

**MONEYLENDERS ACT**

Act 30 of 1959 – 1 January 1960

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**MONEYLENDERS ACT**

**1. Short title**

This Act may be cited as the Moneylenders Act.

**2. Interpretation**

In this Act—

“authorised name” and “authorised address” mean respectively the business name under which, and the address at which, a moneylender is authorised by a certificate to carry on business as a moneylender;

“certificate” means a certificate granted under section 6;

“company” means a body corporate which is a moneylender;

“licence” means a licence granted under section 4;

“moneylender” means a person whose business is that of moneylending or who carries on, advertises, announces himself or holds himself out in any way as carrying on that business, whether or not he possesses or owns property or money derived from sources other than the lending of money, and whether or not he carries on the business as a principal or as an agent;

“principal”, in relation to a loan, means the amount actually lent to the borrower.

[S. 2 amended by Act 25 of 2000.]

### **3. Moneylender**

Subject to the definition of “moneylender”, any person who lends money at interest or in consideration of a larger sum being repaid shall, unless the contrary is proved, be presumed to be a moneylender.

### **4. Licences**

(1) Every moneylender shall, in respect of every address at which he carries on his business, annually take out a licence in his true name.

(2) Subject to this Act, a moneylender’s licence shall be—

- (a) in such form as may be prescribed;
- (b) granted on payment of a fee of 20,000 rupees or such other amount as may be prescribed;
- (c) expire on 31 December in the year in which it is granted.

(3) A moneylender’s licence shall state the moneylender’s authorised name and authorised address and shall be void if it is taken out in any name other than the moneylender’s name.

[S. 4 amended by Act 25 of 2000; Act 10 of 2002.]

### **5. Offences**

Where a person—

- (a) takes out a moneylender’s licence in any name other than in his true name;
- (b) carries on business as a moneylender without being in possession of a valid moneylender’s licence;
- (c) being licensed as a moneylender, carries on business in any name, other than his authorised name, or at any place other than his authorised address; or
- (d) enters into any agreement in the course of his business as a moneylender with respect to the advance or repayment of

money, or takes any security for money in the course of his business as a moneylender, otherwise than in his authorised name,

he shall commit an offence and shall, on conviction, be liable—

- (i) in the case of a body corporate, to a fine not exceeding 10,000 rupees and, in the event of a second or subsequent conviction, to a fine not exceeding 20,000 rupees; and
- (ii) in any other case, to a fine not exceeding 2,000 rupees and, in the event of a second or subsequent conviction, to a fine not exceeding 2,000 rupees and to imprisonment for a term not exceeding 6 months.

[S. 5 amended by Act 25 of 2000.]

## **6. Certificates required for licence**

(1) (a) A moneylender's licence shall not be granted except to a person who holds a certificate authorising the grant of the licence to him.

(b) A separate certificate shall be required in respect of every separate licence.

(c) Any moneylender's licence granted in contravention of this section shall be void.

(2) An application for a certificate under this section shall be made to the Magistrate of the district in which the moneylender's business is to be carried on and may be granted or refused by the Magistrate in accordance with this Act.

(3) (a) Every certificate granted to a moneylender shall state his true name, his authorised name and his authorised address.

(b) Where a moneylender intends to carry on business at more than one address, a separate certificate shall be required in respect of each address and the same authorised name shall be used at every address.

(4) The authorised name shall not include the word "bank" nor otherwise imply that a moneylender carries on banking business.

(5) A certificate shall come into operation on the date specified in it and shall expire on the following 31 December.

## **7. Application for certificate**

Any person intending to apply for a certificate shall, 14 days at least before his application—

- (a) give notice of his intention by registered letter sent by post to the Magistrate having jurisdiction over, and to the Superintendent of Police in charge of, the district in which he proposes to carry on business; and
- (b) specify in the notice his name and address and the address at which he proposes to carry on his business.

