

# **THE FARMERS' FREEDOM FROM INDEBTEDNESS BILL, 2018**

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## **KISAN KARZADARI MUKTI VIDHEYAK, 2018**

## **THE FARMERS' FREEDOM FROM INDEBTEDNESS BILL, 2018**

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### **BILL**

*To confer a right on indebted farmers to obtain an immediate one-time complete loan waiver; a right on all farmers to obtain institutional credit; a provision for farmers suffering from natural disasters or distress to obtain protection from debt trap; and the subsequent constitution of a National Commission and State Commissions with power to pass awards and recommend appropriate measures for the relief of farmers from disasters and distress; and matters connected therewith and incidental thereto.*

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### **PREAMBLE**

WHEREAS, the nation is indebted to farmers for ensuring food security and food sovereignty for the nation;

AND WHEREAS thousands of farmers are committing suicide every year across the nation due to agrarian distress and related indebtedness, adding up to more than three lakh farm suicides in the past twenty years;

AND WHEREAS the government is obligated to prevent farmer suicides and distress under Article 21 of the Constitution, particularly as the causes of farm suicides are related to government policies;

AND WHEREAS safeguarding the Right to Livelihood is an essential part of the Right to Life under Article 21 of the Constitution of India;

AND WHEREAS, farm commodity prices have been kept low as a policy measure with several regulations on marketing, and the recommendation of the National Farmers' Commission to fix the Minimum Support Prices with at least 50% profit margin over and above the comprehensive cost of cultivation has not been implemented for the past twelve years, thus adversely affecting farmers' net returns from agriculture reflected in official surveys with a vast majority of farmers having negative net returns, thereby debts being accumulated by farmers;

AND WHEREAS, the successive governments have not effectively fulfilled their responsibilities to provide comprehensive institutional credit facilities, to provide due recognition and full inclusion to many categories of cultivators including landless and lessee cultivators, women farmers and tribal farmers, to execute effective risk insurance and disaster relief measures, to keep input prices in check, to create large scale shift from high external input agriculture to sustainable agriculture, and to build infrastructure, all of which have in turn resulted in losses for farmers leading to debt;

AND WHEREAS, many districts and crops in the country are afflicted by severe distress due to the agrarian crisis, and it ruined many farmers financially and led to suicides;

AND WHEREAS, several suits and other proceedings have been filed in courts, tribunals and other authorities for the recovery of debts accrued from farmers, accompanied by harassment and public shaming by creditors;

AND WHEREAS, it is expedient to provide relief to the farmers who are in distress due to indebtedness by providing a one-time immediate and complete loan waiver to all farmers;

AND WHEREAS it is necessary to reform the institutional credit support system to prevent a future debt trap for the farmers, by providing access to institutional credit as a right to all categories of farmers, and by providing protection from debt trap to farmers suffering from losses due to disasters and distress;

AND WHEREAS the Supreme Court has provided guidance for harmonisation of Entry 45 of List I of the Seventh Schedule (Union List) and Entry 30 of List II of the Seventh Schedule (State List);

AND WHEREAS the conditions of agrarian crisis and indebtedness of farmers as well as increasing incidence of natural calamities due to climate change are common in various states across the nation and require to be addressed at the national level, with resource support from the Centre and implementation at both the national and state levels;

NOW, THEREFORE, Be it enacted by Parliament in the Sixty-eighth year of the Republic of India, as follows :-

# THE FARMERS' FREEDOM FROM INDEBTEDNESS BILL, 2018

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## BILL

*To confer a right on indebted farmers to obtain an immediate one-time complete loan waiver; a right on all farmers to obtain institutional credit; a provision for farmers suffering from natural disasters or distress to obtain protection from the debt trap; and the subsequent constitution of a National Commission and State Commissions with power to pass awards and recommend appropriate measures for the relief of farmers from disasters and distress, and matters connected therewith and incidental thereto.*

BE it enacted by the Indian Parliament in the sixty-eighth Year of the Republic of India as follows:-

### CHAPTER I

#### PRELIMINARY: TITLE, EXTENT AND DEFINITIONS

1.	<p>(1) This Act may be called the <b>Farmers' Freedom from Indebtedness Act, 2018</b>.</p> <p>(2) It shall come into force immediately upon receiving Presidential assent.</p> <p>(3) It extends to the whole of India.</p>	Short title, extent, and commencement
2	<p>In this Act, unless the context otherwise requires,-</p> <p>(a) “Agriculture” includes cultivation of seasonal and annual crops, horticulture, farming and growing of medicinal plants, crops and intercrops, plantation crops like coconut, arecanut, vanilla and pepper, tuber crops like tapioca, fruits, vegetables, milk production, gathering of minor forest produce, fishing, production of flowers, grass, fodder grass and trees or any kind of cultivation of soil, raising nursery, breeding and keeping of livestock including fish and mussels, bees, silkworm, poultry, duck, cattle or pigs, or any other primary production activity;</p> <p>(b) “Agricultural expert” includes a person with at least 15 years of experience of policy making or management or field work in agriculture-related sectors including rural banking services for agriculture;</p> <p>(c) “Commission” means the National Farmers' Distress and Disaster Relief Commission set up under Chapter V of this Act;</p>	Definitions

(d) “Debt” means any liability, including that incurred for agricultural production, improvement of production infrastructure and services (cattleshed, pump house, farm machinery and equipment, processing, value addition etc.), basic needs of the household like survival, health and education, whether secured or unsecured, due from a farmer, whether payable under a contract, or under a decree or order of any Court or tribunal or otherwise, and includes,

And includes any sum payable to

- an institutional creditor; and / or
- a private creditor;

