



THE STATUTES OF THE REPUBLIC OF SINGAPORE

MONEYLENDERS ACT

(CHAPTER 188)

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Moneylenders Act

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An Act for the regulation of moneylending and for matters connected therewith.

[1st March 2009; 1st July 2010: Section 5(3)(b)]

PART I

PRELIMINARY

Short title and commencement

1.—(1) This Act may be cited as the Moneylenders Act.

(2) Section 5(3)(b) shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

Interpretation

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

“Authority” means the Monetary Authority of Singapore established under section 3 of the Monetary Authority of Singapore Act (Cap. 186);

“bank” means —

(a) a bank licensed under the Banking Act (Cap. 19); or

(b) a merchant bank that is approved as a financial institution under section 28 of the Monetary Authority of Singapore Act,

and includes a finance company licensed under the Finance Companies Act (Cap. 108);

“body corporate” includes a limited liability partnership;

“business name”, in relation to a moneylender, means the name under which the moneylender is authorised by a licence to carry on the business of moneylending;

“business trust” has the same meaning as in section 2 of the Business Trusts Act (Cap. 31A);

“company” has the same meaning as in section 4(1) of the Companies Act (Cap. 50);

“corporation” has the same meaning as in section 4(1) of the Companies Act;

“director” has the same meaning as in section 4(1) of the Companies Act;

“excluded moneylender” means —

- (a) any body corporate, incorporated or empowered by an Act of Parliament to lend money in accordance with that Act;
- (b) any person licensed, approved, registered or otherwise regulated by the Authority under any other written law, to the extent that such person is permitted or authorised to lend money or is not prohibited from lending money under that other written law;
- (c) any society registered as a credit society under the Co-operative Societies Act (Cap. 62);
- (d) any pawnbroker licensed under the Pawnbrokers Act (Cap. 222);
- (e) any person who —
 - (i) lends money solely to his employees as a benefit of employment;
 - (ii) lends money solely to accredited investors within the meaning of section 4A of the Securities and Futures Act (Cap. 289);
 - (iii) lends money solely to —
 - (A) corporations;
 - (B) limited liability partnerships;
 - (C) trustees or trustee-managers, as the case may be, of business trusts for the purposes of the business trusts;

(D) trustees of real estate investment trusts for the purposes of the real estate investment trusts,

or who carries on any combination of such activities or services; or

(f) any person 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;

“exempt moneylender” means any moneylender who has been granted an exemption under section 35 or 36 from holding a licence;

“firm” means an unincorporated body of 2 or more individuals, or one or more individuals and one or more corporations, or 2 or more corporations, who have entered into partnership with one another with a view to carrying on business for profit and that is registered under the Business Registration Act (Cap. 32);

“interest”, in relation to a loan, means 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 the loan, but does not include any permitted fee, stamp duty or other fee payable under this Act or any other written law;

“licence” means a moneylender’s licence issued or renewed under this Act, and “licensee” shall be construed accordingly;

“limited liability partnership” has the same meaning as in the Limited Liability Partnerships Act (Cap. 163A);

“moneylender” means a person who, whether as principal or agent, carries on or holds himself out in any way as carrying on the business of moneylending, whether or not he carries on any other business, but does not include any excluded moneylender;

“permitted fee”, in relation to a loan, means the costs, charges or expenses prescribed under section 22(1) that may be imposed on the borrower under the contract for the loan;

“principal”, in relation to a loan, means the amount actually lent by a moneylender under the contract for the loan;

“real estate investment trust” means a collective investment scheme that is —

(a) authorised under section 286 or recognised under section 287 of the Securities and Futures Act (Cap. 289); and

(b) a trust that invests primarily in real estate and real estate-related assets specified by the Authority in the Code on Collective Investment Schemes and all or any of the units of which are listed for quotation on a securities exchange within the meaning of that Act;

“Registrar” means the Registrar of Moneylenders appointed under section 4 and includes a Deputy Registrar of Moneylenders and an Assistant Registrar of Moneylenders appointed under that section;

“substantial shareholder” and “substantial shareholding” have the same meanings as in Division 4 of Part IV of the Companies Act (Cap. 50);

“unlicensed moneylender” means a person —

(a) who is presumed to be a moneylender under section 3; and

(b) who is not a licensee or an exempt moneylender.

