

THE KARNATAKA MONEY-LENDERS ACT, 1961

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STATEMENT OF OBJECTS AND REASONS

I

Act 12 of 1962.- At present five different Acts are in force on money-lenders and money-lending in different regions of the State. These Acts are not equal in scope. It has become necessary to have an Act applicable to the entire State and with sufficient provisions not only to regulate and control the money-lending transactions effections effectively but to afford sufficient protection to innocent debtors. The Mysore Money-lenders Bill, 1958 seeks to achieve this object.

Some of the main features of the Bill are:-

- (i) licensing of money-lenders;
- (ii) requiring money-lenders to keep and furnish prescribed accounts;
- (iii) empowering of courts to direct payment of decretal amount by installments;
- (iv) loans to or by a bank, by a co-operative society, insurance company, local authority authorised by Government and other types of loans specified in clause 2(9) are excluded from the purview of the Act.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A dated 26th March 1959)

II

Amending Act 77 of 1976.—With a view to further restricting the usurious practices of money lending it has become imperative to plug certain inadequacies in the existing Act, and also to provide the Executive Officers with sufficient powers to enforce the

provisions of the Act, besides providing deterrent penalties for the infringement of the Act.

Accordingly the present facility available under section 11 of the Act enabling Courts to give permission to unlicensed money lenders to obtain licences and thereafter to proceed with their suits for the recovery of dues is now done away with under the amended provisions.

Secondly section 15 has been substituted empowering the authorised officers under the Act to enter the premises where the business of money lending is carried on and to call upon the money lenders to produce the required records and if need be to search the premises and seize any record and documents as may be necessary.

Thirdly the penalties under the Act have been enhanced both by way of fine and imprisonment to create a deterrent impact on the undesirable money lending practices.

Hence the Bill.

(Obtained from L.A. Bill No.59 of 1976)

III

Amending Act 41 of 1985.—The persons who borrow money from the licensed money lenders pledge costly gold ornaments and other articles with them.

To safeguard the interests of these borrowers it is proposed to insist on a security deposit in a Government Treasury from such licensed money lenders, and to make a security deposit a condition precedent for granting license in future.

In view of the voluminous work in the Administration of the Act, it is also proposed to increase the license fee.

As the matter was very urgent, the Karnataka Money Lenders (Amendment) Ordinance, 1985 (Karnataka Ordinance No. 11 of 1985) was issued.

This Bill seeks to replace the said ordinance.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A, dated 25th July 1985 as No. 399 at page. 6.)

IV

Amending Act 2 of 1987.—It is considered necessary to exclude certain Banking and financial institutions from the purview of the definition of the Money Lender under the Karnataka Money Lenders Act, 1961.

The existing provisions of the Act provide for the licensee to maintain his books of accounts in any recognised language. It is proposed to make it obligatory to keep such accounts either in Kannada or in English language.

For the above purpose an Ordinance was promulgated. This Bill seeks to replace the said Ordinance.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A, dated 4th February 1987 as No. 97 at page 4.)

V

Amending Act 14 of 1998.—It is considered necessary to amend the Karnataka Money Lenders Act, 1961 (Karnataka Act 12 of 1962) for the following reasons, namely:—

- (i) to enhance the period of licence from one year to five years;
- (ii) to enhance the licence fee from Rs. 100-00 per year to Rs. 5000.00 for the term of licence.
- (iii) to enhance the licence fee for additional place of business from Rs. 50.00 per year to Rs. 2500.00 for the term of licence;
- (iv) to provide for refund of security deposit in the event to cancellation of licence.
- (v) since, the Karnataka High Court in Writ Petition No. 8912/85 and other connected matters directed the Government to pay interest on security deposit as there is no specific provision prohibiting payment of interest, appropriate provisions are made to remove the lacuna retrospectively from 31st May 1985, and to validate the action.

Hence the Bill.

(Obtained from file SAMVYASHAE 19 SHASANA 94.)

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¹[KARNATAKA ACT]¹ No. 12 OF 1962

(First published in the ¹[Karnataka Gazette]¹ on the Twenty-ninth day of March, 1962.)

THE ¹[KARNATAKA]¹ MONEY-LENDERS ACT, 1961.

(Received the assent of the President on the Eighth day of March, 1962.)

(As amended by Karnataka Acts 77 of 1976, 41 of 1985, 2 of 1987 and 14 of 1998.)

An Act to regulate the transactions of money-lending in the ¹[State of Karnataka]¹.

WHEREAS it is expedient to make better provision for the regulation and control of transactions of money-lending in the ¹[State of Karnataka]¹;

BE it enacted by the ¹[Karnataka State]¹ Legislature in the Twelfth Year of the Republic of India as follows:—

1. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f. 1.11.1973

1. Short title, extent and commencement.—(1) This Act may be called the ¹[Karnataka]¹ Money-lenders Act, 1961.

1. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f. 1.11.1973

(2) It extends to the whole of the ¹[State of Karnataka]¹.

1. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f. 1.11.1973

(3) It shall come into force on such ²[date]² as the State Government may by notification, appoint.

1. This Act has come into force on 1.4.1965 by Notification Text of the Notification is at the end of the Act.

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

¹[(1) “bank” means,—

(i) a banking company to which the Banking Regulation Act, 1949 (Central Act 10 of 1949) applies;

(ii) the State Bank of India constituted under the State Bank of India Act, 1955 (Central Act 23 of 1955);

(iii) a subsidiary bank defined in clause (k) of section 2 of the State Bank of India (Subsidiary Banks) Act, 1959 (Central Act 38 of 1959);

(iv) a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (Central Act 5 of 1970);

(v) a regional rural bank established under the Regional Rural Banks Act, 1976 (Central Act 21 of 1976);

(vi) a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (Central Act 40 of 1980);

(vii) the Industrial Development Bank of India established under the Industrial Development Bank of India Act, 1964 (Central Act 18 of 1964);

(viii) the National Bank for Agriculture and Rural Development established under the National Bank for Agriculture and Rural Development Act, 1981 (Central Act 61 of 1981);

(ix) the Export Import Bank of India established under the Export Import Bank of India Act, 1981 (Central Act 11 of 1959);”.

