof approved or made by the Board in virtue of the provisions of section 21 or 23, as the case may be ;
- (c) where the applicant is a principal debtor and any such other person as aforesaid is a surety for such debt and the liability of the applicant in regard to

the debt has been determined by such order, the liability of such surety shall be co-extensive with the liability of the applicant as so determined, or as so determined and as subsequently settled in consequence of any amicable settlement or compulsory settlement or reduction thereof approved or made by the Board in virtue of the provisions of section 21 or 23, as the case may be ;

- (d) where the applicant is a surety for any such other person as aforesaid who is a principal debtor in respect of a debt, it shall not be within the power of the Board to determine the liability of such surety but the Board shall take such liability into consideration in making their award, and in any such case the person to whom such debt is due shall not be entitled to recover such debt by any action from such surety save where the award has ceased to subsist or where execution for any such debt can be levied upon any immovable or movable property of the surety not included in the lists mentioned in section 24 (1) (a), (b) and (c).

11. Every application under section 9 shall be in writing in the prescribed form and shall be signed and verified in the prescribed manner.

Form and verification of application.

12.—(1) Any application made to the Board by a debtor under section 9 (1) shall contain a statement of debt, in the prescribed form, which shall include the following:—

Statement of debts to be included in application.

- (a) the name of the place where he ordinarily resides ;
 (b) the names and addresses of his creditors, the total amount claimed by each creditor to be owing to him in respect of each debt, so far as is known to the debtor, whether such debt is a debt as defined in this Law or otherwise, and a note whether each such claim is admitted by the debtor ;
 (c) the history of each such debt with particulars of the original principal and the rate of interest chargeable ;
 (d) details of any debts for which the debtor is liable as a surety or is liable with other persons as a joint or joint and several debtor or surety together with the names and addresses of all such persons ;
 (e) particulars of the debtor's property both movable and immovable (including his outstanding claims against third parties), a specification of its value and of the places where it may be found, and details

- of any mortgage, attachment, lien or charge subsisting thereon together with the names and addresses of the co-owners, if any, of the debtor ;
- (f) particulars of any immovable property which has been transferred by the debtor within two years previous to the date of his application together with the name and address of the transferee ;
- (g) particulars of any income of the debtor from agriculture ;
- (h) particulars of any supplementary income of the debtor ; and
- (i) a declaration that all his debts and all his properties have been included in the statement.
- (2) An application made to the Board by a creditor under section 9 (2) shall contain a statement of debt, in the prescribed form, which shall include the following :—
- (a) the name of the place where the creditor ordinarily resides ;
- (b) the total amount of every debt claimed by the creditor to be owing to him by the debtor ;
- (c) the history of each such debt with particulars of the original principal and the rate of interest chargeable ;
- (d) the names and addresses of the other creditors, so far as they are known to the creditor ;
- (e) particulars, so far as they are known to the creditor, of the debtor's property, as in sub-section (1) (e) ;
- (f) particulars, so far as they are known to the creditor, of any income of the debtor from agriculture ;
- (g) particulars, so far as they are known to the creditor, of any supplementary income of the debtor ; and
- (h) a declaration that agriculture is the primary means of livelihood of the debtor.

Procedure on receipt of application.

13.—(1) Subject to the provisions of section 14, on receipt of an application under section 9, the Board shall pass an order fixing a date and place for consideration of the application unless the application is dismissed forthwith under section 19.

(2) The Board shall, in the prescribed manner, give notice of such order to the debtor and to all persons whose names and addresses are given in the application.

(3) The applicant may, at the discretion of the Board, be examined on oath or affirmation on the date fixed under sub-section (1) or on such other date as the Board may fix and a memorandum of the substances of the statement made by the applicant shall be recorded in writing by the Board.

14.—(1) The Chairman of the Board may, before the Board passes an order under section 13 (1) or at any subsequent stage of the proceedings, by an instrument in writing under his hand authorize any officer of the Board named in such instrument to make an enquiry into the application or any matter connected therewith in such manner as the Chairman of the Board may direct.

Power of the Board to cause enquiry to be made into application, etc., by officer authorized in that behalf.

(2) Every officer authorized as in sub-section (1) shall for the purposes of such enquiry have power to take statements from any debtor or creditor, interested in the application, and from any other person who in the opinion of such officer may be in a position to furnish any information relevant to such application and shall submit such statements together with a report thereon to the Chairman of the Board.

15.—(1) If after consideration of the application the Board does not dismiss the application forthwith under section 19, the Board shall, in the prescribed manner, cause a notice to be served on the debtor (unless the debtor is himself the applicant) and on every creditor whose name and address are given in the application and also publish a general notice requiring the debtor and all creditors to submit a statement of debt in the prescribed form within one month of the date of service of the notice, or publication of the general notice, whichever is later:

Further statements of debts.

Provided that, if the Board is satisfied that the debtor or any creditor is for good and sufficient cause unable to comply with such notice, the Board may extend the period for the submission of his statement of debt.

