JAIIB/DBF PAPER 3: LEGAL & REGULATION ASPECTS OF BANKING

MODULE C: BANKING RELATED LAWS
Unit 1&2: SARFAESI ACT, 2002

Unit 3: Regulation of Securitisation and Reconstruction of Financial Assets of Banks and Financial Institutions

Unit 4: Enforcement of Security Interest

Unit 5: Central Registry

Unit 6: Offences and Penalties

Unit 7: Miscellaneous Provisions

Unit 8: The Banking Ombudsman Scheme, 2006: Purpose, Extent, Definitions, Establishment and Powers

Unit 9: Procedure for Redressal of Grievances

Unit 10: Jurisdiction, Powers and Authority of Tribunals

Unit 11: Procedure of Tribunals

Unit 12: Recovery of Debts Determined by Tribunal and Miscellaneous Provisions

Unit 13: The Bankers’ Books Evidence Act, 1891

Unit 14: The Legal Services Authorities Act, 1987: Lok Adalats

Unit 15: The Consumer Protection Act, 1986: Preamble, Extent and Definitions

Unit 16: Consumer Protection Councils

Unit 17: Consumer Disputes Redressal Agencies

Unit 18: The Law of Limitation

Unit 19: Tax Laws
Unit 1&2: SARFAESI ACT, 2002

SARFAESI Act

The SARFAESI Act gives detailed provisions for the formation and activities of Asset Securitization Companies (SCs) and Reconstruction Companies (RCs). Scope of their activities, capital requirements, funding etc. are given by the Act. RBI is the regulator for these institutions.

As a legal mechanism to insulate assets, the Act addresses the interests of secured creditors (like banks). Several provisions of the Act give directives and powers to various institutions to manage the bad asset problem. Following are the main objectives of the SARFAESI Act.

- The Act provides the legal framework for securitization activities in India
- It gives the procedures for the transfer of NPAs to asset reconstruction companies for the reconstruction of the assets.
- The Act enforces the security interest without Court’s intervention
- The Act give powers to banks and financial institutions to take over the immovable property that is hypothecated or charged to enforce the recovery of debt.

Major feature of SARFAESI is that it promotes the setting up of asset reconstruction (RCs) and asset securitization companies (SCs) to deal with NPAs accumulated with the banks and financial institutions. The Act provides three methods for recovery of NPAs, viz:

- Securitization;
- Asset Reconstruction; and
- Enforcement of Security without the intervention of the Court.

Definition of SARFAESI Act, 2002

In SARFAESI Act, 2002, the definitions are given in Section 2 of the Act.
1. **Preamble** – An act to regulate Securitisation and reconstruction of financial assets and enforcement of security interest and for matters connected therewith or incidental thereto.

2. **Appellate Tribunal** – Any person aggrieved by the order passed by “Debt Recovery Tribunal” can file an appeal to the authority called as Appellate Tribunal.

3. **Asset Reconstruction** - An asset reconstruction means acquisition by an ARC of any right or interests of any Bank or Financial Institution in any financial assistance for the purpose of realisation of such financial assistance.

4. **Bank** – SARFAESI Act, All the banking companies, Nationalised banks, Cooperative banks and RRBs.


6. **Borrower** – Any person, who has been granted financial assistance, given guarantee.

7. **Central Registry** – Under this Act, ‘Central Registry’ All the transactions of asset Securitisation, reconstruction as well as transactions of creating security interest will have to be registered with this authority.

8. **Debt Recovery Tribunal** – SARFAESI Act, Debts Recovery Tribunal are those tribunals established under the Recovery of Debts Due to Banks and Financial Institutions Act, 1993, to deal with the cases of recovery of debts above Rs. 10lacs due to the banks and financial institutions.

9. **Default**: Default is failure to meet the legal obligations of a loan, for example when a home buyer fails to make a mortgage payment, or when a corporation or government fails to pay a bond which has reached maturity.

10. **Financial Assistance**: Whenever any bank or financial institution grants a loan or advance or makes subscription of debenture or bonds or gives guarantee or issues letters of credit or extends other credit facility, it is called financial assistance.

11. **Financial Asset** - a claim to any debt or receivables and includes:

   - A claim to any debt or receivables or part thereof whether secured or unsecured, or
   - Any debt or receivable secured by mortgage of or charge on immovable property or
   - A mortgage, charge, hypothecation or pledge of moveable property, or
   - Any right of interest in the security, whether full or part, securing debt, or

12. **Financial Institution**: Financial Institution means

   - A public financial institution within the meaning of the Companies Act, 1956 (now ICA 2013)
• The 'International Finance Corporation' established under the International Finance Corporation (Status, Immunities and Privileges) Act, 1958.

13. **Hypothecation:** Hypothecation means

• A change in or upon any movable property
• Existing or future
• Created by a borrower
• In favour of a secured creditor

14. **Non-Performing Asset:** A non-performing loan is a loan that is in default or close to being in default. Many loans become non-performing after being in default for 90 days, but this can depend on the contract terms.

15. **Originator:** Originator is the owner of a financial asset that is acquired by a securitization company or reconstruction company for the purpose of securitization or asset reconstruction.

16. **Obligor** – Borrower or any other person liable to pay to the bank

17. **Property:** Property means

• Immovable property;
• Movable property;
• Any debt or any right to receive payment of money, whether secured or unsecured;
• Receivables, whether existing or future;
• Intangible assets, being know-how, patent, copyright, trade mark, licence, franchise or any other business or commercial right of similar nature;

18. **Qualified Institutional Buyer:** Means a financial institution, insurance company, bank, state financial corporation, state industrial development corporation, [trustee of securitisation company or reconstruction company which has been granted a certificate of registration under sub-section (4) of section 3 or any asset management company making investment on behalf of mutual fund] or a foreign institutional investor registered under the Securities and Exchange Board of India Act, 1992 (15 of 1992) or regulations made thereunder, or any other body corporate as may be specified by the Board.

19. **Reconstruction Company:** Means a company formed and registered under the Companies Act, 1956 (1 of 1956) for the purpose of asset reconstruction;

20. **Scheme:** Means a scheme inviting subscription to security receipts proposed to be issued by a securitisation company or reconstruction company under that scheme;

21. **Securitisation:** Means acquisition of financial assets by any securitisation company or reconstruction company from any originator, whether by raising of funds by such securitisation company or reconstruction company from qualified institutional buyers by
issue of security receipts representing undivided interest in such financial assets or otherwise;

22. **Securitisation Company** : The minimum capital requirement is Rs.200 Crore at the time of registration, and these companies are required to maintain minimum capital adequacy ratio of 15% of total asset acquired or Rs.100 crore whichever is less. It is company registered under companies act 1956 for the purpose of securitisation. The company also needs registration with RBI.

23. **Security Agreement**: Means an agreement, instrument or any other document under which security interest is created.

24. **Secured Asset** means property on which security interest is created. The powers given by SARFAESI Act for enforcement of securities are against secured assets only.

25. **Secured Creditor**: Means any bank or financial institution or any consortium or group of banks or financial institutions and includes—

- debenture trustee appointed by any bank or financial institution; or 5[(ii)
  securitisation company or reconstruction company, whether acting as such or managing a trust set up by such securitisation company or reconstruction company for the securitisation or reconstruction, as the case may be; or]
- any other trustee holding securities on behalf of a bank or financial institution, in whose favour security interest is created for due repayment by any borrower of any financial assistance;

26. **Secured Debt** means a debt which is secured by any security interest.