But does not include any loan amount taken by the farmer for commercial purposes or luxury other than agricultural and allied purposes;

(e) “District” means a revenue district;

(f) “Distress affected area” means revenue district or districts or part thereof in any state or several states or the entire country, declared by the Government as per Sections 8 and 19 on the recommendations of the National or State Commission for the purpose of this Act, where farmers are affected by acute distress due to reasons including natural calamities, failure of crop due to extensive pest or disease attack, widespread supply of adulterated/spurious inputs, extensive destruction by wild animals, price crash, and such reasons;

(g) “Distress affected crop” means any crop or crops of any state or the entire country, declared by the Government as per Sections 9 and 20 on the recommendation of the National or State Commission for the purpose of this Act, whose cultivators are affected by acute distress due to reasons including natural calamities, failure of crop due to extensive pest or disease attack, widespread supply of adulterated/spurious inputs, extensive destruction by wild animals, price crash, and such reasons;;

(h) “Distress affected farmer” means a farmer declared as such by the Commission (National or State), or any farmer who is practicing agriculture in a Distress affected area as declared by the Commission, or who is cultivating a Distress affected crop as declared by the Commission;

(i) “Farmer” means a person actively engaged in the economic and/or livelihood activity of growing crops, or producing other primary agricultural commodities with or without land

	<p>ownership, and will include all agricultural operational holders, cultivators, sharecroppers, tenants, lessee cultivators, tribal farmers, agricultural labourers, poultry and livestock rearers, fisherpeople, beekeepers, pastoralists, non-corporate planters of plantation crops and planting labourers as well as forest-gatherers. Farmer shall include women farmers and Self-Help Groups doing cultivation on collectively owned or leased-in land.</p> <p>(j) “Financial institution” means any financial institution constituted by or under any Central Act, State Act for the time being in force and registered with the government, including non banking financial institution;</p> <p>(k) “Government” means the Central Government;</p> <p>(l) “Institutional creditor” means Scheduled Banks in the public and private sector, Regional Rural Banks, Cooperative Societies, Non Banking Financial Companies, Micro-Finance Institutions and includes 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 other Scheduled Bank;</p> <p>(m) “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;</p> <p>(n) “Member” means a member of the Commission (National or State) and includes the Chairperson;</p> <p>(o) “Penal interest” means any amount payable in excess of interest on a debt;</p> <p>(p) “Prescribed” means prescribed by rules under this Act;</p> <p>(q) “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/her heirs, assignees, or legal representatives or by any other person acting on his/her behalf or on his/her interest, and whether in favour of the same creditor or his/her heirs, assignees or legal representatives or of any other person acting on his/her behalf or in his/her interest;</p> <p>(r) “Private creditor” means any person engaged in lending money, whether under a licence or not, or providing credit in the form of inputs and implements, and includes his/her heirs, legal</p>	
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	<p>representatives, assignees, and any other person as may be notified by the Government;</p> <p>(s) “Production Loan” means short term loan borrowed for meeting the running or routine costs of producing an agricultural commodity;</p> <p>(t) “Secretary” means the Secretary to the Commission appointed under Section 6 (6) at the national level, and Section 17 (6) at the state level.</p> <p>(u) “State Commission” means the State Farmers’ Distress and Disaster Relief Commission set up under Chapter VI of this Act.</p>	
	<p><b>CHAPTER II</b></p> <p><b>ONE-TIME IMMEDIATE LOAN WAIVER</b></p>	
3	<p>(1) Every farmer, including all categories as defined in Section 2 (i), shall be entitled to an immediate and unconditional waiver of the entire amount of outstanding institutional debt, as defined in Section 2(d), as of 1<sup>st</sup> of April, 2018;</p> <p>(2) Farmers who have repaid debt from the financial year preceding the cut-off period of sub-section (1) above shall have their accounts credited with the amount of scale of finance for the crop grown and interest paid, within 3 months of the commencement of this Act;</p> <p>(3) The loan waiver shall be implemented in a single instalment by the Government within 3 months of the commencement of this Act;</p> <p>(4) The government shall ensure that all farmers get fresh loans in the ensuing season without any impact due to the implementation of loan waiver;</p> <p>(5) The Government shall provide sufficient funds to the State governments to implement waiver of loans from cooperative banks;</p> <p>(6) All private debt of farmers, as defined in Section 2(d), stand null and void, as on date mentioned in sub-section (1), and no proceeding or suit will lie against the farmer for the principal or interest, provided further that,</p> <ul style="list-style-type: none"> <li>(i) a private creditor may file a claim for recovery from the government, of the principal amount of such a loan after establishing the existence of the loan as per prescribed procedure and subject to prescribed requirements and limits, provided that there shall be no recovery of debt from the farmer;</li> <li>(ii) the Government shall issue a notification for implementation of this subsection immediately after the commencement of the Act;</li> </ul>	Right of farmer to receive one-time immediate and complete loan waiver

