



## The Presidency-Towns Insolvency (Bombay Amendment) Act, 1933

Act 20 of 1933

Keyword(s):

Central Act Amendment, The Presidency-Towns Insolvency Act, 1909, Judges

Amendment appended: 51 of 1948

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**THE PRESIDENCY-TOWNS INSOLVENCY (BOMBAY AMENDMENT)  
ACT, 1933.**

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11. Repeal.

**SCHEDULE I.**

**BOMBAY ACT No. XX OF 1933.<sup>1</sup>**

[THE PRESIDENCY-TOWNS INSOLVENCY (BOMBAY AMENDMENT) ACT, 1933.]

[27th October 1933]

Amended by Bom. 3 of 1935.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

Adapted and modified by the Adaptation of Indian Laws Supplementary Order in Council.

Amended by Bom. 17 of 1945.\*

Adapted and modified by the Adaptation of Laws Order, 1950.

**An Act to amend the Presidency-towns Insolvency Act, 1909, in its application to<sup>2</sup>[the Greater Bombay].**

III of 1909. 5 & 6 Geo. V. c. 61. WHEREAS it is expedient to amend the<sup>3</sup>Presidency-towns Insolvency Act, 1909, in its application to<sup>2</sup>[the Greater Bombay] for the purposes hereinafter appearing; And whereas the previous sanction of the Governor General required by sub-section (3) of section 80-A of the Government of India Act and the previous sanction of the Governor required by section 80-C of the said Act have been obtained for the passing of this Act; It is hereby enacted as follows:—

1. (1) This Act may be called the Presidency-towns Insolvency (Bombay Amendment) Act, 1933. Short title and extent.

(2) It extends to<sup>2</sup>[the Greater Bombay] \*\* \* \*

III of 1909. 2. In section 74 of the<sup>3</sup>Presidency-towns Insolvency Act, 1909, in its application to<sup>2</sup>[the Greater Bombay] \*\* \* \*, hereinafter referred to as "the said Act" for the words "it, and also to pay out of his own money interest thereon" the words "such dividend and interest thereon" shall be substituted. Amendment of section 74 of Act III of 1909.

3. After section 77 of the said Act, the following section shall be inserted, namely:— Insertion of new section 77A in Act III of 1909.

"77A. The Official Assignee shall be a corporation sole by the name of the Official Assignee of Bombay \* \* \* \* \* and as such Official Assignee shall have perpetual succession and an official seal and may sue and be sued in his corporate name and may do all acts necessary or expedient to be done in the execution of his office." Official Assignee to be corporation sole.

4. For section 82 of the said Act, the following section shall be substituted, namely:— Amendment of section 82 of Act III of 1909.

"82. The revenues of the<sup>6</sup>[State] Government shall be liable to make good all sums required to discharge any liability which the Official Assignee may be liable to discharge, except when such liability is one to which neither the Official Assignee nor any of his officers has in any way contributed or which neither he nor any of his officers could, by the exercise of reasonable diligence, have averted and in either of these cases the Official Assignee shall not, nor shall the revenues of the<sup>6</sup>[State] Government, be subject to any liabilities." Liability of Provincial Government.

<sup>1</sup> For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1933, Pt. V, pp. 973-974; and for Proceedings in Council, see *Bombay Legislative Council Debates*, 1933, Vol. XXXVIII.

<sup>2</sup> These words were substituted for the original by Bom. 17 of 1945 read with Bom. 52 of 1947, s. 2, proviso.

<sup>3</sup> See Central Acts.

<sup>4</sup> The words "and the town of Karachi" were omitted by the Adaptation of Laws Order, 1950.

<sup>5</sup> The words "or, the Official Assignee of Karachi, as the case may be" were omitted, *ibid*.

<sup>6</sup> The words "Provincial Government" were substituted for the words "local Government" by the Adaptation of Indian Laws Order in Council.

<sup>7</sup> This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

\* This Act has been repealed and re-enacted and the amendments made by section 9 and Schedule E of the said Act have been continued in force by Bom. 52 of 1947, s. 2.

Amendment  
of section 83  
of Act III of  
1909.

5. For section 83 of the said Act, the following section shall be substituted, namely :—

Description  
by which  
Official  
Assignee to  
be mentioned  
in suits or  
proceedings.