(2) If any creditor fails to comply with a notice or a general notice under sub-section (1), the Board may pass an order declaring that no debt of which the creditor has failed to submit a statement, whether such debt has been included in the debtor's statement of debt or otherwise, shall be recoverable, and such order shall not be questioned in any action in any Court of Law.

(3) If any debtor fails to comply with a notice or a general notice under sub-section (1), the Board may dismiss the application:

Provided that an order made under sub-section (2) or under this sub-section may be varied or reversed by the Board on an application for review if it is proved to the satisfaction of the Board that the creditor or debtor or any person referred to in section 12 (1) (d), as the case may be, had no knowledge of the notice or the general notice under sub-section (1) or that he has complied with it or that he had sufficient reason for non-compliance.

Production of documents.

16.—(1) When a creditor has submitted to the Board a statement of debt under section 12 (2) or section 15 (1), the Board shall fix a date for the production by the creditor of all documents (including entries in books of account) by which the creditor intends to prove any debt owing to him together with a true copy of each such document and upon the date so fixed the creditor shall produce all such documents to the Board.

(2) The Board shall mark in the prescribed manner each original document so produced, keep the copy after verifying its correctness, and return the original to the creditor.

(3) No document relating to a debt regarding which a creditor has failed to submit a statement under section 12 (2) or section 15 (1), and no document which being in the possession or under the control of the creditor has not been produced by him as required by sub-section (1), shall be admissible in evidence against the debtor or his successor in interest in any action by the creditor or by any person claiming under him for the recovery of the debt to which such document relates unless it is proved to the satisfaction of the Court before which such action is pending that there were sufficient reasons for non-production of the document before the Board.

Board to attempt amicable settlement.

17. Subject to any rules made under this Law, the Board shall call upon the debtor and each creditor to explain his case regarding each debt, and shall use its best endeavours to induce them to arrive at an amicable settlement :

Provided that no amicable settlement shall be effective unless and until it has been approved by the Board under section 21 (1) (a) and embodied in an award under section 21 (5).

Power of Board to require attendance of persons and production of documents and to receive evidence.
The Cyprus Courts of Justice Order, 1927.
The Cyprus Courts of Justice Amendment Order, 1931.
45 of 1934
14 of 1935
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18.—(1) Subject to rules made under this Law, the Board may exercise all such powers connected with the summoning and examining of parties and witnesses and with the production of documents as are conferred upon a Court of Law by the Cyprus Courts of Justice Orders and Laws, 1927 to (No. 2) 1935, or by any Rules of Court made thereunder.

(2) Any person present may be required by the Board to furnish any information or to produce any document then and there in his possession or under his control which he might be required to furnish or produce in a Court of Law.

19.—(1) An application under section 9 may be dismissed by the Board, at any stage of the proceedings, in respect of all or any of the debts to which it relates—

Power to dismiss applications.

- (a) if, for reasons to be stated in writing, the Board does not consider it desirable or practicable to effect a settlement of debts; or
- (b) if, in the opinion of the Board,—
 - (i) the applicant fails to pursue his application with due diligence, or
 - (ii) the debtor is attempting to use the provisions of this Law with a view to defraud any creditor or any person referred to in section 12 (1) (d), or
 - (iii) there has been transfer of any property by the debtor within two years previous to the date of such application with a view to defraud any creditor.

(2) An application under section 9 shall be dismissed by the Board, if in its opinion,—

- (a) the applicant or the person to whom the application relates is not a debtor within the meaning of this Law; or
- (b) such application includes a claim which is intended to defraud any creditor.

20.—(1) If there is any doubt or dispute as to the existence or amount of any debt or if there is an allegation on the part of the debtor that any transaction relating to the debt was harsh or unconscionable, the Board shall decide whether the debt exists or whether the transaction was harsh or unconscionable and in either case determine its amount, and if in the opinion of the Board such transaction was harsh or unconscionable may set it aside either wholly or in part or revise or alter any term or provision thereof:

Power to determine amounts of debts.

Provided that a judgment or order of a Court of Law relating to a debt other than a judgment or order obtained or issued by the consent of the parties thereto or in default of appearance of the defendant shall be conclusive evidence as to the existence and amount of the debt as between the parties to the judgment or order.

(2) Before passing any order under section 21 or section 23 the Board, after considering the statements of debt submitted under section 12 and section 15 (1) and after hearing the parties and considering the evidence produced shall, in accordance with any rules made under this Law, determine

in respect of each debt the amount of the principal and the amount of the arrears of interest, if any, due thereon from the debtor up to the date of such determination.

(3) Any decision of the Board under this section in respect of the existence or non-existence of a debt or the amount of a debt due from a debtor or of any transaction relating to a debt which in its opinion was harsh or unconscionable shall not be questioned in any action in any Court of Law.

Power to
settle debts.

