

2) Sills. by the A.D. 1952.  
2) Sills. by S. 5 of Act 68 of 1950.

# Act No. XXV of 1949

Expired

[PASSED BY THE DOMINION LEGISLATURE]

(Received the assent of the Governor-General on the 22nd April, 1949).

An Act to make special provision for the relief of displaced persons in respect of certain legal proceedings

**W**HEREAS it is expedient to make special provision for the relief of displaced persons in respect of certain legal proceedings;

It is hereby enacted as follows:—

**1. Short title, extent and duration.**—(1) This Act may be called the Displaced Persons (Legal Proceedings) Act, 1949.

(2) It extends to ~~All the Provinces of India.~~ <sup>the whole of India except</sup> ~~the State of Jammu & Kashmir.~~ <sup>the State of Jammu & Kashmir</sup>

(3) It shall come into force in any ~~Province~~ <sup>State</sup> on such date as the ~~Provincial~~ <sup>State</sup> Government may, by notification in the official Gazette, appoint in this behalf, and shall remain in force only up to the 31st day of March, 1952.

**2. Definition.**—In this Act, "displaced person" means any person who, on account of the setting up of the Dominions of India and Pakistan, or on account of civil disturbances or the fear of such disturbances in any area now forming part of Pakistan, has been displaced from, or has left, his place of residence in such area after the 1st day of March, 1947, and who has been subsequently residing in India.

**3. Restoration of certain legal proceedings.**—Where any suit, appeal or application for a final order has been dismissed for default of appearance or for failure to pay costs of service of process or to furnish security for costs, or where a decree or order has been passed *ex parte*, then, notwithstanding anything contained in the Indian Limitation Act, 1908 (IX of 1908), the Court may, on application made to it in this behalf within ninety days from the commencement of this Act, or within such further time, if any, as the Central Government may, by notification in the official Gazette, allow either generally or with respect to any class or classes of cases, set aside the order of dismissal or the decree or order passed *ex parte*, as the case may be:

Provided that the applicant is either a displaced person or a person who, though normally a resident of India, was in an area now forming part of Pakistan at any time during the month of August, 1947, and has subsequently returned to India.

**4. Power of Court to grant relief to displaced persons.**—Notwithstanding anything contained in any law or contract to the contrary—

(i) where, after the commencement of this Act, a decree or order is to be passed against a displaced person in any suit or other legal proceeding for the payment of money, the Court may, at the time of passing the decree or order, direct that payment of such money shall be postponed for such period as may be specified or shall be made by instalments, with or without interest, if in the opinion of the Court the direction—

- (a) will facilitate the rehabilitation of the judgment-debtor;
- (b) will not prejudice the rehabilitation of the decree-holder, if the decree-holder is also a displaced person; and
- (c) will be equitable, having regard to all the circumstances in which the parties are placed.

**Into force**  
Jammu & Kashmir

(ii) where in any suit or other legal proceeding, any decree or order for the payment of money has been passed against a displaced person, whether before or after the commencement of this Act, the Court may, if the judgment-debtor makes an application in this behalf, direct that payment of such money shall be postponed for such period as may be specified, or shall be made by instalments on such terms as to the payment of interest or the taking of security or otherwise as it thinks fit.

5. Stay of insolvency proceedings.—Where an insolvency petition has been presented to any Court against a displaced person, the Court may at any time stay the proceedings under the petition for such time and subject to such conditions as the Court thinks fit.

6. Restrictions on execution of decrees against displaced persons.—Save as provided by this Act, no Court shall execute or otherwise enforce any decree or order for the payment of money passed against a displaced person, unless it is satisfied—

(a) that such execution or enforcement will not affect the rehabilitation of the displaced person; and

(b) that such execution or enforcement is not sought against a loan advanced or agreed to be advanced by, or on behalf of, or out of the funds of, the Central Government or any Provincial Government or against any asset created from any such loan:

Provided that nothing contained in this section shall apply to any decree or order for the payment of money passed in favour of the Central or any Provincial Government in respect of any loan advanced by, or on behalf of, or out of the funds of, the Central or the Provincial Government, as the case may be.

7. Procedure for the execution of certain decrees and orders passed before the 15th August, 1947.—Where a decree or order, not being a decree or order relating to immovable property situate outside the Provinces of India, has been passed before the 15th day of August, 1947, by any Court situate in an area now forming part of Pakistan in favour of a displaced person or in favour of any other person who, before and after the said date, has resided in, and continues to reside in, an area now forming part of India, then, notwithstanding any other law for the time being in force but subject always to the provisions of this Act, such decree or order may, on application made in this behalf by the decree-holder in the manner prescribed by sub-rule (2) of rule 11 of Order XXI of the Code of Civil Procedure, 1908 (V. of 1908), be executed by any Court within the local limits of whose jurisdiction the person against whom the decree or order has been passed, actually and voluntarily carries on business or personally works for gain or has property, in the same manner and to the same extent as if it were a decree or order passed by the Court.

8. Effect of expiry of Act.—Upon the expiry of this Act, the provisions of section 6 of the General Clauses Act, 1897 (X of 1897) shall apply as if this Act had then been repealed by a Central Act.

1. Subs. by Act 35 of 1950, Sec. 32 sub. ii.

2. Re-numbered & added by s. 6 of Act 68 of 1950.