## **8. Refusal to grant certificate**

(1) A certificate shall not be refused except on the ground that—

- (a) satisfactory evidence has not been produced of the good character of the applicant and, in the case of a company, of the persons responsible for its management;
- (b) satisfactory evidence has been produced that the applicant or any person responsible for the management of his business as a moneylender, is not a fit and proper person to hold a certificate;
- (c) the applicant, or any person responsible or proposed to be responsible for the management of his business as a moneylender, is by order of a Court disqualified from holding a certificate;
- (d) the applicant is disqualified under section 11 from obtaining a moneylender's licence;
- (e) the applicant has not complied with any regulations made under this Act with respect to applications for certificates.

(2) Any person who is aggrieved by the refusal of a Magistrate to grant a certificate may appeal to the Supreme Court in accordance with section 37 of the District and Intermediate Courts (Civil Jurisdiction) Act.

## **9. Transfer of business from authorised address**

(1) A moneylender shall not transfer his business from his authorised address to another address unless he has notified the Magistrate of the district of the proposed transfer.

(2) Any moneylender who contravenes this section shall commit an offence and shall, on conviction, be liable to a fine not exceeding 100 rupees.

## **10. Suspension of certificate**

(1) (a) Subject to paragraph (b), where any person, being the holder of a certificate, is convicted of any offence under this Act, the Court—

- (i) may order that any certificate held by that person shall either be suspended for such time as the Court thinks fit, or shall be forfeited, and may also, if the Court thinks fit, declare any such person, or any person responsible for the management of the moneylending business carried on by the person convicted, to be disqualified from obtaining a certificate for such time as the Court thinks fit; and
- (ii) shall cause particulars of the conviction and of any order made by the Court under this subsection to be endorsed on every certificate held by the person convicted or by any other person affected by the order, and shall cause copies of those particulars to be sent to the authority by whom any certificate so endorsed was granted, and to the Commissioner of Police.

(b) Where by order of a Court a certificate held by any person is suspended or forfeited, or any person is disqualified from obtaining a certificate, he may, whether or not he is the person convicted, appeal against the order as if it were a conviction, and the Court may, if it thinks fit, pending the appeal, defer the operation of the order.

(2) Any certificate required by a Court for endorsement in accordance with this section shall be produced, in such manner and within such time as may be directed by the Court, by the person by whom it is held, and any person who, without reasonable cause, makes default in producing any certificate so required shall commit an offence and shall, in respect of each such offence, on conviction, be liable to a fine not exceeding 10 rupees for each day during which the default continues.

(3) Where a certificate held by any person is ordered to be suspended or to be forfeited under this section, any moneylender's licence granted to that person, whether in pursuance of that or any other certificate, shall be suspended during the period for which the certificate is ordered to be suspended or become void, as the case may be.

#### **11. Disqualification**

(1) A licence granted in pursuance of a forged certificate shall be void.

(2) Any person who makes use of a forged certificate, knowing it to be forged, shall be disqualified from ever obtaining a moneylender's licence.

#### **12. Form of moneylender's contract**

(1) (a) Subject to paragraph (c), no contract by a borrower or his agent for the repayment or securing of money lent to the borrower or his agent by a moneylender, or for the payment by the borrower or his agent of interest on the money lent, and no security given by the borrower or his agent in respect of the contract shall be enforceable, unless—

- (i) a memorandum in writing of the contract is made and signed by the parties to the contract or their respective agents;
- (ii) a copy of the memorandum is delivered or sent by post to the borrower or his agent within 7 days of its signature and certification; and
- (iii) the amount actually received or to be received by the borrower as principal is the amount truly stated in the contract.

(b) No contract or security shall be enforceable if it is proved that the memorandum was not signed by the borrower before the money was lent or before the security was given, as the case may be.

(c) Where security is given to secure an immediate loan and subsequent loans, the security shall be enforceable in respect of any subsequent loan which is secured if the note or memorandum in respect of the subsequent loan is signed and delivered to the borrower before the money is lent.

(2) In this section, “borrower” includes a surety.

