THE KERALA FARMERS' DEBT RELIEF COMMISSION ACT, 2006

(ACT 1 OF 2007)

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[Translation in English of "2006-ലെ കേരള കർഷക കടാശ്വാസ കമ്മീഷൻ ആക്ട്" published under the authority of the Governor]

ACT 1 OF 2007 *

THE KERALA FARMERS' DEBT RELIEF COMMISSION ACT, 2006

An Act to provide relief to those farmers who are in distress due to indebtedness, by constituting a Commission with power to pass awards after adjudication and to recommend appropriate measures for the redressal of the grievances of such farmers through conciliation and negotiation and for matters connected therewith or incidental thereto

Preamble —WHEREAS the benefits conferred by the Kerala Agricultural Debtors' (Temporary Relief) Act, 2001 (19 of 2001) are available only in respect of debts incurred by farmers before the 29th December, 2001, on which date the said Act came into force,

AND WHEREAS, even after the said date the farmer indebtedness in the State continued to be on the increase due to various factors;

AND WHEREAS, certain districts in the State are afflicted by severe distress due to the agrarian crisis, and it ruined many farmers financially and in some cases led to suicide,

AND WHEREAS, several suits and other proceedings have been filed in courts, tribunals and other authorities for the recovery of debts accrued from farmers,

AND WHEREAS, it is expedient to provide relief to the farmers who are in distress due to indebtedness, by constituting a Commission with power to pass awards after adjudication and to recommend appropriate measures for the redressal of the grievances of such farmers through conciliation and negotiation and for matters connected therewith or incidental thereto;

BE it enacted in the Fifty-seventh year of the Republic of India as follows:—

1. *Short title and commencement* —(1) This Act may be called the Kerala Farmers' Debt Relief Commission Act, 2006.

(2) It shall come into force at once.

34/2504/2010/DTP

* Received the assent of Governor on the 18th January, 2007 and published in the Kerala Gazette Extraordinary No 106 dated 18th January, 2007

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

(i) "agriculture" includes horticulture, farming and growing of medicinal plants, crops and intercrops, fruits, vegetables, flowers, grass, fodder grass and trees or any kind of cultivation of soil, conducting nursery, breeding and keeping of livestock including fish, mussel, bees, silkworm, poultry, duck, cattle or pig and the use of land for agriculture allied activities or any other agricultural purposes;

(ii) "agricultural labourer" means a person who, in consideration of the wages payable to him by a landowner, works on the agricultural land of such landowner or does any other agricultural operation,

(iii) "appropriate level of debt" means the amount determined by the Commission as repayable by the debtor under clause (b) of sub-section (1) of section 5,

(iv) "Commission" means the Kerala State Farmers' Debt Relief Commission constituted under section 3,

(v) "Co-operative Society" means a society registered or deemed to have been registered under the Kerala Co-operative Societies Act, 1969 (21 of 1969),

(vi) "creditor" means any person engaged in money lending, whether under a licence or not and includes his heirs, legal representatives, assignees, co-operative society and any other person as may be notified by the Government;

(vii) "debt" means any liability, whether secured or unsecured due from a farmer on or before the commencement of this Act whether payable under a contract, or under a decree or order of any Court or Tribunal, or otherwise, and includes,

(a) any sum payable to,—

(i) an institutional creditor,

(ii) a co-operative society,

(b) any sum borrowed by a farmer from the creditor;

But does not include any loan amount taken by the farmer for commercial purposes or luxury other than agricultural allied commercial purposes, to augment his income and the amount payable to Central or State Governments or other State Governments or Governments of Union Territories and the amount due to

Local Self Government Institutions, Statutory Bodies, Central or State Public Sector Undertakings and other Institutions as may be specified by the Government by notification;

(viii) "district" means a revenue district,

(ix) "distress affected area" means revenue district or districts or part thereof in the State, declared by the Government as per Section 6, for the purpose of this Act, on the recommendations of the Commission;

(x) "distress affected crop" means any crop or crops of the State declared by the Government as per section 6 on the recommendation of the Commission, for the purpose of this Act;

(xi) "distress affected farmer" means a farmer declared as such by the Commission and includes agricultural labourer for the purpose of this Act;

(xii) "fair rate of interest" means the rate of interest determind by the Commission under clause (b) of sub-section (1) of section 5 of this Act;

