

## **LAND IMPROVEMENT LOANS ACT, 1883**

**19 of 1883**

**[12th October, 1883]**

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"The law under which advances can be made for the improvement of lands is Act 26 of 1871 as amended by Act 21 of 1876. The object of the Act was to define the improvements for which advances could be made by Government, to provide for the security of a first charge on the land improved, and to lay down the conditions on which advances were to be made. It was hoped by the Government when the Act was passed that it would be largely used, and that the benefit to the country would be considerable. This hope has not been realised. In section 3, Chapter IV, of the second part of their Report, the Famine . Commissioners write: 'the evidence we have received regarding the working of this Act renders it unquestionable that it has failed to realise the intention of promoting improvements and that there is a very general reluctance to make use of its provisions. The sums which have been

advanced under the Act are extremely small, and bear no proportion whatever to the need which the country has of capital to carry out material improvements'. In accordance with the suggestions of the Famine Commissioners, the Government of India called for the opinions of the Local Governments on the working of the Act and the causes of its failure. There was, in the replies received, an almost unanimous consensus of opinion that both the Act and the rules under it require simplification. It has accordingly been decided to bring forward a Bill to consolidate and amend the present law. For the somewhat complicated provisions of sections 6 to 13 of Act XXVI of 1871 the Bill proposes to adopt the simpler rule that advances may be made to any person who is entitled, under the law for the time being in force, to make improvements of his land. For the rest, everything which it is not absolutely necessary to provide for in the body of the law is left to rules to be framed by the Local Governments. The objections sometimes taken to this method of legislation do not seem to apply in this case, as the only interests which can be affected by the rules are those of the Government and it may be presumed that sufficient care will be taken to guard them. The local conditions and peculiarities of the several parts of India are so varied that it is only by leaving great discretion to the Local Governments that rules suitable to the working of an 'Act of this kind can be framed: If this Bill is passed, the Legislature will have done all that it can to remove the obstacles alleged to stand in the way of the success of the measure. There is reason however to fear that the owners of land will not resort to Government for advances of tills description to any large extent. It is impossible for the district officials to have any intimate knowledge of the character and means of each applicant; and, therefore, a certain amount of form, enquiry, and consequently, of delay and trouble, must precede the payment of money from the public treasury. It is possible that private companies may be established whose agents will be able to offer more facilities to applicants. It is proposed, therefore, to take advantage of the present opportunity to provide encouragement to private enterprise in this field. Provisions have accordingly been inserted in the Bill to enable the Government to authorise companies or associations of a private character to make advances for the improvement of land. A company or association so authorised will be bound to transact its business on principles and conditions laid down by the Government for its guidance and advances made in accordance with those principles and conditions

will be considered advances under the Act, and will be secured and recoverable in the same manner as if they were loans from the Government Treasury."- Gazette of India, 1882, Pt. V, p. 954,

### **1. Short title :-**

(1) This Act may be called The Land Improvement Loans Act, 1883.  
Local extent. Commencement.

(2) It extends to the whole of India except <sup>1</sup>[the territories which, immediately before the 1st November, 1956, were comprised in Part B States] but shall not come into force in any part of <sup>2</sup>[the territories to which this Act extends] until such date as the State Government <sup>3</sup> [\* \* \* \* \*] may, by notification in the Official Gazette, appoint in this behalf.

[a] Substituted for "Part B States" by 2 A.L.O., 1956.

[b] Substituted for "a Part A State or a Part C State", by 2 A.L.O., 1956.

[c] The words "with the previous sanction of the Governor-General in Council" were omitted by Land Improvement and Agriculturists' Loans (Amendment) Act, 1906 (8 of 1906), section 2.

### **2. Act 526 of 1871 and 21 of 1876 repealed :-**

(1) The Land Improvement Act, 1871 and Act 21 of 1876 (An Act to amend the Land Improvement Act, 1871 ), shall, except as regards the recovery of advances made before this Act comes into force and costs incurred by the Government in respect of such advances, be repealed.

(2) When in any Act, Regulation or Notification passed or issued before this Act comes into force, reference is made to either of those Acts, the reference shall, so far as may be practicable, be read as applying to this Act or the corresponding part of this Act.

### **3. "Collector" defined :-**

In this Act, "Collector" means the Collector of land revenue of a district or the Deputy Commissioner, or any officer empowered by the <sup>4</sup> [State] Government by name or by virtue of his office to discharge the functions of a Collector under this Act.

[b] Substituted for "Provincial" by A.L.O., 1950.

