***KISAN KARZA MUKTI BILL/VIDHEYAK*, 2017**

**THE FARMERS’ FREEDOM FROM DEBT BILL, 2017**

A

BILL

*To provide immediate loan waiver to indebted farmers and to provide continuous relief to those farmers who are in distress due to indebtedness by constituting a commission with power to pass awards and to recommend appropriate measures for the redressal of the grievances of indebted farmers and matters connected therewith and incidental thereto.*

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**STATEMENT OF OBJECTS AND REASONS**

WHEREAS, the nation is indebted to farmers for the food security and sovereignty functions that they contribute to;

AND WHEREAS, farm commodity prices have been kept low as a policy measure, with several regulations on marketing, which in turn adversely affected farmers’ returns and built up indebtedness;

AND WHEREAS, there has been a failure to keep input prices in check, to provide comprehensive institutional credit facilities, to execute effective risk insurance and disaster relief measures, and to build infrastructure which have in turn resulted in losses for farmers leading to debt;

AND WHEREAS, certain 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;

AND WHEREAS safeguarding the right to livelihood is essential for the realization of right to life under Article 21 of the Constitution of India;

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

**Bill No. of 2017**

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*To provide immediate complete loan waiver to indebted farmers and to provide continuous relief to those farmers who are in distress due to indebtedness by constituting a commission with power to pass awards and to recommend appropriate measures for the redressal of the grievances of such farmers 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: DEFINITIONS & INTERPRETATIONS**

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| 1. | (1) This Act may be called the **Farmers’ Freedom from Debt Act**, 2017.(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, shall specify in this/her behalf. (3) It extends to the whole of India. | Short title, extent, and commencement |
| 2. | In this Act, unless the context otherwise requires,-1. “agriculture” includes horticulture, farming and growing of medicinal plants, crops and intercrops, fruits, vegetables, milk production, gathering of minor forest produce, fishing, flowers, grass, fodder grass and trees or any kind of cultivation of soil, conducting nursery, breeding and keeping of livestock including fish and mussels, bees, silkworm, poultry, duck, cattle or pig and the use of land for agriculture allied activities or any other agricultural purposes;
2. “agricultural expert” includes a person by virtue of academic qualification and proven academic record;
3. “Commission” means the National Farmers' Debt Relief Commission constituted under section 4;
4. “private creditor” means any person engaged in money lending, whether under a licence or not and includes his/her heirs, legal representatives, assignees, co-operative society and any other person as may be notified by the Government;
5. “debt” means any liability, whether secured or unsecured, due from a farmer on or before the commencement of this Act or, in respect of any particular distress affected area in the state, on or before such date as the Government may, by notification in the Gazette specify, whether payable under a contract, or under a decree or order of any Court or tribunal or otherwise and includes,
* any sum payable to,-
* an institutional creditor;
* a private 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/her income; 1. “district” means a revenue district;
2. “distress affected area” means revenue district or districts or part thereof in the State, declared by the Government as per Section 7, for the purpose of this Act, on the recommendations of the Commission which could include natural calamities, price crash, failure of crop due to other reasons incl. supply of spurious inputs etc.;
3. “distress affected crop” means any crop or crops of the State declared by the Government as per section 7 on the recommendation of the Commission, for the purpose of this Act which could include natural calamities, price crash, failure of crop due to other reasons incl. supply of spurious inputs;
4. “distress affected farmer” means a farmer declared as such by the Commission and includes agricultural labourer for the purpose of this Act;
5. “fair rate of interest” means the rate of interest determined by the Commission under sub-section (1) of section 6 of this Act;
6. “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 ownership, and will include all agricultural operational holders, cultivators, sharecroppers, tenants, agricultural labourers, poultry and livestock rearers, fisherpeople, beekeepers, pastoralists, non-corporate planters and planting labourers as well as forest-gatherers. Self-help groups doing cultivation on collectively owned, or leased-in land are included.
7. “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;
8. “Government” means the Central Government;
9. “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 including regional rural banks and cooperative societies;
10. “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;
11. “member” means a member of the Commission and includes the Chairperson;
12. “penal interest” means any amount payable in excess of interest on a debt;
13. “prescribed” means prescribed by rules under this Act;
14. “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;
15. “Secretary” means the Secretary to the Commission appointed under sub-section (6) of section 4.
 | Definitions |
|  | **CHAPTER II****IMMEDIATE DEBT RELIEF**  |  |
| 3. | (1) Every farmer, including all categories as defined in Section 2, shall be entitled to immediate unconditional waiver of the entire amount of outstanding institutional loans as of20th November, 2017;(2) Farmers who have repaid the bank loans from the earlier financial year to 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; (3) The waiver of loans shall be implemented in a single instalment and the Government shall take all measures to ensure the issuance of fresh loans to all eligible farmers in the ensuing season without any impact due to the implementation of loan waiver;(4) The Government shall provide sufficient funds to the State governments to implement waiver of loans from cooperative banks;(5) All farmer loans from non-institutional sources shall be converted through debt-swapping into institutional loans. The government shall specify a process for the same;(6) The Government shall implement a waiver of such bank loans arising out of debt-swapping. | Right of farmer to receive relief from debt. |
|  | **CHAPTER III****FARMERS’ DEBT RELIEF COMMISSION** |  |
| 4. | (1) The Government shall, as soon as may be after the commencement of this Act and after implementing Section 3, by notification in the Gazette, constitute a Commission by the name, "the National Farmers' Debt Relief Commission", for the purpose of exercising the powers and performing the functions under this Act.(2) The Commission shall consist of nine members, namely:– 1. a retired Supreme Court Judge : Chairperson
2. a retired High Court Judge : Member
3. two agricultural experts incl. social scientists : Members
4. four representatives of farmers, including leaders of farmers unions and persons with a proven record of having worked on farmers’ issues : Members
5. a person working in connection with economic/co-operative sector : Member