(xiii) "farmer" means a person who holds whether as owner, licensee, mortgagee in possession, oral lease, Government land lease "Kuthakapattam" or partly in one capacity and partly in another with possession of an extent of land not exceeding four hectares and whose principal means of livelihood is agriculture and whose annual income does not exceed rupees two lakhs and includes an agricultural labourer, Kudumbasree and self help group units doing cultivation by taking over agricultural land on lease agreement condition,

(xiv) "financial institution" means any financial institution constituted by or under any Central Act, State Act for the time being in force and owned and controlled by the Government,

(xv) "Government" means the Government of Kerala;

(xvi) "institutional creditor" means the State Bank of India or any Subsidiary Bank within the meaning of clause (k) of section 2 of the State Bank of India (Subsidiary Bank) Act, 1959 or any Scheduled Bank;

(xvii) "interest" means any amount payable in excess of the principal amount borrowed or pecuniary obligation incurred, by whatsoever name such amount may be called, whether the same is expressly mentioned or not in the document or contract, if any,

(xviii) "member" means a member of the Commission and includes the Chairman,

(xix) "penal interest" means any amount payable in excess of interest on a debt;

(xx) "prescribed" means prescribed by rules under this Act,

(xxi) "principal amount" means the amount originally advanced together with the amount, if any, as has been subsequently advanced, notwithstanding any stipulation to treat any interest as capital and notwithstanding that the debt has been renewed, whether by the same farmer or by his heirs, assignees, or legal representatives or by any other person acting on his behalf or on his interest, and whether in favour of the same creditor or his heirs, assignees or legal representatives or of any other person acting on his behalf or on his interest,

(xxii) "Secretary" means the Secretary to the Commission appointed under sub-section (4) of Section 3,

(xxiii) "State" means the State of Kerala

3. *Constitution of the Commission* —(1) The Government shall, as soon as may be after the commencement of this Act, by notification in the Gazette, constitute a Commission by the name, "the Kerala State Farmers' Debt Relief Commission", for the purpose of exercising the powers and performing the functions under this Act

(2) The Commission shall consists of five members, namely —

(i)	a retired High Court Judge	Chairman
(ii)	an agricultural expert	Member
(iii)	two representatives of farmers	Members
(iv)	a person working in connection with economic/co-operative sector	: Member

(3) The Chairman and Members shall be nominated by the Government

(4) The Government may, appoint a Secretary and other staff as may be necessary, to assist the Commission in such manner as may be prescribed

(5) In the discharge of their duties, the Secetary and other staff referred to in sub-section (4) shall be subject to the administrative control of the Chairman

4 *Term of the Commission and conditions of service of the members* — (1) The term of the commission shall be 3 years.

Provided that, the Government may extend such period, if deem necessary.

(2) A member may, by writing under his hand and address to the Government, resign his office at any time

(3) A vacancy arising by reason of resignation of any member of the Commission under sub-section (2) or otherwise shall be filled up in accordance with the provisions contained in section 3 of this Act.

Provided that the person so appointed shall hold office only for the remaining period of term of the person, in whose place he is appointed

(4) Government may remove any member, if he,—

(a) is declared as undischarged insolvent,

(b) becomes incapable of continuing as such, due to physical or mental disability,

(c) becomes unsound mind and stands so declared by a court of competent jurisdiction;

(d) has been convicted for an offence, which in the opinion of the Government involves moral turpitude or financial irregularities;

(e) has, in the opinion of the Government, abused his official position so as to render his continuance in office prejudicial to public interest.

Provided that the person may be given an opportunity of being heard, before proceeding as such

(5) The Commission shall regulate its own procedure for the conduct of its business

(6) The salary and allowances and the other conditions of service of the Chairman and members shall be, as may be prescribed

5 *Powers and Functions of the Commission* —(1) The Commission shall have all such powers as are necessary for achieving the objects of this Act, and in particular,—

(a) to recommend to the Government either *suo motu* or on application, after such enquiry as it may deem fit and subject to such general guidelines as may be prescribed by Government to declare a district or districts or part thereof or a crop or crops or a farmer, as distress affected area, distress affected crop or distress affected farmer as the case may be;

(b) to fix, in the case of creditors other than institutional creditors, a fair rate of interest and an appropriate level of debt, to be payable as the Commission may consider just and reasonable by a farmer declared as distress affected or related to an area or crop declared as distress affected area or distress affected crop as per section 6 as the case may be,

(c) to undertake conciliation for settlement of disputes between indebted farmers and creditors, other than institutional creditors, on the basis of the fair rate of interest and appropriate level of debt fixed under clause (b),

(d) to adjudicate disputes between farmers described in clause (b) and creditors, other than institutional creditors, and to pass awards which shall be binding on both parties:

Provided that before passing an award as per this clause a creditor shall be given a reasonable opportunity of being heard.