[5/2010]

Persons presumed to be moneylenders

3. Any person, other than an excluded moneylender, 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.

Appointment of Registrar, etc.

4. The Minister may appoint any public officer to be the Registrar of Moneylenders and such number of public officers as he thinks fit to be Deputy Registrars of Moneylenders and Assistant Registrars of Moneylenders under this Act.

PART II

LICENSING OF MONEYLENDERS

No moneylending except under licence, etc.

5.—(1) No person shall carry on or hold himself out in any way as carrying on the business of moneylending in Singapore, whether as principal or as agent, unless —

- (a) he is authorised to do so by a licence;
- (b) he is an excluded moneylender; or
- (c) he is an exempt moneylender.

(1A) For the purposes of subsection (1), a person who wholly or partly carries on, from a place outside Singapore, the business of moneylending in Singapore shall be taken to have carried on that business in Singapore.

[5/2010]

(2) The Minister may prescribe different classes or descriptions of licences for the purposes of this Act.

(3) An application for the issue of a licence shall be —

- (a) made in such form and manner as may be determined by the Registrar; and
- (b) ¹*accompanied by the payment of a non-refundable application fee of a prescribed amount, which shall be paid in such manner as may be specified by the Registrar.*

(4) The Registrar may issue a licence with or without conditions, or he may refuse to issue a licence.

¹Section 5(3)(b) shall come into operation on 1st July 2010.

(5) Without prejudice to section 7, the Registrar shall not issue a licence —

- (a) where any information or statement furnished by the applicant that is material to his application for the issue of a licence under this section is incomplete, false or misleading;
- (b) where the applicant does not satisfy the requirements of the class or description of the licence applied for; or
- (c) where the applicant does not place with the Accountant-General as security for the proper conduct of his business of moneylending in Singapore, in such form as the Registrar may determine, a deposit of \$20,000 for each place of business in respect of which he is to be licensed.

(6) Every licence shall come into operation on the date specified therein, and shall be valid for a period of 12 months or such other prescribed period as may be specified in the licence.

(7) The Registrar may at any time, by notice in writing to the licensee, vary or revoke any of the existing conditions of the licence or impose new conditions.

(8) Where a licence is issued to a firm, every partner of the firm actively conducting the business of moneylending of that firm in Singapore shall be subject to this Act as if he holds the licence.

Renewal of licences

6.—(1) An application for the renewal of a licence shall be made not later than one month before the expiry of the licence, in such form and manner as may be determined by the Registrar.

(2) For the purpose of subsection (1), every licensee must notify the Registrar at least one month before the expiry of his licence if he does not wish to renew his licence.

(3) The Registrar may renew a licence with or without conditions, or he may refuse to renew a licence.

(4) Without prejudice to section 7, the Registrar shall not renew a licence —

- (a) where any information or statement furnished by the licensee that is material to his application for the renewal of his licence under this section is incomplete, false or misleading;
- (b) where the licensee ceases to satisfy the requirements of the class or description of the licence to be renewed; or
- (c) where the licensee does not place or maintain with the Accountant-General as security for the proper conduct of his business of moneylending in Singapore, in such form as the Registrar may determine, a deposit of \$20,000 for each place of business in respect of which his licence is to be renewed.

(5) Upon the renewal of a licence, the licence shall continue to be valid for a further period of 12 months or such other prescribed period as may be specified in the licence from the date immediately following that on which, but for its renewal, the licence would have expired.

Other grounds for refusing to issue or renew licence, etc.

