

THE STATUTES OF THE REPUBLIC OF SINGAPORE

MONEYLENDERS ACT
(CHAPTER 188)

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58 of 1959

Amended by
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Moneylenders Act

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An Act for the regulation of money-lending.

[11th September 1959]

Short title.

1. This Act may be cited as the Moneylenders Act.

Interpre-
tation.

2. In this Act, unless the context otherwise requires —
 - “authorised name” and “authorised address” mean respectively the name under which and the address at which a moneylender is authorised by a licence granted under this Act to carry on business as a moneylender;
 - “company” means any body corporate being a moneylender;
 - “firm” means an unincorporated body of two or more individuals, or one or more individuals and one or more corporations, or two or more corporations, who have entered into partnership with one another with a view to carrying on business for profit;
 - “interest” does not include any sum lawfully charged in accordance with the provisions of this Act by a moneylender for or on account of stamp duties, fees payable by law and legal costs but, save as aforesaid, includes any amount by whatsoever name called in excess of the principal paid or payable to a moneylender in consideration of or otherwise in respect of a loan;
 - “licence” means a moneylender’s licence issued under this Act;

“moneylender” includes every person whose business is that of moneylending or who carries on or advertises or announces himself or holds himself out in any way as carrying on that business whether or not that person also possesses or earns property or money derived from sources other than the lending of money and whether or not that person carries on the business as a principal or as an agent but does not include —

- (a) any body corporate, incorporated or empowered by a special Act of Parliament or by any other Act to lend money in accordance with that Act;
- (b) any society registered under the Co-operative Societies Act; Cap. 62.
- (c) 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 whereof he lends money;
- (d) any pawnbroker licensed under the provisions of any written law in force in Singapore relating to the licensing of pawnbrokers; and
- (e) any finance company licensed under the Finance Companies Act. Cap. 108.

“principal”, in relation to a loan, means the amount actually lent to and received by the borrower;

“Registrar” means the Registrar of Moneylenders appointed under this Act and includes an Assistant Registrar.

3. Save as excepted in paragraphs (a) to (e) of the definition of “moneylender” in section 2, any person who lends a sum of money in consideration of a larger sum being repaid shall be presumed until the contrary is proved to be a moneylender. Certain persons and firms presumed to be moneylenders.

4. The Minister may appoint any public officer to be the Registrar of Moneylenders under this Act and may also appoint as many public officers as he may think fit to be Assistant Registrars of Moneylenders. Appointment of Registrars.

Licences to be taken out by money-lenders.

5.—(1) Every moneylender residing and carrying on the business of moneylending in Singapore whether as principal or as agent shall take out a licence annually.

(2) A licence shall be taken out in respect of each name under which moneylending business is conducted. No licence shall be granted to a person not ordinarily resident in Singapore or to a firm where the person proposed to be responsible for the management of the firm is not ordinarily resident in Singapore.

(3) A licence taken out by a person as a partner in a firm shall be deemed to be a licence to the firm, and every other partner actively conducting in Singapore the moneylending business of that firm shall be subject to the provisions of this Act in like manner as if he had himself taken out the licence and shall be deemed to hold a licence.

(4) Licences shall be substantially in such form as the Minister may direct and shall be granted, on payment of the prescribed fee, by the Registrar or an Assistant Registrar or by officers authorised by either of them.

(5) Every licence shall come into operation on the date specified therein and shall be valid for a period of 12 months.

Particulars to be shown on licences.

6.—(1) Every licence granted to a moneylender shall show his true name and the name under which, and the address at which, he is authorised by the licence to carry on business as such, and in the case of an agent in addition the true name of the principal, whether an individual or a firm, on whose behalf the business is carried on. A licence shall not authorise a moneylender to carry on business at more than one address or under more than one name or under any name which includes the word “bank” or otherwise implies that he carries on the business of banking, and no licence shall authorise a moneylender to carry on business under any name except —

- (a) his true name or in the case of an agent the true name of the principal on whose behalf the agent carries on business;
- (b) the name of a firm in which he is a partner or of which he is an agent; or
- (c) a business name, whether of an individual or of a firm in which he is a partner or of which he is an

agent, under which he or the firm or in the case of an agent his principal has been registered under the Business Registration Act.

Cap. 32.

(2) Any licence taken out in a name other than the moneylender's true name shall be void.

7.—(1) The Registrar shall from time to time cause to be published in the *Gazette* a list of all persons licensed under this Act, and shall also cause to be so published any addition to or alteration in the list.

List to be published.