21.—(1) Subject to the provisions of sub-sections (2), (3) and (4) and of rules made under this Law—

(a) when any creditor agrees in respect of any debt owing to him to an amicable settlement with the debtor and such amicable settlement is approved by the Board, the Board shall record such settlement in writing ; or

(b) when any creditor fails to agree in respect of any debt owing to him to an amicable settlement with the debtor or when an amicable settlement agreed to between the debtor and a creditor is not approved by the Board, the Board may proceed to make a compulsory settlement of such debt and may pass an order accordingly.

(2) The Board—

(a) in approving an amicable settlement as in sub-section (1) (a), or

(b) in making a compulsory settlement as in sub-section (1) (b),

shall have regard to the capacity of the debtor to pay his total debt by annual equal instalments (comprising capital and interest at a uniform rate not exceeding seven but not less than five per centum per annum as the Board may determine) spread over a period not exceeding fifteen years after making such provision as the Board may consider necessary—

(i) for the maintenance of the debtor and his family, if any ; and

(ii) for the payment by the debtor of the expenses, if any, required for the cultivation of his land and for harvesting ; and

(iii) for the payment by the debtor of his liabilities, if any, under the proviso to the definition of debt in section 2.

(3) The Board in making a compulsory settlement as in sub-section (1) (b) may reduce any debt as determined

under section 10 or 20, or regarding the amount of which there is no doubt or dispute, by not more than one-third.

(4) For the purposes of sub-section (2) the term "total debt" means the sum total of all debts which have been determined under section 10 or 20, or regarding the amount of which there is no doubt or dispute.

(5) The terms of any settlement of debt under this section shall be embodied in an award to be made by the Board.

22. If any question arises in connection with proceedings before the Board under this Law, whether a person is a debtor or not, the Board shall decide the matter and such decision shall not be questioned in any action in any Court of Law.

Decision by Board as to whether a person is a debtor.

23.—(1) When the Board is satisfied that the debts of a debtor are such that they cannot be settled in manner provided by section 21, the Board, after considering all the circumstances of the debtor, may—

Adjustment of an insolvent debtor's debts.

(a) if satisfied that the debtor is a fit person to be given the benefit of this paragraph, by a written order declare him to be insolvent for the purposes of this Law and, subject to any rules made under this Law, may thereafter by an award reduce his debts to such amounts as it considers that he can pay by annual equal instalments (comprising capital and interest at a uniform rate not exceeding seven but not less than five per centum per annum as the Board may determine) within a period not exceeding fifteen years to be mentioned in the award: Provided that no order shall be passed by the Board under this paragraph except with the prior sanction of the Governor in Council to be obtained and signified as in sub-section (4) provided; or

(b) if, for reasons to be recorded in writing, it does not consider that the debtor is a fit person to be given the benefit of paragraph (a), dismiss the application.

(2) When the Board reduces the debts of a debtor under sub-section (1) (a) the Board shall specify in the award what sum he shall pay in each year towards the settlement of the debts as so reduced and in what manner such sums shall be distributed among the creditors:

Provided that in specifying the sum which the debtor shall pay in each year as aforesaid, the Board shall have regard to the capacity of the debtor to pay after making such provision as the Board may consider necessary—

(a) for the maintenance of the debtor and his family, if any; and

(b) for the payment by the debtor of the expenses, if any, required for the cultivation of his land and for harvesting ; and

(c) for the payment by the debtor of his liabilities, if any, under the proviso to the definition of debt in section 2.

(3) An order passed by a Board under sub-section (1) (a) shall be embodied in an award to be made by the Board.

(4)—(a) Where the Board is of opinion that the debtor is a fit person to be given the benefit of sub-section (1) (a), before the Board passes an order thereunder the Chairman of the Board shall transmit to the Colonial Secretary a report in such form and containing such particulars as may be prescribed by special directions issued by the Governor in Council and notified to the Chairman of the Board.

(b) Upon receipt of a report as in paragraph (a) provided, the Colonial Secretary shall submit it to the Governor in Council for his consideration.

(c) If the Governor in Council sanctions the report, he shall signify his sanction in such form as the Governor in Council may determine, and the Colonial Secretary shall notify such sanction to the Chairman of the Board and thereupon the Board may pass an order under sub-section (1) (a).

(d) If the Governor in Council does not sanction the report, a notification therefor shall be made by the Colonial Secretary to the Chairman of the Board and thereupon the Board shall dismiss the application to which the report relates.

Awards.