(e) to enter into negotiations with the creditors for loan waiver, interest rate relief, loan rescheduling or loan moratorium to farmers described in clause (b),

(f) to recommend to the Government regarding the extent and the manner in which the debt relief to be granted to the farmers;

(g) to recommend to the Government to take over the entire or partial debt and exonerate the farmers, from the effects of the debt,

(h) to recommend to the Government to do such acts as may be necessary to ensure that future credit requirements of the farmers are met through such agencies, as may be prescribed,

(i) to make periodical reports to the Government generally on any matter pertaining to farmer indebtedness, and

(j) to perform such other functions and exercise such other powers, as may be prescribed

(2) Issue orders keeping in abeyance the repayment of all debts of farmers described in clause (b) of sub-section (1) to the creditors, other than institutional creditors, considering the nature of crops and crop loss, for a period not less than one year but not more than 3 years

Provided that such orders shall be subject to the awards and directions under sub-section (1)

(3) Notwithstanding anything contained in any other provisions of this Act, any debt relief granted to a farmer by way of waiver of principal, interest and penal interest, if any shall not exceed seventy five per cent if such debt is fifty thousand rupees or less and fifty per cent, if such debt exceeds fifty thousand rupees, arrived at after settlement or rupees one lakh whichever is less

(4) An award passed by the Commission under clause (d) of sub-section (1) shall be final and shall not be called in question in any court

(5) The awards of Commission under clause (d) of sub-section (1) shall be executed under the provisions of the Code of Civil Procedure, 1908 (Central Act 5 of 1908) as if it is decree of a Civil Court

(6) The Commission shall, for the purpose of exercising the powers conferred by or under this Act, have all the powers of a Civil Court while trying a suit under the Code of Civil Procedure, 1908 (Central Act 5 of 1908), in respect of the following matters, namely —

(a) summoning and enforcing the attendance of any person and examining him on oath,

(b) requiring the discovery and production of any documents,

(c) receiving evidence on affidavit;

(d) issuing commission for the examination of witnesses or for local investigation,

(e) inspecting any property or thing concerning which any decision has to be taken,

(f) requisitioning of any public record or copy thereof from any court, authority or office; and

(g) any other matter which may be prescribed

6. *To declare as distress affected area or distress affected crop* —As soon as may be, after the receipt of a recommendation under clause (a) of sub-section (1) of section 5, the Government shall declare, as the case may be, as a distress affected area or a distress affected crop

7. *Application for debt relief*—A farmer claiming any debt relief under this Act shall file an application before the Commission in the manner and in the form, as may be prescribed

8 *Sittings of the Commission.*—(1) The Commission shall hold its sittings at such places and at such times as may be determined by it·

Provided that the Commission shall hold its sittings in the respective district or districts declared as distress affected areas to consider matters relating to the distress affected areas

(2) The quorum for the sitting of the Commission shall be three

(3) The Commission may in appropriate cases it deems fit, hold sittings in districts by constituting a Bench consisting of two or more members.

Provided that a member representing the farmer in the Commission shall be included in the Bench so constituted:

Provided further that in case of the Bench constituted by the Commission, the quorum for the meeting of the Bench shall be the total number of members of that Bench or two whichever is less

9 *Special provisions in respect of settlement of certain loans taken by farmer* —(1) Notwithstanding anything contained in this Act or in any other law or contract or decree or order of any Court or Tribunal, a member authorised by the Commission may initiate negotiation to,—

(a) reschedule short-term loans into medium term loans and medium term loans into long term loans, in respect of the debts availed of by a farmer described in clause (b) of sub-section (1) of section 5, from commercial banks or other scheduled banks, or

(b) provide necessary facilities for one time settlement of agriculture loans falling under the category of non-performing assets, as per the guidelines issued by the Reserve Bank of India, or

(c) waive penal interest as per the norms fixed by the Reserve Bank of India, with the concurrence of the Reserve Bank of India and the National Bank for Agriculture and Rural Development

(2) Where any settlement of loan is made under sub-section (1), the said farmer shall be bound to repay such loan to the bank concerned, within the period allowed by such bank

10 *Re-scheduling of loans taken by a farmer from financial institutions* — (1) Notwithstanding anything contained in this Act or in any other law or contract or decree or order of any Court or Tribunal, the

Commission may reschedule the recovery of loans availed by a farmer described in clause (b) of sub-section (1) of section 5 on or before the date of declaration as a distress affected area, distress affected crop under section 6 or a distress affected farmer from any financial institution notified by the Government for this purpose.