(x) the Industrial Finance Corporation of India established under the Industrial Finance Corporation of India Act, 1948 (Central Act 15 of 1948);

(xi) State Financial Corporations established under the State Financial Corporation, Act, 1951 (Central Act 63 of 1951);

²[(xii) the Industrial Reconstruction Bank of India established under the Industrial Reconstruction Bank of India Act, 1984 (Central Act 62 of 1984);]²

(xiii) the Industrial Credit and Investment Corporation of India Limited, a company incorporated under the Indian Companies Act, 1913 (Central Act 7 of 1913).]¹

1. Substituted by Act 41 of 1985 w.e.f. 31.5.1985.

2. Substituted by Act 2 of 1987 w.e.f. 16.10.1986.

¹[(xiv) the Agricultural Finance Corporation Limited a company incorporated under the Companies Act, 1956;]¹

1. Inserted by Act 2 of 1987 w.e.f. 16.10.1986.

(2) “business of money-lending” means the business of advancing loans whether or not in connection with or in addition to any other business;

(3) “capital” means a sum of money which a money-lender invests in the business of money-lending;

(4) “company” means a company as defined in the Companies Act, 1956 (Central Act 1 of 1956);

(5) “co-operative society” means a society registered or deemed to have been registered under the ¹[Karnataka]¹ Co-operative Societies Act, 1959 (¹[Karnataka]¹ Act 11 of 1959);

1. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f. 1.11.1973

(6) “interest” includes the return to be made over and above what was actually lent, whether the same is charged or sought to be recovered specifically by way of interest or otherwise, but does not include any sum lawfully charged by a money-lender for or on account of costs, charges or expenses in accordance with the provisions of this Act, or any other law for the time being in force;

(7) “licence” means a licence granted under this Act;

(8) “licence fee” means the fee payable in respect of a licence;

(9) “loan” means an advance at interest whether of money or in kind, and includes any transaction which the Court finds in substance to amount to such an advance, but does not include,-

(a) a deposit of money or other property in a Government Post Office Bank or in a ¹[Karnataka Government Savings Bank]¹ or in any other bank or in a company or with a co-operative society;

1. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f. 1.11.1973

(b) a loan to, or by, or a deposit with, any society or association registered under the ¹[Karnataka]¹ Societies Registration Act, 1960 (¹[Karnataka]¹ Act 17 of 1960);

1. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f. 1.11.1973

(c) a loan advanced by Government or by any local authority authorised by Government;

(d) a loan advanced by a co-operative society;

(e) an advance made to a subscriber to, or a depositor in, a Provident Fund from the amount standing to his credit in the fund in accordance with the rules of the fund;

(f) a loan to or by an insurance company as defined in the Insurance Act, 1938 (Central Act IV of 1938);

(g) a loan to or by a bank;

(h) an advance of not less than three thousand rupees made on the basis of a negotiable instrument as defined in the Negotiable Instruments Act, 1881 (Central Act XXVI of 1881) other than on the basis of a promissory note;

(i) except for the purposes of sections 26 and 28,—

(i) a loan to a trader;

(ii) a loan to a money-lender who holds a valid licence; or

(iii) a loan by a landlord to his tenant for financing of crops or seasonal finance of not more than fifty rupees per acre of land held by the tenant;

(10) “money-lender” means,—

(i) an individual; or

(ii) an undivided Hindu family; or

(iii) a company; or

(iv) an unincorporated body of individuals;

who or which,—

(a) carries on the business of money-lending in the State; or

(b) has his or its principal place of such business in the State, but shall not include a bank ¹[or any other financial institution which the State Government may, by notification specify in this behalf]¹;

¹. Inserted by Act 2 of 1987 w.e.f. 16.10.1986.

(11) “notification” means a notification published in the official Gazette;

(12) “prescribed” means prescribed by rules made under this Act;

(13) “principal” means in relation to a loan, the advance actually made to the debtor;

(14) “Provident Fund” means a Provident Fund as defined in the Provident Funds Act, 1925 (Central Act XIX of 1925), and includes a Government Provident Fund and a Railway Provident Fund as defined in the said Act;

(15) “recognised language” means the language of the Court;

(16) “register” means a register of money-lenders maintained under section 4;

(17) “rules” means rules made under this Act;

(18) “State” means the ¹[State of Karnataka]¹;

¹. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f. 1.11.1973

(19) “suit to which this Act applies” means any suit or proceeding,—

(a) for the recovery of a loan made after the date on which this Act comes into force;

(b) for the enforcement of any security taken, or any agreement made after the date on which this Act comes into force in respect of any loan made either before or after the said date; or

(c) for the redemption of any security given after the date on which this Act comes into force in respect of any loan made either before or after the said date;

(20) “trader” means a person who in the regular course of business buys and sells goods or other property, whether movable or immovable, and includes,-

- a wholesale or retail merchant,
- a commission agent,
- a broker,
- a manufacturer,
- a contractor,
- a factory owner,

-but does not include an artisan or a person who sells his agricultural produce or cattle or buys agricultural produce or cattle for his use.

Explanation.—For the purposes of this clause an “artisan” means a person who does not employ more than ten workers in a manufacturing process on any one day of the twelve months immediately preceding.

¹[(21) ‘Year’ means the year commencing on the first day of April;]¹

1. Inserted by Act 14 of 1998 w.e.f. 22.5.1998.

3. Appointment of Registrar General, Registrars and Assistant Registrars.—The State Government may, by notification, appoint a Registrar General, Registrars and Assistant Registrars of Money-lenders for the purposes of this Act and may define the areas within which each such officer shall exercise his powers and perform his duties.