27. **Secured Interest** – Any right, title and interest of any kind whatsoever upon the property created in favour of any secured creditor is called as secured Interest.

28. **Security Receipt**: Means a receipt or other security, issued by a securitisation company or reconstruction company to any qualified institutional buyer pursuant to a scheme, evidencing the purchase or acquisition by the holder thereof, of an undivided right, title or interest in the financial asset involved in securitization.

29. **Sponsor** is a person holding not less than 10% of the paid up equity capital of securitisation company.

- When any bank or financial institutions creates a charge against property, with which authority the transaction will have to be registered under the SARFAESI Act, 2002 – With the Central Registry
- When the provisions of SARFAESI Act, 2002 can be invoked for proceeding against the charged property – When there is default in repayment and the bank declares the account as NPA.
- Acquisition of financial asset from the originator is the main function of securitisation company.
• If the borrower does not pay within 60 days after notice by the secured creditor the creditor can take possession of the security.
• Enforcement of SARFAESI Act only if security is not in possession of the bank and financial institution.

**Unit 3: Regulation of Securitisation and Reconstruction of Financial Assets of Banks and Financial Institutions**

**Registration of Securitisation Company Or Reconstruction Company**

*Can commence or carry business if*

- Obtain certification of registration from RBI
- It has the owned funds not less than **2 Crores**

**Cancellation of Certificate of Incorporation**

- The company ceases to carry on the business
- The company ceases to receive or hold any investment from a qualified institutional buyer.
- The company fails to comply with any of the conditions subject to which the certificate of registration was granted
- Fails to comply with RBI directions.
- Fails to maintain accounts in accordance with directions issued by RBI.
- Fails to give accounts and documents to RBI for inspection.

**Acquisition of Right of Interest In Financial Assets**

*Securitisation And Reconstruction Of Financial Assets And Enforcement Of Security Interest Act 2002/Section 5 Acquisition Of Rights Or Interest In Financial Assets*
Notwithstanding anything contained in any agreement or any other law for the
time being in force, any securitisation company or reconstruction company may
acquire financial assets of any bank or financial institution,-

1. by issuing a debenture or bond or any other security in the nature of debenture,
for consideration agreed upon between such company and the bank or financial
institution, incorporating therein such terms and conditions as may be agreed
upon between them; or

2. by entering into an agreement with such bank or financial institution for the
transfer of such financial assets to such company on such terms and conditions
as may be agreed upon between them.

- If the bank or financial institution is a lender in relation to any financial assets
acquired under sub-section (1) by the securitisation company or the
reconstruction company, such securitisation company or reconstruction
company shall, on such acquisition, be deemed to be the lender and all the rights
of such bank or financial institution shall vest in such company in relation to such
financial assets.

- Unless otherwise expressly provided by this Act, all contracts, deeds, bonds,
agreements, powers-of-attorney, grants of legal representation, permissions,
approvals, consents or no-objections under any law or otherwise and other
instruments of whatever nature which relate to the said financial asset and
which are subsisting or having effect immediately before the acquisition of
financial asset under sub-section (1) and to which the concerned bank or
financial institution is a party or which are in favour of such bank or financial
institution shall, after the acquisition of the financial assets, be of as full force and
effect against or in favour of the securitisation company or reconstruction
company, as the case may be, and may be enforced or acted upon as fully and
effectually as if, in the place of the said bank or financial institution, securitisation
company or reconstruction company, as the case may be, had been a party
thereto or as if they had been issued in favour of securitisation company or
reconstruction company, as the case may be.

- If, on the date of acquisition of financial asset under sub-section (1), any suit,
appeal or other proceeding of whatever nature relating to the said financial asset
is pending by or against the bank or financial institution, save as provided in the
third proviso to sub-section (1) of section 15 of the Sick Industrial Companies
(Special Provisions) Act, 1985 (1 of 1986) the same shall not abate, or be
discontinued or be, in any way, prejudicially affected by reason of the acquisition
of financial asset by the securitisation company or reconstruction company, as
the case may be, but the suit, appeal or other proceeding may be continued,
prosecuted and enforced by or against the securitisation company or
reconstruction company, as the case may be.
Important Point

- Asset Reconstruction means acquisition of any right or interest of any bank of financial institution in any financial asset for the purpose of realisation.

- Securitisation Company needs registration from RBI for commencement of business.

- Right of acquisition of financial asset by Securitisation Company/RC is subject to the prior agreements or contracts about the asset. (False)

- Acquisition of financial asset by Securitisation Company/RC is with the liability also over such asset. (False)

The four documents involved in the Securitisation Transaction

Offer Document – Full details of financial asset, loan details of bank etc.

Debenture – A debenture for payment of consideration to be paid to the bank or financial institution for acquisition asset from it.

Agreement – it is with originator to continue to service the assets.

Security Receipt – It is in favour of investors.

Note: Any direction issued by the RBI under SARFAESI Act has Statutory effect and is binding on the parties concerned.

After application of SARFAESI Act existing companies have to get registered within six months from commencement of the Act
Unit 4: Enforcement of Security Interest

Right to Prefer Application to DRT

- Any person, including borrower, aggrieved by the any of the measures taken by the SC or his authorised officer for taking possession of the security may apply to the DRT with prescribed fees within 45 Days.

- If application by borrower, he has to deposit 50% of the amount claimed in the notice under Section 13(2) of the SARFAESI Act.

- The DRT has to dispose of the application within 60 Days. If not possible, then DRT has to record reasons for delay but such delay should not be beyond 4 Months. If any such application is not disposed within 4 Months, the aggrieved party can prefer an application to the Appellate Tribunal for seeking early disposal of the application.
Appeal to Appellate Authority

Any person aggrieved by any order by the DRT under can prefer appeal along with the prescribed fees to the Appellate Tribunal within 30 Days from the date of the receipt of the order of the DRT. Different fees for borrower? appeal and appeal by any other than borrower. The borrower has to deposit 50% of the debt claimed by the SC. The Tribunal has power to reduce this amount up to 25%.

Right of Borrower for Compensation and Costs

1. If the DRT /AT as the case may be, on the appeal holds that
   - The possession of secured asset by the SC is not in accordance with the provisions of the Acts or Rules
   - The SC should return such secured asset to the concerned borrower, with compensation and cost as may be determined by DRT/AT.

2. No pecuniary limit is fixed by the Act for the Appellate Jurisdiction.
   - If any Person contravenes or attempts to contravenes provisions of the SARFAESI Act or rules thereunder he shall be punishable with imprisonment for a term which may extend to one year or with fine or with both.

Section 12: RBI is statutorily empowered to issue directions to the SC/RC. If any such company fails to comply with any of the directions issued by the RBI then such company is punishable with fine not exceeding 5 Lakh rupees for the default. In case of further continuation of the offence additional fine is up to Rs. 10 thousand per day of default can be imposed.