(2) Every such printed list purporting to be published as aforesaid shall be evidence in all courts that the persons therein specified are licensed according to the provisions of this Act; and the absence of the name of any person from that printed list shall be evidence, unless the contrary is shown, that that person is not licensed according to the provisions of this Act.

8. If any person —

- (a) takes out a licence in any name other than his true name;
- (b) carries on business as a moneylender without holding a licence or, being licensed as a moneylender, carries on business as such in any name other than his authorised name or at any place other than his authorised address or addresses; or
- (c) in the course of business as a moneylender enters as principal or agent into any agreement with respect to any advance or repayment of money or takes any security for money otherwise than in his authorised name,

Offences.
22/75.

he shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 and for a second or subsequent offence to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 12 months or to both and an offender being a company shall for a second or subsequent offence be liable to a fine not exceeding \$10,000:

Provided that a moneylender who is not, or in the case of a firm none of the partners of which are, ordinarily resident in Singapore may without being guilty thereby of an offence

carry on business in Singapore without holding a licence if he carries on the business solely through an agent duly licensed under this Act to carry on such business in Singapore under the name of that moneylender.

Grounds for
refusing
licence.
22/75.

9.—(1) A licence shall not be refused except on one or more of the following grounds:

- (a) that satisfactory evidence has not been produced of the good character of the applicant and, in the case of a company or of a firm, of the persons responsible for the management thereof;
- (b) that satisfactory evidence has been produced that the applicant or any person responsible or proposed to be responsible for the management of his business as a moneylender is not a fit and proper person to hold a licence;
- (c) that 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 licence;
- (d) that the applicant has not complied with section 5 with respect to applications for licences;
- (e) that the applicant or his firm has after the commencement of this Act knowingly lent money to a person under the age of 21 years;
- (f) that the applicant, or any partner, director or other person who is or will be responsible for the management of the firm, is below the age of 21 years:

Provided that where an application is made by any person for a licence to carry on business as an agent for a principal the licence may also be refused on one or more of the following grounds:

- (i) that satisfactory evidence has not been produced of the good character of the principal and, where the principal is a firm, of the persons responsible for the management thereof;
- (ii) that satisfactory evidence has been produced that the principal is not a fit and proper person to carry on the business of moneylending;

- (iii) that the principal or any present or former agent of the principal is by an order of a court disqualified from holding a licence;
- (iv) that the principal or any present or former agent of the principal has knowingly lent money to a person under the age of 21 years.

(2) Any person aggrieved by the refusal of a licensing officer to grant a licence may appeal to the Minister in such manner as the Minister may, by rules, prescribe and the decision of the Minister shall be final.

10.—(1) The Registrar may by order revoke a licence if he is satisfied —

Revocation
of licence.
22/75.

- (a) that the holder of the licence —
 - (i) has ceased to carry on the business of a moneylender or, if the licensee being a company, goes into liquidation or is wound up or otherwise dissolved; or
 - (ii) is no longer a fit and proper person to continue to hold the licence; or
- (b) that the holder of the licence, or, if he is a partner of a firm or is a company, any person responsible for the management of the firm or company —
 - (i) has been convicted of any offence involving dishonesty or moral turpitude;
 - (ii) is carrying on or has carried on the business of a moneylender in such a manner as renders him unfit to continue to hold the licence;
 - (iii) is contravening or has contravened the provisions of this Act; or
 - (iv) has been convicted of any offence under this Act or the rules made thereunder.

(2) The Registrar shall, before revoking any licence under subsection (1), give the person concerned notice in writing of his intention to do so, specifying a date, not less than 21 days after the date of the notice, upon which the revocation shall take effect and calling upon the person

concerned to show cause to the Registrar why the licence should not be revoked.

(3) Where the Registrar has revoked a licence under subsection (1), he shall forthwith inform the person concerned by notice in writing of the revocation.

(4) The person whose licence has been revoked may, within 14 days after the date of the notice referred to in subsection (3), or such extended period of time as the Minister may allow, appeal in writing against the revocation to the Minister whose decision shall be final.

(5) An order of revocation shall not take effect until the expiration of a period of 14 days after the Registrar has informed the licensee concerned of the order.

(6) If within that period the licensee concerned gives due notice of appeal to the Minister, the order shall not take effect unless the order is confirmed by the Minister or the appeal is for any reason dismissed by the Minister or is withdrawn.

(7) An order of revocation made under this section shall not affect any moneylending transaction entered into before the order is made.

Names to be stated on documents issued by money-lenders.

11. A moneylender shall not for the purpose of the business carried on by him as such issue or publish or cause to be issued or published any advertisement, circular, business letter or other document which does not show, in such manner as to be not less conspicuous than any other name, the authorised name of the moneylender, and any moneylender who acts in contravention of this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$500 in respect of the offence.