	<p>(7) The Government shall take up special measures for providing relief on priority basis to farm suicide affected families, also within 3 months of the commencement of this Act, which shall include</p> <ul style="list-style-type: none"> <li>(i) complete waiver of outstanding loans,</li> <li>(ii) return of any land, equipment or other asset that may have been attached or confiscated by any institutional or private creditor in lieu of debt, and</li> <li>(iii) an appropriate livelihood support as per prescribed guidelines.</li> </ul>	
	<b>CHAPTER III</b> <b>RIGHT TO ACCESS INSTITUTIONAL CREDIT</b>	
4 .	<p>(1) Every farmer, including all categories as defined in Section 2 (i), shall be entitled to production loans from institutional creditors at subsidized interest rates;</p> <p>Provided further that,</p> <ul style="list-style-type: none"> <li>(i) production loans up to Rs.100,000 shall be available to the farmer at zero interest rate;</li> <li>(ii) the amount of production loan for crop cultivation shall be as per prescribed scale of finance for the crop being cultivated with a small consumption loan component;</li> </ul> <p>(2) Every cultivator, who may be a lessee farmer, tenant farmer, share-cropper, woman farmer, tribal farmer or a farmer of such category who is engaged in cultivation of crops on an extent of land but does not possess the title for that land, shall be registered and issued a Kisan Credit Card, within 6 months from the commencement of this Act;</p> <p>Provided further that,</p> <ul style="list-style-type: none"> <li>(i) the cultivator shall be entitled to production loan as per subsection (1) above, without any collateral security other than hypothecation of crop;</li> <li>(ii) the Kisan Credit Card shall be issued for a minimum period of 5 years, and may be renewed after 5 years or modified during the period of validity, as per prescribed procedure.</li> </ul>	Right of every farmer to access institutional credit
	<b>CHAPTER IV</b> <b>DEBT RELIEF FOR FARMERS AFFECTED BY DISTRESS AND DISASTERS</b>	
5 .	<p>(1) When a natural disaster or calamity is declared by the Government, the farmer shall be entitled to relief from repayment of the production loan to the extent of the loss of crop or other</p>	Debt Relief for farmers affected by Distress and

	<p>production, with fresh loans issued for the next season within one month;</p> <p>Further specified that</p> <p>(a) Loans other than production loans shall be rescheduled for 3 years with interest rates not exceeding 2%;</p> <p>(b) in case of farmers who are affected by two consecutive years of disaster, the Government is obligated to waive the loan in full;</p> <p>(2) A National Farmers' Distress and Disaster Relief Commission shall be established at the national level, and State Farmers' Distress and Disaster Relief Commissions established in the states, as specified in Chapter V and Chapter VI, for the purpose of providing appropriate debt relief for farmers who are facing particular conditions of distress or disaster in a particular area in a particular year, and overseeing access to credit to all cultivators;</p>	Natural Disasters
	<p><b>CHAPTER V</b></p> <p><b>NATIONAL FARMERS' DISTRESS AND DISASTER RELIEF COMMISSION</b></p>	
6.	<p>(1) The Government shall, within six months after implementing the immediate loan waiver under Chapter II, Section 3 and within a maximum of twelve months from the commencement of this Act, by notification in the Gazette, constitute a Commission by the name, "the National Farmers' Distress and Disaster Relief Commission", for the purpose of exercising the powers and performing the functions and responsibilities defined in Section 8;</p> <p>(2) The Commission shall consist of nine members, namely:–</p> <ul style="list-style-type: none"> <li>(i) a retired Supreme Court Judge : Chairperson</li> <li>(ii) a retired High Court Judge : Member</li> <li>(iii) two agricultural experts including experts in rural banking for agriculture : Members</li> <li>(iv) four representatives of farmers, including leaders of farmers unions and persons with a proven record of having worked on farmers' issues : Members</li> <li>(v) a person with proven record of work with cooperative sector, farmer producer organizations, or agricultural banking : Member</li> </ul> <p>(3) The Chairperson and Members shall be nominated by the President of India on the recommendation of a Selection Committee consisting of (i) the Prime Minister of India who shall be the</p>	<p>Constitution of the Commission.</p> <p>Selection Committee to Nominate Commission</p>

	<p>Chairperson, (ii) the Leader of Opposition in Lok Sabha, or the leader of the single largest party or group in Opposition in Lok Sabha, and (iii) the Union Minister for Agriculture, after first seeking applications from eligible candidates through wide publicity by the Ministry of Agriculture and Farmers' Welfare;</p> <p>Provided further that a person shall be disqualified for appointment as a member if he or she</p> <ul style="list-style-type: none"> <li>(a) has been convicted and sentenced to imprisonment for an offence which involves moral turpitude; or</li> <li>(b) is an undischarged insolvent; or</li> <li>(c) is of unsound mind and stands so declared by a competent court; or</li> <li>(d) has been removed or dismissed from the service of the Government or a body corporate owned or controlled by the Government; or</li> <li>(e) has such other disqualifications as may be prescribed by the Government;</li> </ul> <p>(4) Such nominations shall take into consideration diversity in representation in terms of region, gender and social background including SC/ST, especially for sub-section (2) (iii)-(v) above;</p> <p>(5) Government shall ensure that no Member including Chairperson represents any financial, commercial or other interest which may prejudicially affect the discharge of his or her functions on the Commission, provided that no person associated with a farmers' organization may be disqualified on that ground alone;</p> <p>(6) The Government shall, appoint a Secretary and other staff as may be necessary, to assist the Commission in such manner as may be prescribed in addition to providing all infrastructure facilities required including office space and other facilities;</p> <p>(7) In the discharge of their duties, the Secretary and other staff referred in subsection (6) above shall be subject to the administrative control of the Chairperson.</p>	<p>Chairperson and Members</p> <p>Diversity in representation</p> <p>No conflict of Interest</p> <p>Appointment of Secretary and Staff</p>
7.	<p>(1) The term of the Commission shall be 5 years;</p> <p>Provided that, the Government shall re-constitute the Commission at least 10 months prior to the end of the tenure of the current Commission, and provided that the existing Commission may continue to function for upto one additional year if required till new Commission is constituted;</p>	Terms of the Commission

