

CYPRUS

AGRICULTURAL DEBTORS

CHAPTER 25 OF THE LAWS

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CHAPTER 25.
AGRICULTURAL DEBTORS.

ARRANGEMENT OF SECTIONS.

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

[1st June, 1940]. 1949 Cap. 36.

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

2. In this Law—

Interpre-
tation.

“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 27 (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 24 (5) or section 26 ;

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

Cap. 114.

“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.

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- (c) any amount recoverable—
- Cap. 329. (i) as a tax or duty under the Tax Collection Law, or
- Cap. 155. (ii) as a penalty under the Criminal Procedure Law ;
- (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, except where such amount can be recovered by proceedings taken or which may be taken under the provisions of the Sale of Mortgaged Property Law ;
- 2 of 4/43.
Cap. 233.
- (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) Law, 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 ;
- Cap. 122.
- (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 and Quarries (Regulation) Law, the liability whereof accrued before the date of an application under section 9 ;
- Cap. 270.
- “ 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 District Lands 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.

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

Establishment of Debt Settlement Board.

(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 subsection (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.

Quorum of Board.

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 :

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.

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(2) Where an instrument in writing has been issued or made by the Chairman under the first proviso to subsection (1) of this section, the Chairman may, in the manner therein set out, vary such instrument or substitute another therefor :

Provided that every variation or substitution made under this subsection shall be without prejudice to anything done or left undone under the previous instrument.

(3) 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 subsection (1), any of his creditors may make, within the period in that subsection mentioned, an application to the Board.

(3) Notwithstanding anything contained in subsection (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 subsection (1) or subsection (2), except when such application under either of the said subsections has been dismissed under section 18 (3) or under section 22 (1) (b) (ii) or section 22 (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 subsection (1) or subsection (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 subsection 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 orders 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 sections 24 or 26, 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 24 or 26, 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 execution for any such debt can be levied upon any immovable or movable property of the surety which is not made security under the award for the amounts payable thereunder or where the award has ceased to subsist under section 31 (4) of this Law. 4 of 4/43.

(3) Where any person has failed to join with any other person in making an application as required by subsection (1) of this section and it is proved to the satisfaction of the Board that such failure is due to absence from the Colony or minority or unsoundness of mind or any other disability and that such person has no duly appointed representative, or guardian in the Colony, the Board may, notwithstanding such failure, determine the liability of such person in respect of any joint debt to which such application relates and may settle such joint debt, and for any of the purposes aforesaid the Board may make such amendments to the application as the Board may think fit. 4 of 4/43.

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 subsection (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.

13. No debtor shall withdraw an application made under section 9 of this Law except with the leave of the Board and subject to such terms and conditions as the Board may think fit to impose.

Application may be withdrawn with leave of the Board.
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14. (1) An application made under section 9 of this Law shall not abate by reason of the death of the debtor or of the death or bankruptcy of any creditor.

Application not to abate by reason of death or bankruptcy.
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(2) Where by reason of death, bankruptcy or other event occurring after the date of an application made under section 9 of this Law, the interest or liability of the debtor or any creditor devolves upon any other person, the Board may direct the continuance of the application between such persons and in such capacities as may seem necessary, and for any of the purposes aforesaid the Board may make such amendments to the application as the Board may think fit.

15. The Board may at any time amend any defect, error or misdescription in any application made under section 9 of this Law, and all necessary amendments shall be made for the purpose of enabling the Board to determine and settle all debts which can be determined and settled under the provisions of this Law.

General power of Board to amend application.
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16. (1) Subject to the provisions of section 17, 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 22.

Procedure on receipt of application.

(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 subsection (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.

17. (1) The Chairman of the Board may, before the Board passes an order under section 16 (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 inquiry 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 inquiry to be made into application etc., by officer authorized in that behalf.

(2) Every officer authorized as in subsection (1) shall for the purposes of such inquiry 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.