No circular implying a banking business to be issued.

12. If a moneylender for the purpose of the business carried on by him as such issues or publishes or causes to be issued or published any advertisement, circular or document of any kind whatsoever containing expressions which might reasonably be held to imply that he carries on the business of banking, he shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$1,000 and for a second or subsequent offence to a fine not exceeding \$1,000 or to imprisonment for a term not exceeding 12 months or to

both and an offender being a company shall for a second or subsequent offence be liable to a fine not exceeding \$5,000.

13.—(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 —

Restriction on money-lenders' advertisements.

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

(2) Subject to this section, 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 aforesaid:

Provided that an advertisement in conformity with the requirements of this Act relating to the use of names on moneylenders' documents may be published by or on behalf of a moneylender in any newspaper or in any such paper as aforesaid or by means of a poster or placard exhibited at any authorised address of the moneylender if it contains no addition to the particulars necessary to comply with those requirements except any of the following particulars:

- (a) any authorised address at which he carries on business as a moneylender and the telegraphic address and telephone number thereof;
- (b) any address at which he formerly carried on business;
- (c) a statement that he lends money with or without security and of the highest and lowest sums that he is prepared to lend; or
- (d) a statement of the date on which the business carried on by him was first established.

(3) No moneylender or any person on his behalf shall employ any agent or canvasser for the purpose of inviting any person to borrow money or to enter into any transaction

involving the borrowing of money from a moneylender and 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.

(4) 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 in terms of a rate per cent per annum or per month.

(5) Any person acting in contravention of any of the provisions of this section shall be guilty of an offence and shall in respect of each offence be liable on conviction to a fine not exceeding \$500 or to imprisonment for a term not exceeding 6 months or to both.

Board to be affixed at place of business of money-lender.
S 295/75.

14.—(1) Every person licensed as a moneylender under the provisions of this Act shall affix in a conspicuous position outside his authorised address a board bearing the authorised name and the authorised address of the business and the words “Licensed Moneylender” in Malay, English, Chinese and Tamil distinctly printed in letters not less than 5 centimetres high.

(2) Any person who fails to comply with subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50.

Contract by unlicensed moneylender unenforceable.

15. No contract for the repayment of money lent by an unlicensed moneylender shall be enforceable:

Provided that money lent on behalf of a principal through an agent who is licensed under the provisions of this Act to carry on the business of moneylending on behalf of that principal shall be deemed to have been lent by a licensed moneylender.

Note or memorandum of money-lender's contract to be given to borrower.
22/75.

16.—(1) No contract for the repayment by a borrower or his agent of money lent to him or to any agent on his behalf by a moneylender or his agent or for the payment by him of interest on money so lent, and no security given by the borrower or by any such agent as aforesaid in respect of any such contract, shall be enforceable unless a note or memorandum in writing of the contract in the English language

and in the prescribed form is signed by the parties to the contract or their respective agents or, in the case of a loan to a partnership firm, by a partner in or agent of the firm, and unless a copy thereof authenticated by the lender or his agent is delivered to the borrower or his agent or, in the case of a loan to a partnership firm, to a partner in or agent of the firm, before the money is lent, and no such contract or security shall be enforceable if it is proved that the note or memorandum aforesaid was not so signed before the money was lent or before the security was given, as the case may be:

Provided that where a security is given to secure an immediate loan and subsequent loans, the security shall be enforceable in respect of any subsequent loan thereby 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) No contract made after 1st October 1975 for the repayment by a borrower or his agent of money lent to him or to any agent on his behalf by a moneylender or his agent, or for the payment by him of interest on the money so lent, and no security given by the borrower or any such agent as aforesaid in respect of any such contract shall be enforceable unless the money lent was given to the borrower or his agent in the form of an account payee crossed cheque with the words "licensed moneylender" endorsed legibly below the signature of the moneylender or his agent on the cheque made payable to the borrower or his agent. ^{22/75.}

(3) No moneylender or his agent shall present to any bank any crossed cheque drawn by another moneylender or his agent and made payable to a borrower or his agent and any moneylender or his agent who acts in contravention of this subsection shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$2,000 or to imprisonment for a term not exceeding 12 months or to both.

Note: The former section 16 (2), which was repealed by Act 22/75, shall be of full force and effect with regard to contracts made before 1st October 1975.

(4) Any person, not being a moneylender, who presents to any bank more than two crossed cheques in any one month drawn by any moneylender or his agent and made payable to a borrower or his agent shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$2,000 or to imprisonment for a term not exceeding 12 months or to both.