	<p>(2) A member may, by writing under his/her hand and address to the Government, resign his/her office at any time;</p> <p>(3) A vacancy arising by reason of resignation of any member of the Commission under subsection (2) above or otherwise shall be filled up in accordance with the provisions contained in Section 6 of this Act:</p> <p>Provided that the person so appointed shall hold office only for the remaining period of term of the person, in whose place s/he is appointed;</p> <p>(4) Government may remove any member, if s/he,--</p> <ul style="list-style-type: none"> <li>(a) is declared as undischarged insolvent/debtor;</li> <li>(b) becomes incapable of continuing as such, due to physical or mental disability;</li> <li>(c) becomes of unsound mind and stands so declared by a court of competent jurisdiction;</li> <li>(d) has been convicted for an offence, which in the opinion of the Government involves moral turpitude or financial irregularities;</li> <li>(e) has, in the opinion of the Government, abused his/her official position so as to render his/her continuance in office prejudicial to public interest;</li> </ul> <p>Provided that the person may be given an opportunity of being heard, before proceeding as such;</p> <p>(5) The Commission shall regulate its own procedure for the conduct of its business based on principles of participation, transparency, equity, promptness, dignity and worth;</p> <p>(6) The salary and allowances, and the other conditions of service of the Chairperson and members shall be, as may be prescribed.</p>	<p>Resignation of Member</p> <p>Vacancies of Membership</p> <p>Removal of a Member</p> <p>Procedure for conduct of business</p>
8.	<p>(1) The National Commission shall exercise powers specified in subsection (2) in those states where a State Farmers' Distress and Disaster Relief Commission under this Act or an equivalent Commission under an existing State Debt Relief Act is not in operation, and for those distress and calamity situations which affect two or more states, and to make recommendations to the Central government for farmers' distress and disaster relief;</p> <p>(2) In particular, the Commission shall have the powers</p> <ul style="list-style-type: none"> <li>(a) to recommend to the Government either <i>suo motu</i> or on application to declare a district or districts or part thereof as</li> </ul>	<p>Scope of National Commission and its Powers and functions</p>

	<p>distress affected area, or to declare a crop or crops as distress affected crop, subsequent to which the government is obligated to provide debt relief to related farmers as recommended by the Commission;</p> <p>Provided that</p> <ul style="list-style-type: none"> <li>(i) the recommendation may be made after such enquiry as it may deem fit including drawing upon required expertise from a committee of competent experts, and subject to such general guidelines as may be prescribed by Government,</li> <li>(ii) the Commission shall submit its recommendations to the Government within 1 month of taking <i>suo motu</i> notice or on application;</li> <li>(iii) when the Government in any state declares certain regions, districts or parts of district as affected by natural calamity or disaster, those regions, districts or parts of district shall be considered as distress affected area by the Commission under this Act;</li> </ul> <ul style="list-style-type: none"> <li>(b) to declare a farmer as distress affected in all those cases where individual farmers have applied to the Commission following due procedure laid down and subject to enquiry and norms as laid down, in those cases where such farmers do not have a State Commission to apply to; provided further that the Commission completes its inquiry within 3 months after receipt of application;</li> <li>(c) to issue orders as specified in Section 10;</li> <li>(d) to exercise powers of Civil Court as specified in Section 11;</li> <li>(e) to oversee the implementation of Section 4 ensuring access to institutional credit to all farmers, and to redress grievances thereof, based on application by farmers or any associations or organizations representing farmers, registered or unregistered;</li> <li>(f) to make recommendations to the Government about the extent and the manner in which any future debt relief may be granted to the farmers;</li> <li>(g) to recommend to the Government regarding mechanisms for one time debt-swapping of non-institutional loans of distressed farmers and oversee the implementation of the same, where State Commissions are not functional;</li> </ul>	
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	<p>(h) to recommend to the Government to take such action as may be necessary to ensure that future credit requirements of the farmers are met through such agencies, as may be prescribed;</p> <p>(i) to make periodical reports to the Government generally on any matter pertaining to farmer indebtedness;</p> <p>(j) to refer any pertinent matters to State Commission for further inquiry and action as well as to examine for consideration the recommendations given by the State Commissions to the National Commission; and</p> <p>(k) to perform such other functions and exercise such other powers, as may be prescribed.</p>	
9.	<p>As soon as may be, but within a maximum time period of fifteen days after the receipt of a recommendation under Section 8(1)(a), the Government shall notify in the Official Gazette, an area or a crop as a distress affected area or a distress affected crop, as the case may be, and thereby initiate the debt relief powers of the Commission; provided further that all farmers practicing agriculture in a distress affected area as declared or cultivating the distress affected crop as declared, shall be considered distress affected farmers under this Act;</p>	Government to notify distress affected area or distress affected crop.
10.	<p>(1) A farmer claiming debt relief under this Act shall file an application before the National Commission if a State Commission is not existing or operational, in a manner and in the form as may be prescribed, and is entitled to obtain an injunction on further proceedings against herself/himself by creditors until the adjudication is complete; in all cases where State Commissions exist, the farmer shall file an application before the State Commission pertaining to her/his state;</p> <p>(2) Notwithstanding anything contained in this Act or in any other law or contract or decree or order of any Court or Tribunal, the Commission or any Bench of the Commission may pass order to:</p> <p>(a) obligate the Government to repay the debt of an individual distressed farmer or all related farmers to Crops or Areas declared as Distressed, against any creditor (private or institutional), based on prescribed guidelines for extreme distress;</p> <p>(b) reschedule short-term loans into medium term loans with zero interest rate, and medium term loans into long term loans at a maximum of two per cent interest rate, in respect of the debts availed of by a farmer from institutional creditors if the</p>	Provisions for orders for relief to distress affected farmers