(3) A memorandum under subsection (1) shall contain all the terms of the contract, and, in particular, shall show separately and distinctly—

- (a) the date on which the loan is made and is to be repaid in full;
- (b) the amount of the principal of the loan; and
- (c) the rate of interest per cent per annum, payable in respect of the loan.

(4) All dates and numbers shall be written in English numerals, notwithstanding that they may also be written in any other way.

[S. 12 amended by Act 25 of 2000; s. 24 (3) (a) of Act 2 of 2007 w.e.f. 7 March 2007.]

#### 12A. Nullity of contract

A contract for money lending shall be null and void where—

- (a) at the time the money was lent, the moneylender was not in possession of a valid moneylender’s licence;
- (b) the security taken for the money lent consists of the principal residence of the borrower; or
- (c) the value of the security taken, in whatever form, exceeds the value of the amount borrowed by more than 50 per cent; or
- (d) any agreement, including a notarial deed or a deed under private signature, is entered into by a person carrying on the activity of a moneylender, without being in possession of a valid moneylender’s licence, which creates a *reconnaissance de dette*.

[S. 12A inserted by Act 10 of 2002; amended by s. 24 (3) (b) of Act 2 of 2007 w.e.f. 7 March 2007.]

#### 13. Interest

(1) (a) Subject to paragraph (b), the rate of interest chargeable on any loan by a moneylender shall be the appropriate rate specified in the Fifth Schedule.

(b) The Fifth Schedule may provide for different rates of interest in respect of different categories of loans.

(c) Notwithstanding any other enactment or agreement, where the rate of interest chargeable on any loan is varied, the rate of interest shall be varied as from the date of the variation.

(2) Where several sums are lent to the same person, whether at one or different times, the rate of interest on the aggregate sum lent or owing at the date the last sum is lent, shall be that authorised as if the whole amount then owing had been lent as one transaction.

(3) The interest shall constitute a comprehensive charge to include all discounts, commissions, bonuses, expenses, and any amount by any name called, in excess of the principal, paid or payable to the lender in consideration of or otherwise in respect of a loan, but does not include charges, expenses or costs in respect of—

- (a) stamp duties;
- (b) registration of any document in accordance with any enactment;

- (c) preparation of any document by a qualified legal practitioner;
- (d) investigation of title to any property;
- (e) insurance or property;
- (f) obtaining a copy of the record of the judgment of any Court;
- (g) inspection of any property by the mortgagee prior to the mortgage;
- (h) any costs specifically allowed by any Court before which the matter may come for adjudication.

**14. Penalty for charging unauthorised interest**

(1) Any person who lends money at the rate of interest higher than that authorised by this Act shall commit an offence and shall, on conviction, be liable to a fine not exceeding 10,000 rupees and to imprisonment for a term not exceeding 2 years in respect of each such loan.

(2) No prosecution for an offence under this section shall be instituted except with the authority of the Director of Public Prosecutions.

[S. 14 amended by Act 25 of 2000.]

**15. Prohibition of compound interest**

(1) (a) Subject to this section, any contract made for the loan of money by a moneylender shall be illegal in so far as it provides directly or indirectly—

- (i) for the payment of interest in advance whether by deduction of any amount from the principal sum borrowed or otherwise;
- (ii) for the payment of compound interest on the loan; or
- (iii) for an increase in the rate or amount of interest by reason of any default in the payment of sums due under the contract.

(b) The contract under paragraph (a) may provide that—

- (i) where default is made in the payment upon the due date of any sum payable to the moneylender under the contract, whether in respect of principal or interest, the moneylender shall charge simple interest on that sum from the date of the default until the sum is paid at a rate not exceeding the rate payable in respect of the principal apart from any default; and
- (ii) any interest which is so charged shall not be reckoned for the purposes of this section as part of the interest charged in respect of the loan.

(2) Any moneylender who fails to comply with this section shall commit an offence and shall, on conviction, be liable to the penalties specified in section 14.