(5) In this section, "borrower" includes a surety.

(6) In the course of any investigation or proceedings into or relating to an offence by any person under subsection (3) or (4), the Public Prosecutor may, notwithstanding anything in any other written law to the contrary, by notice in writing, require the manager of any bank to furnish him with such information as he may require to enable him to identify any person having an account at that bank and the manager of any bank who wilfully neglects or fails to comply with the terms of that notice and within such time as may be specified in that notice shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$1,000 or to imprisonment for a term not exceeding 6 months or to both.

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(7) Any moneylender or his agent who makes a loan in the form other than that prescribed by subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$2,000 or to imprisonment for a term not exceeding 6 months or to both.

(8) Subsections (1) and (2) shall not apply to loans or advances by a moneylender on current account where interest is payable on the daily balances with monthly or more extended rests at a rate not exceeding 15% per annum.

Stamping of
note or
memo-
randum.
Cap. 312.

17. Notwithstanding the provisions of the Stamp Duties Act, any note or memorandum, including a promissory note, setting out the contract for the repayment by a borrower of money lent to him by a registered moneylender, shall not be stamped unless —

- (a) the licence number of the moneylender is stated in the note or memorandum;
- (b) a copy of the note or memorandum is handed to the Commissioner of Stamp Duties who shall forward that copy to the Comptroller of Income Tax; and

- (c) the note or memorandum is presented for stamping within 7 days after its execution.

18.—(1) Any contract for the loan of money by a moneylender shall be illegal in so far as it provides, directly or indirectly, for the payment of compound interest, or for the rate or amount of interest to be increased by reason of any default in the payment of sums due under the contract: Prohibition of compound interest.

Provided that provision may be made by any such contract that if 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 be entitled to 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 any interest so charged shall not be reckoned for the purposes of this Act as part of the interest charged in respect of the loan.

(2) Subsection (1) shall not apply to transactions known as thavannai transactions, between one moneylender and another moneylender, provided that any such transaction is evidenced by a written document duly stamped.

(3) Subsection (1) shall not apply to loans or advances by a moneylender on current account where interest is payable on the daily balances with monthly or more extended rests at a rate not exceeding 15% per annum.

19.—(1) Every moneylender shall keep or cause to be kept a regular account of each loan made by him clearly stating in plain words and in English numerals with or without the numerals of the script otherwise used the terms and transactions incidental to the account entered in a book paged and bound in such manner as not to facilitate the elimination of pages or the interpolation or substitution of pages. Accounts to be kept in permanent books.

(2) Every moneylender shall keep or cause to be kept such books of accounts relating to his business as are prescribed so as to exhibit and explain the financial position in his business, including a book or books containing entries from day to day in sufficient detail of all cash received and paid.

22/75.

(3) Every moneylender shall submit to the Registrar a statement in such form as the Registrar may require showing his cash and loan position for each quarter of the year not later than the end of the second week of the next ensuing quarter.

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(4) Every moneylender shall, when so required by the Registrar, account for or explain any item or particulars appearing in the statement submitted to the Registrar under subsection (3).

(5) The Registrar may from time to time inspect, under conditions of secrecy, the books of accounts of a moneylender and a moneylender shall, when so required by the Registrar, afford the Registrar access to his books of accounts and to any cheque drawn by the moneylender or his agent that has been cleared by any bank and to any note or memorandum setting out a contract for the repayment of money lent in which he is or has been concerned.

(6) If any person subject to the obligations of this section fails to comply with any of the requirements of subsection (1), he shall not be entitled to enforce any claim in respect of any transaction in relation to which default has been made.

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(7) Any person who fails to comply with the requirements of this section or any requisition made by the Registrar under subsection (4) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$1,000 and in the case of a continuing offence to a further fine not exceeding \$100 for every day or part thereof during which the offence continues after conviction.

Obligation to supply information as to state of loan and copies of documents relating thereto.

20.—(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 50 cents for expenses, supply to the borrower or, if the borrower so requires, to any person specified in that behalf in the demand, a statement of account in English figures 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 or the amount of interest charged;

- (b) the amount of any payment already received by the moneylender in respect of the loan and the date on which it was made;
- (c) the amount of all sums due to the moneylender for principal but unpaid and the dates upon which they became due and the amount of interest due and unpaid in respect of each such sum; and
- (d) the amount of every sum not yet due which remains outstanding and the date upon which it will become due.

(2) A statement of account given in the form in the First Schedule shall be deemed to comply with the requirements of subsection (1).