24.—(1) An award shall be in the prescribed form and shall include the following particulars :—

(a) a list of the immovable properties of the debtor with particulars of any mortgage (other than a mortgage in favour of the Agricultural Bank of Cyprus Limited or of a Co-operative Society), attachment or charge subsisting thereon ;

(b) a list of the movable properties of the debtor on which there is any attachment, lien or charge with particulars of such attachment, lien or charge ;

(c) a special list of the immovable properties of the debtor on which there is any mortgage in favour of the Agricultural Bank of Cyprus Limited or of any Co-operative Society with particulars of such mortgage ;

(d) details of all debts which have been determined under section 10 or 20 or regarding the amount of which there is no doubt or dispute ;

(e) the amount to be paid to each creditor for each debt owing to him under the terms of an amicable settlement or of an order of the Board under section 21 or in consequence of an order of the Board under section 23, and the amount of interest at a rate not exceeding seven but not less than five per centum per annum as the Board may determine to be paid to each creditor on each such debt as from the date of the award or as from such date as the Board may determine :

Provided that such rate of interest shall be uniform in respect of all debts included in the award ;

(f) the manner and the order in which and the times at which the amounts referred to in paragraph (e) shall be paid :

Provided that the order in which such amounts shall be paid shall be in accordance with any rules made under this Law ;

(g) an order that all the properties mentioned in the lists referred to in paragraphs (a) and (b) and in the special list referred to in paragraph (c), or in any of the said paragraphs, as the case may be, except such properties as may be exempted by the Court as in section 27 (3) provided, shall, subject to any mortgage, attachment, lien or charge subsisting thereon, be security for the amounts payable under the award ;

(h) an order that—

(i) where any immovable property mentioned in the special list referred to in paragraph (c) has been sold after the date of the award at the instance of the Agricultural Bank of Cyprus Limited or of any Co-operative Society, as the case may be, and

(ii) where after satisfying the loan in respect of which such immovable property has been sold, there remains any surplus of the proceeds of such sale,

such surplus shall be paid into the Court in which the award was lodged and shall be utilized by the Court in payment or part payment, as the case may be, of any amount due and remaining unpaid under the award.

(2) At a place and time of which notice shall be given to the parties in the prescribed manner the award shall be explained to the parties present and shall be signed by the Board ; but the validity of an award shall not be affected by the absence of any of the parties.

(3) From the date of the signing of the award under sub-section (2) it shall, in supersession of all previous judgments or orders of a Court of Law in respect of the debts mentioned in it, be binding on the debtor and his creditors and the successors in interest of such debtor and creditors.

Existing mortgages, attachments, etc., to subsist.

25.—(1) When an award is made as regards any debt which is secured by any mortgage, attachment, lien or charge on any movable or immovable property of a debtor, such mortgage, attachment, lien or charge shall subsist to the extent of the amount payable in respect of such debt under the award until such amount has been paid or the property has been sold for the satisfaction of such debt or the award has ceased to subsist under the provisions of section 28 (4).

(2) Any mortgage of immovable property given as security for the payment of a debt and any attachment or charge upon any immovable property securing a debt on account of which any amount is payable under a judgment or order of a Court of Law shall cease to subsist when such property is sold under the provisions of section 27.

Lodging of awards in Court and copy to Land Registry Office.

26.—(1) If within a period of thirty days from the signing of an award made under the provisions of section 21 or under the provisions of section 23 no application for review has been made under section 36 (1) or if such an application has been made then as soon as may be after the Board has heard and determined the same, the Chairman of the Board shall cause the award to be lodged with the Registrar of the District Court of the District in which the debtor ordinarily resides.

(2) Upon the lodging of an award as in sub-section (1) provided, the Registrar of the District Court shall endorse it with the words “ Lodged with me at the District Court of..... this..... day of....., 19....”, and shall sign the endorsement.

(3) After the endorsement of the award as in sub-section (2) provided, the award shall, when such occasion arises, be executed as in section 27 provided, and the Registrar of the District Court shall, as soon as conveniently may be after such endorsement,—

(a) cause a notice to be served—

(i) upon the debtor named in the award informing him that the award has been duly lodged with the Registrar at the District Court and specifying the amounts payable by him thereunder and the dates upon which they are payable and requiring him to pay the same into Court accordingly, and

(ii) upon every creditor named in the award informing him that the award has been duly lodged with the Registrar at the District Court and specifying the amounts payable to him by the debtor thereunder and the dates upon which they are payable and that he may attend at the office of the Registrar to receive payment of the same, if paid, not earlier than one week after the said dates ; and

(b) cause a copy of the award endorsed as aforesaid to be lodged with the Land Registry Office of the District in which any immovable property of the debtor mentioned in the award is situated.

(4) The lodging of a copy of the award with the Land Registry Office as in sub-section (3) (b) shall operate as an attachment on all the immovable properties of the debtor mentioned in the award as security for the amounts payable under the award to the extent specified therein.

(5) Nothing in this section contained shall be deemed to prevent any debtor from paying into Court all or any amounts payable by him to all the creditors under the award before the dates upon which the same are payable under the award, and the Registrar of the District Court shall refuse to receive payment into Court of any amounts tendered by the debtor for payment only to a particular creditor named in the award :

Provided that where the debtor pays into Court under this sub-section any amounts as aforesaid there shall be deducted therefrom such amount in respect of unaccrued interest thereon as may be prescribed by rules made under this Law.

(6) Where any amounts have been paid into Court as in sub-section (5) provided, the Registrar of the District Court shall, as soon as conveniently may be thereafter, cause a notice to be served upon every creditor named in the award—

(a) informing him of the payment of such amounts into Court ;

- (b) specifying the amounts payable to him thereout; and
 (c) requesting him to attend at the office of the Registrar to receive payment of the same.