**16. —**

### **17. Prohibition of charge for expenses on loan**

(1) Where a borrower or prospective borrower agrees with a moneylender to pay to him any sum on account of costs, charges or expenses incidental to or relating to the negotiations for or the granting of the loan or proposed loan, the agreement shall be illegal.

(2) Where any sum is paid under the agreement to the moneylender for or on account of any costs, charges or expenses mentioned in subsection (1), that sum shall be—

- (a) recoverable as a debt due to the borrower or prospective borrower; or
- (b) where not recoverable in the event of the loan being completed, be set off against the amount actually lent and the amount shall be deemed to be reduced accordingly.

(3) This section shall not apply to the costs, charges and expenses specified in section 13 (3).

### **18. Employment of canvassers prohibited**

(1) (a) No moneylender or person acting on behalf of a moneylender shall employ any agent or canvasser for the purpose of inviting any other person to borrow money or to enter into any transaction involving the borrowing of money from the moneylender.

(b) No person shall act as such agent or canvasser, or demand or receive directly or indirectly any sum or other valuable consideration by way of commission or otherwise for introducing or undertaking to introduce to a moneylender any person desiring to borrow money.

(2) (a) Any contract by a borrower to pay to an agent or canvasser of a moneylender a commission for obtaining a loan shall be null and void.

(b) Where any sum has been paid by way of commission or otherwise for such service, the agent or canvasser shall commit an offence and shall, on conviction, be liable to a fine not exceeding 300 rupees.

### **19. Receipts and record of transaction**

(1) (a) Every moneylender shall give a receipt for every payment made to him on account of a loan or of interest on the loan.

(b) The receipt shall be given as soon as payment is made.

(2) (a) Every moneylender shall keep a book which shall be securely bound, paged, numbered, initialled and visaed every year by a Magistrate.

(b) The moneylender shall enter in the book in respect of every loan made by him—

- (i) the date on which the loan was made;
- (ii) the amount of the principal;
- (iii) the rate of interest;



- (iv) all sums received in respect of the loan or the interest on the loan with the dates of payment.

(2A) Every moneylender shall submit to the Accountant-General by—

- (a) 15 July, in respect of the preceding period 1 January to 30 June;
- (b) 15 January, in respect of the preceding period 1 July to 30 December,

a return in the prescribed form giving details of all moneys lent to him and all sums received by way of interest, or otherwise, on moneys lent, whether during the period covered by the return or not.

(3) The entries in the book shall be made forthwith on the making of the loan or the receipt of sums paid in respect of the loan, as the case may be.

(4) A moneylender who fails to comply with this section shall not enforce any claim in respect of any transaction in relation to which the default is made and shall commit an offence and shall, on conviction, be liable to a fine not exceeding 1,000 rupees or in the case of a continuing offence, to a fine not exceeding 100 rupees for each day or part of a day during which the offence continues.

[S. 19 amended by Act 25 of 2000; Act 10 of 2002.]

## **20. Moneylender to supply information**

(1) In respect of every contract for the repayment of money lent by a moneylender, the moneylender shall, on any reasonable demand in writing being made by the borrower at any time during the continuance of the contract and on tender by the borrower of the sum of 10 rupees for expenses, supply to the borrower, or, if the borrower so requires, to any person specified in the demand, a statement signed by the moneylender or his agent showing—

- (a) the date on which the loan was made, the amount of the principal of the loan and the rate per cent per annum of interest charged;
- (b) the amount of any payment already received by the moneylender in respect of the loan or the interest on the loan and the date on which it was made;
- (c) the amount of any sum due to the moneylender, but unpaid, and the date upon which it became due, and the amount of interest accrued due, and unpaid in respect of that sum; and
- (d) the amount of any sum not yet due which remains outstanding, and the date upon which it will become due.

(1A) A statement of account in the form set out in the Third Schedule shall be deemed to comply with subsection (1).

(2) A moneylender shall, on any reasonable demand in writing by a borrower, and on tender of a reasonable sum for expenses, supply a copy of any document relating to a loan made by him or any security for the loan to the borrower, or if the borrower so requires, to any person specified in the demand.