(3) A moneylender shall, on any reasonable demand in writing by the borrower and on tender of the sum of \$1, supply a copy of any document relating to a loan made by him or any security therefor to the borrower or, if the borrower so requires, to any person specified in that behalf in the demand.

(4) If 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, so long as the default continues, be entitled to 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 and, if the default is made or continued after proceedings have ceased to lie in respect of the loan, the moneylender shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50 for every day on which the default continues.

(5) A moneylender, receiving any payment of money under a contract for the repayment of money lent, shall immediately thereafter endorse on the stamped note or memorandum setting out that contract the amount of money received and the date it was received by him and shall forthwith issue to the payer a duly stamped receipt therefor and any moneylender who contravenes this subsection shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$2,000. ^{22/75.}

(6) Where a moneylender has been convicted of an offence under subsection (5) and the borrower has not

repaid in full the amount due and payable under the contract for repayment of money lent, the contract shall not be enforceable in respect of any moneys still unpaid under that contract.

(7) If a moneylender is convicted of an offence under subsection (5), the court shall cause particulars of the conviction to be endorsed on the note or memorandum of the contract for repayment of money lent.

Provisions as to bankruptcy proceedings for moneylenders' loans.
Cap. 20.

21.—(1) Where a debt due to a moneylender in respect of a loan made by him includes interest, that interest shall, for the purposes of the provisions of the Bankruptcy Act, be calculated at a rate not exceeding 4% per annum, but nothing in the foregoing provision shall prejudice the right of the moneylender to receive out of the estate, after all the debts proved in the estate have been paid in full, any higher rate of interest to which he may be entitled.

(2) No proof of a debt due to a moneylender in respect of a loan made by him shall be admitted for any of the purposes of the Bankruptcy Act unless the affidavit verifying the debt has exhibited thereto a statement which complies with section 20 and shows, where the amount of interest included in the unpaid balance represents a rate per cent per annum exceeding 4%, the amount of interest which would be so included if it were calculated at the rate of 8% per annum.

(3) Where property is vested in the Official Assignee by reason of any adjudication or vesting order or other order having the like effect, made under the provisions of the Bankruptcy Act or which is the subject of a composition or scheme of arrangement approved thereunder, but where no dividend has been declared or payment by way of dividend has been made, subsections (1) and (2) shall apply notwithstanding that the order vesting the property or a receiving order made in respect of it was made or the composition or scheme of arrangement was approved or any debt provable or payable in respect of it was incurred before the date of the commencement of this Act.

(4) General rules may be made under the Bankruptcy Act for the purpose of carrying into effect the objects of this section.

22.—(1) When proceedings are taken in any court by a moneylender for the recovery of any money lent or the enforcement of any agreement or security made or taken in respect of money lent, he shall produce a statement of his account as prescribed in section 20.

Accounts under section 20 to be produced when suing in court.

(2) Where there is evidence which satisfies the court that the interest charged in respect of the sum actually lent is excessive and that the transaction is harsh and unconscionable or substantially unfair, the court shall reopen the transaction and take an account between the moneylender and the person sued and shall, 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 such principal, interest and legal costs as the court, having regard to the risk and all the facts and circumstances (including facts and circumstances arising or coming to the knowledge of the parties after the date of the transaction) may adjudge to be reasonable, and, if any such excess has been paid or allowed in account by the borrower or other person sued may order the moneylender to repay it and may set aside either wholly or in part or revise or alter any security given or agreement made in respect of money lent by the moneylender and, if the moneylender has parted with the security, may order him to indemnify the borrower or other person sued:

Provided that nothing in this subsection shall prevent any further or other relief being given in circumstances in which a court of equity would give such relief.

(3) Any court in which proceedings might be taken for the recovery of money lent by a moneylender shall have and may, at the instance of the borrower or surety or other person liable or of the trustee in bankruptcy, exercise the like powers as may be exercised under this section where proceedings are taken for the recovery of money lent, and the court shall have power, notwithstanding any provision or agreement to the contrary, to entertain any application under this Act by the borrower or surety or other person liable notwithstanding that the time for repayment of the loan or any instalment thereof may not have arrived.

(4) On any application relating to the admission or amount of a proof by a moneylender in any bankruptcy proceedings, the Official Assignee shall exercise the like powers as may be exercised by the court under this section when proceedings are taken for the recovery of money:

Cap. 20. Provided that if the moneylender is dissatisfied with the decision of the Official Assignee the court may, on the application of the moneylender made under the Bankruptcy Act reverse or vary that decision.

(5) Subsections (1) to (4) shall apply to any transaction whatever its form may be that is substantially one of moneylending by a moneylender.