7.—(1) For the purposes of sections 5 and 6, the Registrar may refuse to issue or renew a licence on any of the following grounds:

- (a) if —
 - (i) the applicant is not —
 - (A) an individual who is ordinarily resident in Singapore; or
 - (B) a company, firm or limited liability partnership; or
 - (ii) any person who is or will be responsible for the management of the applicant's business of moneylending is not ordinarily resident in Singapore;
- (b) if the applicant, any director or partner of the applicant, or any person who is or will be responsible for the

management of the applicant's business of moneylending is below 21 years of age;

- (c) if the Registrar is not satisfied that the applicant has any place of business in respect of which the licence is to be issued or renewed that is suitable for a business of moneylending, or the Registrar is of the view that it is not in the public interest for a business of moneylending to be conducted in such a place;
- (d) if the applicant, any director, partner or substantial shareholder of the applicant, or any person who is or will be responsible for the management of the applicant's business of moneylending —
 - (i) has been convicted of any offence involving dishonesty or moral turpitude;
 - (ii) has been convicted of any offence under sections 43 to 48 of the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Cap. 65A), the Terrorism (Suppression of Financing) Act (Cap. 325) or any regulation made under the United Nations Act (Cap. 339);
 - (iii) is contravening or has contravened any provision of this Act;
 - (iv) has been convicted of any offence under this Act; or
 - (v) is carrying on or has carried on any business of moneylending, in Singapore or elsewhere, in such a manner as renders him unfit to hold a licence;
- (e) if the Registrar is not satisfied as to the qualification or experience of the applicant, or any person who is or will be responsible for the management of the applicant's business of moneylending;
- (f) if the Registrar is not satisfied as to the good character of the applicant, any director, partner or substantial shareholder of the applicant, or any person who is or

will be responsible for the management of the applicant's business of moneylending;

- (g) if the Registrar is not satisfied that the applicant, any director, partner or substantial shareholder of the applicant, or any person who is or will be responsible for the management of the applicant's business of moneylending is a fit and proper person to carry on or manage a business of moneylending.

(2) For the purposes of sections 5 and 6 and without prejudice to subsection (1), where an application is made by any person for the issue or renewal of a licence to carry on the business of moneylending as an agent for a principal, the licence shall not be issued or renewed where —

- (a) any of the grounds for the refusal of a licence under subsection (1) applies to the agent, any director, partner or substantial shareholder of the agent, or any person who is or will be responsible for the management of the agent's business of moneylending;
- (b) the Registrar is not satisfied as to the good character of the principal, any director, partner or substantial shareholder of the principal, or any person who is or will be responsible for the management of the principal's business of moneylending;
- (c) the Registrar is not satisfied that the principal, any director, partner or substantial shareholder of the principal, or any person who is or will be responsible for the management of the principal's business of moneylending is a fit and proper person to carry on or manage a business of moneylending;
or
- (d) the principal, or any present or former agent of the principal, has been disqualified by an order of a court from carrying on a business of moneylending or holding a licence to carry on such business.

(3) Any person who is aggrieved by the refusal of the Registrar to issue or renew a licence may, within 14 days of being so informed, appeal in writing to the Minister whose decision shall be final.

Licence fee

8.—(1) Every licensee shall pay such licence fee as may be prescribed for the issue or renewal of the licence by the Registrar.

(2) The Minister may prescribe different licence fees in respect of different classes or descriptions of licences.

(3) Where a licensee has more than one place of business, the licensee shall pay such additional licence fee as may be prescribed for each additional place of business according to the class or description of licence which the licensee holds.

(4) The licence fees shall be paid in such manner as may be specified by the Registrar.

(5) Subject to subsection (6), there shall be no refund of any licence fee paid to the Registrar in the event that a licence is revoked or suspended or when the licensee ceases to carry on the business of moneylending at any time before the expiry of the licence.

(6) The Registrar may, where he considers it appropriate, refund or remit the whole or part of any licence fee paid or payable under this Act.

Revocation or suspension of licence

9.—(1) The Registrar may revoke a licence, or suspend it for such period as he considers appropriate, if he is satisfied —

(a) that the licensee —

(i) has ceased to carry on the business of moneylending, or is wound up or otherwise dissolved;

(ii) had, in connection with an application for the issue or renewal of the licence —

(A) knowingly or recklessly furnished any information or statement to the Registrar

which was false or misleading in a material particular;

(B) wilfully omitted to state any matter without which the application was misleading in a material particular; or

(C) produced to the Registrar any book, record or other document which he knew or had reason to believe contained information which was false or misleading in a material particular;

(iii) has contravened any condition of his licence;

(iv) is conducting or has conducted his business of moneylending in an improper or unsatisfactory manner; or

(v) has carried on a business of moneylending at any place which the Registrar has not approved under section 10, or has contravened any condition of approval for a place of business imposed under that section; or

(b) that there exists a ground on which the Registrar may refuse to issue or renew a licence under section 7, whether in relation to the licensee or his principal.