“ 83. In all suits or proceedings by or against the Official Assignee, there shall be inserted after his official title, the description ‘ as assignee of the property of an insolvent (naming the particular insolvent) ’.”

Amendment  
of section 112  
of Act III of  
1909.

6. In sub-section (2) of section 112 of the said Act :—

(i) for clause (d), the following clause shall be substituted, namely :—

1\* \* \* \* \*

(ii) in clause (f), after the word “ audit ” the words “ and inspection ” shall be inserted ;

(iii) clause (g) shall be deleted ;

(iv) in clause (h), the words “ out of the proceeds aforesaid ” shall be deleted ; and

(v) to clause (i), the words “ or otherwise in his official capacity ” shall be added.

Insertion  
of a new  
section 121A  
in Act III of  
1909.

7. After section 121 of the said Act, the following section shall be inserted, namely :—

Transfer of  
certain funds,  
to Provincial  
Government.

“ 121A. The sums and securities standing to the credit of—

<sup>2</sup>[(a)] (1) the Unclaimed Dividend (Capital) Account less the sum of Rs. 50,000,

(2) the Unclaimed Dividend Revenue Account less the sum of Rs. 25,000,

(3) the Chief Clerk and Sealer’s (Insolvent Debtors’ Court) Investment of Unclaimed Balances Account less the sum of Rs. 20,000, and

(4) the Chief Clerk and Sealer’s (Insolvent Debtors’ Court) Investment of Interest Account,

with the High Court of Judicature, Bombay, <sup>3</sup>and

(b) (1) the Unclaimed Dividend (Capital) Account less the sum of Rs. 7,500,

(2) the Unclaimed Dividend (Revenue) Account less the sum of Rs. 3,000, and

(3) the Official Assignee’s Fund, with the Court of the Judicial Commissioner of Sind,

are hereby transferred to the <sup>4</sup>[<sup>5</sup>State] Government :

Provided that the revenues of the <sup>4</sup>[<sup>5</sup>State] Government] shall be liable to make good all sums required to meet the claims upon the said sums and securities of persons entitled thereto.”

Amendment  
of section 122  
of Act III of  
1909.

8. In section 122 of the said Act—

(i) for the word “ prescribed ” the words “ determined by the <sup>4</sup>[<sup>5</sup>State] Government] ” shall be substituted ; and

(ii) for the words “ the Government of India ”, the words “ <sup>4</sup>[<sup>5</sup>State] Government ” shall be substituted.

Amendment  
of section 123  
of Act III of  
1909.

9. In section 123 of the said Act, for the words “ Government of India ” where they occur at both the places and for the words “ Governor General in Council ” the words “ <sup>4</sup>[<sup>5</sup>State] Government] ” shall be substituted.

<sup>1</sup> Clause (d) was omitted by the Adaptation of Indian Laws Supplementary Order in Council.

<sup>2</sup> This letter and brackets were inserted by Bom. 3 of 1935, s. 2 (iv).

<sup>3</sup> These words, letter, figures and brackets were substituted for the words “ are hereby transferred to the Local Government ” by Bom. 3 of 1935, s. 2 (iv).

<sup>4</sup> The words “ Provincial Government ” were substituted for the words “ Local Government ” by the Adaptation of Indian Laws Order in Council.

<sup>5</sup> This word was substituted for the word “ Provincial ” by the Adaptation of Laws Order, 1950

10. After section 123 of the said Act, the following sections shall be inserted, namely :—

Insertion of new sections 123A and 123B in Act III of 1909.

“123A. The <sup>1</sup>[State] Government may, <sup>2</sup>[out of sums and securities standing to the credit of the accounts of the Official Assignee, Bombay, specified in clauses (1) and (2)] from time to time after consultation with the High Court of Judicature, Bombay

<sup>3</sup>[State] Government to determine the amount to be set apart and the sums to be transferred out of certain accounts <sup>4</sup>[relating to the office of the Official Assignee, Bombay].