(6) Nothing in subsections (1) to (5) shall affect the rights of any bona fide assignee or holder for value without notice.

(7) Nothing in this section shall be construed as derogating from the existing powers or jurisdiction of any court.

Prescribed
maximum
rate of
interest.
22/75.

23.—(1) Where, in any proceedings taken in any court by a moneylender in respect of any money lent or in respect of any agreement or security in respect of money lent, it is found that the interest charged exceeds the prescribed maximum rate of interest for such loan, the court shall, unless the contrary is proved, presume for the purposes of section 22 that the interest charged is excessive and that the transaction is harsh and unconscionable or substantially unfair, but this provision shall be without prejudice to the powers of the court under that section where the court is satisfied that the interest charged, although not exceeding the prescribed maximum rate of interest for that loan, is excessive or that the transaction is harsh or unconscionable or substantially unfair.

(2) Where a court reopens a transaction of a moneylender under section 22, the court may require the moneylender to produce any licence granted to him in accordance with the provisions of this Act and may cause such particulars as the court thinks desirable to be endorsed on any such licence and a copy of the particulars to be sent to the Registrar.

(3) The powers of a court under section 22 (3) may be exercised notwithstanding that the moneylender's right of action for the recovery of the money lent is barred.

(4) In no case shall interest at any time be recoverable by a moneylender of an amount in excess of the sum then due as principal unless a court, having regard to all circumstances, otherwise decrees.

(5) No person who is neither a moneylender nor one of the persons referred to in paragraphs (a) to (e) of the definition of "moneylender" in section 2 shall, in respect of money lent by him, in any case recover in excess of the money actually lent by him (whether the excess is claimed by way of interest or otherwise) any sum greater than an amount equal to simple interest at the rate of 20% per annum on the money actually lent by him.

(6) A moneylender who charges interest for a loan at a rate exceeding the maximum rate of interest prescribed for such a loan shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$2,000 and for a second or subsequent offence —

- (a) to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding one year or to both; or
- (b) where the moneylender is a company, to a fine not exceeding \$10,000.

24.—(1) Where in any proceedings taken in any court by a moneylender for the recovery of any money lent or the enforcement of any agreement or security made or taken in respect of money lent any dispute arises as to the amount of the money lent to and received by the borrower, the burden of proving the amount shall be on the moneylender.

Burden of proof of amount lent.

(2) The fact that the borrower has signed a note or memorandum which complies with section 16 and in which the amount of the money lent to and received by the borrower is set out shall not of itself raise any presumption that the amount of money so set out was actually lent to or received by the borrower.

25.—(1) The borrower shall be entitled to repay any money lent or interest thereon by cheque, money order or

Repayment of loan.

postal order and where in any proceedings taken in any court by a moneylender for the recovery of any money lent or the enforcement of any agreement or security made or taken in respect of money lent, the borrower gives evidence that he has posted a cheque, money order or postal order to the moneylender at his authorised address in payment of the money lent or any part thereof or of interest thereon, it shall be presumed that the amount stated in the cheque, money order or postal order has been paid to the moneylender towards payment of the money lent or interest thereon, as the case may be.

22/75.

(2) A moneylender shall not accept in repayment of an amount exceeding \$10 from a borrower in respect of the principal sum of or interest due for any loan given unless the repayment is made by cheque, money order or postal order.

(3) A moneylender who contravenes subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$500.

Prohibition
of charge
for expenses
on loans
by money-
lender.

26. Any agreement between a moneylender and a borrower or intending borrower for the payment by the borrower or intending borrower to the moneylender of any sum on account of costs, charges or expenses other than stamp duties, fees payable by law and legal costs incidental to or relating to the negotiations for or the granting of the loan or proposed loan shall be illegal, and if any sum is paid to a moneylender by a borrower or intending borrower as, for or on account of any such costs, charges or expenses other than as aforesaid, that sum shall be recoverable as a debt due to the borrower or intending borrower, or, in the event of the loan being completed, shall, if not so recovered, be set off against the amount actually lent and that amount shall be deemed to be reduced accordingly.

Calculation
of interest.

27. Where the interest charged on a loan is not expressed in terms of a rate per cent per annum, the rate of interest per cent per annum charged on the loan shall be calculated in accordance with the Second Schedule or, where the contract provides for the payment of equal instalments of principal and interest at equal intervals of time, in accordance with the formula given in the Third Schedule.

28.—(1) Where any debt in respect of money lent by a moneylender or in respect of interest on any such debt, or the benefit of any agreement made or security taken in respect of any such 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 —

Notice and information to be given on assignment of moneylender's debts.