Further
statements
of debts.

18. (1) If after consideration of the application the Board does not dismiss the application forthwith under section 22, 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 :

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 subsection (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 subsection (1), the Board may dismiss the application :

Provided that an order made under subsection (2) or under this subsection 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 subsection (1) or that he has complied with it or that he had sufficient reason for non-compliance.

Production
of
documents.

19. (1) When a creditor has submitted to the Board a statement of debt under section 12 (2) or section 18 (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 18 (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 subsection (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.

20. 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:

Board to attempt amicable settlement.

Provided that no amicable settlement shall be effective unless and until it has been approved by the Board under section 24 (1) (a) and embodied in an award under section 24 (5).

21. (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 Criminal Procedure Law, or by any Rules of Court made thereunder.

Power of Board to require attendance of persons and production of documents and to receive evidence. Cap. 155.

(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.

22. (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.

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(3) An application under section 9 of this Law shall also be dismissed by the Board in any of the following cases, that is to say—

(a) when the application is withdrawn by the applicant with the leave of the Board; or

(b) where the applicant satisfies the Board that he has settled all his debts.

Power to determine amounts of debts.

23. (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:

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 24 or section 26 the Board, after considering the statements of debt submitted under section 12 and section 18 (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.

24. (1) Subject to the provisions of subsections (2), (3) and (4) and of Rules made under this Law—

Power to settle debts.

(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 subsection (1) (b) may reduce any debt as determined under section 10 or 23, or regarding the amount of which there is no doubt or dispute, by not more than one-third.

(4) For the purposes of subsection (2) the term "total debt" means the sum total of all debts which have been determined under section 10 or 23, 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.

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

25. 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.

Adjustment of an insolvent debtor's debts.

26. (1) When the Board is satisfied that the debts of a debtor are such that they cannot be settled in manner provided by section 24, the Board, after considering all the circumstances of the debtor, may—

(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 subsection (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 subsection (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 subsection (1) (a) shall be embodied in an award to be made by the Board.

(4) Where the Board is of opinion that the debtor is a fit person to be given the benefit of subsection (1) (a), before the Board passes an order thereunder the Chairman of the Board shall transmit to the Administrative 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.

(5) Upon receipt of a report as in subsection (4) provided, the Administrative Secretary shall submit it to the Governor in Council for his consideration.

(6) 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 Administrative Secretary shall notify such sanction to the Chairman of the Board and thereupon the Board may pass an order under subsection (1) (a).

(7) If the Governor in Council does not sanction the report, a notification thereof shall be made by the Adminis-

trative Secretary to the Chairman of the Board and thereupon the Board shall dismiss the application to which the report relates.

Awards.
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27. (1) An award shall be in the prescribed form and shall contain the following particulars and such other particulars as may be prescribed—

- (a) a list of the movable properties of the debtor on which any attachment, lien or charge subsists on the date on which the award is made, with particulars of such attachment, lien or charge;
- (b) the names of the towns, villages or quarters within the boundaries of which all the immovable properties belonging to the debtor on the date on which the award is made are situated;
- (c) an order that—

- (i) all the immovable properties belonging to the debtor on the date on which the award is made and situated within the boundaries of the towns, villages or quarters named in the award; and

- (ii) all the movable properties of the debtor mentioned in the list referred to in paragraph (a) of this subsection;

except such immovable and movable properties as may be exempted by the Court under the provisions of section 30 (3) of this Law, shall, subject to any mortgage, attachment, lien or charge subsisting thereon on the date on which the award is made, be security for the amounts payable under the award;

- (d) an order that—

- (i) where any immovable property belonging to the debtor in respect of which a mortgage subsists in favour of the Agricultural Bank of Cyprus Limited or of any Co-operative Society, as the case may be, has been sold after the date on which the award is made at the instance of the mortgagee; 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 the 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 debtor and his creditors in the prescribed manner the award shall be explained to the debtor and the creditors present and shall, upon payment of the prescribed fee, be signed by at least two members of the Board;

Provided that the award may be explained to the debtor and his creditors present at the sitting of the Board at which all the debts have been determined and settled:

Provided further that the validity of the award shall not be affected by the absence of the debtor or any his creditors.