(1) determine the amount to be set apart out of—

(i) the Unclaimed Dividend (Capital) Account, and

(ii) the Chief Clerk and Sealer's (Insolvent Debtors' Court) Investment of Unclaimed Balances Account,

for meeting the claims of creditors or debtors made within the period specified in section 122, and

(2) transfer sums to the revenues of the <sup>1</sup> [ <sup>2</sup>[State] Government ] from—

(i) the Unclaimed Dividend (Capital) Account,

(ii) the Unclaimed Dividend Revenue Account,

(iii) the Chief Clerk and Sealer's (Insolvent Debtors' Court) Investment of Unclaimed Balances Account, and

(iv) the Chief Clerk and Sealer's (Insolvent Debtors' Court) Investment of Interest Account.”

123B. [*Provincial Government to determine the amount to be set apart and the sums to be transferred out of certain accounts relating to the office of the Official Assignee, Karachi.*] Omitted by the Adaptation of Laws Order, 1950.

11. The provisions of the said Act specified in Schedule I hereto annexed shall be repealed.

### SCHEDULE I.

(provisions repealed.)

(Section 11.)

Sections 61, 68 (2), 84 and 87 (3).

<sup>1</sup> The words “ Provincial Government ” were substituted for the words “ Local Government ” by the Adaptation of Indian Laws Order in Council.

<sup>2</sup> This word was substituted for the word “ Provincial ” by the Adaptation of Laws Order, 1950.

<sup>3</sup> These words, figures and brackets were inserted by Bom. 3 of 1935, s. 2 (v) (1).

**THE PRESIDENCY-TOWNS INSOLVENCY (BOMBAY AMENDMENT) ACT, 1948.**

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**CONTENTS.**

**PREAMBLE.**

**SECTIONS.**

1. Short title.
2. Amendment of Act III of 1909.
3. Validation of certain rules and notices.
4. Repeal of Bom. Ordinance No. III of 1948.

BOMBAY ACT No. LI OF 1948.<sup>1</sup>

[THE PRESIDENCY-TOWNS INSOLVENCY (BOMBAY AMENDMENT) ACT, 1948.]

[22nd October 1948]

An Act to amend the Presidency-towns Insolvency Act, 1909,  
in its application to the Province of Bombay.

III of 1909. WHEREAS it is expedient to amend the Presidency-towns Insolvency Act, 1909, in its application to the Province of Bombay, for the purposes hereinafter appearing ; It is hereby enacted as follows :—

1. This Act may be called the Presidency-towns Insolvency (Bombay Amendment) Act, 1948. Short title.

III of 1909. 2. In the Presidency-towns Insolvency Act, 1909,—

Amendment  
of Act III of  
1909.

(a) for clause (c) of section 9, the following shall be substituted, namely :—

“(i) if, after a creditor has served an insolvency notice on him under this Act in respect of a decree or an order for the payment of any amount due to such creditor, the execution of which is not stayed, he does not, within the period specified in the notice which shall not be less than one month, either comply with the requirements of the notice or satisfy the Court that he has a counter claim or set off which equals or exceeds the decretal amount or the amount ordered to be paid by him and which he could not lawfully set up in the suit or proceeding in which the decree or order was made against him.”;

(b) in sub-section (1) of section 9A, after the words “or his agent” the words, “or to satisfy the Court that he has a counter claim or set off which equals or exceeds the decretal amount or the amount ordered to be paid by him and which he could not lawfully set up in the suit or proceeding in which the decree or order was made against him” shall be inserted.

3. The amendments made by this Act shall be deemed to have been made with effect from the 19th day of June 1939 and notwithstanding any judgment of any Court or anything contained in any law,— Validation of  
certain rules  
and notices.

III of 1909. (a) the rules including the forms relating to insolvency notices made by the High Court under the Presidency-towns Insolvency Act, 1909, before the 14th day of June 1948, shall be deemed to have been made under the said Act as amended to have been made under the said Act as amended by this Act, and

(b) no insolvency notice issued under any of the said rules and no order of adjudication made for non-compliance with any such notice made before the 14th day of June 1948 shall be called in question in any Court on the ground merely that any of the rules under which or the form in which the notice was issued was not authorised by the provisions of the said Act.

4. The Presidency-towns Insolvency (Bombay Amendment) Ordinance, 1948, Repeal of  
Bom.  
Ordinance  
No. III  
of 1948.  
is hereby repealed. Bom.  
Ordinance  
No. III  
of 1948.

<sup>1</sup> For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1948, Part V, page 387.