Recovery of
 amounts
 included in
 an award.

27.—(1) If after the award has been lodged with, and endorsed by, the Registrar of the District Court as in section 26 provided, the debtor named in the award shall make default in the payment of any amount due and payable thereunder and such default shall continue for a period exceeding twelve months after the date fixed therein for the payment of the same, the creditor to whom such amount became due and payable may by an ex parte application to the District Court, accompanied by a certificate under the hand of the Registrar of the District Court to the effect that the debtor has made default as aforesaid, apply for an order declaring that all the amounts payable under the award shall be payable forthwith and thereupon the District Court shall make an order accordingly :

Provided that if the immovable properties of the debtor from which he derives his primary means of livelihood are situated within any area declared to be a distressed area by an Order made by the Governor in Council and published in the *Gazette*, the District Court may, during the continuance in operation of such Order of the Governor in Council, allow such further time for the payment of the amount in respect of which such default was made as the District Court may deem fit.

(2) Where an order has been made by the District Court as in sub-section (1) provided, the District Court shall, of its own motion but subject to the provisions of sub-section (3), proceed to the sale of the immovable properties and movable properties of the debtor mentioned in the award and of any other immovable or movable properties of the debtor and for these purposes shall cause any unregistered immovable property of the debtor mentioned in the award to be registered in the debtor's name and shall issue all writs or orders of execution which the District Court is empowered to issue in respect of its own judgments.

(3) Before the Court proceeds to the sale of the immovable properties and movable properties of the debtor as in sub-section (2) provided, the following provisions shall be complied with :—

(a) The Court—

- (i) shall set aside so much land of the debtor as in the opinion of the Court shall be absolutely necessary for the support of the debtor and his family, if any, and

- (ii) where the immovable properties of the debtor consist in whole or in part of a house or houses there shall be left to or provided for the debtor such house accommodation as shall in the opinion of the Court be absolutely necessary for the debtor and his family, if any; and
- (b) The following movable properties of the debtor shall be exempted from the sale:—
- (i) The necessary wearing apparel of the debtor and his family, the necessary box or wardrobe for preserving the same and the necessary beds and bedding of the debtor and his family;
 - (ii) The necessary baking and cooking utensils of the debtor and his family;
 - (iii) The books, tools, implements, vessels and receptacles absolutely necessary for the purpose of enabling the debtor to obtain his primary means of livelihood from agriculture, not exceeding in the whole the value of ten pounds;
 - (iv) One pair of neat cattle, or two camels, or one mule and one ass, or two asses, at the option of the debtor, and alternatively to the foregoing provision two horses or one horse or mule and one of the aforesaid animals at the option of the debtor.
 - (v) Every article which is indispensable to the use of the exempted animals;
 - (vi) The fodder required to feed the exempted animals for three months;
 - (vii) Provisions for three months for the debtor and his family;
 - (viii) Seed grains sufficient for sowing in respect of one year the extent of the land set aside under the provisions of paragraph (a) (i); and
- (c) The Court shall not proceed to the sale of any immovable properties of the debtor on which there is any mortgage in favour of the Agricultural Bank of Cyprus Limited or of any Co-operative Society as shown in the special list included in the award under section 24 (1) (c) except—
- (i) with the consent of the Agricultural Bank of Cyprus Limited or of the Co-operative Society concerned, as the case may be, and
 - (ii) subject to the fixing by the Court of a reserve price representing the total amount due and to become due under such mortgage:

Provided always—

- (i) that no land on which there is a mortgage shall be set aside by the Court under paragraph (a) (i), and
- (ii) that no house accommodation shall be left to or provided for the debtor under paragraph (a) (ii) out of the immovable properties of the debtor, consisting in whole or in part of a house or houses, on which there is a mortgage, and
- (iii) no movable properties on which there is a charge or lien shall be exempted from the sale under paragraph (b).

(4) Where property of a debtor has been sold as in sub-section (2) provided, the authority which effected the sale shall pay the proceeds thereof into Court and shall lodge with the Registrar of the District Court—

- (a) a general account of the proceeds realized from the sale of all movable and immovable properties of the debtor, and
- (b) a separate account of the proceeds realized from the sale of any portion of such property upon which any mortgage, attachment, lien or charge is shown as subsisting in the lists included in the award under section 24 (1) (a) and section 24 (1) (b), and
- (c) a special account of the proceeds realized from the sale of any portion of such property upon which any mortgage is shown as subsisting in the special list included in the award under section 24 (1) (c).

Distribution
of sale
proceeds.

28.—(1) When the Court has sold property of a debtor under section 27 (2), the Court shall first pay from the proceeds of the sale any amount payable as costs of sale and next any amount due to the Government by the debtor as taxes or duties.