Section 31: Exclusions of possessory securities to which act is NOT APPLICABLE
   - A Lien on any goods, money or security given by or under the Indian Contract Act, 1872.
   - A pledge of moveable within meaning of Section 172 of the Indian Contract Act, 1872.
   - Any conditional sale, hire-purchase or lease or any other contract in which security interest has been created.
   - Any rights of unpaid seller.
   - Any security interest for securing repayment of any financial asset not exceeding Rs. 1 Lakh rupees.
   - Any security interest created on agricultural land.
Note: Section 20, 21 to 27 that provide for registration of security interest created, satisfaction of charge created.

Unit 5: Central Registry

Central Registry

(1) The Central Government is authorized to set up or cause to be set up a ‘Central Registry’ by issue of notification from such date as may be specified in the notification for the purpose of registration of following transactions:

- Securitisation and reconstruction of financial assets
- Creation of security interest under the SARFAESI Act,

(2) There are some other Acts which require registration of certain things and charges. These Act are:

- Registration Act, 1908
- Companies Act, 2013
- Merchant Shipping Act, 1958
- Patents Act, 1970
- Designs Act, 2000
- Motor Vehicles Act, 1988

Register of Securitisation, Reconstruction and Security Interest Transactions

A record shall be maintained at the central registrar at the head office of the central registrar in which transaction relating to:

- Securitisation of Financial Assets
- Reconstruction of Financial Assets
- Creation of security interests shall be maintained.

Filing of Transactions of Securitisation, Reconstruction and Creation of security Interest
Under the SARFAESI act filing of details of transactions of securitisation, reconstruction and creation of security interest is required to be filed with the Central Register is 30 days after the date after the date of transaction or creation of security.

Note: Modification also have to be filled within 30 days

Unit 6: Offences and Penalties

PENALTIES

Section 23 of the Act provides for filing of the particulars of charge created. Section 24 has provides for modification of the charge filed and the Section 25 has provides that the satisfaction of the charge has to be intimated to the central registrar. If the securitisation or reconstruction company or the secured creditor fails to perform any of the duties as stated above, the company and the officers concerned for the default, as per provisions of this section, are punishable with a fine that may extend to five thousand rupees for each day during which the default continues.

Penalties For Non-Compliance Of Directions Of Reserve Bank Of India

Under the Section 12 or 12A of the SARFAESI Act, the Reserve Bank of India is statutorily empowered to issue directions to the securitisation or reconstruction company. If any such company fails to comply with any of the directions issued by the Reserve Bank of India, then such company is punishable with a fine not exceeding Rs. 5 lakh for the default. In case of further continuation of the offence, an additional fine up to Rs. 10,000 per day of the default can be imposed.

OFFENCES

If any person:

1. contravenes, or
2. attempts to contravene, or
3. abets the contravention of the provisions of the SARFAESI Act or rules made thereunder, he shall be punishable with imprisonment for a term, which may extend to one year or with a fine or both.

Cognisance Of Offences

Section 30 provides that no court shall take cognizance of any offence punishable under section 27 in relation to non-compliance with the provisions of section 23, section 24.
or section 25 or under section 28 or section 29 or any other provisions of the SARFAESI Act, except upon a complaint in writing made by an officer of the Central Registry or an officer of the RBI, generally or specially authorized in writing in this behalf by the Central Register or, as the case may be, the Reserve Bank and cognisance of the offence under the SARFAESI Act shall be taken by the Metropolitan Magistrate or the Judicial Magistrate of First class only. No Court below the rank than this can take cognizance of such offences.

Unit 7: Miscellaneous Provisions

Non-Applicability of the Provisions of the SARFAESI Act in Certain Cases

The Object of the SARFAESI Act is to give powers to the banks and financial institutions to enforce the securities given to the loans and advance by the borrowers without the intervention of Court. It should be noted that the securities not in possession of the bank or financial institution are only covered by this Act.

Section 31 gives the exclusion for securities that can be taken possession of and to some other specific securities to which Act is not applicable.

- A lien, on any goods, money or security given by or under the Indian Contract Act, 1872 or the Sale of Goods Act, 1930 or any other law for the time being in force.
- A pledge of movable, within the meaning of Section 172 of the Indian Contract Act, 1872. (iii) Creation of security interest in any vessel as defined within the meaning of Section 3(55) of the Merchant Shipping Act, 1958.
- Creation of security in any aircraft as defined in Section 2 of Aircraft Act 1934.
- Any conditional sale, hire-purchase or lease or any other contract in which no security Interest has been created.
- Any rights of unpaid seller under Section 47 of the Sale of Goods Act, 1930.
- Any properties not liable for attachment or sale under the first proviso to Section 60(1) of the Civil Procedure Code, 1908.
- Any security interest for securing repayment of any financial asset not exceeding one lakh rupees
- Any security interest created in agricultural land
- Any case, in which the amount due is less than twenty per cent of the principal amount and interest thereunder.
Civil Court not to have Jurisdiction

Civil courts not to have jurisdiction, jurisdiction has conferred to DRT and AT. Under this Act as well as under Recovery of Debts Due to Bank and Financial Institutions Act, 1993.

Limitation

Section 36 SARFAESI Act: The action has to be taken within 3 years from date on which a cause of action arose.

Power of the Central Government to Make Rules

For Carrying out the Provision of this Act, the Central Government can frame rules and notify them in the official Gazette. The Act also allows the Government to notify the rules in the Electronic Gazettee as defined in the Information Technology act 2000, on the Website of the Government.

Amendments to Certain other Enactments

For effective purpose of this Act, it has amended some related provisions of the Companies Act, 1956 (now ICA, 2013), The Securities Contracts (Regulation) Act, 1956 and the Sick Industrial Companies (special provision) Act, 1956.

The amendments are as under

- Section 4A of the Companies Act, 1956 is amended for the purpose of declaring any securitization company or reconstruction company registered with the Reserve Bank of India as a Public financial Institution within the meaning of Section 4A of the Companies Act, 1956.

- The Securities Contracts (Regulation) Act, 1956 is amended at Clause (h) of Section (2) for including securities receipt as defined in Clause (zg) of Section 2 of the SARFAESI Act.

- Amendment to the Sick Industrial Companies (Special Provision) Act, 1985 is made to provide that.

- No Reference to the Board for Industrial and Financial Reconstruction (BIFR) shall lie, where financial assets are acquired by any securitisaton company or reconstruction company under sub-Section 5 of the SARFAESI Act.

- For the purpose of providing that a reference pending before BIFR shall abate if the secured creditor, representing not less than 60% in value of the amount outstanding, take any measures to recover their secured debt under sub-section(4) of Section 13 of SARFAESI Act.
Unit 8: The Banking Ombudsman Scheme, 2006: Purpose, Extent, Definitions, Establishment and Powers

Object of Scheme and Extent

- To resolve complaints relating to banking services and to facilitate the satisfaction or settlement of such complaints.
- Resolve disputes between a bank and its constituents as well as amongst banks, through the process of conciliation, mediation and arbitration.

Appointment and Tenure

- The Reserve Bank may appoint one or more of its officers in the rank of Chief General Manager or General Manager to be known as the Banking Ombudsmen to carry out the functions entrusted to them by or under the scheme. This appointment may be made for a period not exceeding 3 yrs at a time.