- (a) give to the assignee notice in writing that the debt, agreement or security is affected by the operation of 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 thereto,

and any person acting in contravention of any of the provisions of this section shall be liable to indemnify any other person who is prejudiced by the contravention and shall also be guilty of an offence and shall in respect of each offence be liable on conviction to a fine not exceeding \$1,000 or to imprisonment for a term not exceeding one year or to both:

Provided that an offender being a company shall be liable to a fine of \$5,000.

(2) In this section, “assigned” means assigned by any assignment *inter vivos* other than an assignment by operation of law, and “assignee” and “assignor” have corresponding meanings.

29.—(1) Subject as hereinafter provided the provisions of this Act shall continue to apply as respects any debt to a moneylender in respect of money lent by him or in respect 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 notwithstanding that the debts or the benefit of 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.

Application of this Act as respects assignees.

(2) No assignment of any debt in respect of money lent by a moneylender shall be valid unless the moneylender is licensed under this Act.

(3) Notwithstanding anything in this Act —

- (a) any agreement with or any security taken by a licensed 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; and
- (b) any payment or transfer of money or property made bona fide by any person, whether acting in a fiduciary capacity or otherwise, on the faith of the validity of any such agreement or security without notice of any such defect shall, in favour of that person, be as valid as it would have been if the agreement or security had been valid:

Provided that in every such case the moneylender shall be liable to 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.

(4) Notwithstanding anything in this Act, for the purposes of this section an assignee or holder for value or person making any such payment or transfer as aforesaid shall not be prejudicially affected by notice of any such defect as aforesaid unless —

- (a) it is within his own knowledge, or would have come to his knowledge if such inquiries and inspections had been made as ought reasonably to have been made by him; or
- (b) in the same transaction, with respect to which a question of notice to such assignee, holder for value or person arises, it has come to the knowledge of his counsel as such or of his solicitor or other agent as such, or would have come to the knowledge of his solicitor or other agent as such if those inquiries and inspections had been made as ought reasonably to have been made by the solicitor or other agent.

(5) Nothing in this section shall render valid for any purpose any agreement, security or other transaction which would, apart from the provisions of this Act, have been void or unenforceable.

30.—(1) Whenever a promissory note is taken as security for any loan and the borrower is a person who does not understand the written language on the note, the note shall be attested by an advocate and solicitor, a Magistrate, Justice of the Peace, commissioner for oaths or such other person as may be appointed by the Minister generally for that purpose. The attesor shall explain the terms of the promissory note to the borrower, and shall certify thereon that the borrower appeared to understand the meaning of the note. The money borrowed shall be paid over by the lender to the borrower in the presence of the attesor who shall certify the fact upon the promissory note.

Attestation of certain promissory notes.

(2) Any promissory note required to be attested under this section and not so attested shall be void and the lender shall not be entitled to recover any loan for which the note is taken as security.

31. Any moneylender who makes any note or memorandum under section 16 or who takes as security for any loan a promissory note or other contract for the repayment of money lent in which the principal or rate of interest is, to the knowledge of the moneylender, not truly stated or is left blank shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$2,000 and for a second or subsequent offence to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 6 months or to both.

Penalty for taking promissory note in which amount left blank or not truly stated. 22/75.

32. If any moneylender or any manager, agent or clerk of a moneylender or if any person being a director, manager or other officer of any company, by any false, misleading or deceptive statement, representation or promise or 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, he shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 2 years or to both.

False statements or representations to induce borrowing an offence.

Harassing
debtor,
besetting his
residence,
etc.
22/75.

33.—(1) Any moneylender, who, either personally or by any person acting on his behalf, harasses or intimidates his debtor or any member of the debtor's family at, or watches or besets, the residence or place of business or employment of the debtor, or any place at which the debtor receives his wages or any other sum periodically due to him, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$2,000 or to imprisonment for a term not exceeding 3 months or to both:

Provided that an offender being a company shall be liable to a fine of \$5,000.

(2) Any person reasonably suspected of having committed an offence under subsection (1) who refuses or fails to accompany a police officer when required to do so for the purposes of any investigation under this Act may be arrested without warrant.

Special
provisions
relating to
non-resident
principal.

34.—(1) When any fine is imposed on an agent who is or has been licensed under this Act to carry on a moneylending business on behalf of a principal not resident in Singapore, the fine, if it has been imposed in respect of an offence under this Act committed by the agent in the course of carrying on the business shall, unless the court imposing the fine otherwise directs, be recoverable out of the property situate in Singapore belonging to the principal as well as out of the property belonging to the agent and any such property of the principal may be taken in execution and sold under any warrant issued against the agent for the levy of the amount of the fine.