4. Register of money-lenders.—Every Assistant Registrar shall maintain for the area in his jurisdiction a register of money-lenders in such form as may be prescribed.

5. Money-lenders to obtain licence.—No person shall carry on the business of money-lending in the State except ¹[under and]¹ in accordance with the terms and conditions of a licence ²[and, after the commencement of the Karnataka Money Lenders (Amendment) Act, 1985, except on payment of security deposit as provided in section 7A]².

1. Inserted by Act 77 of 1976 w.e.f. 27.10.1976.

2. Inserted by Act 41 of 1985 w.e.f. 31.5.1985.

6. Application for licence.—(1) Every money-lender shall ¹[x x x]¹ before such date as may be prescribed make an application in the prescribed form for the grant of a licence to the Assistant Registrar of the area within the limits of which the place where he intends to carry on the business of money-lending, or if he intends to carry on such business at more than one place in the area, the principal place of such business, is situated. Such application shall contain the following particulars, namely:—

1. Omitted by Act 14 of 1998 w.e.f. 22.5.1998.

(a) the name in which such money-lender intends to carry on business and the name of the person proposed to be responsible for the management of the business;

(b) if the application is by or on behalf of,-

(i)an individual, the name and address of such individual

(ii)an undivided Hindu family, the names and addresses of the manager or the karnavan or the yajaman and the adult coparceners of such family;

(iii) a company, the names and addresses of the directors, and of the manager or principal officer managing it;

(iv) an unincorporated body of individuals, the names and addresses of such individuals;

(c) the area and the place or principal place of the business of money-lending in the State;

(d) the name of any other place in the State where the business of money-lending is carried on or intended to be carried on;

(e) whether the person signing the application has himself or any of the adult coparceners of an undivided Hindu family, or any director, manager or principal officer of the company or any member of the unincorporated body on behalf of which such application has been made, as the case may be, has carried on the business of money-lending in the State in the year ending '1[on the 31st day of March]' immediately preceding the date of the application either individually, or in partnership, or jointly with any other coparcener or any other person and whether in the same or any other name;

1. Substituted by Act 14 of 1998 w.e.f. 22.5.1998.

(f) the total amount of the capital which such person intends to invest in the business of money-lending in the year for which the application has been made;

(g) if the places at which the business of money-lending is to be carried on are more than one, the names of persons who shall be in the management of the business at each such place.

(2) The application shall be in writing and shall be signed,—

(a)(i) if the application is made by an individual, by the individual;

(ii) if the application is made on behalf of an undivided Hindu family, by the manager or the karnavan or the yajaman, as the case may be, of such family;

(iii) if the application is made by a company or unincorporated body, by the managing director or any other person having control of its principal place of business in the territory of India or of its place of business in the area in which it intends to carry on the business; or

(b) by an agent authorised in this behalf by a power-of-attorney by the individual money-lender himself or the family, or the company or the unincorporated body, as the case may be.

(3) The application shall also contain such other particulars as may be prescribed.

(4) The application shall be accompanied by a licence fee at the following rates:—

(a) if the place at which the business of money-lending is to be carried on is not more than one. ¹[five thousand rupees]¹;

1. Substituted by Act 14 of 1998 w.e.f. 22.5.1998.

(b) if the business of money-lending is to be carried on at more than one place within the limits of the area of the Registrar. ¹[five thousand rupees]¹ for the principal place of business and ¹[rupees two thousand five hundred]¹ for each of the other places in the area:

1. Substituted by Act 14 of 1998 w.e.f. 22.5.1998.

Provided that where an application is made after the expiry of the period prescribed by rules in respect of such application, it shall be accompanied by a licence fee at double the rates specified above.

(5) The fee payable under this section shall be paid in the manner prescribed and shall not be refunded, notwithstanding the fact that the grant of the licence is refused or the application is withdrawn.

7. Grant of licence and entry in register.—(1) On receipt of an application under section 6 and after making a summary inquiry in accordance with the prescribed procedure, the Assistant Registrar shall forward the application, together with his report, to the Registrar. The Registrar may after making such further inquiry, if any, as he deems fit, grant the applicant a licence in such form and ¹[subject to the conditions specified in section 7A and such other conditions]¹ as may be prescribed, and direct the Assistant Registrar to enter the name of such applicant in the register maintained by him under section 4.

¹ Substituted by Act 41 of 1985 w.e.f. 31.5.1985.

If the application is in respect of more than one place of business in the area under the jurisdiction of the Registrar, a separate licence in respect of each such place shall be granted in the name of the applicant and the person responsible for the management of the business at such place.

(2) If the application also contains a request for the grant of a licence to carry on the business of money-lending at any place within the State, but at a place outside the jurisdiction of the Registrar who granted the licence in respect of the principal place of business of the money-lender, the Registrar shall forward copies of the application and of the licence granted to the Registrar having jurisdiction who may grant a licence on payment of the licence fee provided for in section 6 without making any inquiry in respect of the application.

¹**7A. Conditions of licence.**—¹[(1) Every money lender applying for grant of a licence under section 7 for the first time or for grant of a fresh licence under that section for the succeeding term, shall at the time of making such application, pay security deposit as provided in sub-section (2).]¹

¹ Substituted by Act 14 of 1998 w.e.f. 22.5.1998.

(2) Every licensee specified in column (2) of the Table below shall, in the prescribed manner, deposit in the Government Treasury the amount specified in the corresponding entry in column (3) of the said Table by way of security for the due observance of the conditions of the licence.

TABLE

1	2	3
(1)	A licensee who ¹ [invests] ¹ less than one lakh rupees in a year.	Five thousand rupees.
(2)	A licensee who ¹ [invests] ¹ one lakh rupees and above and less than five lakh rupees in a year.	Ten thousand rupees.