Territorial Jurisdiction and location of office

- The RBI shall specify the territorial limits to which the authority of each of the banking ombudsman shall extend.
- The office of the banking ombudsman will be located at such places as may be specified by the Reserve Bank.
- The Banking ombudsman may hold sittings at such places within his area of jurisdiction as may be considered necessary and proper by him, in respect of a complaint or reference before him.

General Powers of Banking Ombudsman

The banking ombudsman shall have the following powers and duties.

- To receive complaints relating to banking services.
- To consider such complaints relating to the deficiencies in the banking and other services and facilitate their satisfaction or settlement by agreement through conciliation and mediation between the bank the aggrieved parties or by passing an award in accordance with the scheme.
• Telegram Group:- Click Here

<table>
<thead>
<tr>
<th>JAIIB/DBF Paper</th>
<th>Mock Link</th>
</tr>
</thead>
<tbody>
<tr>
<td>JAIIB/DBF Paper-I (Principle and Practices of Banking) Online Mock Tests</td>
<td>Click Here (900+ Questions) 299/- Only</td>
</tr>
<tr>
<td>JAIIB/DBF Paper-II (Accounting &amp; Financial for Bankers) Online Mock Tests</td>
<td>Click Here (850+ Questions) 299/- only</td>
</tr>
<tr>
<td>JAIIB/DBF Paper-3 (Legal and Regulatory Aspects of Banking) Online Mock Tests</td>
<td>Click Here (850+ Questions) 299/- only</td>
</tr>
<tr>
<td>Combo</td>
<td>Click Here (2600+ Questions) 699/- only</td>
</tr>
</tbody>
</table>

**Unit 9: Procedure for Redressal of Grievances**

**Grounds of Complaint**

A Complaint on any of the following grounds alleging deficiency in banking service may be filed with the Banking Ombudsman having the jurisdiction:

- Non-payment/inordinate delay in the payment/collection of cheques
- Non-acceptance, without sufficient cause, of small denomination notes
- Non- Payment or delay in payment of inward remittances.
• Failure to honour a guarantee or letter of credit commitment.
• Non-adherence to prescribed working hours
• Refusal to open deposit accounts without any valid reason for refusal
• Failure to honour guarantee/LC commitments by banks.
• Claims in respect of unauthorized/fraudulent withdrawals.
• Force closure of deposit accounts without due notice or without sufficient reason.
• Complaints from exporters in India.
• Complaints from NRI having account in India.
• Any other matter relating to the violation of the directives issued by the RBI in relation to banking services.

Complaints concerning Loans and Advances may also be filed
• Non-observance of RBI directives on interest rates
• Delay in sanction, disbursement of Loan
• Non-acceptance of application for loans without giving valid reasons.

Procedure For Filing Complaint
• Before making complaint to the BO, must be made written representation to the bank and either the bank rejected the complaint or the complainant had not received any reply within one month after the bank recd. the complaint.
• The complaint should be made before one year after the cause of action has arisen.

Power To Call For Information
• The Banking Ombudsman may require the bank named in the complaint or any other related bank to provide any information or furnish certified copies of any document relating to the subject matter of the complaint that is or is alleged to be in the possession of such bank. In the event of the failure of a bank to comply the requisition without any sufficient cause, the banking ombudsman may draw the inference that the information, if provided or copies if furnished would be unfavorable to such bank.
• The banking ombudsman shall **not disclose any information or document** to any person except with the consent of the person furnishing such information or document.

**Settlement Of Complaint By Agreement**

• The banking ombudsman has to serve a notice of the receipt of complaint along with a copy of the complaint to the branch or office of the bank named in the complaint.

• For the purpose of promoting a settlement of the complaint, the banking ombudsman may follow such procedures as he may consider appropriate and he shall not be bound by any legal rule of evidence.

• The proceedings before the banking ombudsman shall be summary in nature.

**Award By The Banking Ombudsman**

• If the complaint is not settled by agreement within one month from the date of the receipt of the complaint or such further period, He may pass an award after giving the parties reasonable opportunity to present their case.

• A copy of the award shall be sent to the complainant and the bank named in the complaint. An award shall not be binding on bank unless complainant gives its letter of acceptance **within 15 days** from the date of the receipt of the award. If the complainant does not accept the award and fails to furnish the letter of acceptance within such time without making any request for extension of time to comply with m the Banking Ombudsman shall reject such requests.

• The bank shall within one month from the date of receipt by it, of the acceptance in writing of the Award by the complainant comply with Award and intimate the compliance to the Banking Ombudsman.

• If the bank disagree, bank must intimate Banking Ombudsman within one month from the date of the receipt of copy of the Award to file the review petition.

• The Banking Ombudsman shall report to the RBI, review authority, about the non-compliance by any bank of an Award. On receipt of such reports Review Authority will pass necessary orders.

• The **maximum amount** Banking Ombudsman can award for compensation is **Rs.20 lakhs**.

• In case of complaints relating to credit card operations, the banking ombudsman shall take into account the loss of complainant’s time, expense incurred by the complainant, harassment and mental anguish suffered by the complainant, while determining the amount of compensation. **The Compensation shall not exceed Rs 1 Lac.**
**Rejection Of the Complaint**

1. The banking ombudsman may reject the complaint at any stage if it appears to him that the complaint made is:
   - Other than what is made under Clause 8 of the Scheme or in accordance with sub-clause (3) of clause 9 of the Scheme; or
   - Without any sufficient cause; or
   - That it is not pursued by the complainant with reasonable diligence; or
   - Prima facie, there is no loss or damage or inconvenience caused to the complainant; or
   - Beyond the pecuniary jurisdiction of the banking ombudsman under the scheme

2. The banking ombudsman may reject a complaint at any stage, if after consideration of the complaint and evidence produced before him the banking ombudsman is of the opinion that the complicated nature of the complaint requires consideration of elaborate documentary and oral evidence and the proceedings before the banking ombudsman are not appropriate for adjudication of such a complaint. The decision of the banking ombudsman in this regard shall be final and binding on the complainant of the bank.

**Proceeding Before The Appellate Authority**

1. Any person aggrieved by the award has the right to prefer an appeal against the award before the appellate authority within forty-five days from the date of receipt of the award. The appellate authority is empowered to allow a further period not exceeding thirty days on his being satisfied that the appellant had sufficient cause for not preferring the appeal in time. In case the appeal is by the bank, the filing of appeal should have been with the previous sanction of the Chairman or in his absence the Managing Director or Executive Director or the Chief Executive Officer or any other officer of equal rank.

2. The appellate authority after giving the parties a reasonable opportunity of being heard, may pass the following orders:
   - Dismiss the appeal; or
   - Allow the appeal and set aside the award; or
   - Remand the matter to the banking ombudsman for fresh disposal in accordance with such directions as the appellate authority may consider necessary or proper; or
   - Modify the award and pass such directions as may be necessary to give effect to the award so modified; or
   - Pass any other order as it may deem fit.
The order of the appellate authority has also the same effect as that of the award of the banking ombudsman.

**Unit 10: Jurisdiction, Powers and Authority of Tribunals**

**Jurisdiction, Powers and Authority of Tribunals**

- Whenever the Tribunal or the Appellate Tribunal is established from its appointed day, i.e., date from which they function is declared in the notification, they exercise jurisdiction, powers and authority to entertain and decide applications or appeals, as the case may be, from the banks and financial institutions for and about recovery of debts due to them.