	<p>indebted farmer is found to be Distressed, or is related to a Distressed Crop or Distressed Area;</p> <p>(c) 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, provided the farmer is ready for such settlement;</p> <p>(d) declare as discharged from a loan, any farmer who has repaid the principal amount taken by him or her;</p> <p>(e) a farmer to discharge his/her debts in suitable small instalments on the principal amount outstanding at the time of each payment, with the interest to be borne by the government;</p>	
11.	<p>(1) 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:-</p> <p>(a) summoning and enforcing the attendance of any person and examining him/her on oath;</p> <p>(b) ordering that no notices shall be issued, no coercive action or public shaming shall be exerted against the distressed farmer in any manner;</p> <p>(c) requiring the discovery and production of any documents;</p> <p>(d) receiving evidence on affidavit;</p> <p>(e) examination of witnesses;</p> <p>(f) issuing commission for the examination of witnesses or for local investigation;</p> <p>(g) inspecting any property or thing concerning which any decision has to be taken;</p> <p>(h) requisitioning of any public record or copy thereof from any court, authority or office; and</p> <p>(i) any other matter which may be prescribed.</p> <p>(2) An award passed by the Commission under Section 10 (2) shall be binding on the respondent.</p> <p>(3) The awards of Commission under Section 10 (2) 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, and accordingly, Title Deeds or any other documents pertaining to the loan with the</p>	Powers of a Civil Court

	<p>creditor have to be returned to the farmer, as the case may be within the specified time.</p> <p>(a) The awards of the Commission shall be executed within a specific time period of 30 days or otherwise, as specified in each award.</p> <p>(4) A farmer may obtain an Execution Decree from a Civil Court if the respondent party does not comply to the time limit.</p>	
12.	<p>(1) The Commission shall hold its sittings at such places and at such times as may be determined by it,</p> <p>Provided that the Commission may hold its sittings in the respective district/districts declared as distress affected areas to consider matters relating to the distress affected areas;</p> <p>(2) The quorum for the sitting of the Commission shall be ordinarily five, except as provided below in subsection (3);</p> <p>(3) The Commission may in appropriate cases it deems fit, hold sittings in states or districts by constituting a Bench consisting of two or more members,</p> <p>Provided that at least one member representing farmers in the Commission shall be included in the Bench so constituted;</p> <p>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.</p>	Sittings of the Commission
13.	<p>(1) 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 distress affected farmer described in Section 8 and 10 (1), 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;</p> <p>(2) No notices shall be issued, and no coercive action or public shaming shall be exerted against a distress affected farmer described in Section 8 and Section 10(1), for recovery of debt.</p>	Bar and Injunction on proceedings against a distress affected farmer.
14.	<p>(1) The Commission shall publish all relevant information including on applications handled, Awards passed, minutes of its meetings/sittings if any and other such material on its website;</p>	Transparent functioning, and Annual report to be laid before

	<p>(2) 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.</p> <p>(3) The Annual Report submitted to the Government by the Commission under sub-section (2) above shall be laid before the Parliament, as soon as may be, after the same is received by the Government.</p>	the Parliament.
15.	<p>(1) The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts, in such form as may be prescribed.</p> <p>(2) The accounts of the Commission shall be audited annually and the audited report shall be placed before the Parliament.</p>	Accounts and Audit.
	<p><b>CHAPTER VI</b></p> <p><b>STATE FARMERS' DISTRESS AND DISASTER RELIEF COMMISSION</b></p>	
16.	A State Farmers' Distress and Disaster Relief Commission (referred to herein after as State Commission) shall be established under this Act in every State, except in those states where a State Farmers' Debt Relief Act or an equivalent Act by any other name is operational at the commencement of this Act, under which such a Debt Relief Commission or an equivalent institution has already been established.	Establishment of State Farmers' Distress and Disaster Relief Commission
17.	<p>(1) The State Government shall, within 6 months after implementing the immediate and complete loan waiver in Section 3, but within a maximum period of 12 months of the commencement of this Act, by notification in the Gazette, constitute a Commission by the name, "the State Farmers' Distress and Disaster Relief Commission", for the purpose of exercising the powers and performing the functions under this Act.</p> <p>(2) The State Commission shall consist of nine members, namely:–</p> <ul style="list-style-type: none"> <li>(i) a retired High Court Judge : Chairperson</li> <li>(ii) two agricultural experts incl. experts in rural banking for agriculture : Members</li> <li>(iii) five representatives of farmers, including leaders of farmers unions and persons with a proven record of having worked on farmers' issues : Members</li> <li>(iv) a person with experience of working in the co-operative sector : Member</li> </ul>	Constitution of the State Commission by the State Government.

	<p>(3) The Chairperson and Members shall be nominated by the State Government on the recommendation of a Selection Committee consisting of (i) the Chief Minister of the State who shall be the Chairperson, (ii) the Leader of Opposition in the State Assembly, or the leader of the single largest party or group in Opposition in the State Assembly, and (iii) the Minister for Agriculture in the State government, after initially calling for applications with wide publicity, from eligible persons;</p> <p>Provided further that a person shall be disqualified for appointment as a member if he or she</p> <ul style="list-style-type: none"> <li>(a) has been convicted and sentenced to imprisonment for an offence which involves moral turpitude; or</li> <li>(b) is an undischarged insolvent; or</li> <li>(c) is of unsound mind and stands so declared by a competent court; or</li> <li>(d) has been removed or dismissed from the service of the Government or a body corporate owned or controlled by the Government; or</li> <li>(e) has such other disqualifications as may be prescribed by the Government.</li> </ul> <p>(4) Such nominations shall take into consideration diversity in representation in terms of region, gender and social background including SC/ST, especially for sub-section (2) (ii)-(iv) above;</p> <p>(5) Government shall ensure that no Member including Chairperson represents any financial, commercial or other interest which may prejudicially affect the discharge of his or her functions on the Commission, provided that no person associated with a farmers' organization may be disqualified on that grounds alone;</p> <p>(6) The Government shall, appoint a Secretary and other staff as may be necessary, to assist the State Commission in such manner as may be prescribed in addition to provision of office facilities and infrastructure for effective functioning.</p> <p>(7) In the discharge of their duties, the Secretary and other staff referred in subsection (6) shall be subject to the administrative control of the Chairperson.</p>	
18.	<p>(1) The term of the State Commission shall be 5 years each time:</p> <p>Provided that, the State Government shall re-constitute the State Commission at least 10 months prior to the end of the tenure of the current State Commission and provided that the existing State</p>	Terms of the State Commission