(2) The Registrar shall, before revoking or suspending any licence under subsection (1), give the licensee 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 or suspension shall take effect unless the licensee shows cause to the Registrar as to why the licence should not be revoked or suspended.

(3) Where, after the licensee has shown cause under subsection (2), the Registrar decides to revoke or suspend a licence, he shall notify the licensee of his decision in writing and specify a date, not less than 14 days after the date of the notice, upon which the revocation or suspension shall take effect.

(4) The licensee may, within 14 days after the date of the notice under subsection (3), appeal in writing against the revocation or suspension to the Minister whose decision shall be final.

(5) If the licensee appeals to the Minister under subsection (4), the decision appealed against shall not take effect unless it is confirmed by the Minister, or the appeal is for any reason dismissed by the Minister or is withdrawn.

(6) Any decision of the Registrar to revoke or suspend a licence made under this section shall not affect any moneylending transaction entered into before the date the decision is made.

Approval of places of business

10.—(1) An applicant for the issue of a licence or a licensee who intends to commence the business of moneylending at any new place or places of business shall, before commencing the business of moneylending at such place or places, apply in writing to the Registrar to approve such place or places of business for moneylending.

(2) The Registrar may approve any place of business for moneylending with or without conditions, or he may refuse to grant his approval.

(3) The Registrar shall not approve any place of business for moneylending —

- (a) unless the applicant is a licensee or his application for a licence is approved;
- (b) where any information or statement furnished by the applicant that is material to his application for approval under this section is incomplete, false or misleading;
- (c) where the applicant, being a licensee, does not place with the Accountant-General as security for the proper conduct of his business of moneylending in Singapore, in such form as the Registrar may determine, a deposit of \$20,000 for each additional place of business; or
- (d) where the Registrar is not satisfied that the place of business is suitable for a business of moneylending, or the

Registrar is of the view that it is not in the public interest for a business of moneylending to be conducted in such a place.

(4) The Registrar may at any time, by notice in writing to the licensee, vary or revoke any of the existing conditions of his approval of a place of business for moneylending or impose new conditions.

(5) Where the approval of the Registrar under this section is granted to a firm, the approval shall be deemed to be granted to every partner of the firm actively conducting the business of moneylending of that firm in Singapore.

(6) The Registrar may revoke his approval under this section, or suspend his approval for such period as he considers appropriate, if he is satisfied —

- (a) that the licensee has contravened any condition of approval imposed under this section; or
- (b) that there exists a ground on which the Registrar may refuse to approve the place of business for moneylending under subsection (3).

(7) The Registrar shall, before revoking or suspending his approval under subsection (6), give the licensee 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 or suspension shall take effect unless the licensee shows cause to the Registrar as to why the approval should not be revoked or suspended.

(8) If, after the licensee has shown cause under subsection (7), the Registrar decides to proceed to revoke or suspend his approval, he shall notify the licensee of his decision in writing and specify a date, not less than 14 days after the date of the notice, upon which the revocation or suspension shall take effect.

(9) The licensee may, within 14 days after the date of the notice under subsection (8), appeal in writing against the revocation or suspension to the Minister whose decision shall be final.

(10) If the licensee appeals to the Minister under subsection (9), the decision appealed against shall not take effect unless it is confirmed

by the Minister, or the appeal is for any reason dismissed by the Minister or is withdrawn.

(11) Any decision of the Registrar to revoke or suspend his approval under this section shall not affect any moneylending transaction entered into before the date the decision is made.

(12) The approval of any place of business for moneylending —

(a) shall be suspended for the duration of any suspension of the relevant licence; and

(b) shall terminate as at the date of the expiry or revocation of the relevant licence.