(3) The Chairperson and Members shall be nominated by the Government.(4) Such nominations shall take into consideration equitable regional representation from across the country, sectoral representation and gender, especially for sub-section (2) (iii)-(v) above. (5) Government shall ensure that no Member including Chairperson represents any conflict of interest pertaining to the discharge of their functions. (6) The Government may, appoint a Secretary and other staff as may be necessary, to assist the Commission in such manner as may be prescribed. (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.  | Constitution of the Commission. |
| 5. | (1) The term of the Commission shall be 5 years: Provided that, the Government may extend such period, if deemed necessary and provided that the existing Commission may continue to function for upto one additional year till new Commission is appointed. (2) A member may, by writing under his/her hand and address to the Government, resign his/her office at any time. (3) A vacancy arising by reason of resignation of any member of the Commission under subsection (2) or otherwise shall be filled up in accordance with the provisions contained in section 4 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.(4) Government may remove any member, if s/he,-- 1. is declared as undischarged insolvent/debtor:
2. becomes incapable of continuing as such, due to physical or mental disability:
3. becomes of unsound mind and stands so declared by a court of competent jurisdiction;
4. has been convicted for an offence, which in the opinion of the Government involves moral turpitude or financial irregularities:
5. 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:

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 Chairperson and members shall be, as may be prescribed. | Term of the Commission and conditions of service of the members. |
| 6. | (1) The Commission shall have all such powers as are necessary for achieving the objects of this Act, and in particular.- 1. to oversee the implementation of the Immediate Debt Relief as per Section 3, including asking from the Government for general and specific information on the same;
2. to receive submissions of grievances from farmers about implementation of Immediate Debt Relief as per Section 3 of this Act and to resolve them by processing and passing Orders in each case through simple procedures to be specified by the Commission;
3. to recommend to the Government either *suo motu* or on application, after such enquiry as it may deem fit including by drawing in required expertise from competent outsiders, 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 as distress affected area, or distress affected crop, as the case may be, and on application to declare a farmer as distress affected farmer subject to such enquiry and norms;
4. to fix, in the case of creditors other than institutional creditors, a fair rate of interest and an approved 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 7 as the case may be;
5. to recommend to the Government regarding the extent and the manner in which any future debt relief to be granted to the farmers;
6. to recommend to the Government to take over the entire or partial debt and exonerate the farmers, from the effects of the debt;
7. to recommend to the Government regarding mechanisms for debt-swapping of non-institutional loans of distressed farmers;
8. 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;
9. to make periodical reports to the Government generally on any matter pertaining to farmer indebtedness; and
10. to perform such other functions and exercise such other powers, as may be prescribed.