(3) From the date of the signing of the award under subsection (2) of this section 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 on the successors in interest of such debtor and creditors.

28. (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 31 (4).

Existing mortgages, attachments, etc., to subsist.

(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 30.

29. (1) If within a period of thirty days from the signing of an award made under the provisions of section 24 or under the provisions of section 26 no application for review has been made under section 39 (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

Lodging of awards in Court and copy to District Lands Office.

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 subsection (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 subsection (2) provided, the award shall, when such occasion arises, be executed as in section 30 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

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(b) cause a copy of the award endorsed as aforesaid to be lodged with the District Lands Office of the District in which any immovable property of the debtor which is security for the amounts payable under the award is situated.

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(4) The lodging of a copy of the award with the District Lands Office as in subsection (3) (b) shall operate as an attachment on all the immovable properties of the debtor which are security for the amounts payable under the award.

(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 subsection 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 subsection (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.

30. (1) If after the award has been lodged with, and endorsed by, the Registrar of the District Court as in section 29 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 after deducting therefrom unaccrued interest shall be payable forthwith and thereupon the District Court shall make an order accordingly:

Recovery of amounts included in an award.

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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.

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(2) Where an order has been made by the District Court as in subsection (1) provided, the District Court shall, of its own motion but subject to the provisions of subsection (3), proceed to the sale of the immovable properties and movable properties of the debtor which are security for the amounts payable under 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 subsection (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 except— 9 of 4/43.

(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 subsection (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

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(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 (other than a mortgage, attachment, lien or charge in favour of the Agricultural Bank of Cyprus Limited or of any Co-operative Society, as the case may be) subsisted on the date on which the award was made;

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(c) a special account of the proceeds realized from the sale of any portion of such property upon which any mortgage in favour of the Agricultural Bank of Cyprus Limited or of any Co-operative Society, as the case may be, subsisted on the date on which the award was made.

Distribution
of sale
proceeds.

31. (1) When the Court has sold property of a debtor under section 30 (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 subsection (1), if any, the Court shall proceed as follows—

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(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 30 (4) (b) has been made to the payment of any amounts payable under the award 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 30 (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 shall rank equally between themselves for purposes of payment: 10 of 4/43.

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 30 (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 which are subject to a mortgage in favour of the Agricultural Bank of Cyprus Limited or of any Co-operative Society, as the case may be), 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: 10 of 4/43.

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

32. 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 23 (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.

Stay of proceedings before the Board.

Bar to
actions
and other
proceedings.
Cap. 233.

33 (1) Except as provided in this Law, no Court of law shall entertain any action against the debtor and no application made under section 2 of the Sale of Mortgaged Property Law shall be entertained in respect of—

- (a) any debt included in an application under section 9 or in a statement under section 18 (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 18 (2).

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(2) No Court of law shall entertain any action against any person who is not a debtor within the meaning of this Law and who is jointly and severally liable as principal debtor with, or as surety for, any other person who is a debtor within the meaning of this Law in respect of—

- (a) any debt included in an application under section 9 or in a statement under section 18 (1), proceedings in connection with which are pending before the Board; or
- (b) any debt for which any amount is payable under an award unless such award has ceased to subsist under section 31 (4); or
- (c) any debt in respect of which an order has been passed by the Board under section 18 (2).

Stay and
abatement
of actions or
applications.
Cap. 233.

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34. (1) When an application under section 9 or a statement under section 18 (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 2 of the Sale of Mortgaged Property Law, the Board shall give notice to the Court or the District Lands Officer 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 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 District Lands Officer under subsection (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 District Lands Officer, as the case may be.