	<p>Commission may continue to function for upto one additional year if required till new State Commission is appointed.</p> <p>(2) A member may, by writing under his/her hand and address to the Government, resign his/her office at any time.</p> <p>(3) A vacancy arising by reason of resignation of any member of the State Commission under subsection (2) or otherwise shall be filled up in accordance with the provisions contained in section 14 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 s/he is appointed.</p> <p>(4) State Government may remove any member, if s/he,--</p> <ul style="list-style-type: none"> <li>(a) is declared as undischarged insolvent/debtor;</li> <li>(b) becomes incapable of continuing as such, due to physical or mental disability;</li> <li>(c) becomes of unsound mind and stands so declared by a court of competent jurisdiction;</li> <li>(d) has been convicted for an offence, which in the opinion of the State Government involves moral turpitude or financial irregularities;</li> <li>(e) has, in the opinion of the State Government, abused his/her official position so as to render his/her continuance in office prejudicial to public interest:</li> </ul> <p>Provided that the person may be given an opportunity of being heard, before proceeding as such.</p> <p>(5) The State Commission shall regulate its own procedure for the conduct of its business based on principles of transparency, participation, equity, dignity and worth.</p> <p>(6) The salary and allowances, and the other conditions of service of the Chairperson and members shall be, as may be prescribed.</p>	
19.	<p>(1) The State Commission shall have the following powers in particular.-</p> <ul style="list-style-type: none"> <li>(a) to recommend to the Government either <i>suo motu</i> or on application to declare a district or districts or part thereof as distress affected area, or to declare a crop or crops as distress affected crop, subsequent to which the government is obligated to provide debt relief to related farmers as recommended by the Commission;</li> </ul>	Powers and functions of the State Commission.

	<p>Provided that</p> <ul style="list-style-type: none"> <li>(i) the recommendation may be made after such enquiry as it may deem fit including drawing upon required expertise from a committee of competent experts, and subject to such general guidelines as may be prescribed by Government,</li> <li>(ii) the Commission shall submit its recommendations to the Government within 1 month of taking <i>suo motu</i> notice or on application;</li> <li>(iii) when the Government in any state declares certain regions, districts or parts of district as affected by natural calamity or disaster, those regions, districts or parts of district shall be considered as distress affected area by the Commission under this Act;</li> </ul> <ul style="list-style-type: none"> <li>(b) to recommend, in the case of private loans, legal measures by the state government to exonerate the farmers from such loans whereby the State Government, as soon as possible upon the receipt of such a recommendation but within 1 month, notifies such private loans to be null and void;</li> <li>(c) to issue orders as specified in Section 22;</li> <li>(d) to oversee the implementation of Section 4 ensuring access to institutional credit to all farmers, and to redress grievances thereof, based on application by farmers or any associations or organizations representing farmers, registered or unregistered;</li> <li>(e) to oversee one time debt-swapping of private loans into institutional loans, of distressed farmers within the state;</li> <li>(f) to make periodical reports to the State Government generally on any matter pertaining to farmer indebtedness;</li> <li>(g) to make specific recommendations to the National Commission to consider;</li> <li>(h) to recommend any other measures for survival of distressed farmers; and</li> <li>(i) to perform such other functions and exercise such other powers, as may be prescribed.</li> </ul> <p>(2) An award passed by the State Commission under Section 22 shall be binding on the respondent.</p> <p>(3) Such an Award should be passed within 6 months of the time of receipt of application from an indebted farmer, with the first</p>	
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	<p>screening of paperwork happening within 30 days, and first hearing happening within 60 days.</p> <p>(4) The awards of State Commission under Section 22 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, and accordingly, Title Deeds or any other documents pertaining to the loan with the creditor have to be returned to the farmer, as the case may be within the specified time.</p> <ul style="list-style-type: none"> <li>(a) The awards of the State Commission shall be executed within a specific time period of 30 days or otherwise, as specified in each award;</li> <li>(b) A farmer may obtain an Execution Decree from a Civil Court if the respondent party does not comply to the time limit;</li> </ul> <p>(5) The State 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:</p> <ul style="list-style-type: none"> <li>-</li> <li>(a) summoning and enforcing the attendance of any person and examining him/her on oath;</li> <li>(b) ordering that no notices shall be issued, no coercive action or public shaming shall be exerted against the distressed farmer in any manner;</li> <li>(c) requiring the discovery and production of any documents;</li> <li>(d) receiving evidence on affidavit;</li> <li>(e) examination of witnesses;</li> <li>(f) issuing commission for the examination of witnesses or for local investigation;</li> <li>(g) inspecting any property or thing concerning which any decision has to be taken;</li> <li>(h) requisitioning of any public record or copy thereof from any court, authority or office; and</li> <li>(i) any other matter which may be prescribed.</li> </ul>	
20.	<p>As soon as may be, but within a maximum time period of fifteen days after the receipt of a recommendation under Section 19(1)(a), the Government shall notify in the Official Gazette, an area or a crop as a distress affected area or a distress affected crop, as the case may be, and thereby initiate the debt relief powers of the Commission;</p>	State Government to notify distress affected area or distress affected crop.

