

Bill No. 145 of 2022

THE DEBT RELIEF BOARD BILL, 2022

By

ADV. DEAN KURIAKOSE, M.P.

A

BILL

to provide for the constitution of a Board for the identification of loans to be waived as a one-time measure in national interest within the country and matters connected therewith.

BE it enacted by Parliament in the Seventy-third Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

5 1. (1) This Act may be called the Debt Relief Board Act, 2022.

(2) It extends to the whole of India.

(3) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

Short title,
extent and
commencement.

Definitions.

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

(a) “appropriate Government” means in case of a State, the Government of that State, and in all other cases, the Central Government;

(b) “Board” means the Debt Relief Board constituted under sub-section (1) of section 3;

(c) “loans to be waived” means loans identified by the Board that are to be waived in the national interest;

(d) “loans with merit” means loans that, if waived, may further the national interest and as specified in the Schedule:

Provided that the Central Government may, if satisfied that it is necessary or expedient in the public interest so to do, by notification in the Official Gazette, add any other type of loan to the Schedule or omit any type of loan therefrom;

(e) “prescribed” means prescribed by rules made under this Act.

CHAPTER II

THE DEBT BOARD

Constitution and
Incorporation of
the Board.

3. (1) **The Central Government shall, by notification in the Official Gazette, constitute, for the purposes of this Act, a Board, to be called the Debt Relief Board.**

(2) The Board shall be a body corporate by the name aforesaid having perpetual succession and a common seal with power, subject to the provisions of this Act, to contract and shall, by the said name, sue and be sued.

(3) **The Board shall consist of such number of members, not exceeding seventeen, as may be prescribed, and unless the rules made in this behalf otherwise provide, the Board shall consist of the following members, namely: —**

(a) **a Chairperson to be appointed by the Central Government in such manner as may be prescribed;**

(b) **three Members of Parliament, of whom two shall be elected by the House of the People and one by the Council of States;**

(c) **ten members to represent respectively the Ministries of the Central Government dealing with—**

(i) **Finance;**

(ii) **Agriculture and Farmer’s welfare;**

(iii) **Animal Husbandry, Dairying and Fisheries;**

(iv) **Commerce and Industry;**

(v) **Co-operation;**

(vi) **Education;**

(vii) **Food Processing and Industries;**

(viii) **Micro, Small and Medium Enterprises;**

(ix) **Corporate Affairs;**

(x) **Finance; and**

(d) **three members to represent the Finance Commission, to be nominated by the Chairperson in such manner as may be prescribed.**

(4) The office of member of the Board shall not disqualify its holder for being chosen as, or for being, a member of either House of Parliament.

(5) The term of office of the members and other conditions of service of the members shall be such as may be prescribed.

5 (6) The Chairperson shall, in addition to presiding over the meetings of the Board, exercise and discharge such powers and duties of the Board as may be delegated to him by the Board and such other powers and duties as may be prescribed.

(7) The Board shall elect from among its members a Vice-Chairperson who shall exercise such of the powers and perform such of the functions of the Chairperson as may be prescribed or as may be delegated to him by the Chairperson.

(8) No act or proceeding of the Board shall be invalidated merely by reason of—
 (a) any vacancy in, or any defect in the constitution of, the Board;
 (b) any defect in the appointment of a person acting as a member of the Board;
 (c) any irregularity in the procedure of the Board not affecting the merits of the case.

4. (1) The Board may appoint the Secretary and such other officers and employees as it considers necessary for the efficient discharge of its functions under this Act.

Secretary and other officers.

(2) The terms and conditions of service of the Secretary and other officers and employees of the Board shall be such as may be determined by regulations.

20 **5. (1) Subject to any rules made in this behalf, the Board may, from time to time, constitute such Committees as may be necessary for the efficient discharge of its functions.**

Advisory Committees.

(2) Every committee constituted under sub-section (1) shall consist of such number of persons as the Board may deem fit.

25 **6. (1) The Board may—**

Functions of the Board.