35. Subject to the provisions of section 31 (4) but 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—

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

Cap. 233.

(a) for the recovery of a debt included in an application under section 9 of this Law or in a statement under section 18 (1) of this Law, until the application has been dismissed by the Board in respect of such debt; or

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(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 31 (4) save where execution for any such debt can be levied upon any immovable or movable property of the debtor which is not security for the amounts payable under the award:

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.

36. 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, 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.

Cap. 233.

(a) it is inconsistent with any order passed by the Board under section 18 (2) regarding any debt or with any decision of or determination by the Board under section 10 or 23 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 by the Board, and marked by the Board as

required by section 19 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. Cap. 6.

37. 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 Law, until such attachment is withdrawn or cancelled by the Board.

Bar to appeal or revision.

38. 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.

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

39. (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 29 (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 24 (5) or section 26 (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.

Rectification of award in certain cases.

40. (1) Notwithstanding anything in this Law contained—

- (a) upon application by any person interested made to the District Court of the District in which an award has been lodged under section 29 (1) (hereinafter in this section referred to as "the Court"); and
- (b) upon proof to the satisfaction of the Court that fraud has been committed by a debtor or creditor in respect of an award which has been lodged as aforesaid or in respect of any matter

relating either directly or indirectly to such award,
 the Court may make an order directing the rectification of the award subject to such terms, conditions and directions as the Court may think fit.

(2) Upon the making of an order under subsection (1) the award shall be amended in accordance with the terms of the order and shall be enforced as amended.

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

- (a) the Evidence Law,
- (b) the Courts of Justice Law, and
- (c) the Criminal Procedure Law,

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.
 Cap. 9.
 Cap. 8.
 Cap. 155.

42. Subject to any Rules made under this Law, no advocate as defined in the Advocates Law, 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.
 Cap. 2.

43. A copy of any order made by the Board under section 18 (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.

44. 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 Criminal Code.

Certain persons deemed to be persons employed in the public service.
 Cap. 154.

45. All proceedings under this Law shall be deemed to be judicial proceedings within the meaning and for the purposes of the Criminal Code.

Proceedings deemed to be judicial proceedings.
 Cap. 154.

46. Notwithstanding anything contained in any other Law, when the period of limitation is calculated for any

Extension of period of limitation.

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.

Negotiability
of awarded
amounts.

47. The right to receive any amount payable under an award shall be assignable in manner prescribed by Rules made under this Law.

Offences and
penalties.

48. (1) Any person who—

- (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 inquiry made under section 17 ; or
- (b) intentionally produces before the Board any false copy or translation of a document ; or
- (c) falsely personates another and 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.

Power to
make Rules.

49. (1) The Governor in Council may make Rules to be published in the Gazette for carrying out the purposes of this Law.

(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 16 (2), section 18 (1) and section 27 (2), and the manner in which a general notice under section 18 (1) shall be published ;
- (g) the marking of original documents produced under section 19 (2) ;
- (h) the amicable settlement by the Board of debts under section 20 ;
- (i) the summoning and examination by the Board of parties and their witnesses and the production of documents under section 21 (1) ;
- (j) the determination by the Board under section 23 (2) of the amount of a debt ;
- (k) the settlement of debts by the Board under section 24 ;
- (l) the declaration by the Board under section 26 (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 27 (1) (e) ;
- (n) the period within which an application under the proviso to section 18 (3) shall be made ;
- (o) the distribution of sale proceeds and the proceedings under section 31 ;
- (p) the manner of giving notice to a Court of law under section 34 ;
- (q) the manner of attachment of immovable property under section 37 ;

- (*r*) the manner of review under section 39 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 43 of an order made by the Board under section 18 (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.

Saving.

50. Notwithstanding any of the provisions in section 27 (1) (*g*) or section 29 (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.

Provisions
of this Law
to prevail.

51. Subject to the provisions of section 50, 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.