- Chairperson of Appellate Tribunal is given general power of superintendence and control over the Tribunals under his jurisdiction. The chairperson can transfer any application from any Presiding Officer within his jurisdiction to any other Presiding Officer within his jurisdiction, on receiving application for transfer of case or even on his own motion. However, before such transfer, he has to give notice to the parties and hear them. He also has power of appraising work of presiding officers, under his control.

**Bar Of Jurisdiction Of Civil Courts**

- From the date of establishing the Tribunal, i.e., the appointed day, no court or other authority shall have any jurisdiction, powers or authority to deal within any way in recovery cases above Rupees ten lakh. Thus the Civil Courts or any other authority will lose and will not have the jurisdiction for cases where due amount recoverable is above Rupees ten lakh by banks and financial institutions. However, this is not applicable to High Courts and Supreme Courts exercising jurisdiction under Articles 226 and 227 of the Constitution.

- The relevant date of bar of jurisdiction by the court or other authority is not the date when this Act came into application. The date is since when the Tribunal is established having jurisdiction in that particular area. In Bhanu Construction Company Ltd. vs Andhra Bank [2002] 37 SCL 769, a question came whether the order passed by a Civil Court after coming into force of the DRT Act but before establishing the Tribunal is valid on jurisdiction point or not. The Supreme Court held that order passed by the Civil Court prior to establishment of a Tribunal but after commencement of DRT Act was well within the jurisdiction of the Civil Court.
# Unit 11: Procedure Of Tribunals

## Application to the Tribunal

The Purpose for filing application is for Recovery of the debt due to them.

<table>
<thead>
<tr>
<th>DRT Act</th>
<th>About</th>
</tr>
</thead>
<tbody>
<tr>
<td>Section19(1)</td>
<td>Application for recovery to Tribunal within local limits of whose jurisdiction</td>
</tr>
<tr>
<td>Section19(2)</td>
<td>Recovery of the debt is from same person, any other bank also has to recover debt, they may join.</td>
</tr>
<tr>
<td>Section19(3)</td>
<td>No need to pay the fee, if Case is transferred from Civil Court to Tribunal</td>
</tr>
<tr>
<td>Section19(4)</td>
<td>On receipt of application under sub-section(1) or (2) the Tribunal has to issue summons to the defendant requiring him to show cause within 30 days of the service of summons as to why the relief prayed for should not be granted</td>
</tr>
<tr>
<td>Section19(5)</td>
<td>The Defendant has to present written statement at or before first hearing or within such time as the Tribunal may permit.</td>
</tr>
<tr>
<td>Section19(6)</td>
<td>Defendant has to claims any amount on first hearing from the applicant and to have setoff against the applicant’s demand with ascertained sum of money</td>
</tr>
<tr>
<td>Section19(7)</td>
<td>When written statement contains claim and set off, the written statement has the same effect as a plaint in a cross-suit.</td>
</tr>
<tr>
<td>Section19(8)</td>
<td>Counter claim</td>
</tr>
<tr>
<td>Section19(9)</td>
<td>Counter claim has the same effect as a plaint in cross-suit so as to enable the Tribunal to pass a final order in respect of both the original and Counter Claim.</td>
</tr>
<tr>
<td>Section19(10)</td>
<td>The applicant is at liberty to file a written statement to the counter claim of the defendant within such period may be fixed by the Tribunal</td>
</tr>
<tr>
<td>Section19(11)</td>
<td>Counter Claim to be disposed as an Independent action.</td>
</tr>
<tr>
<td>Section 19(12)</td>
<td>The Tribunal may pass interim order against the defendant to debar him from transferring, alienating, or otherwise dealing with or disposing of any property/asset without the permission of the Tribunal</td>
</tr>
<tr>
<td>-----------------</td>
<td>--------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Section 19(13 A and B)</td>
<td>Tribunal Dispose of the property, Damage to the property, remove/whole any part of the property</td>
</tr>
<tr>
<td>Section 19(14)</td>
<td>When the applicant wants that the properties of the defendant should be attached.</td>
</tr>
<tr>
<td>Section 19(15)</td>
<td>The Tribunal can pass conditional attachment order.</td>
</tr>
<tr>
<td>Section 19(16)</td>
<td>If any attachment order is passed without complying the requirements of Subsection (13), then such order is void.</td>
</tr>
<tr>
<td>Section 19(17)</td>
<td>The Tribunal has power to pass interim orders, attachment orders etc. If there is any breach of the orders, the Tribunal may order that the properties of the person guilty of the breach of the order be attached and person be detained in civil prison for a term not exceeding 3 months.</td>
</tr>
<tr>
<td>Section 19(18)</td>
<td>appoint a receiver of any property</td>
</tr>
<tr>
<td></td>
<td>• remove any person from the custody/possession of property</td>
</tr>
<tr>
<td></td>
<td>• confer powers to receiver.</td>
</tr>
<tr>
<td></td>
<td>• appoint a commissioner for preparation of an inventory of the property of the defendant or for sale thereof</td>
</tr>
<tr>
<td>Section 19(19)</td>
<td>If the recovery certificate is granted against a company, the Tribunal may order that the sale proceeds of such company be distributed among the Secured Creditors as provided in Section 529A of the Companies Act.</td>
</tr>
<tr>
<td>Section 19(20)</td>
<td>Pass interim or final order for payment of amount including interest thereon</td>
</tr>
<tr>
<td>Section 19(21)</td>
<td>The tribunal is required to send copy of every order by it to the applicant and the defendant.</td>
</tr>
<tr>
<td>Section 19(22)</td>
<td>Issue a Certificate of Recovery to the recovery officer for recovery of the amount of debts.</td>
</tr>
<tr>
<td>Section 19(23)</td>
<td>Sending Certificate of Recovery to other tribunals if it is local limits of other jurisdiction</td>
</tr>
<tr>
<td>Section 19(24)</td>
<td>Application received by the tribunal for recovery of debt shall be disposed of finally within 180 days</td>
</tr>
</tbody>
</table>
Section 19(25)  The tribunal may make such orders and give such directions as may be necessary

**Appeal to the Appellate Tribunal**

- Any person aggrieved by the order passed by Under DRT Act, may appeal to an Appellate Tribunal.

- The appeal is required to be filed within 45 days from the date on which copy of the order is received. At the time of filing appeal Section 21 of the DRT Act 75% of the amount shown as due in the order required to be deposited by the appellant.

- Appellate Tribunal should disposed off the appeal within 6 months.

- These is no provision in the Act for further appeal against the order passed by the Appellate Tribunal. However writ Jurisdiction of High Court under Article 226 and Supervisory jurisdiction of High Court as well as Special Leave Petition before the Supreme Court are not Barred.

---

**Unit 12: Recovery of Debts Determined by Tribunal and Miscellaneous Provisions**

**Modes of Recovery of Debts**

- On receipt of the copy of the recovery certificate issued under Section 19(22) DRT Act, the Recovery officer has to proceed to recover the amount specified in the certificate.

**Validity of Recovery Certificate**

- One of the Rules under the Act (5A) says that when any party wants to have a review of the order passed by the Tribunal or the Recovery certificate issued by the Tribunal on the ground that error is apparent on the face to the record, he can make application for review within **60 days of passing the order or issuing the certificate**.