### **4. Purposes for which loans may be granted under this Act :-**

(1) Subject to such rules as may be made under section 10 , loans

may be granted under this Act, by such officer as may, from time to time, be empowered in this behalf by the <sup>1</sup>[State] Government, for the purpose of making any improvement, to any person having a right to make that improvement, or, with the consent of that person, to any other person.

(2) "Improvement" means any work which adds to the letting value of land, and includes the following, namely,-

(a) the construction of wells, tanks and other works for the storage, supply or distribution of water for the purposes of agriculture, or for the use of men and cattle employed in the agriculture;

(b) the preparation of land for irrigation;

(c) the drainage, reclamation from rivers or other waters, or protection from floods or from erosion or other damage by water, of land used for agricultural purposes or wasteland which is culturable;

(d) the reclamation, clearance, enclosure or permanent improvement of land for agricultural purposes;

(e) the renewal or reconstruction of any of the foregoing works or alterations therein or additions thereto; and

(f) such other works as the <sup>1</sup>[State] Government [\*\*\*\*] may, from time to time, by notification in the <sup>7</sup> [Official Gazette], declare to be improvements for the purposes of this Act.

[a] Substituted for "Provincial" by A.L.O., 1950.

#### **5. Mode of dealing with applications for loans :-**

(1) When an application for a loan is made under this Act, the officer to whom the application is made may, if it is, in his opinion, expedient that public notice be given of the application, publish a notice, in such manner as the <sup>8</sup> [State] Government may, from time to time, direct, calling upon all persons objecting to the loan to appear before him at the time and place fixed therein and submit their objections.

(2) The officer shall consider every objection submitted under subsection(1) , and make an order in writing either admitting or overruling it: Provided that, when the question raised by an objection is, in the opinion of the officer, one of such a nature that it cannot be satisfactorily decided except by a Civil Court, he shall

postpone his proceedings on the application until the question has been so decided.

[a] Substitute for "Provincial" by A.L.O., 1950.

## **6. Period for repayment of loans :-**

(1) Every loan granted under this Act<sup>9</sup> shall be made repayable by instalments (in the form of an annuity or otherwise), within such period from the date of the actual advance of loan, or, when the loan is advanced in instalments, <sup>10</sup>[from the date of the advance of the last instalment actually paid] as may, from time to time, be fixed by the rules made under this Act.

(2) The period fixed as aforesaid shall not ordinarily exceed thirty-five years,

(3) The [State] Government<sup>11</sup> [\* \* ], in making [ \* \* ] the rules fixing the period, shall, in considering whether the period should extend to thirty-five years or whether it should extend beyond thirty-five years, have regard to the durability of the work for the purpose of which the loan is granted, and to the expediency of the cost of the work being paid by the generation of persons who will immediately benefit by the work.

[a] Instruments executed by persons taking loans, or by their sureties, as security for the repayment of such loans, are exempted from stamp duty; see Stamp Act, 1899(11 of 1899), Schedule I, Art. 40, Exemption (1), and notification under section 9.

[b] Substituted for "from the date of the actual advance of the last instalment" by Land Improvement Loans (Amendment) Act, 1899 (18 of 1899), section 2.

[d] The words "and Governor-General-in-Council" were omitted by Land Improvement and Agriculturists' Loans (Amendment) Act, 1906 (8 of 1906), section 3.

## **7. Recovery of loans :-**

(1) Subject to such rules as may be made under section 10 all loans granted under this Act, all interest (if any) chargeable thereon, and costs (if any) incurred in making the same, shall, when they become due, be recoverable by the Collector in all or any of the following modes, namely:-

(a) from the borrower-as if they were arrears of land revenue due by him;

(b) from his surety (if any)-as if they were arrears of land revenue

due by him;

(c) out of the land for the benefit of which the loan has been granted-as if they were arrears of land revenue due in respect of that land;

(d) out of the property comprised in the collateral security (if any)- according to the procedure for the realization of land revenue by the sale of immovable property other than- the land on which that revenue is due: Provided that no proceeding in respect of any land under clause (c) shall affect any interest in that land which existed before the date of the order granting the loan, other than the interest of the borrower, and of mortgagees of, or persons having charges on, that interest, and where the loan is granted under section 4 with the consent of another person, the interest of that person, and of mortgagees of, or persons having charges on, that interest.

(2) When any sum due on account of any such loan, interest or costs is paid to the Collector by a surety or an owner of property comprised in any collateral security, or is recovered under subsection (1) by the Collector from a surety or out of any such property, the Collector shall, on the application of the surety or the owner of that property (as the case may be), recover that sum on his behalf from the borrowed, or out of the land for the benefit of which the loan has been granted, in manner provided by sub-sec. (1).