(3) (a) Where a moneylender to whom a demand has been made under this section fails without reasonable excuse to comply with the demand within one month after it has been made, he shall not, as long as the default continues, sue for or recover any sum due under the contract on account either of principal or interest, and interest shall not be chargeable in respect of the period of the default.

(b) Where the default is made or continued after proceedings have ceased to lie in respect of the loan, the moneylender shall commit an offence and shall, on conviction, be liable to a fine not exceeding 100 rupees for every day on which the default continues.

[S. 20 amended by Act 25 of 2000.]

## **21. Restrictions on advertisements**

(1) No person shall knowingly send or deliver or cause to be sent or delivered to any person except in response to his written request any circular or other document advertising the name, address or telephone number of a moneylender, or containing an invitation to—

- (a) borrow money from a moneylender;
- (b) enter into any transaction involving the borrowing of money from a moneylender;
- (c) apply to any place in order to obtain information or advice as to borrowing money from a moneylender.

(2) Subject to subsection (2A), no person shall publish or cause to be published in any newspaper or other printed paper issued periodically for public circulation, or by means of any poster or placard, an advertisement advertising any such particulars, or containing any such invitation, as are mentioned in subsection (1).

(2A) An advertisement by or on behalf of a moneylender licensed under this Act may be published in any newspaper or other printed paper issued periodically for public circulation or by means of any poster or placard exhibited at an authorised address of the moneylender if it contains no particulars other than—

- (a) the name under which the moneylender is authorised by the certificate granted under section 6 to carry on business;
- (b) the authorised address at which the moneylender carries on business, the telegraphic address and the telephone number;
- (c) the address at which he formerly carried on business;
- (d) a statement that he lends money with or without security;

- (e) a statement of the highest and lowest sums that he is prepared to lend; and
- (f) a statement of the date on which the business carried on by him was first established.

(3) Where any document issued or published by or on behalf of a moneylender purports to indicate the terms of interest upon which he is willing to make loans or any particular loan, the document shall either express the interest proposed to be charged in terms of a rate per cent per annum or show the rate per cent per annum represented by the interest proposed to be charged as calculated in accordance with the Fifth Schedule.

(4) Any person who contravenes this section shall commit an offence and shall, on conviction, be liable to a fine not exceeding 5,000 rupees and to imprisonment for a term not exceeding 12 months.

(5) Where it is shown that a moneylending transaction was caused by a contravention of this section, the transaction shall be illegal, unless the moneylender proves that the contravention occurred without his consent or connivance.

[S. 21 amended by Act 25 of 2000.]

## 22. Assignment of moneylender's debts

(1) Where any debt in respect of money lent by a moneylender or in respect of interest on the debt or the benefit of any agreement made or security taken in respect of the debt or interest is assigned to any assignee, the assignor (whether he is the moneylender by whom the money was lent or any person to whom the debt has been previously assigned) shall, before the assignment is made—

- (a) give to the assignee notice in writing that the debt, agreement or security is affected by this Act; and
- (b) supply to the assignee all information necessary to enable him to comply with the provisions of this Act relating to the obligation to supply information as to the state of loans and copies of documents relating to the loan.

(1A) Any person who contravenes this section shall be liable to indemnify any other person who is prejudiced by the contravention, and shall also commit an offence and shall, on conviction, be liable to a fine not exceeding 5,000 rupees and to imprisonment for a term not exceeding 12 months.

(2) In this section, "assign" means assign by any assignment *inter vivos*, other than an assignment by operation of law.

[S. 22 amended by Act 25 of 2000.]

## 23. Application of Act to assignees

(1) Subject to subsection (1A), this Act shall continue to apply to any debt due to a moneylender in respect of—

- (a) money lent by him;

- (b) interest on money so lent; or
- (c) the benefit of any agreement made or security taken in respect of the debt or interest,

notwithstanding that the debt, the benefit, the agreement or security may have been assigned to any assignee, and, except where the context otherwise requires, references in this Act to a moneylender shall accordingly be construed as including any such assignee.