(i) identify loans to be waived off by the appropriate Government to further the national interest:

Provided that waiving off of loans shall be a one-time measure to give relief from the vicious cycle of debt trap;

30 (ii) consolidate the list of such loans and forward that list to appropriate Government to consider waiving that loan;

(iii) create a set of scientific benchmarks against which the application to waive a loan shall be measured against;

35 (iv) undertake programs and projects for promotion of financial literacy in the country;

(v) assist and encourage studies and research for improvement of financial inclusion and responsible credit culture in the country;

(vi) strive towards creating metrics to measure the performance of financial institutions in ameliorating suffering due to inability to pay back debts;

(vii) collect statistics with regard to debt relief and its social impact in the country;

(viii) promote co-operative efforts among financial institutions to waive off loans with merit in collaboration with local self-governments;

(ix) provide financial or other assistance for improved methods for identifying loans with merit in different parts of the country with special focus to rural areas, remote and inaccessible regions; 5

(x) provide training in loan identification, restructuring as well as recommendation to waive loans with merit;

(xi) collect statistics from institutions, local self-government and general public to assist policy making in the domain of loan waivers; and 10

(xii) undertake, assist or encourage scientific, technological and economic research.

CHAPTER III

FINANCE, ACCOUNTS AND AUDIT 15

Grants and loans
by the Central
Government.

7. The Central Government may, after due appropriation made by Parliament by law, in this behalf, make to the Board grants and loans of such sums of money as that Government may consider necessary.

Debt Relief
Fund.

8. (1) There shall be constituted a fund to be called the Debt Relief Fund and there shall be credited thereto— 20

(a) any grants and loans made to the Board by the Central Government under section 7;

(b) all fees levied and collected in respect of certificates granted under this Act; and

(c) all sums received by the Board from such other sources as may be decided upon by the Central Government. 25

(2) The Fund shall be applied for meeting—

(a) salary, allowances and other remuneration of the members, officers and other employees of the Board;

(b) expenses of the Board in the discharge of its functions under section 6; and 30

(c) expenses on objects and for purposes authorized by this Act.

Budget.

9. The Board shall prepare in such form and at such time each financial year, as may be prescribed, its budget for the next financial year, showing the estimated receipts and expenditure of the Board and forward the same to the Central Government.

Annual report.

10. The Board shall prepare, in such form and at such time each financial year, as may be prescribed, its annual report, giving a full account of its activities during the previous financial year, and submit a copy thereof to the Central Government. 35

Accounts and
audit.

11. The accounts of the Board shall be maintained and audited in such manner as may, in consultation with the Comptroller and Auditor-General of India, be prescribed and the Board shall furnish to the Central Government before such date, as may be prescribed, its audited copy of accounts together with the auditors' report thereon. 40

12. The Central Government shall cause the annual report and auditor's report to be laid, as soon as may be after they are received, before each House of Parliament.

Annual report and auditors' report to be laid before Parliament.

CHAPTER IV

MISCELLANEOUS

5 13. Any person who—

(a) obstructs any member authorized by the Chairperson in writing or any officer or other employee of the Board authorized by it in this behalf or any person authorized in this behalf by the Central Government or by the Board, in the exercise of any power conferred, or in the discharge of any duty imposed, on him by or under this Act; or

Penalties for obstructing an officer or member of the Board in the discharge of his duties and for failure to produce books and records.

10 (b) having control over or custody of any account book or other record, fails to produce such book or record when required to do so by or under this Act, shall be punishable with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

15 14. The Board may, by general or special order in writing, delegate to the Chairperson or any other member or to any officer of the Board, subject to such conditions and limitations, if any, as may be specified in the order, such of its powers and functions under this Act as it may deem necessary.

Delegation.

20 15. All members, officers and other employees of the Board shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

Members, officers and employees of the Board to be public servants.

25 16. No prosecution or other legal proceeding shall lie against the Government, or the Board or any committee appointed by it, or any member of the Board or such committee, or any officer or employee of the Government or the Board or any other person authorized by the Government or the Board, for anything which is in good faith done or intended to be done under this Act or the rules or regulations made thereunder.

Protection of action taken in good faith.

30 17. Subject to any rule made in this behalf, any person, generally or specially authorized by the Board in this behalf, may, whenever it is necessary so to do, for any of the purposes of this Act, at all reasonable times, enter upon any land or premises and make any inspection or inquiry or do such other act or thing as may be prescribed:

Power to enter.