(3) A licensee who ¹ [invests] ¹ five lakh rupees and above but less than ten lakh rupees in a year.	Twentyfive thousand rupees.
(4) A licensee who ¹ [invests] ¹ ten lakh rupees and above in a year.	Fifty thousand rupees.

1. Substituted by Act 14 of 1998 w.e.f. 22.5.1998.

(3) For the purposes of sub-section (2), the amount of the security payable in a year by a licensee shall be determined on the basis of the ¹[the amount invested by him in the business during the previous year ²[and such security deposit shall not carry any interest]²]:

1. Substituted by Act 14 of 1998 w.e.f. 22.5.1998.

2. Inserted by Act 14 of 1998 w.e.f. 22.5.1998.

Provided that in the case of a new licensee or a person who was a licensee only for a portion of the preceding year the amount of security shall be determined on the basis of a declaration in the prescribed form as to the amount which he is likely to ¹[invest]¹ during the year, filed before the Registrar in the prescribed manner.

1. Substituted by Act 14 of 1998 w.e.f. 22.5.1998.

7B. Forfeiture of security.—(1) The Registrar may, at any time, by order in writing, forfeit to the Government the whole or any portion of the security furnished under sub-section (2) of section 7A, if the licensee,—

(a) carries on the business of money lending in contravention of any provisions of this Act or the rules made thereunder or the conditions of the licence; or

(b) is convicted of an offence under section 27 or section 38 or section 39 or section 40; or

(c) maintains false accounts.

(2) Before forfeiting to the Government the whole or any portion of the security deposit made under sub-section (1), the Registrar shall give the licensee a notice in writing stating the grounds on which it is proposed to take action and requiring him to show cause against it within such time as may be specified in the notice.

(3) Every order of the Registrar under this section shall be communicated to the licensee in such manner as may be prescribed.

(4) Any person aggrieved by an order under sub-section (1), may within a period of one month from the date on which the order was communicated to him, prefer an appeal to the Registrar General whose decision shall be final.

(5) The Registrar may, out of the amount forfeited, direct payment of such amounts and at such rates as may be prescribed to the borrowers affected by the acts of the licensee.]¹

1. Sections 7A and 7B Inserted by Act 41 of 1985 w.e.f. 31.5.1985.

8. Refusal of issue of licence.—(1) The grant of licence shall not be refused except on any of the following grounds:—

(a) that the applicant, or any person responsible or proposed to be responsible for the management of his business as a money-lender, is disqualified by an order under section 16 from holding a licence;

(b) that the applicant has not complied with the provisions of this Act or the rules in respect of an application for the grant of a licence;

(c) that the applicant has made wilful default in complying with or knowingly acted in contravention of any requirements of this Act;

(d) that satisfactory evidence has been produced that the applicant or any person responsible or proposed to be responsible for the management of his business of money-lending has,-

(i) knowingly participated in or connived at any fraud or dishonesty in the conduct of or in connection with the business of money-lending, or

(ii) been found guilty of an offence under Chapter XVII or Chapter XVIII of the Indian Penal Code.

(2) The Registrar shall, before refusing a licence under sub-section (1), record the evidence adduced before him and his reasons for such refusal.

(3) An appeal shall lie from an order of the Registrar refusing a licence under sub-section (1), to the Registrar General whose decision shall be final.

9. Registrar's power to cancel licences.—(1) The Registrar may, during the term of any licence, cancel the same by an order in writing on the ground that the person to whom it was granted has been guilty of any act or conduct for which he might under section 8 have refused him the grant of the licence and which act or conduct was not brought to his notice at the time of the grant of licence.

(2) Before cancelling a licence under sub-section (1), the Registrar shall give notice in writing to the licensee and may hold such inquiry as may be necessary.

(3) An appeal shall lie from an order of the Registrar cancelling a licence under sub-section (1), to the Registrar General whose decision thereon shall be final.

¹[9A. Repayment of Security Deposit.—Where a licence has been cancelled by the Registrar, he shall by order in writing refund the security deposit paid but not forfeited under section 7B, to the person whose licence has been so cancelled.]¹

1. Inserted by Act 14 of 1998 w.e.f. 22.5.1998.

10. Term of licence.—A licence shall be valid ¹[for a term of five years]¹:

Provided that where a money-lender holding a licence has made an application for a fresh licence before the date prescribed under sub-section (1) of section 6, for the succeeding ¹[term]¹, such money-lender shall, notwithstanding the expiry of the term of his licence, be deemed to have a valid licence until orders are received by him on his application for the fresh licence.

1. Substituted by Act 14 of 1998 w.e.f. 22.5.1998.

¹[Explanation.—Where a licence has been granted in the middle of a year, for the purpose of computing the term of licence, the remaining part of the year shall be deemed to be a year.]¹

1. Inserted by Act 14 of 1998 w.e.f. 22.5.1998.

11. ²[x x x]² suits by money-lenders not holding licence.—(1) After the expiry of six months from the date on which this Act comes into force, no Court shall pass a decree in favour of a money-lender in any suit to which this Act applies, filed by a money-lender, unless the Court is satisfied that at the time when the loan or any part

thereof to which the suit relates was advanced, ¹[and on the date such suit was filed]¹ the money-lender held a valid licence.

1. Inserted by Act 77 of 1976 w.e.f. 27.10.1976.

2. Omitted by Act 77 of 1976 w.e.f. 27.10.1976.

¹[(2) x x x

(3) x x x

(4) x x x]¹

1. Omitted by Act 77 of 1976 w.e.f. 27.10.1976.

(5) Nothing in this section shall affect—

(a) suits in respect of loans advanced by a money-lender before the date on which this Act comes into force;

(b) the powers of an official receiver, an administrator or a Court under the provisions of the Mysore Insolvency Act, 1925, or other corresponding law in force in any area of the State, or of a liquidator under the Companies Act, 1956, to realise the property of a money-lender.