(1A) Notwithstanding this Act—

- (a) any agreement with, or security taken by, a moneylender in respect of money lent by him shall be valid in favour of any *bona fide* assignee or holder for value without notice of any defect due to the operation of this Act and of any person deriving title under him;
- (b) any payment or transfer of money or property made *bona fide* by any person on the faith of the validity of the agreement or security, without notice of the defect shall, in favour of that person, be as valid as it would have been if the agreement or security had been valid; and
- (c) the provisions of this Act limiting the time for proceedings in respect of money lent shall not apply to any proceedings in respect of any such agreement or security commenced by a *bona fide* assignee or holder for value without notice that the agreement or security was affected by this Act, or by any person deriving title under him,

but in every such case the moneylender shall indemnify the borrower or any other person who is prejudiced by virtue of this section, and nothing in this subsection shall render valid an agreement or security in favour of, or apply to proceedings commenced by, an assignee or holder for value who is himself a moneylender.

(2) This section shall not render valid for any purpose any agreement, security, or other transaction which would, apart from this Act, have been void or unenforceable.

#### **24. Reopening of moneylending transactions**

(1) Where proceedings are taken in any Court by any person for the recovery of any money lent, or the enforcement of any agreement or security made or taken in respect of money lent, the plaintiff shall produce a statement of his account as specified in section 20.

(2) (a) Where in any proceedings under subsection (1) there is evidence which satisfies the Court that the interest charged in respect of the sum actually lent is harsh and unconscionable having regard to all the circumstances and notwithstanding that it does not exceed the rate legally chargeable, the Court may—

- (i) reopen the transaction and take an account between the lender and the person sued;

(ii) notwithstanding any statement or settlement of account or any agreement purporting to close previous dealings and create a new obligation, reopen any account already taken between them and relieve the person sued from payment of any sum in excess of the sum adjudged by the Court to be fairly due in respect of the principal, interest and charges, as the Court having regard to the risk and all the circumstances, thinks reasonable.

(b) Where any excess has been paid or allowed in account by the debtor, the Court may order the creditor—

(i) to repay it and may set aside, either in whole or in part, revise or alter, any security given or agreement made in respect of money lent; and

(ii) where the lender has parted with the security, to indemnify the borrower or any other person prejudiced by it.

(3) Where in any proceedings under subsection (1), there is evidence which satisfies the Court that default in payment of any sum due to the plaintiff under a contract for the loan of money has been made by the borrower, and it is proved that any further amount is outstanding under the contract but not yet due, the Court may determine the contract and order the principal outstanding to be paid to the plaintiff with such interest on the principal as the Court may allow up to the date of payment.

(4) (a) Any Court in which proceedings may be taken for recovery of money lent by a person shall have and may—

(i) at the instance of the borrower, surety or other person liable, exercise the same powers as may be exercised under this section where proceedings are taken for the recovery of money lent; and

(ii) notwithstanding any provision or agreement to the contrary or that the time for repayment of the loan or any of the instalments is not due, entertain any application under this Act by the borrower or surety or other person liable.

(b) The Court may exercise its powers under this subsection, notwithstanding that the right of action for recovery of the money lent is time barred.

(5) Subsections (1) to (4) shall apply to any transaction which, whatever its form may be, is substantially one of moneylending.

(6) This section shall not affect the rights of any *bona fide* assignee or holder for value without notice.

(7) —

(8) Nothing in article 1341 of the Code Civil Mauricien shall be deemed to preclude the Court from satisfying itself that the transaction—

(a) is harsh and unconscionable;

- (b) is otherwise such that a Court of equity would give relief; or
- (c) must be reopened, as provided in this section.

**25. Inducing borrowing by false statements**

A moneylender or his manager, agent or clerk, or a director, manager or other officer of any corporation carrying on the business of a moneylender who—

- (a) by any false, misleading, or deceptive statement, representation, or promise; or
- (b) by any dishonest concealment of material facts, fraudulently induces or attempts to induce any person to borrow money or to agree to the terms on which money is or is to be borrowed,

shall commit an offence and shall, on conviction, be liable to a fine not exceeding 5,000 rupees and to imprisonment for a term not exceeding 12 months.