(2) After making the payments under sub-section (1), if any, the Court shall proceed as follows:—

- (a) the Court shall in the first instance apply the surplus of the proceeds realized from the sale of any portion of the property for which a separate account under the provisions of section 27 (4) (b) has been made to the payment of any amounts payable under the award or under a judgment or order of a Court of Law to creditors on account of debts which are secured by any mortgage, attachment, lien or charge upon such property in the order of their respective priorities, and if such surplus is insufficient to meet

such payments the balance of such amounts shall, unless the debt has been extinguished by such sale, rank equally with unsecured debts ;

- (b) the Court shall apply the surplus of the proceeds realized from the sale of any portion of the property for which a special account under the provisions of section 27 (4) (c) has been made to the payment of any amounts payable to the Agricultural Bank of Cyprus Limited or to any Co-operative Society, as the case may be, secured by mortgage on the portion of the property sold ;
- (c) when there is a surplus after payment of the amounts referred to in paragraphs (a) and (b), the Court shall apply the sum of such surplus and of any proceeds realized from the sale of other property of the debtor to the payment of any other amounts payable under the award, and if such sum is insufficient to meet such payment such other amounts and any amount payable on account of an unsecured debt for the recovery of which a judgment or order has been passed by a Court of Law, and of which details are given in the award under section 24 (1) (d), shall rank equally between themselves for purposes of payment :

Provided that if any amount has been paid under the award for the year when an amount fell due and in consequence of the non-payment of any other amount which fell due in the same year an order has been made by the District Court under section 27 (1), any amount which fell due in that year, but which has not been paid, shall be given priority ;

- (d) any surplus remaining after payment of the creditors in accordance with the foregoing provisions of this section shall be paid by the Court to the debtor.
- (3) The proceedings of the Court under this section shall be in accordance with any rules made under this Law.

(4) If, after the sale of the immovable properties and movable properties of the debtor (including the immovable properties mentioned in the special list included in the award under section 24 (1) (c)), the District Court fails to recover any amount payable under the award, the District Court shall certify that such amount is irrecoverable and thereupon the award shall cease to subsist and any amount that was payable under it shall be recoverable by the creditor to whom it was payable within two years from the

date on which the award ceased to subsist as if a judgment of the District Court had been entered for its payment on such date in favour of such creditor:

Provided that the Court may postpone such certification on proof to its satisfaction that there are special reasons for so doing.

Stay of proceedings before the Board.

29. If a debtor informs the Board at the earliest opportunity that he intends to apply to a Court of Law to set aside a judgment or order referred to in the proviso to section 20 (1), the Board may stay further proceedings for such time as the Board may consider necessary to enable the debtor to set aside such judgment or order.

Bar to actions and other proceedings.
13 of 1890

30. Except as provided in this Law, no Court of Law shall entertain any action against the debtor and no application made under section 1 of the Sale of Mortgaged Property Law, 1890, shall be entertained in respect of—

- (a) any debt included in an application under section 9 or in a statement under section 15 (1), proceedings in connection with which are pending before the Board; or
- (b) any debt for which any amount is payable under an award; or
- (c) any debt regarding which an order has been passed by the Board under section 15 (2).

Stay and abatement of actions or applications.

13 of 1890

31.—(1) When an application under section 9 or a statement under section 15 (1) includes any debt in respect of which an action is pending before a Court of Law or an application has been made under section 1 of the Sale of Mortgaged Property Law, 1890, the Board shall give notice to the Court or the Principal Officer of Land Registration concerned in the prescribed manner, and thereupon the action or application shall be stayed until the Board has either dismissed the application in respect of such debt or made an award thereon and if the Board includes any part of such debt under section 24 (1) (e) in the award or the Board decides that the debt does not exist the action or application shall abate so far as it relates to such debt.

(2) Any notice given by the Board to a Court of Law or to the Principal Officer of Land Registration under sub-section (1) shall continue in force until revoked or varied by subsequent notice given by the Board in the prescribed manner to the Court or the Principal Officer of Land Registration, as the case may be.

32. Notwithstanding anything contained in any Law, no judgment or order of a Court of Law shall be executed and no further proceedings shall be taken under the Sale of Mortgaged Property Law, 1890,—

Bar to execution of certain Court judgments or orders and of other proceedings.
13 of 1890

(a) for the recovery of a debt included in an application under section 9 or in a statement under section 15 (1) until—

(i) the application has been dismissed by the Board in respect of such debt; or

(ii) an award in which such debt is included has ceased to subsist under section 28 (4).

(b) for the recovery of a debt incurred by a debtor after the date of an application under section 9 in respect of his debts, until all the amounts payable under the award have been paid or such award has ceased to subsist under section 28 (4) save where execution for any such debt can be levied upon any immovable or movable property of the debtor not included in the lists mentioned in section 24 (1) (a), (b) and (c):

Provided that the provisions of this paragraph shall not apply to the recovery of a debt incurred by a debtor after the date of an application under section 9 in respect of his debts, where the debtor has failed to disclose at the time he incurred such debt that such an application has been made.