¹[12. x x x]¹

1. Omitted by Act 77 of 1976 w.e.f. 27.10.1976.

13. Application for cancellation of licence.—(1) Any person may, during the currency of a licence, file an application, to the Registrar for the cancellation of the licence issued to a money-lender on the ground that such money-lender has been guilty of any act or conduct for which the Registrar may under section 8 refuse him the grant of a licence. At the time of filing his application the said person shall deposit such amount not exceeding one hundred rupees as the Registrar may direct.

(2) On the receipt of such application and deposit, the Registrar shall hold an inquiry and if he is satisfied that the money-lender has been guilty of such act or conduct he may cancel the licence of the money-lender and may also direct the return of the deposit made under sub-section (1).

(3) If in the opinion of the Registrar, an application made under sub-section (1) is frivolous or vexatious, he may, out of the deposit made under sub-section (1), direct to be paid to the money-lender such amount as he deems fit as compensation.

(4) Any person aggrieved by an order of the Registrar under sub-section (2) or (3) may, within such time and on payment of such fee as may be prescribed, appeal to the Registrar General and the order of the Registrar General on such appeal shall be final.

14. Registrar and Assistant Registrar to have powers of Civil Court.—For the purposes of sections 7 and 13, the Registrar and Assistant Registrar shall have and may exercise the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908, in respect of the following matters:—

(a) enforcing the attendance of any person and examining him on oath;

(b) compelling the production of documents and material objects;

(c) issuing commissions for the examination of witnesses; and

(d) proof of facts by affidavits.

¹[**15. Power of authorised officer to require production of records or documents and power of entry, inspection and seizure**—(1) The Registrar, Assistant Registrar or

any Officer authorised by the State Government in this behalf may, for the purpose of verifying whether the business of money-lending is carried on in accordance with the provisions of this Act, enter the premises of the money lender or any person who in his opinion is carrying on the business of money-lending and call upon him to produce any record or document relating to such business and every such money lender or person shall allow such inspection and produce such record or document.

1. Substituted by Act 77 of 1976 w.e.f. 27.10.1976.

(2) The Registrar, Assistant Registrar or the other officer referred to in sub-section (1) may, for the purposes of the said sub-section, search the premises and seize any record and document as may be necessary. The record or document seized shall be retained only for such period as may be necessary for the purposes of examination, prosecution or other legal action:

Provided that the provisions of sections 100 and 102 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) shall, so far as may be, apply to such search and seizure:

Provided further that for every record or document seized, appropriate acknowledgement shall be given to the person from whose custody it is seized.

(3) The Registrar, Assistant Registrar or the other officer referred to in sub-section (1) shall also have power to summon and examine the money lender or any person who in his opinion is in a position to furnish relevant information.]¹

16. Court's power to cancel or suspend a licence.—(1) (i) A Court passing an order of conviction against a money-lender for an offence under this Act, or (ii) a Court trying a suit to which this Act applies, if satisfied that such money-lender has committed such contravention of any provision of this Act or the rules as would, in its opinion, make him unfit to carry on the business of money-lending,—

(a) may order that all the licences held by such money-lender in the State be cancelled or suspended for such period as it may think fit; and

(b) may, if it thinks fit, declare any such money-lender, or if any money-lender is an undivided Hindu family, a company or an unincorporated body, such family, company or body and also any person responsible for the management of the business of money-lending carried on by such family, company or body, to be disqualified from holding any licence in the State for such time as the Court may think fit:

Provided that no order or declaration shall be made under this sub-section unless a reasonable opportunity has been given to the person concerned to show cause against the order or declaration proposed to be made.

(2) Where a Court convicts a money-lender of an offence under this Act, or makes an order or declaration under clause (a) or (b) of sub-section (1), it shall cause the particulars of the conviction, order or declaration, as the case may be, to be endorsed on all the licences held by the money-lender convicted or by any other person affected by the order or declaration and shall cause copies of its order or declaration to be sent to the Registrars by whom the licences were granted, for the purpose of entering such particulars in the registers:

Provided that where any licence held by any money-lender is suspended or cancelled or any money-lender is disqualified from holding any licence under this section he may

appeal against such order to the Court to which an appeal ordinarily lies from the decision of the Court passing the order; and the Court which passed the order or the Court of appeal may, if it thinks fit, pending the appeal, stay the operation of the order under this section.

(3) Any licence required by a Court for endorsement in accordance with sub-section (2) shall be produced by the person by whom it is held in such manner and within such time as may be directed by the Court and any person who, without reasonable cause, makes default in producing the licence so required shall be liable, on conviction, to a fine which may extend to five hundred rupees for each day of the period during which the default continues.

(4) Powers conferred on a Court under this section may be exercised by any Court in appeal or in revision.

17. No compensation for suspension or cancellation of licence.—Where any licence is suspended or cancelled under this Act, no person shall be entitled to any compensation or the refund of any licence fee.

18. Persons debarred from doing business during period of suspension or cancellation of licence.—A person whose licence has been suspended or cancelled in accordance with the provisions of this Act shall not during the period of suspension or cancellation, as the case may be, carry on the business of money-lending in the State.

19. Person whose licence is suspended or cancelled not to apply without giving particulars of endorsement or of disqualification.—No person whose licence has been endorsed under section 16 or who has been disqualified from holding a licence shall apply for, or be eligible to hold a licence, without giving particulars of such endorsement or disqualification.

20. Duty of money-lender to keep accounts and furnish copies.—(1) Every money-lender shall keep and maintain a cash book and a ledger ¹[in Kannada or in English]¹ in such form and in such manner as may be prescribed.

¹ Inserted by Act 2 of 1987 w.e.f. 16.10.1986.