	provided further that all farmers practicing agriculture in a distress affected area as declared or cultivating the distress affected crop as declared, shall be considered distress affected farmers under this Act;	
21.	<p>(1) The State Commission shall hold its sittings at such places and at such times as may be determined by it :</p> <p>Provided that the State Commission shall hold its sittings in the respective district/districts declared as distress affected areas to consider matters relating to the distress affected areas.</p> <p>(2) The quorum for the sitting of the State Commission shall be five.</p> <p>(3) The State Commission may in appropriate cases it deems fit, hold sittings in districts by constituting a Bench consisting of two or more members:</p> <p>Provided that at least one member representing the farmer in the State Commission shall be included in the Bench so constituted:</p> <p>Provided further that in case of the Bench constituted by the State Commission, the quorum for the meeting of the Bench shall be the total number of members of that Bench or two whichever is less.</p>	Sittings of the State Commission
22.	<p>(1) A farmer from the said State, claiming debt relief under this Act shall file an application before the State Commission, in a manner and in the form as may be prescribed, and is entitled to obtain an injunction on further proceedings against herself/himself by creditors until the adjudication is complete;</p> <p>(2) Notwithstanding anything contained in this Act or in any other law or contract or decree or order of any Court or Tribunal, the State Commission or any of its Benches may pass order to:</p> <ul style="list-style-type: none"> <li>(a) obligate the state government to repay the entire debt of a distress affected farmer so declared by the State Commission, against any creditor (private or institutional);</li> <li>(b) reschedule short-term loans into medium term loans with zero interest rate, and medium term loans into long term loans at a maximum of two per cent interest rate, in respect of the debts availed of by a farmer from institutional creditors;</li> <li>(c) 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, provided the farmer is ready for such settlement;</li> </ul>	Provisions for Orders from State Commission for relief to distress affected farmers

	<p>(d) declare as discharged from a loan, any farmer who has repaid the principal amount taken by him or her;</p> <p>(e) a farmer to discharge his/her debts in suitable small instalments on the principal amount outstanding at the time of each payment, with the interest to be borne by the government;</p>	
23.	<p>(1) 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 distress affected farmer described in Sections 20 and 22(1) 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 State Commission may recommend in that behalf;</p> <p>(2) No notices shall be issued, and no coercive action or public shaming shall be exerted against a distress affected farmer described in Section 19 and Section 22(1), for recovery of debt.</p>	Bar and Injunction on proceedings against a distress affected farmer, as per State Commission recommendations.
24.	<p>(1) The State Commission shall publish all relevant information including the applications received, Awards passed, minutes of its meetings/sittings if any and other such material on its website;</p> <p>(2) The State Commission shall prepare a report of its function of that year under this Act and shall submit the same to State Government in such form on or before such date as may be prescribed.</p> <p>(3) The Annual Report submitted to the State Government by the Commission under sub-section (2) shall be laid before the State Legislative Assembly as soon as may be, after the same is received by the State Government.</p>	Transparent functioning, and Annual report to be laid before the State Legislative Assembly.
25.	<p>(1) The State Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts, in such form as may be prescribed.</p> <p>(2) The accounts of the State Commission shall be audited annually and the audited report placed before the Legislative Assembly.</p>	Accounts and Audit related to State Commission
	<b>CHAPTER VII</b> <b>OBLIGATIONS OF CENTRAL GOVERNMENT</b>	
26.	The Government shall reserve and spend adequate financial outlays as required under this Act for the Immediate One-Time Loan Waiver	Obligations of Central Government

	<p>as well as on an annual basis to implement the awards passed and orders issued by the Commission, National as well as States.</p> <p>(a) Such financial outlay shall also be utilised for relief and rehabilitation of families where a farm suicide has taken place in the earlier 5 years, and from the commencement of the Act;</p> <p>(b) A part of the outlay shall be set aside as a Credit Guarantee Fund for lessee cultivators to build confidence among institutional creditors to lend to lessee cultivators, and for utilisation for re-financing of institutional creditors during continuous disasters.</p>	
27.	<p>(1) The Government shall notify certain categories of property related to certain loans to be exempt from attachment or auctioning for non-payment of debt;</p> <p>(2) The Government shall notify prohibition of penal interest on crop loans, and prohibition of the cumulative interest on any agricultural loan from exceeding the principal of the loan, whether from an institutional or private creditor.</p>	Exemption from attachment of property and prohibition of penal interest and excessive cumulative interest
28.	The Government shall create a Model Act for farmers' debt and distress relief for state governments to enact in their states, or amend as the case may be, their state level agricultural/farmers debt relief laws where they already exist.	Creation of Model Act for certain state governments
29.	The Government shall reform the priority lending norms ensuring that the bank credit under priority lending reaches small and marginal farmers and real cultivators including women farmers, tenants, sharecroppers and adivasi farmers, and ensure that its compliance is addressed by Reserve Bank of India, NABARD and other apex institutions with re-financing schemes tied to such compliance.	Reform of Priority Lending Norms and ensuring compliance
30.	The Government shall implement adequate and effective disaster relief and crop insurance scheme in all crops to ensure that in years of disaster including drought, floods, cyclones, unseasonal rainfall, hailstorms and pest outbreaks, destruction by wild animals etc. the farmers do not accumulate debt, where the insurance premium will be entirely borne by the Central and State Governments.	Effective disaster relief and crop insurance
31.	The Government shall establish and promote on a large scale low-cost ecological agriculture as a measure to reduce indebtedness.	Promotion of low cost ecological agriculture
	<b>CHAPTER VIII</b> <b>MISCELLANEOUS</b>	
32.	The provisions of this Act or any rule or order made thereunder shall have effect notwithstanding anything inconsistent therewith	Overriding effect of Act.