[S. 25 amended by Act 25 of 2000.]

**26. Taking promissory note with amount left blank**

(1) A moneylender who takes, as security for any loan, a promissory note or other contract for the repayment of money lent in which the principal is to the knowledge of the lender not truly stated, or is left blank, shall commit an offence and shall, on conviction, be liable to a fine not exceeding 10,000 rupees or, in the event of a second or subsequent conviction, to a fine not exceeding 10,000 rupees and to imprisonment for a term not exceeding 2 years.

(2) A promissory note or other contract in respect of which an offence has been committed under this section shall, subject to section 23, be void and unenforceable.

[S. 28 amended by Act 25 of 2000.]

**27. Reward to informer**

Where, on the conviction of a person for an offence under this Act, a fine is imposed, the Court may, if it thinks fit, order that a sum not exceeding one half of the sum recovered in respect of the fine be paid to the person, not being the borrower in the transaction which was the subject-matter of the proceedings, who informed the authorities that the offence had been committed.

**28. Frivolous and vexatious action**

(1) Where in any civil proceedings under this Act the Court is satisfied that the plea of a borrower whether in a plaint, defence, or other pleading, or in any affidavit or application for the purpose of obtaining leave to defend an action was not made in good faith, but for the purpose of delaying or harassing the moneylender, the Court may, in addition to any penalties incurred under any other enactment, order the borrower to pay for the benefit of the moneylender—

- (a) a sum not exceeding 75 rupees by way of compensation; and

- (b) the costs incurred by the moneylender in the proceedings to such an amount as may be determined by the Court.

(2) The sum ordered to be paid under subsection (1) shall be added to the amount of the judgment recoverable by the moneylender.

### 29. Limitation period

(1) Subject to subsection (2), no proceedings shall lie for—

- (a) the recovery by a moneylender of any money lent by him or of any interest in respect of the loan; or
- (b) the enforcement of any agreement made or security taken in respect of any loan made by him,

unless they are commenced before the expiry of 5 years from the date on which the cause of action accrued.

(2) (a) Where during the period of 5 years or at any time within any subsequent period during which proceedings may by virtue of this section be brought, the debtor acknowledges in writing the amount due, and gives a written undertaking to the moneylender to pay that amount, proceedings for the recovery of the amount due may be brought at any time within a period of 5 years from the date of the acknowledgment and undertaking.

(b) The time limited by this section for the commencement of proceedings shall not begin to run in respect of any payment becoming due to a moneylender under a contract for the loan of money until a cause of action accrues in respect of the last payment becoming due under the contract.

(c) Where at the date on which the cause of action accrues or on which any acknowledgment and undertaking referred to in paragraph (a) is given by the debtor, the person entitled to take the proceedings is *non compos mentis*, the limitation period for the commencement of proceedings shall not begin to run until that person ceases to be *non compos mentis* or dies, whichever first occurs.

(d) Where at the date on which the cause of action accrues or on which any acknowledgment and undertaking referred to in paragraph (a) is given by the debtor, the debtor is not within Mauritius, the limitation period for the commencement of proceedings shall not begin to run until he returns to Mauritius.

### 30. Jurisdiction

(1) Notwithstanding section 114 of the Courts Act, a Magistrate shall have jurisdiction to try all offences under this Act and may impose any fine or penalty provided by this Act.

(2) Where it is shown upon oath before a Magistrate that there is a reasonable cause to suspect that an offence is being committed under this Act, the Magistrate may grant to any police officer a warrant to search any premises and seize and secure any article, document, register or any evidence relating to or connected with moneylending transactions.

(3) Any article, document or register secured under subsection (2) shall be liable to forfeiture.

**31. Exemption from Act**

This Act shall not apply—

- (a) to a loan made by any of the persons specified in the Fourth Schedule;
- (b) with the exception of sections 13, 14 and 24, to a loan made through a broker.