(2) Every money-lender shall,-

(a) deliver or cause to be delivered,-

(i) to the debtor within thirty days from the date on which a loan is made, a statement ¹[either in Kannada or in English]¹ showing in clear and distinct terms the amount and date of the loan and of its maturity, the nature of the security, if any, for the loan, the name and address of the debtor and of the money-lender and the rate of interest charged:

¹ Substituted by Act 2 of 1987 w.e.f. 16.10.1986.

Provided that no such statement shall be required to be delivered to a debtor if he is supplied by the money-lender with a pass book which shall be in the prescribed form and shall contain an up-to-date account of the transactions with the debtor;

(ii) to the Assistant Registrar, within the said period, a statement containing the particulars referred to in sub-clause (i);

(b) upon repayment of a loan in full, mark indelibly every paper signed by the debtor with words indicating payment or cancellation, and discharge every mortgage,

restore every pledge, return every note and cancel or reassign every assignment given by the debtor as security for the loan.

(3) No money-lender shall receive any payment from a debtor on account of any loan without giving him a duly signed receipt for the payment.

(4) No money-lender shall accept from a debtor any article as a pawn, pledge or security for a loan without giving him a signed receipt for the same with its description, estimated value, the amount of loan advanced against it and such other particulars as may be prescribed.

21. Delivery of statement of accounts and copies thereof by money-lender.—(1) Every money-lender shall deliver or cause to be delivered every year to each of his debtors a legible statement of such debtor's accounts signed by the money-lender or his agent of any amount that may be outstanding against such debtor. The statement shall show,-

(i) the amount of principal and the amount of interest, separately, due to the money-lender;

(ii) the amount of every payment already received by the money-lender in respect of the loan during the year together with the date on which each payment was made;

(iii) all payments credited first in the account of interest and the residue, if any, of any payment more than sufficient to discharge the balance of interest due at the time it is made, credited to the debtor in the account of principal, in the alternative such of the payments credited first in the account of principal as the money-lender may determine and the remaining payments credited in the account of interest calculated on the basis of the decreased balance of principal and when the balance of interest is fully discharged the residue of the payments, if any, further credited in the account of principal;

(iv) the amount of principal and interest remaining unpaid.

The statement shall be signed by the money-lender, or his agent, and shall be ¹[either in Kannada or in English]¹. It shall be in such form and shall be supplied to the debtor on or before such date as may be prescribed:

¹ Substituted by Act 2 of 1987 w.e.f. 16.10.1986.

Provided that no such statement shall be required to be delivered to a debtor if he is supplied by the money-lender with a pass book which shall be in the prescribed form and shall contain an up-to-date account of the transactions with the debtor.

The money-lender shall on or before the aforesaid date deliver or cause to be delivered a statement containing the particulars specified in clauses (i) to (iv) to the Assistant Registrar.

(2) In respect of any particular loan, whether advanced before or after the date on which this Act comes into force, the money-lender shall, on demand in writing being made by the debtor at any time during the period when the loan or any part thereof has not been repaid, and on payment of the prescribed fee supply to the debtor or if the debtor so requires, to any person specified in that behalf in the demand, a statement, ¹[either in Kannada or in English]¹, signed by the money-lender or his agent, and containing the relevant particulars specified in sub-section (1).

¹ Substituted by Act 2 of 1987 w.e.f. 16.10.1986.

(3) A money-lender shall, on a demand in writing by the debtor, and tender of the prescribed sum of expenses, supply a copy of any document relating to a loan made by him or any security therefor, to the debtor, or if the debtor so requires, to any person specified in that behalf in the demand.

¹[(4). x x x]¹

1. Omitted by Act 14 of 1998 w.e.f. 22.5.1998.

22. Fees for certain statements supplied to debtors and Assistant Registrars.—

(1) A money-lender may recover from a debtor fees for the statements or a pass book supplied to him under sub-section (2) of section 20 or sub-section (1) of section 21 and in respect of copies of such statements supplied to the Assistant Registrar under the said sub-sections.

(2) Such fees shall be recoverable at such rates and in such manner as may be prescribed, subject to the maximum of two rupees per debtor, per year, irrespective of the number of statements or copies thereof supplied to the debtor or the Assistant Registrar during the relevant year.

23. Debtors not bound to admit correctness of accounts.—A debtor to whom a statement of accounts or a pass book has been furnished under section 20 or 21 shall not be bound to acknowledge or deny its correctness and his failure to do so shall not, by itself, be deemed to be an admission of the correctness of the accounts.

24. Procedure of court in suits regarding loans.—Notwithstanding anything contained in any law for the time being in force, in any suit to which this Act applies,—

(a) a Court shall, before deciding the claim on merits, frame and decide the issue whether the money-lender has complied with the provisions of sections 20 and 21;

(b) if the Court finds that the provisions of section 20 or section 21 have not been complied with by the money-lender, it may, if the plaintiff's claim is established, in whole or in part, disallow the whole or any portion of the interest found due as may seem reasonable to it in the circumstances of the case and may disallow costs.

Explanation.—A money-lender who has given the receipt or furnished a statement of accounts or a pass book in the prescribed form and manner, shall be held to have complied with the provisions of section 20 or section 21, as the case may be, in spite of any errors and omissions if the Court finds that such errors and omissions are not material or not fraudulent.

25. Provisions of certain sections not to apply to loans made by company or unincorporated body exempted by Government.—Nothing in sections 20 to 24 shall apply to loans advanced by any class of companies or unincorporated bodies which the State Government may by notification exempt from the operation of those sections.

26. Power of Court to limit interest recoverable in certain cases.—Notwithstanding anything contained in any agreement or any law for the time being in force, no Court shall in respect of any loan whether advanced before or after the date on which this Act comes into force, decree, on account of interest, a sum greater than the principal of the loan due on the date of the decree.