(2) Issue orders in case of farmers described in clause (d) of sub-section (1) to the creditors, other than institutional creditors, (a) to keep in abeyance the repayment of all debts 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). (b) to initiate and facilitate on behalf of farmers with regard to loans from creditors, debt-swapping with institutional creditors, *with interest liability borne by the government*;(3) An award passed by the Commission under clause (d) of sub section (1) shall be binding on the respondent. (4) 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, 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. The awards of the Commission shall be executed within a specific time period of 30 days or otherwise, as specified in each award. A farmer may obtain an Execution Decree from a Civil Court if the respondent party does not comply to the time limit. (5) 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: - 1. summoning and enforcing the attendance of any person and examining him/her on oath;
2. ordering the non-issuance of any notices or taking up of any coercive action on the farmer, or public shaming of the debtor in any manner, including in crops and areas declared as distressed;
3. requiring the discovery and production of any documents;
4. receiving evidence on affidavit;
5. issuing commission for the examination of witnesses or for local investigation;
6. inspecting any property or thing concerning which any decision has to be taken;
7. requisitioning of any public record or copy thereof from any court, authority or office; and
8. any other matter which may be prescribed.
 | Powers and functions of the Commission. |
| 7.  | As soon as may be, after the receipt of a recommendation under clause (c) of sub-section (1) of section 6 the Government shall declare, as the case may be, an area or a crop as a distress affected area or a distress affected crop. | To declare as distress affected area or distress affected crop. |
| 8. | A farmer claiming any debt relief under this Act shall file an application before the Commission in a manner and in the form as may be prescribed. | Application for debt relief. |
| 9.  | (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/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 five. (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 at least one 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.  | Sittings of the Commission |
| 10.  | (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 pass order to 1. 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 farmers described in clause (c) of sub-section (1) of section 6 from commercial banks or other scheduled banks, or
2. 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, or
3. waive 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.
 | Special provisions in respect of settlement of certain loans taken by farmers. |
| 11. | (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 (c) of sub-section (1) of section 6 on or before the date of declaration as a distress affected area, distress affected crop under section 7 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 to the financial institution concerned within the period allowed by Commission, *with the interest liability borne by the government*: Provided that the Commission may, on application by the farmer, exempt him/her, 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. | Rescheduling of loans taken by a farmer from financial institutions. |
| 12.  | 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 sub-section (1) of section 6 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. | Bar of suits, applications and other proceedings. |
| 13. | (1) Notwithstanding anything contained in any law or contract or in any decree or order of any Court or Tribunal, a farmer described in sub-section (1) of section 6 may discharge his/her debts in suitable instalments on the principal amount outstanding at the time of each payment, *with the interest to be borne by the government*, 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.  | Payment of principal amount of debts in instalments. |
| 14.  | 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/her 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. | The debt shall be deemed as fully repaid. |
| 15. | (1) The Commission shall publish all relevant information including the Awards passed, minutes of its meetings/sittings if any and other such material on its website;(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.(3) The Annual Report submitted to the Government by the Commission under sub-section (2) shall be laid before the Parliament, as soon as may be, after the same is received by the Government. | Transparent functioning, and Annual report to be laid before the Parliament. |
| 16.  | (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. (2) The accounts of the Commission shall be audited annually and the audited report shall be placed before the Legislative Parliament. | Accounts and Audit. |
| 17. 18. 19.20.21.22. | **CHAPTER IV****OBLIGATIONS OF CENTRAL GOVERNMENT**The Government shall set aside and spend adequate financial outlays as required under this Act for Section 3 Immediate Debt Relief as well as on an annual basis to implement the awards passed and orders issued by the Commission.The Government shall notify certain categories of property related to certain loans to be exempt from attachment or auctioning and also notify prohibition of penal interest charging on crop loans.The Government shall create a Model Act for state governments to enact, to create state level “Farmer Debt Relief Commissions”, to handle all additional debt relief matters.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, tenant farmers, sharecroppers and adivasi farmers;The Government shall implement adequate and effective disaster relief and crop insurance schemes to ensure that in years of calamity including drought, floods, cyclones, unseasonal rainfall, hailstorms and pest outbreaks, the farmers do not accumulate debt;The Government shall establish and promote on a large scale low-cost ecological agriculture as a measure to reduce indebtedness; **CHAPTER V****MISCELLANEOUS**  | Obligations of Central GovernmentExemption from attachment of propertyCreation of Model Act for state governmentsReform of Priority Lending NormsEffective disaster relief and crop insurancePromotion of low cost ecological agriculture |
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| 23. | 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. | Overriding effect of Act. |
| 24. | 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 6. | Bar of jurisdiction of Civil Court. |
| 25. | Every member of the Commission nominated under sub-section (2) of section 4 and the Secretary and other staff appointed under sub-section (6) 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 of Commission shall be public servants. |
| 26. | 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. |
| 27. | (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 Parliament. | Power to remove difficulties |
| 28. | (1) The Government may, by notification in the Gazette, make rules for the purpose of carrying in to 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 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. |
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**MEMORANDUM REGARDING DELEGATED LEGISLATION**

1. Sub-clause (6) of Clause 3 empowers the Central Government to implement a waiver of such bank loans arising out of debt-swapping.
2. Clause 4 of the Bill empowers the Central Government to constitute the National Farmers' Debt Relief Commission.
3. Sub-clause (1) of clause 5 of the Bill empowers the Central Government to extend the term of the Commission, if necessary.
4. Sub-clause (4) of clause 5 of the Bill empowers the Central Government to remove members.
5. Clause 7 of the Bill empowers the Central Government to declare distress affected areas or distress affected crops.
6. Sub-clause (1) of clause 26 of the bill empowers the Central Government to make orders for the purpose of removing difficulties.
7. Sub-clause (1) of clause 27 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.