[S. 31 amended by Act 25 of 2000.]

**32. Offences and penalties**

(1) Any person who contravenes this Act shall commit an offence.

(2) Any person who commits an offence for which no specific penalty is provided shall, on conviction, be liable to a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding 5 years.

[S. 32 amended by Act 25 of 2000; Act 10 of 2002.]

**33. Regulations**

(1) The Minister may—

- (a) make such regulations as he thinks fit for the purposes of this Act;
- (b) by regulations, amend the Schedules.

(2) Regulations made under this section may provide for the issue of licences and the taking of fees.

[S. 33 amended by Act 25 of 2000.]

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**FIRST SCHEDULE**

[First Sch. repealed by Act 25 of 2000.]

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**SECOND SCHEDULE**

[Second Sch. repealed by Act 25 of 2000.]

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**THIRD SCHEDULE**

[Section 20]

**TABLE 1 – PRINCIPAL AND INTEREST**

<i>Principal</i>	<i>Date lent</i>	<i>Rate per cent per annum or the amount of interest</i>
Rs cs		

**TABLE 2 – REPAYMENT**

<i>Amount repaid</i>	<i>Amount of interest paid</i>	<i>Date</i>
Rs cs	Rs cs	
1		
2		
3		
4		
5		
6		
7		

**TABLE 3 – AMOUNT OF ARREARS**

<i>Principal</i>	<i>Date due</i>	<i>Interest</i>	<i>Date due</i>
Rs cs		Rs cs	
1			
2			
3			
4			
5			
6			
7			

**TABLE 4 – SUMS NOT YET DUE**

<i>Principal</i>	<i>Date due</i>	<i>Interest</i>	<i>Date due</i>
Rs cs		Rs cs	
1			
2			
3			
4			
5			
6			
7			

**FOURTH SCHEDULE**

[Section 31]

**EXEMPTED PERSONS**

1. Any person *bona fide* carrying on the business of banking or insurance or *bona fide* carrying on any business not having for its primary object the lending of money, in the course of which and for the purposes of which he lends money.
2. Any body corporate, incorporated or expressly empowered, or any other person expressly empowered by any other enactment, to lend money.
3. Any organisation the operations of which are of an international character and which is approved by the Minister.
4. Any society registered under the Co-operatives Act.
5. Any licensed broker in the performance of his duties as public officer.
6. Any licensed pawnbroker in the performance of his duties as pawnbroker.
7. The following bodies—
  - (a) the Mauritius Housing Corporation Ltd;
  - (b) the Development Bank of Mauritius Ltd;
  - (c) the State Finance Corporation Limited;
  - (d) the State Investment Corporation Ltd.
8. Any person who is required to be licensed under the Financial Services Act.
9. Any trustee in the exercise of his functions under the Trusts Act.

[Fourth Sch. added by s. 18 (r) of Act 25 of 2000 w.e.f. 11 August 2000; amended by s. 46 (6) of Act 13 of 2001 w.e.f. 1 December 2001; GN 131 of 2002 w.e.f. 31 August 2002; GN 162 of 2009 w.e.f. 12 December 2009.]

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**FIFTH SCHEDULE**

[Section 13 (1)]

**RATE OF INTEREST CHARGEABLE**

Loan	Rate per annum
1. Any loan witnessed by a notarial deed creating a mortgage .....	Not exceeding 2 per cent above Lombard Rate
2. Any other loan witnessed by a notarial deed .....	Not exceeding 4 per cent above Lombard Rate
3. Any loan witnessed by a document under private signature or promissory note .....	Not exceeding 4 per cent above Lombard Rate
4. Any other loan .....	Not exceeding 6 per cent above Lombard Rate

For the purposes of this Schedule, "Lombard Rate" means the Lombard Rate as determined by the Bank of Mauritius.

[Fifth Sch. added by s. 18 (r) of Act 25 of 2000 w.e.f. 11 August 2000.]

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