27. Power of Court to direct payment of decretal amount by instalments.—The Court may, at any time, on application of a judgment-debtor, after notice to the decree-holder, direct that the amount of any decree passed against him, whether before or after

the date on which this Act comes into force, in respect of a loan, shall be paid in such number of instalments and subject to such conditions, and payable on such dates, as, having regard to the circumstances of the judgment-debtor and the amount of the decree, it considers fit.

28. Limitation on rates of interest.—(1) The State Government may from time to time by notification fix the maximum rates of interest for any local area or class of business of money-lending in respect of secured and unsecured loans.

(2) Notwithstanding anything contained in any law for the time being in force, no agreement between a money-lender and a debtor for payment of interest at a rate exceeding the maximum rate fixed by the State Government under sub-section (1), shall be valid and no Court shall in any suit to which this Act applies award interest exceeding the said rates.

(3) If any money-lender charges or receives from a debtor interest at a rate exceeding the maximum rate fixed by the State Government under sub-section (1), he shall, for the purposes of section 39, be deemed to have contravened the provisions of this Act.

29. Prohibition of charge for expenses on loans by money-lenders.—No money-lender shall receive from a debtor or intending debtor any sum other than reasonable costs of investigating title to the property, costs of stamp, registration of documents and other usual out-of-pocket expenses in cases where an agreement between the parties includes a stipulation that property is to be given as security or by way of mortgage and where both parties have agreed of such costs and reimbursement thereof; or where such costs, charges or expenses are leviable under the provisions of the Transfer of Property Act, 1882, or any other law for the time being in force.

30. Notice and information to be given on assignment of loan.—(1) Where a loan advanced, whether before or after the date on which this Act comes into force, or any interest on such loan or the benefit of any agreement made or security taken in respect of such loan or interest, is assigned to any assignee, the assignor (whether he is the money-lender 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 the assignee notice in writing that the loan, interest, agreement or security is affected by the operation of this Act;

(b) supply to the assignee all information necessary to enable him to comply with the provisions of this Act; and

(c) give the debtor notice in writing of the assignment supplying the name and address of the assignee.

(2) Any person acting in contravention of the provisions of sub-section (1) shall be liable to indemnify any other person who is prejudiced by the contravention.

31. Application of Act as respects assignees.—(1) Save as hereinafter provided, where any debt due to a money-lender in respect of money lent by him whether before or after the date on which this Act comes into force, or of interest on money so lent or of the benefit of any agreement made or security taken in respect of any such debt or interest, has been assigned, the assignee shall be deemed to be the money-lender and all the provisions of this Act shall apply to such assignee as if he were the money-lender,

(2) Notwithstanding anything contained in this Act or in any other law for the time being in force, where for any reason any such assignment is invalid and the debtor has made any payment of money or transfer of property on account of any loan which has been so assigned, the assignee shall in respect of such payment or transfer be deemed to be the agent of the money-lender for all the purposes of this Act.

32. Reopening of transactions.—Notwithstanding anything contained in any law for the time being in force, the Court shall, in any suit to which this Act applies, whether heard *ex parte* or otherwise,—

- (a) reopen any transaction, or any account already taken between the parties;
- (b) take an account between the parties;
- (c) reduce the amount charged to the debtor in respect of any excessive interest;
- (d) if on taking accounts it is found that the money-lender has received more than what is due to him, pass a decree in favour of the debtor in respect of such amount:

Provided that in the exercise of these powers, the Court shall not,-

- (i) reopen any adjustment or agreement purporting to close previous dealings and to create new obligations which have been entered into by the parties or any person through whom they claim at a date more than six years from the date of the suit;
- (ii) do anything which affects any decree of a Court.

Explanation.—For the purpose of this section “excessive interest” means interest at a rate which contravenes any of the provisions of section 28.

33. Inquiry for taking accounts and declaring the amount due.—(1) Any debtor may make an application at any time to the Court, whether the loan has or has not become payable, for taking accounts and for declaring the amount due to the money-lender. Such application shall be in the prescribed form and accompanied by the prescribed fee.

(2) On receipt of such application, the Court shall cause a notice of the application to be given to the money-lender.

(3) On the date fixed for the hearing of the application or on such date to which the hearing may be adjourned from time to time, the Court shall make an inquiry and shall after taking an account of the transactions between the parties pass an order declaring the amount, if any, still payable by the debtor to the money-lender, in respect of the principal and interest, if any. In taking accounts under this section the Court shall follow the provisions of sections 20 to 32 and section 35.

34. Deposit in Court of money due to money-lender.—(1) At any time a debtor may tender to a money-lender any sum of money due from him to the money-lender in respect of a loan by way of principal, interest or both.

(2) If the money-lender refuses to accept any sum so tendered, the debtor may deposit the said sum in Court to the account of the money-lender.

(3) The Court shall thereupon cause written notice of the deposit to be served on the money-lender, and he may, on presenting a petition stating the sum then due in respect of the loan, and his willingness to accept the said sum, receive and appropriate it first towards the interest and the residue if any towards the principal.

(4) When the money-lender does not accept the sum, the Court shall appropriate the said sum first towards the interest and the residue if any towards the principal.

35. When interest to be paid for entire month.—Notwithstanding any agreement between the parties or any law for the time being in force, when a statement is delivered or pass book is supplied to a debtor under section 21 or if accounts are taken under section 33, or a tender is made by a debtor to a money-lender in respect of a loan under section 34 before the sixteenth day of a calendar month, the interest due shall be calculated as payable for fifteen days of the said month, and if the statement is delivered or pass book is supplied or accounts are taken or tender is made on any subsequent day, then for the entire calendar month irrespective of the fact that such statement is delivered or pass book is supplied or such accounts are taken or such tender is made on any such day.

36. Money-lenders to exhibit their names over shops.—Every money-lender shall always keep exhibited over his shop or place of business, his name with the word 'money-lender' and its equivalent in Kannada.