(2) When it is made to appear to any court by any person entitled to make an application under section 22 that any transaction entered into with a moneylender not resident in Singapore *prima facie* ought to be reopened, the court may —

- (a) issue an order of attachment attaching any property of the moneylender situate within Singapore until such time as the moneylender submits to the jurisdiction of the court and gives security to the satisfaction of the court that any order made against him for repayment of any sum or for an indemnity will be duly satisfied; and
- (b) authorise the service out of the jurisdiction of any summons or other process applying for the reopening of the transaction under section 22.

35. Any police officer not below the rank of sergeant who is authorised in writing by the Registrar, or by a police officer not below the rank of Assistant Superintendent of Police, may at all times enter into the premises of any licensed moneylender or any person who is suspected of carrying on the business of moneylending to inspect or seize any book or document relating to any moneylending transaction without a warrant being issued by a Magistrate for that purpose.

Powers of
police officer.
22/75.

[34A

36—(1) The Minister may, upon payment of the prescribed fee, exempt, with or without conditions, any body corporate or society from all or any of the provisions of this Act, and may revoke any exemption granted by him at any time by the service of a notice of revocation in writing on the body corporate or society.

Power of
Minister
to grant
exemptions.

(2) Every exemption under subsection (1) shall in the first instance be valid for a period of 3 years or less from the date of the granting thereof but may, upon payment of the prescribed fee, be extended thereafter, with or without additional conditions, for further periods not exceeding 3 years at a time.

[35

37. The Minister may make rules generally to give effect to the provisions of this Act and, in particular, may by such rules provide for —

Rules.
22/75.

- (a) the forms to be used for the purposes of this Act;
- (b) the fees to be charged under this Act;
- (c) the books of account to be kept by a moneylender;
- (d) the manner in which accounts and files relating to loans by moneylenders are to be kept and the particulars to be entered therein; and
- (e) the maximum rate of interest to be charged for any loan or class of loans.

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Section 20
(2).

FIRST SCHEDULE

STATEMENT OF ACCOUNT

TABLE 1 — PRINCIPAL AND INTEREST

Principal	Date lent	Rate per cent per annum or the amount of interest

TABLE 2 — REPAYMENT

Amounts repaid	Date
1.	
2.	
3.	
4.	
5.	
6.	
7.	

TABLE 3 — AMOUNT OF ARREARS

Principal	Date due	Interest	Date due
1.			
2.			
3.			
4.			
5.			
6.			
7.			

FIRST SCHEDULE — *continued*

TABLE 4 — SUMS NOT YET DUE

Principal	Date due	Interest	Date due
1.			
2.			
3.			
4.			
5.			
6.			
7.			

SECOND SCHEDULE

Section 27.

CALCULATION OF INTEREST WHERE THE INTEREST CHARGED ON A LOAN IS NOT EXPRESSED IN TERMS OF A RATE

1. The amount of principal outstanding at any time shall be taken to be the balance remaining after deducting from the principal the total of the portions of any payments appropriated to principal in accordance with the provisions of this Act.

2. The several amounts taken to be outstanding by way of principal during the several periods ending on the dates on which payments are made shall be multiplied in each case by the number of calendar months during which these amounts are taken to be respectively outstanding and there shall be ascertained the amount of the sum so produced.

3. The total amount of the interest shall be divided by one-twelfth part of the aggregate amount mentioned in paragraph 2 and the quotient, multiplied by 100, shall be taken to be the rate of interest per cent per annum.

4. If having regard to the intervals between successive payments it is desired to do so, the calculation of interest may be made by reference to weeks instead of months and in such a case paragraphs 1, 2 and 3 shall have effect as though in paragraph 2 the word "weeks" were substituted for the words "calendar months" and in paragraph 3 the words "one-fifty-second" were substituted for the words "one-twelfth".

5. Where any interval between successive payments is not a number of complete weeks or complete months, paragraphs 1 to 4 shall have effect as though one day were one-seventh part of a week or one-thirtieth part of a month, as the case may be.

Section 27.

THIRD SCHEDULE

CALCULATION OF INTEREST WHERE REPAYMENT IS BY EQUAL INSTALMENTS

Formula to be used to find the rate per cent per annum where no rate is stated and repayment is to be made by equal instalments at equal intervals of time:

$$\frac{100 \times I \times 24}{(N + 1) \times P \times L}$$

where I = total interest repayable

N = number of instalments

P = principal

L = number of calendar months in the intervals between instalments.