	contained in any law, other than this Act, or any instrument having effect by virtue of any law other than this Act.	
33.	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 National or State Commissions;	Bar of jurisdiction of Civil Court.
34.	Every Member of the Commission (National as well as State) nominated and the Secretary and other staff appointed 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).	Members and Staff of Commissions deemed Public Servants.
35.	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.	Protection of action taken in good faith.
36.	(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 under this section shall be laid before the Parliament.	Power to remove difficulties
37.	(1) The Government may, by notification in the Gazette, make rules for the purpose of carrying in to effect the provisions of this Act.  (a) State Governments shall notify in the Gazette state-specific Rules for carrying into effect specific provisions of this Act in the states.  (2) Every rule made under this section, shall be laid, as soon as may be after it is made, before the Parliament 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 Parliament 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.	Power to make rules.

## **STATEMENT OF OBJECTS AND REASONS**

The nation is indebted to farmers for the food security and sovereignty functions that they contribute. In spite of their contribution, thousands of farmers are committing suicide every year and millions of farmers are in distress due to indebtedness. The government is obligated to prevent farm suicides and distress, especially because their causes are related to government policies.

Prices of farm commodities have been kept low as a policy measure, and the recommendation of the National Farmers Commission to fix Minimum Support Prices with at least 50% returns on the comprehensive cost of production has not been implemented for the past twelve years, thus adversely affecting farmers' returns and building up indebtedness.

The governments have not fulfilled their responsibilities to provide comprehensive institutional credit facilities, to provide recognition and full inclusion to many categories of farmers including tenant farmers, women farmers and adivasi farmers, to execute effective risk insurance and disaster relief measures, to keep input prices in check, to effectively promote low cost sustainable agriculture and to build infrastructure. These failures have resulted in huge losses for farmers, leading to a debt trap, with both institutional and private creditors. In the context of growing natural calamities and climate change, farmers need automatic protection from the debt trap during disasters.

Safeguarding the Right to Livelihood is essential for the realization of Right to Life under Article 21 of the Constitution.

In order to provide relief to the farmers who are in distress due to indebtedness, the Bill provides an immediate and complete loan waiver. To prevent farmers from being pushed back into indebtedness, the Bill provides for systemic changes bringing in all farmers into the fold of institutional credit with zero interest rate, and for substantive debt relief in the case of disasters.

Farmers' Distress and Disaster Relief Commissions shall be constituted at the national and state levels with power to pro-actively recommend relief measures in distress affected areas and distress affected crops, and pass awards for the redressal of the grievances of indebted farmers in various ways. The Bill also obligates the Government to institute effective disaster relief and crop insurance and promotion of low-cost ecological agriculture, and furthermore, seeks to provide special support to families affected by a farm suicide.

As the root causes of indebtedness and the increasing incidence of natural disasters due to climate change are common in various states across the country, there is a need for a national law to address the problem and to provide the necessary relief and institutional framework for protection from indebtedness. In view of the guidance by the Supreme Court for harmonization of Entry 45 of the Union List and Entry 30 of the State List, the Bill provides a national framework with the cooperation of state governments, for the implementation of distress relief at the national and state level, with adequate resource support from the Centre.

Hence, this Bill.

**K.K. RAGESH**

## **FINANCIAL MEMORANDUM**

Section 3 of the Bill *inter alia* provides for sufficient funds by the Central Government for immediate one-time loan waiver.

Section 4 *inter alia* provides for sufficient funds by the Central Government for bringing all farmers into the fold of institutional credit for production loans at 0% interest rate, and for reschedule, relief or waivers at the time of disasters.

Section 5 provides for constitution of the National Farmers' Distress and Disaster Relief Commission and ensuing expenditure.

Section 26 provides for adequate financial outlays for implementing the awards and orders issued by the Commission (National and State), for relief and rehabilitation of farm suicide families, and a Credit Guarantee Fund that addresses the inclusion of lessee/tenant farmers into institutional credit.

Section 30 provides for implementation of adequate and effective disaster relief and crop insurance schemes.

Section 31 provides for establishment and promotion of low cost ecological agriculture on a large scale.

Therefore, the Bill, if enacted, will involve expenditure from the Consolidated Fund of India. However, it is not possible at this stage as to the exact amount which is likely to be incurred towards recurring and non-recurring expenditure for the purpose.

## **MEMORANDUM REGARDING DELEGATED LEGISLATION**

1. Sub-section (1) of Section 3 obligates the Central Government to take up immediate loan waiver through several measures
2. Sub-section (6) of Section 3 empowers the Central Government to declare all private loans of farmers as null and void, and to prescribe Rules for private creditors to seek relief from the government if and where eligible.
3. Section 6 empowers Central Government to constitute the National Farmers' Distress and Disaster Relief Commission.
4. Sub-section (1) of Section 7 of the Bill empowers the Central Government to extend the term of the Commission, if necessary and to keep re-constituting the Commission.
5. Sub-section (4) of Section 7 of the Bill empowers the Central Government to remove members.
6. Section 16 and 17 empower the State Governments to set up State Farmers' Distress and Disaster Relief Commission
7. Sub Section (1) of Section 18 empowers the State Government to extend the term of the State Commission if necessary and to keep re-constituting the Commission every 5 years
8. Sub-section (1) of Section 36 empowers the Central Government to make orders for the purpose of removing difficulties.
9. Sub-section (1) of Section 37 is on matters in respect of which rules may be made or notification may be issued, which are essentially matters of detail or procedure. The delegation of legislative power is, therefore, of a normal character.