37. Entry of wrong sum in bond, etc., to be an offence.—(1) No money-lender shall take any promissory note, acknowledgment, bond or other writing which does not state the actual amount of the loan, or which states such amount wrongly or execute any instrument in which blanks are left to be filled after execution.

(2) Whoever contravenes the provisions of sub-section (1) shall, on conviction, be punished with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both.

38. Penalty for molestation.—Whoever molests, or abets the molestation of, a debtor for the recovery of a debt due by him to a creditor shall, on conviction, be punished with imprisonment which may extend to six months or with fine which may extend to ¹[five thousand]¹ rupees or with both.

1. Substituted by Act 77 of 1976 w.e.f. 27.10.1976.

Explanation.—For the purposes of this section, a person who, with intent to cause another person to abstain from doing any act which he has a right to do or to do any act which he has a right to abstain from doing,—

- (a) obstructs or uses violence to or intimidates such other person, or
- (b) persistently follows such other person from place to place or interferes with any property owned or used by him or deprives him of, or hinders him in, the use of any such property, or
- (c) loiters at or near a house or other place where such other person resides or works, or carries on business, or happens to be, or
- (d) does any act calculated to annoy or intimidate such other person or the members of his family, or
- (e) moves or acts in a manner which causes or is calculated to cause alarm or danger to the person or property of such other person,

-shall be deemed to molest such other person:

Provided that a person who goes to the house or place referred to in clause (c) in order merely to obtain or communicate information shall not be deemed to molest.

39. General provision regarding penalties.—Whoever fails to comply with or acts in contravention of any provision of this Act, shall, if no specific penalty has been provided for in this Act, on conviction, be punished,-

(a) for the first offence with simple imprisonment which may extend to ¹[three months]¹ or with fine which may extend to ¹[one thousand]¹ rupees or with both, and

1. Substituted by Act 77 of 1976 w.e.f. 27.10.1976.

(b) for the second or subsequent offence with imprisonment which may extend to six months or with fine ¹[which may extend to two thousand rupees]¹ or with both.

1. Inserted by Act 77 of 1976 w.e.f. 27.10.1976.

40. Offences by Hindu Joint Family, Corporation, etc.—(1) If the person contravening any of the provisions of this Act is an undivided Hindu family, the person responsible for the management of the business of such family shall be deemed to be guilty of such contravention.

(2) (a) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed, was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this clause shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(b) Notwithstanding anything contained in clause (a), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of or is attributable to any neglect on the part of, any director, manager, secretary, or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” means a body corporate and includes a firm or other association of individuals, and

(b) “director” in relation to a firm means a partner in the firm.

41. Certain offences to be cognizable.—Offences punishable,—

(a) under section 39 for contravening the provisions of section 5, and

(b) under section 38,

shall be cognizable.

42. Every officer to be public servant.—Every officer of the Government acting under the provisions of this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

43. Saving of laws relating to agriculturists’ indebtedness.—Nothing in this Act shall affect any of the provisions of any enactment relating to relief of agriculturists’ indebtedness.

44. Rules.—(1) The State Government may, after previous publication, by notification, make rules for carrying out the purposes of this Act.

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

- (a) the form of the register under section 4;
- (b) the form of the application for a licence, the further particulars to be included therein and the manner of payment of licence fee under section 6;
- (c) the form and conditions of the licence, and the procedure for a summary inquiry under section 7;
- (d) the form of cashbook and ledger and the manner in which they should be maintained under sub-section (1) of section 20 and the other particulars to be prescribed under sub-section (4) of that section;
- (e) the form of the statement of accounts and pass books to be furnished or delivered and the date before which it is to be furnished or delivered under sub-section (1), the fee to be paid under sub-section (2), and the sum of expenses to be paid under sub-section (3), of section 21;
- (f) the rates at which and the manner in which fees may be recovered under section 22;
- (g) the form of application and the fee to be paid under sub-section (1) of section 33;
- (h) the period within which appeals under this Act have to be filed and the fee payable in respect of such appeals;
- (i) any other matter which has to be or may be prescribed under this Act or any matter for which there is no provision or insufficient provision in this Act and for which provision is, in the opinion of the State Government, necessary for giving effect to the provisions of this Act.

(3) Every rule made under this Act, shall be laid, as soon as may be after it is made before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

45. Repeal and savings.—The Bombay Money-lenders Act, 1946 (Bombay Act XXXI of 1947), as in force in the ¹[Belgaum Area]¹; the Coorg Money-lenders Act, 1939 (Coorg Act I of 1939), as in force in the Coorg District; the Hyderabad Money-lenders Act, 1349 F (Hyderabad Act V of 1349 Fasli), and the Hyderabad Money-lenders (Validity of Licenses) Act, 1956 (Hyderabad Act XLVIII of 1956), as in force in the ¹[Gulbarga Area]¹; the Madras Debtors Protection Act, 1934 (Madras Act VII of 1935) as in force in the ¹[Mangalore and Kollegal Area]¹ and the Mysore Money-lenders Act, 1939 (Mysore Act XII of 1939) as in force in the Mysore area, are hereby repealed:

Provided that section 6 of the ¹[Karnataka]¹ General Clauses Act, 1899 (¹[Karnataka Act]¹ III of 1899) shall be applicable in respect of the repeal of the said enactments and sections 8 and 24 of the said Act shall be applicable as if the said enactments had been repealed and re-enacted by this Act.

1. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f. 1.11.1973

NOTIFICATION

Bangalore, dated 23rd March, 1965 [NO. AF 41 CCS 62]

S.O. 2175.- In exercise of the powers conferred by sub-section (3) of Section 1 of the Mysore Money Lenders Act, 1961 (Mysore Act 12 of 1962), the Government of Mysore hereby appoints the first day of April 1965, as the date on which the said Act, shall come into force.

By Order and in the name of the Governor of Mysore,

(S. RAMANATHAN)

Secretary.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2C (ii) dated 1st April 1965 at page 517.)

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