(3) It shall be in the discretion of a Collector acting under this section to determine the order in which he will resort to the various modes of recovery permitted by it.

**8. Order granting loan conclusive on certain points :-**

A written order under the hand of an officer empowered to make loans under this Act granting a loan to, or with the consent of, a person mentioned therein, for the purpose of carrying out a work described therein, for the benefit of land specified therein, shall, for the purposes of this Act, be conclusive evidence-

(a) that the work described is an improvement within the meaning of this Act;

(b) that the person mentioned had at the date of the order a right to make such an improvement; and

(c) that the improvement is one benefiting the land specified.

**9. Liability of joint borrowers as among themselves :-**

When a loan is made under this Act to the members of a village community or to any other persons on such terms that all of them are jointly and severally bound to the Government for the payment of the whole amount payable in respect thereof, and a statement showing the portion of that amount which as among themselves each is bound to contribute is entered upon the order granting the loan and is signed by each of them and by the officer making the order, that statement shall be conclusive evidence of the portion of the amount which as among themselves each of those persons is bound to contribute.

**9A. Prohibition of misapplication of loan under the Act :-**

(1) Every person taking loan under this Act shall, in the manner provided for in the rules made by the State Government in this behalf and the conditions contained in the order granting such loan, apply the amount thereof for the purpose and within the period specified in the order granting such loan.

(2) Without prejudice to any penalty which may be imposed under any other provision of law or instrument, any person who fails to comply with the provisions of sub-section (1) shall, on an order in writing passed by a revenue officer not below the rank of Sub-Divisional Officer, be liable to pay by way of penalty such sum not exceeding twice the amount of the loan outstanding as such officer may by order fix unless such person refunds the amount of loan and satisfies such officer that the failure was due to reasons beyond his control."-C. P. and Berar Act 55 of 1949, section 2 (18-11-1949).

**10. Power to make rules :-**

The <sup>12</sup>[State] Government <sup>13</sup>[\* \* \*] may, from time to time, by notification in the <sup>14</sup> [Official Gazette], make rules consistent with this Act to provide for the following matters, namely,-

(a) the manner of making applications for loans;

(b) the officers by whom loans may be granted;

(c) the manner of conducting inquiries relative to applications for loans, and the powers to be exercised by officers conducting those inquiries;

(d) the nature of the security to be taken for the due application and repayment of the money, the rate of interest at which) and the conditions under which, loans may be granted, and the manner and time of granting loans;

(e) the inspection of works for which loans have been granted;

(f)- the instalments by which, and the mode in which, loans, the interest to be charged on them and the costs incurred in the making thereof, shall be paid;

(g) the manner of keeping and auditing the accounts of the expenditure of loans and of the payments made in respect of the same; and

(h) all other matters pertaining to the working of the Act.

[a] Substituted for "Provincial" by A.L.O., 1950.

[b] The words "subject to control of the Governor-General in Council" were omitted by the Decentralization Act, 1914 (4 of 1914), section 2 and Schedule, Pt. I.

[c] Substituted for "local Official Gazette" by A.O., 1937.

### **11. Exemption of improvements from assessment to land-revenue :-**

When land is improved with the aid of a loan granted under this Act, the increase in value derived from the improvement shall not be taken into account in revising the assessment of land-revenue on the land: Provided as follows-

(1) where the improvement consists of the reclamation of wasteland, or of the irrigation . of land assessed at unirrigated rates, the increase may be so taken into account after the expiration of such period as may be fixed by rules to be framed by the <sup>15</sup>[State] Government <sup>16</sup> [\* \* \*];

(2) nothing in this section shall entitle any person to call in question any assessment of land-revenue otherwise than as it might have been called in question if this Act had not been passed.

[a] Substituted for "Provincial" by A.L.O., 1950.

[b] The words "with the approval of the Governor-General in Council" were omitted by Land Improvement and Agriculturists' Loans (Amendment) Act, 1906 (8 of 1906), section 5.

### **12. Certain powers of State Government to be exercisable by Board of Revenue or Financial Commissioner :-**

The powers conferred on a <sup>1</sup>[State] Government by sections 4(1),

5(1) and 10 may, in a <sup>1</sup>[State] for which there is a Board of Revenue or a Financial Commissioner, be exercised in the like manner and subject to the like conditions by such Board or Financial Commissioner, as the case may be: Provided that rules made by a Board of Revenue or Financial Commissioner shall be subject to the control of the <sup>20</sup> [State] Government.]

[b] Substituted for "Provincial" by A.L.O., 1950.