Provided that no such person shall enter any building or any enclosed courtyard or garden attached to a dwelling-house (unless with the consent of the occupier thereof) without previously giving such occupier at least twenty-four hours' notice in writing of his intention to do so.

35 18. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

Power to make rules.

(2) Without prejudice to the generality of the foregoing power such rules may provide for all or any of the following matters, namely: —

(a) the number of members of the Board under sub-section (3) of section 3;

40 (b) the term of office and other conditions of service of the members of the Board under sub-section (5) of section 3;

(c) the powers and duties of the Chairperson under sub-section (6) of section 3;

(d) the powers and functions of the Vice-Chairperson under sub-section (7) of section 3;

(e) the constitution of committees under section 5;

(f) the form in which, and the time at which, the Board shall prepare its budget under section 9 and its annual report under section 10;

(g) the manner in which the accounts of the Board shall be maintained and audited and the date before which the audited copy of the accounts may be furnished to the Central Government under section 11; 5

(h) the conditions and the restrictions with respect to the exercise of the power to enter under section 17;

(i) any other matter which is to be, or may be, prescribed or in respect of which provision is to be, or may be, made by rules.

Power to make regulations.

19. (1) The Board may, with the previous approval of the Central Government, by notification in the Official Gazette, make regulations consistent with this Act and the rules generally to carry out the purposes of this Act. 10

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for the terms and conditions of service of the Secretary and other officers and employees of the Board under sub-section (2) of section 4; 15

Rules and Regulations to be laid before Parliament.

20. Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation 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 or regulation. 20

Power to remove difficulties.

21. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty: 25

Provided that no order shall be made under this section after the expiry of two years from the commencement of this Act. 30

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

THE SCHEDULE

[See section 2(c)]

Loans with Merit includes:—

1. “Agricultural loans”: taken to conduct agricultural activities.
2. “MSME loans”: taken to start or find working capital for MSME industries.
3. “Education loans”: taken by students to pursue any academic course offered by any university within India.
4. “Treatment loans”: taken by individuals to meet their requirements with respect to a medical emergency.
5. “Co-operative sector loans”: taken by individuals from banks and NBFCs from the co-operative sector.

STATEMENT OF OBJECTS AND REASONS

India has made great progress with respect to financial inclusion and availability of institutional credit in the last few decades. However, we have also failed to deepen the credit culture in the country. According to NABARD, 52 per cent. of agricultural households in India (which constitute more than 70 per cent. of our population), are indebted. More than 40 per cent. of the outstanding loans are taken from non-institutional sources. This is worrisome, especially since the banking services have reached far and wide in the country. One reason for such large amount of non-institutional credit is the loans outstanding with institutional lenders. In many cases, the farmers are unable to pay the loan back and is alienated from the financial institutions forever. This is true not only for farmers, but also for educational loans, MSME loans etc. It is important that we identify loans that could be waived off in a single stroke so that these beneficiaries come back to the formal credit net. It is understood that continuous loan waivers are impacting the health of our financial institutions. If those loans could be identified in a single stroke and waived off, this need for continuous and populist loan waivers could be eliminated. The need is to establish Debt Relief Board to look into this and recommend the loans to be waived off to the respective State as well as Central Governments.

Hence this Bill.

NEW DELHI;

4 July, 2022.

DEAN KURIAKOSE

FINANCIAL MEMORANDUM

Clause 3 of this Bill provides for establishment of the Debt Relief Board. It also provides for appointment of Chairperson and other members to the Board. Clause 4 provides for appointment of Secretary and other officers to the Board. Clause 5 provides for constitution of Advisory Committees. Clause 7 provides for the Central Government to provide grants and loans. Clause 8 provides for the constitution of Debt Relief Fund. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of about one hundred crore per annum from the Consolidated Fund of India will be involved.

A non-recurring expenditure of about rupees twenty five thousand crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 18 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill. Clause 19 provides for the Board to make regulations. As the rules and regulations will relate to matters of detail only, the delegation of legislative power is of a normal character.

LOK SABHA

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