33. Notwithstanding anything contained in any Law, any judgment or order of a Court of Law made, and any proceeding taken for the sale of any immovable property under the sale of Mortgaged Property Law, 1890, in regard to a debt after the date of an application under section 9 shall be treated as a nullity in so far as—

Certain Court judgments or orders to be treated as nullities.
13 of 1890

(a) it is inconsistent with any order passed by the Board under section 15 (2) regarding any debt or with any decision of or determination by the Board under section 10 or 20 regarding any debt included in a subsisting award; or

(b) it relates to a debt the documents in respect of which being in the possession or under the control of the creditor have not been produced before the Board, and marked by the Board as required by section 16 unless it is proved to the satisfaction of such Court that there were sufficient reasons for non-production of the documents before the Board,

Attachment
of debtor's
immovable
property.

10 of 1885
5 of 1924
15 of 1926
9 of 1929
3 of 1934
10 of 1939

Bar to
appeal or
revision.

Power of
Board to
review its
decisions,
orders and
awards.

Power of
Board
to make
special
orders.

34. After receipt of an application under section 9, the Board may attach the immovable property of the debtor in the prescribed manner and thereupon such property shall be deemed to be under attachment under the provisions of the Civil Procedure Laws, 1885 to 1939, until such attachment is withdrawn or cancelled by the Board.

35. No appeal shall lie against any decision or order or award by the Board or against any order of a District Court made under this Law and no application for revision shall lie against any decision or order of, or award by, the Board except as provided in this Law.

36.—(1) Subject to any rules made under this Law, the Board may, on an application by any person interested, at any time before an award has been lodged with the Registrar of the District Court under section 26 (1) review such award or any decision or order made by the Board in connection therewith whether such decision or order has been embodied in the award under section 21 (5) or section 23 (3) or otherwise and the Board may make such decision or order in reference thereto as it thinks fit.

(2) The Board shall not vary or reverse any decision, order or award under this section unless it is proved to its satisfaction that fraud has been committed or that a manifest error has been made in respect thereof and unless an opportunity has been given to all the persons interested thereunder to appear and be heard in support thereof.

37.—(1) Notwithstanding anything in this Law contained, where—

(a) on a special application made to the Board by any person interested, and

(b) upon proof to the satisfaction of the Board that fraud has been committed by a debtor or creditor in respect of an award which has been lodged with the Registrar of the District Court under section 26 (1) or in respect of any matter relating either directly or indirectly to the award,

the Board may, at any time after the award has been lodged with the Registrar of the District Court under section 26 (1), make a special order directing the rectification of the award.

(2) Every special application and every special order made under sub-section (1) shall be in such form as the Chairman of the Board may from time to time direct.

(3) Every special order made under sub-section (1) may contain such terms, conditions and directions as the Board thinks fit.

(4) The Chairman of the Board shall cause every special order made under sub-section (1) to be lodged with the Registrar of the District Court in which the award was lodged, and thereupon the special order shall be endorsed by the Registrar of the District Court in the manner prescribed in section 26 (2).

(5) After the endorsement of the special order as in sub-section (4) provided, the District Court shall give effect to the special order in such manner as the District Court may think fit.

(6) No special order shall be made by the Board under sub-section (1) unless an opportunity has been given to all the persons interested in the special application to appear and be heard in support thereof or in opposition thereto.

(7) Every special order made under sub-section (1) shall not be questioned in any action in any Court of Law.

38.—(1) Except as otherwise provided in this Law, the provisions of—

(a) the Evidence Law, 1935, and

(b) the Cyprus Courts of Justice Orders and Laws, 1927 to (No. 2) 1935,

shall not apply to any proceedings before the Board.

(2) The procedure to be followed by the Board in any proceedings before it shall, subject to the provisions of this Law, be in accordance with any rules made under this Law.

Certain Laws not to apply to the proceedings before the Board under this Law.

37 of 1935

The Cyprus Courts of Justice Order, 1927.

The Cyprus Courts of Justice Amendment Order, 1931.

45 of 1934

36 of 1935

39. Subject to any rules made under this Law, no advocate as defined in the Advocates Laws, 1933 to 1940, shall represent any party in any proceedings before the Board, nor shall any other agent, without the permission of the Board represent any party in any such proceedings.

Representation of a party before the Board.

20 of 1933

40 of 1933

7 of 1934

20 of 1937

4 of 1940

40. A copy of any order made by the Board under section 15 (2) and a copy of any award shall be published in such manner as may be prescribed by rules made under this Law.

Publication of orders and awards.

Certain persons deemed to be persons employed in the public service.

The Cyprus Criminal Code Order in Council, 1928.

9 of 1931
34 of 1932
35 of 1933
43 of 1933
9 of 1936
28 of 1936
2 of 1937

Proceedings deemed to be judicial proceedings.

The Cyprus Courts of Justice Order, 1927.

The Cyprus Courts of Justice Amendment Order, 1931.

45 of 1934
36 of 1935

The Cyprus Criminal Code Order in Council, 1928.