(2) Where the rescheduling of the loan is made under sub-section (1), the farmer shall be bound to repay such loan with interest to the financial institution concerned within the period allowed by Commission:

Provided that the Commission may, on application by the farmer, exempt him, by order, from the repayment of the same for the period so rescheduled, for the reasons to be recorded:

Provided further that the farmer shall be bound to repay the same on such later dates, so fixed by the Commission.

11 *Bar of suits, applications and other proceedings.*—No suit for recovery of debt shall be instituted, or application for execution of a decree in respect of a debt shall be made against a farmer described in clause (b) of sub-section (1) of section 5 and no appeal, revision petition or application for review against any decree or order in any such suit or application shall be presented or made against such a farmer in any Civil Court, or Tribunal or other authority, and such suits, applications, appeals and petitions instituted or made against such a farmer before the date of declaration of a district or part thereof as a distress affected area and pending on such date shall stand stayed for such period as the Commission may recommend in that behalf.

12. *Payment of debt in instalments.*—(1) Notwithstanding anything contained in any law or contract or in any decree or order of any Court or Tribunal, a farmer described in clause (b) of sub-section (1) of section 5 may discharge his debts in suitable instalments together with fair rate of interest as recommended by the Commission on the principal amount outstanding at the time of each payment, in the manner as may be directed by the Commission and on payment of the same in the manner directed by the Commission, the whole debt shall be deemed to be discharged.

(2) Where may instalment of a debt is not paid on the due date as directed by the Commission, the creditor shall be entitled to recover the same in the manner as may be determined by the Commission.

Provided that, before taking decision by the Commission under this section, the farmer shall be given an opportunity of being heard

13 *The debt shall be deemed as fully repaid* —Notwithstanding anything contained in this Act or in any other law or contract or in any decree or order of any Court or Tribunal, if a farmer has repaid the principal amount taken as loan by him and an amount equal to it to a creditor other than institutional creditor, the debt shall be deemed to be fully discharged by the said farmer

14 *Annual Report to be laid before the Legislative Assembly* —(1) The Commission shall prepare a report of its function of that year under this Act and the same shall be submitted to Government in such form on or before such date as may be prescribed

(2) The Annual Report submitted to the Government by the Commission under sub-section (1) shall be laid before the Legislative Assembly, as soon as may be, after the same is received by the Government

15 *Accounts and Audit* —(1) The Commision shall maintain proper accounts and other relevant records and prepare an annual statement of accounts, in such form as may be prescribed

(2) The accounts of the Commission shall be audited annually and the audited report shall be placed before the Legislative Assembly.

16. *Overriding effect of Act* —The provisions of this Act or any rule or order made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any law, other than this Act, or any instrument having effect by virtue of any law other than this Act

17 *Bar of jurisdiction of Civil Court* —No civil court shall have jurisdiction to settle, decide or deal with any question or to determine any matter which is by or under the Act or the rule made thereunder are required to be settled, decided or dealt with or to be determined by the Commission or the Government

Provided that nothing in this section shall be applicable to the execution proceedings under sub-section (5) of section 5

18 *Members of the Commission shall be public servants* —Every member of the Commission nominated under sub-section (1) of section 3 and the Secretary and other staff appointed under sub-section (4) shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860 (Central Act 45 of 1860).

19 *Protection of action taken in good faith.*—No suit or legal proceeding shall lie against any member of the Commission or Secretary or other officers for anything which is done or purported to be done in good faith under this Act

20 *Power to remove difficulties* —(1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order, as occasion requires, do anything not inconsistent with the provisions of this Act, which appears to them to be necessary for the purpose of removing the difficulty·

Provided that no such order shall be made after the expiry of two years from the date of commencement of this Act

(2) Every order made under this section shall be laid before the Legislative Assembly

21 *Power to make rules.*—(1) The Government may, by notification in the Gazette, make rules for the purpose of carrying into effect the provisions of this Act.

(2) Every rule made under this section, shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions and if before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that the rules should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.