**Application of Certain Provisions of The Income Tax Act**

- **Provision of Section 29** of this Act are linked to certain section of the **Income Tax Act, 1961**. For its effective purpose and to avoid its repetition in this Act, it is stated
that these provisions will apply as if provided in this Act and Rules framed there under.

- The section says that the provisions of the Second Schedule and Third Schedule to the Income tax Act, 1961 and the Income Tax (certificate Proceedings) Rules, 1962, as in force from time to time shall, as far as possible, apply with necessary modifications as if those provisions and rules refer to debt due under this Act.

**Power of Tribunal to issue certificate of Recovery in case of Decree or order**

- If there is a decree or order passed by any court before coming into operation the DRT Act and the decree or order is not yet executed, the decree-holder, may apply to the Tribunal for issue of recovery certificate. There is no fresh hearing or tribal, etc. in such cases and the Tribunal has to directly issue the recovery certificate based on the decree of the Civil Court.

**Chairperson, Presiding officer and Staff of Appellate Tribunal and Tribunal Public Servants**

The Chairperson of an Appellate Tribunal, the Presiding officer of a tribunal, the Recovery officer and other officers of the Appellate Tribunal and Tribunal are deemed public servants within the meaning of Section 21 of the Indian Penal Code.

**Unit 13: The Bankers’ Books Evidence Act, 1891**

**Application and Definitions**

**Company:** Company means a company as defined in Section 3 of the Companies Act, 1956 (now ICA 2013) and includes a foreign company within the meaning of that Act.

**Legal Proceeding:** Any proceeding or inquiry in which evidence is or may be given;

Any investigation or inquiry under code of Criminal Procedure, 1973 or under any other law for the time being in force for the collection of evidence, conducted by a police officer or any other person authorized for the purpose by the magistrate or by any law.

**Certified Copy means when the books of the bank**

Maintained in Written Form, a copy of any entry in such books together with a certificate written at the foot of such copy mentioning that
1. it is true copy of such entry
2. that such entry made in ordinary course of business
   - Maintained in Electronic Form
   - Maintained in Mechanical Form

A certificate copy of any entry in a banker’s “Book shall”, in all legal proceedings, be received as prima facie evidence of the existence of such entry. Further, it shall be admissible as evidence of all the matters, transactions and accounts therein recorded in every case as the original entry itself.

**Case In Which Officer of Bank Not Compellable to produce Books**

In any proceeding where the bank is not a party, no officer of a bank shall be compellable to produce any banker’s book, contents of which can be proved, under this Act by production of certified copies. Similarly no the certified copies. However, the court may order otherwise for special cause.

**Unit 14: The Legal Services Authorities Act, 1987: Lok Adalats**

**Organisation of lok Adalats**

Lok Adalts are organized by the State Authority, the Distt. Authority, the Supreme Court Legal Service Committee or High Court Legal Services Committee or Taluk legal Services committee, at such intervals and places as deemed appropriate. The Lok Adalts are created under Legal Services Authority Act 1987.

**Jurisdiction of Lok Adalats**

A Lok Adalt has jurisdiction to determine and arrive at a compromise or settlement between the parties to the dispute.

**Types of Cases**

It deals with the cases where

(a) The parties to the dispute agree to refer the issue to Lok Adalt;

(b) One of the parties approaches the Lok Adalt and Lok Adalt is satisfied that there are chances of settlement. In such case, the Adalt issues notice to the other party;

(c) In the opinion of the Lok Adalt, the cognizance of the dispute can be taken.
Note: The Monetary ceiling of amounts regarding which civil disputes can be settled under this mechanism is presently Rs 20lacs. The repayment period should be within one to three years.

**Nature of Award of The Lok Adalats**

The Award of Lok Adalat shall be deemed to be a decree of a civil court or an order of any other court. In case of compromise or settlement arrived at by a Lok Adalat the court fee paid in the case shall be refunded in the manner provided under the **Court fees Act, 1870**. Every award shall be binding on all the parties to the dispute. No appeal shall lie in any court against the award.

- **Telegram Group:** [Click Here](#)

<table>
<thead>
<tr>
<th>JAIIB/DBF Paper</th>
<th>Mock Link</th>
</tr>
</thead>
<tbody>
<tr>
<td>JAIIB/DBF Paper-I (Principle and Practices of Banking) Online Mock Tests</td>
<td><a href="#">Click Here</a> (900+ Questions) 299/- Only</td>
</tr>
<tr>
<td>JAIIB/DBF Paper-II (Accounting &amp; Financial for Bankers) Online Mock Tests</td>
<td><a href="#">Click Here</a> (850+ Questions) 299/- only</td>
</tr>
<tr>
<td>JAIIB/DBF Paper-3 (Legal and Regulatory Aspects of Banking) Online Mock Tests</td>
<td><a href="#">Click Here</a> (850+ Questions) 299/- only</td>
</tr>
<tr>
<td>Combo</td>
<td><a href="#">Click Here</a> (2600+ Questions) 699/-</td>
</tr>
</tbody>
</table>
Unit 15: The Consumer Protection Act, 1986: Preamble, Extent and Definitions

Important Definitions

Complainant Means

- A Consumer, or
- Any Voluntary Consumer association registered under the Companies Act, 1956 or under any law for the time being in force, or
- The Central Govt. or state govt., who or which makes the complaint, or
- One or more consumers, where there are numerous consumers having the same interest, and
- In case of death of a consumer, his legal heirs or representative.

Complaint Means

- An unfair trade practice or restrictive trade practice has been adopted by any trader or service provider;
- The goods bought by him or agreed to be bought by him suffer from one or more defects;
- The services hired or availed of or agreed to be hired or availed by him suffer from deficiency in any respect;
- A trader or the service provider has charged for the goods or for the services mentioned in the complaint

“Consumer” means any person who,

- Buys any goods for a consideration which has been paid or promised to be paid
- Under any system of deferred payment
- Includes any user of such goods
- Hires or avails any service

Consumer Dispute: Means a dispute where the person against whom complaint has been made denies or disputes the allegations contained in the complaint.

District Forum: Consumer Dispute Redressal forum established under clause (a) of Section 9 under this Act.

**National Commission:** Means the National Consumer Dispute Redressal Commission established **under Clause (c) of Section 9.**

**Notification:** Means a notification published in the official Gazette by the **State or Central Govt.**

**Regulation:** Means the regulations made by the **National Commission under this Act.**

**Restrictive Trade Practice**
- A trade practice which tends to bring about manipulation of price, or
- Its Conditions of Delivery,

**Spurious goods and service:** Means such goods and services which are claimed to be genuine but they are actually not so.

**State Commission:** Means Consumer Disputes Redressal Commission established in a state **under clause (b) of Section 9 of the Act.**

---

**Unit 16: Consumer Protection Councils**

### Central Consumer Protection Council

*The Central Govt. has established a council known as the Central Consumer Protection Council.*

- The Minister in charge of the Consumer Affairs in the Central Govt., who shall be the Chairman of the Council.
- The Central council shall meet as and when necessary but **at least once in a year.**
- The Objects of the Council, as stipulated **under Section 6 of the Consumer Protection Act, 1986,** shall be to promote and protect the rights of the Consumers.
- Such number of official and non-official member representing such interest as may be prescribed.