9 of 1931
34 of 1932
35 of 1933
43 of 1933
9 of 1936
28 of 1936
2 of 1937

Extension of period of limitation.

41. Every member of the Board and every officer or servant of the Board shall be deemed to be persons employed in the public service as defined in, and for the purposes of, the Cyprus Criminal Code, 1928 to 1937.

42. All proceedings under this Law shall be deemed to be judicial proceedings for the purposes of clause 202 of the Cyprus Courts of Justice Orders and Laws, 1927 to (No. 2) 1935, and within the meaning and for the purposes of the Cyprus Criminal Code, 1928 to 1937.

43. Notwithstanding anything contained in any other Law, when the period of limitation is calculated for any action, application, appeal, execution of judgment or order and for any other proceeding regarding a debt which has been the subject of any proceedings under this Law, the time during which such proceedings continued and the time during which the person interested in such debt was debarred by any provision of this Law from making or instituting the action, application, appeal or other proceeding, or executing the judgment or order, as the case may be, shall be excluded.

44. The right to receive any amount payable under an award shall be assignable in manner prescribed by rules made under this Law. Negotiability of awarded amounts.

45.—(1) Any person who—

- Offences and penalties.
- (a) intentionally makes a false statement in writing or makes any false statement which has been recorded whether on oath or not before the Board in any proceeding under this Law or in any enquiry made under section 14 ; or
 - (b) intentionally produces before the Board any false copy or translation of a document ; or
 - (c) falsely personates another and in such assumed character produces any document or makes any admission or statement or does any other act in any proceeding under this Law ; or
 - (d) intentionally omits to disclose in any application or statement of debt any material particular required by this Law to be disclosed ; or
 - (e) being a debtor, incurs a debt after the date of an application under section 9 in respect of his debts without disclosing at the time he incurs such debt that such an application has been made ; or
 - (f) abets any act punishable under this section,
- shall be guilty of an offence and shall on conviction be liable to imprisonment for a term of one year or to a fine of fifty pounds or to both.

(2) No prosecution for any offence under this section may be commenced except by, or with the permission in writing of, the Attorney-General.

46.—(1) The Governor in Council may make rules to be published in the *Gazette* for carrying out the purposes of this Law. Power to make rules.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for all or any of the following matters, that is to say,—

- (a) the maximum and minimum amount of debt which can be dealt with under the provisions of this Law ;
- (b) the fees to be paid for anything done under this Law and the persons by whom and the manner in which such fees shall be paid ;
- (c) the procedure of the Board ;
- (d) the forms of application under section 9, of statements of debt under section 12 and awards ;

- (e) the manner of signing and verification of applications made under section 9 ;
- (f) the manner of giving notice under section 13 (2), section 15 (1) and section 24 (2), and the manner in which a general notice under section 15 (1) shall be published ;
- (g) the marking of original documents produced under section 16 (2) ;
- (h) the amicable settlement by the Board of debts under section 17 ;
- (i) the summoning and examination by the Board of parties and their witnesses and the production of documents under section 18 (1) ;
- (j) the determination by the Board under section 20 (2) of the amount of a debt ;
- (k) the settlement of debts by the Board under section 21 ;
- (l) the declaration by the Board under section 23 (1) (a) that a debtor is insolvent and the reduction of his debts ;
- (m) the order of payment of the amounts referred to in section 24 (1) (e) ;
- (n) the period within which an application under the proviso to section 15 (3) shall be made ;
- (o) the distribution of sale proceeds and the proceedings under section 28 ;
- (p) the manner of giving notice to a Court of Law under section 31 ;
- (q) the manner of attachment of immovable property under section 34 ;
- (r) the manner of review under section 36 of a decision, order or award made by the Board ;
- (s) the representation of a party in proceedings before the Board ;
- (t) the publication under section 40 of an order made by the Board under section 15 (2) and of awards made by the Board ;
- (u) the manner of assignment of an amount payable under an award.

(3) Rules made under this section may provide for the imposition on offenders against the same of penalties not exceeding five pounds for each offence, and in case of a continuing offence a further penalty not exceeding two pounds for each day during which the offence continues after conviction therefor.

47. Notwithstanding any of the provisions in section **Saving.**
24 (1) (g) or section **26 (4)** contained but save as otherwise
 in this Law provided, any amount or loan to which the
 proviso to the definition of debt in section **2** applies—

(a) may be restated under the provisions of any Law
 relating thereto; and

(b) may be recovered from the debtor in such manner
 and in such proceedings which are prescribed by, or
 may be taken under, any Law relating thereto,

as if this Law had not been enacted.

48. Subject to the provisions of section **47**, where there
 is any conflict or inconsistency between the provisions of
 this Law and the provisions of any other Law, the provisions
 of this Law shall prevail. Provisions
 of this Law
 to prevail.

49. This Law shall come into operation on a day to be
 fixed by the Governor by notice in the *Gazette*. Date of
 coming into
 operation.

A. B. WRIGHT,

Colonial Secretary.

9th April, 1940.

(M.P. 43/38/3.)