### State Consumer Protection Council

- The State Govt., **under Section 7 of the Consumer Protection Act, 1986,** shall establish Consumer Protection Council or the State Council by issuing a notification.
- The Minister in Charge of the Consumer Affairs in the State Govt. who shall be the Chairman of the Council.
• Such number of official and non-official member (not exceeding 10) representing such interest as may be prescribed by the state govt.

• There has to be at least 2 meeting every year.

**District Consumer Protection Council**

• For every District, the State Govt. established the Dist Consumer Protection Council called as Disct Council.

• The District Council under Section 8A (2) of the Consumer Protection Act, 1986.

• The Collector of the District who shall be the Chairman of the Council.

• There has to be at least 2 meeting every year.

**Unit 17: Consumer Disputes Redressal Agencies**

**Establishment of Consumer Disputes Redresal Agencies**

• District Forum

• State Commission

• National Commission

**Composition of Forum**

<table>
<thead>
<tr>
<th></th>
<th>District</th>
<th>State</th>
<th>National</th>
</tr>
</thead>
<tbody>
<tr>
<td>Established by</td>
<td>State Govt</td>
<td>State Govt</td>
<td>Central Govt</td>
</tr>
<tr>
<td>Composition of</td>
<td>Under Section 10 of the Consumer</td>
<td>Under Section 15 of the</td>
<td>Under Section 20 of the</td>
</tr>
<tr>
<td>Forum</td>
<td>Protection Act, 1986</td>
<td>Consumer Protection Act</td>
<td>Consumer Protection Act</td>
</tr>
<tr>
<td>President</td>
<td>District Judge</td>
<td>High Court</td>
<td>Supreme Court</td>
</tr>
<tr>
<td>(Qualified to be)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Minimum Other Members (One Woman)</td>
<td>2</td>
<td>2</td>
<td>4</td>
</tr>
<tr>
<td>----------------------------------</td>
<td>---</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>Member Qualification</td>
<td>Minimum 35 years of age Bachelor’s Degree</td>
<td>Minimum 35 years of age Bachelor’s Degree</td>
<td>Minimum 35 years of age Bachelor’s Degree</td>
</tr>
<tr>
<td>Term</td>
<td>For a term of 5 years or up to the age of 65 years</td>
<td>For a term of 5 years or up to the age of 65 years</td>
<td>For a term of 5 years or up to the age of 65 years</td>
</tr>
</tbody>
</table>

**Jurisdiction of Forum**

<table>
<thead>
<tr>
<th></th>
<th>District</th>
<th>State</th>
<th>National</th>
</tr>
</thead>
<tbody>
<tr>
<td>Established by</td>
<td>State Govt</td>
<td>State Govt</td>
<td>Central Govt</td>
</tr>
<tr>
<td>Jurisdiction of Forum</td>
<td>Under Section 11 of the Consumer Protection Act, 1986</td>
<td>Section 12, 13 and 14 of District forum</td>
<td>Section 12, 13 and 14 of District forum</td>
</tr>
<tr>
<td>Claimed Amount</td>
<td>Does not exceed Rs. 20 Lakhs.</td>
<td>Rs.20 Lakhs to Rs. 1 Crore Appeal against the order of District Forum with in State</td>
<td>Exceeds Rs. 1 Crore Appeal against the order of the State Commission</td>
</tr>
</tbody>
</table>
## Form of Complaint

<table>
<thead>
<tr>
<th></th>
<th>District</th>
<th>State</th>
<th>National</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Established by</strong></td>
<td>State Govt</td>
<td>State Govt</td>
<td>Central Govt</td>
</tr>
<tr>
<td><strong>Act</strong></td>
<td>Section 12 of the Consumer protection Act</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Admissibility</strong></td>
<td>within 21 days from the date of receipt</td>
<td>Application of complainant or on its own motion the state commission may transfer any proceeding at any stage from one Dist forum to another Dist if in the interest of justice it requires</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Once the complaint admitted to District forum, cannot be transferred to any other court or tribunal</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

## Appeal

<table>
<thead>
<tr>
<th></th>
<th>District</th>
<th>State</th>
<th>National</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Established by</strong></td>
<td>State Govt</td>
<td>State Govt</td>
<td>Central Govt</td>
</tr>
<tr>
<td><strong>Transfer Appeal Time</strong></td>
<td>30</td>
<td>30</td>
<td></td>
</tr>
<tr>
<td><strong>Appeal (50% amount or whichever is less)</strong></td>
<td>Appeal to state commission: Payment of amount : 25,000</td>
<td>Appeal to National Commission : Payment of amount: Rs. 35,000</td>
<td>Appeal to Supreme Court : Payment : Rs. 50,000</td>
</tr>
</tbody>
</table>
Other Important Point

- **Dismissal of Frivolous complaints**: If the district forum, state commission, national commission finds that complaint instituted before it is frivolous, it shall dismiss the complaint. And order the complainant to pay Rs. 10,000.

- **Penalties**: Where trader or a person against whom the complaint is made fails or omits to comply with any order made by the commissions, he shall be punishable with imprisonment for a term 1 month to 3 years or with fine Rs. 10,000 or with both

Unit 18: The Law of Limitation

Limitation and Its Computation

It is absolutely necessary that every suit or application or appeal shall have to be made within the period of limitation. **Section 3 of the Limitation Act** declares that every suit instituted, appeal preferred, and application made after the prescribed period shall be dismissed although limitation has not been set up as a defence. A suit is instituted when the plaint is presented to the proper officer in the court. In the case of set off or counterclaim, they shall be treated as a separate suit and shall be deemed to have been instituted:

- In the case of a set off, on the same date as the suit in which the set off is pleaded;
- In the case of a counterclaim, on the date on which the counter-claim is made in court.

Computation of the period of limitation

- When the period of limitation expires on a day when the court is closed, the suit, appeal or application may be instituted, preferred or made on the day when the court reopens.
- Any appeal or any application other than execution petitions may be admitted after the prescribed period, if the appellant or applicant makes out sufficient cause for not preferring the appeal or application within the period of limitation.
- In computing the period of limitation, the day from which such period is to be reckoned, shall be excluded. The computation of the period of limitation for filing appeal shall exclude the day on which the judgment complained was pronounced and the time taken for obtaining a copy of the decree, sentence or order appealed. Time required for obtaining a copy of the order or award shall be excluded while computing the time limit for filing revision or review application or an application to set aside the award.
• For an application for execution of decree, the period during which the institution or execution has been stayed by injunction or order, the day on which the order was issued or made and the day on which it was withdrawn shall be excluded.

• For filing any suit of which notice has to be given, or for which the previous consent or sanction of the Government or any other authority is required, in accordance with the requirements of any law for the time being in force, the period of such notice, or the time required for obtaining such consent or sanction shall be excluded.

• In computing the period of limitation for any suit, the time during which the defendant has been absent from India and from the territories outside India under the administration of the Central Government shall be excluded.

**Acts Giving Rise To Fresh Period Of Limitation**

There are two instances which will give rise to fresh period of limitation. In these cases the period of limitation will be computed as if the starting point is the happening of the instances.

• Where before the expiration of the prescribed period for a suit or application in respect of any property or right, an acknowledgement of liability in respect of such property or right has been made in writing signed by the party against whom such property or right is claimed, or by any person through whom he derives his title or liability, a fresh period of limitation shall be computed from the time when the acknowledgement was so signed.

• Where payment on account of a debt or of interest on a legacy is made before expiration of the prescribed period by the person liable to pay the debt or legacy or by his agent duly authorised in this behalf, a fresh period of limitation shall be computed from the time when the payment was made. In this case 'debt' does not include money payable under a decree or order of a court.

**Certain Important Provisions in Schedule of the Limitation Act**

*Some of the important aspects that are required to noted for filing suits of different types are given below:*

<table>
<thead>
<tr>
<th>Description of suits</th>
<th>Period of limitations</th>
<th>Time from which period begins to Run</th>
</tr>
</thead>
<tbody>
<tr>
<td>For Money payable towards money lent</td>
<td>3yrs</td>
<td>When the loan is made</td>
</tr>
<tr>
<td>Description</td>
<td>Limitation</td>
<td>Condition</td>
</tr>
<tr>
<td>-----------------------------------------------------------------------------</td>
<td>------------</td>
<td>---------------------------------------------------------------------------</td>
</tr>
<tr>
<td>For Money lent under an agreement that it shall be payable on demand</td>
<td>3yrs</td>
<td>When loan is made</td>
</tr>
<tr>
<td>On a bill of exchange payable at sight, or after sight, but not at a fixed time</td>
<td>3yrs</td>
<td>When the bill is presented</td>
</tr>
<tr>
<td>On a bill of exchange or promissory note payable at a fixed time after sight or after demand</td>
<td>3yrs</td>
<td>When the fixed time expires</td>
</tr>
<tr>
<td>On a promissory note or bond payable by instalments</td>
<td>3yrs</td>
<td>The Expiration of the first term of payment as the part then payable; and for the other parts, the expiration of the respective terms of payment</td>
</tr>
<tr>
<td>For arrears of rent</td>
<td>3yrs</td>
<td>When the arrears become due</td>
</tr>
<tr>
<td>For specific performance of a contract</td>
<td>3yrs</td>
<td>The date fixed for the performance, or if no such date is fixed, when the plaintiff has noticed that performance is refused</td>
</tr>
<tr>
<td>To Enforce payment of money secured by a mortgage or otherwise charged upon immovable property</td>
<td>12yrs</td>
<td>When the money sued for become due</td>
</tr>
<tr>
<td>By a mortgagee for Foreclosure</td>
<td>30 yrs</td>
<td>When the money secured by the mortgage become due</td>
</tr>
<tr>
<td>By a mortgagee for possession of immovable property</td>
<td>12yrs</td>
<td>When the mortgagee become entitled to possession</td>
</tr>
<tr>
<td>Any suit for which no period of limitation is provided elsewhere in this schedule</td>
<td>30yrs</td>
<td>When the right to sue accrues</td>
</tr>
<tr>
<td>Executive of a decree</td>
<td>12 yrs</td>
<td>From the date of decree</td>
</tr>
</tbody>
</table>
Recovery of loss caused by fraud | 3 yrs | From the date of the fraud
---|---|---
Appeal to file in high court against judgement of lower court | 90 days | From the date of decree
Appeal to file in other court against Judgement of lower court | 30 days | From the date of decree

**Unit 19: Tax Laws**

**Income Tax Act, 1961**

The Income Tax Act, 1961 is an act to levy, administer, collect, and recover income tax in India. The act is effective from 1 April 1962. It consists of 298 sections and 14 schedules. The act helps determine a taxpayer’s taxable income, tax liability, appeals, penalties, and prosecution. The government has been making amendments to the act from time to time.

**Income Tax Rules, 1962**

Income tax rules act as a supplement to the Income Tax Act, 1961. Income tax rules are effective from 1 April 1962. The Central Board of Direct Taxes (CBDT) has the power to amend the income tax rules. For example, Section 10 (13A) (1) of the Income Tax Act states that the house rent allowance can be exempted up to a certain limit. Rule 2A under income tax rules states how the limit can be calculated.

**Income Tax**

*The Law relating to taxation of income is governed by Income Tax Act, 1961.*

This Act envisages taxation of income of an assessee on the basis of his

- Residence
- Place of source of income

**Assessee and Assessment year**

The Income accruing, or arising to a person (called “Assessee) is taxed on the basis of ‘Assessment year’. The term Assessment year represents the period 12 months beginning from 1st April every year.

**Income Tax Act, 1961 envisages taxation of income under following heads:**

- Salaries
• Income from house property
• Profits and gains from business or profession
• Capital gains
• Income from other sources

**Covered Under TDS Under The Income Tax Act, 1961**

• Salaries- Section 192
• Interest in securities- Section 193
• Payment of interest, other than interest of securities- Section 194A
• Payment to contractors or sub-contractors - 194C
• Payment of brokerage and commission- Section 194H
• Payment by way of rent- Section 194I
• Payment of professional and technical fees- Section 194J
• Payment to non-resident- Section 195

**Taxpayers and Income Tax Slabs**

*Taxpayers in India, for the purpose of income tax includes:*

• Individuals, Hindu Undivided Family (HUF), Association of Persons(AOP) and Body of Individuals (BOI)
• Firms
• Companies

<table>
<thead>
<tr>
<th>Income Range</th>
<th>Tax rate</th>
<th>Tax to be paid</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to Rs.2,50,000</td>
<td>0</td>
<td>No tax</td>
</tr>
<tr>
<td>Between Rs 2.5 lakhs and Rs 5 lakhs</td>
<td>5%</td>
<td>5% of your taxable income</td>
</tr>
<tr>
<td>Between Rs 5 lakhs and Rs 10 lakhs</td>
<td>20%</td>
<td>Rs 12,500+ 20% of income above Rs 5 lakhs</td>
</tr>
<tr>
<td>Above 10 lakhs</td>
<td>30%</td>
<td>Rs 1,12,500+ 30% of income above Rs 10 lakhs</td>
</tr>
</tbody>
</table>

**Service Tax**

Service tax in India is a type of indirect tax charged on the services provided by a service provider. The Central Government via the Finance Act, 1994 governs the taxability of services provided by an individual or a company under Section 66B. The tax is imposed on all the services provided or to be provided in the taxable territory of the country. Services covered through negative list are exempted, along with services listed under the Mega Exemption Notification 25/2012 as amended by Notification No. 40/2016. The Place of Provision Rules 2012 and the Point of Taxation Rules 2011 are considered while
determining the tax liability. **Service tax is charged at the rate of 15% currently.** The taxability arises once the value of services exceeds Rs. 10 lakhs during the financial year.
### Jaiib/DBF Paper

| JAIIB/DBF Paper-I (Principle and Practices of Banking) Online Mock Tests | Click Here (900+ Questions) 299/- Only |
| JAIIB/DBF Paper-II (Accounting & Financial for Bankers) Online Mock Tests | Click Here (850+ Questions) 299/- only |
| JAIIB/DBF Paper-3 (Legal and Regulatory Aspects of Banking) Online Mock Tests | Click Here (850+ Questions) 299/- only |
| Combo | Click Here (2600+ Questions) 699/- |