(13) Any licensee who —

(a) commences the business of moneylending at a place of business without the approval of the Registrar; or

(b) continues to carry on the business of moneylending in a place of business in respect of which the approval of the Registrar has been revoked or is suspended,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000.

(14) Any licensee who contravenes any condition of approval imposed under this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000.

Forfeiture of security deposit

11.—(1) The Registrar may, without prejudice to the exercise of any other power under this Act, forfeit the whole or such part of any security deposit placed with the Accountant-General under section 5(5)(c), 6(4)(c) or 10(3)(c) as the Registrar thinks fit if he is satisfied that there exists a ground for the revocation or suspension of the licence under section 9(1).

(2) The Registrar shall, before forfeiting the security deposit or such part thereof under subsection (1), give the licensee notice in writing of his intention to do so specifying a date, not less than 14 days after the date of the notice, upon which the forfeiture shall be

made unless the licensee shows cause to the Registrar as to why the security deposit or such part thereof should not be forfeited.

(3) Where, after the licensee has shown cause under subsection (2), the Registrar decides to forfeit the security deposit or any part thereof, he shall notify the licensee of his decision in writing and specify a date, not less than 14 days after the date of the notice, upon which the security deposit or such part thereof shall be forfeited.

(4) The licensee may, within 14 days after the date of the notice under subsection (3), appeal in writing against the forfeiture of his security deposit or such part thereof to the Minister whose decision shall be final.

(5) If the licensee appeals to the Minister under subsection (4), the Registrar shall not forfeit the security deposit or such part thereof unless his decision to do so is confirmed by the Minister, or the appeal is for any reason dismissed by the Minister or is withdrawn.

(6) Where the licensee lawfully continues to carry on the business of moneylending under this Act after his security deposit or any part thereof has been forfeited, he shall restore his security deposit to the full amount as required under this Act by placing with the Accountant-General an appropriate amount in such form and within such time as the Registrar may require.

Approval and notification of change of profile

12.—(1) Every licensee shall obtain the approval of the Registrar —

- (a) before changing his business name;
- (b) before the admission of any person who will be responsible for the management of the licensee's business of moneylending;
- (c) before any person becomes a director or partner of the licensee; or
- (d) as soon as practicable after —
 - (i) any person becomes a substantial shareholder of the licensee; or

- (ii) any substantial shareholder of the licensee increases or reduces his substantial shareholding in the licensee.

(2) Every licensee shall notify the Registrar, in writing, when any person ceases to be a director, partner or substantial shareholder of the licensee, or ceases to be responsible for the management of the business of moneylending of the licensee, not later than 14 days after the cessation.

(3) Every licensee shall notify the Registrar, in writing, of the making of a bankruptcy order against the licensee, or any director, partner or substantial shareholder of the licensee, not later than 14 days after the bankruptcy order is made.

(4) No person shall become a substantial shareholder of a licensee without first obtaining the approval of the Registrar.

(5) Where any person becomes a substantial shareholder of a licensee in contravention of subsection (4), that person shall take such steps as are necessary to cease to be a substantial shareholder of the licensee within such time as the Registrar may require.

(6) Any person who, without reasonable excuse, contravenes subsection (1), (2), (3), (4) or (5) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000.

Publication of lists

13. The Registrar may, from time to time, cause to be published in such manner as he may determine —

- (a) a list of all licensees and such of their particulars as the Registrar may determine; and
- (b) a list of such persons granted an exemption by the Minister under section 35, and such of their particulars and the conditions of their exemption, as the Registrar may determine.

Unlicensed moneylending

14.—(1) Subject to subsection (1A), any person who contravenes, or who assists in the contravention of, section 5(1) shall be guilty of an offence and —

- (a) in the case where the person is a body corporate, shall on conviction be punished with a fine of not less than \$50,000 and not more than \$500,000; or
- (b) in any other case —
 - (i) shall on conviction be punished with a fine of not less than \$30,000 and not more than \$300,000 and with imprisonment for a term not exceeding 4 years; and
 - (ii) in the case of a second or subsequent offence, shall on conviction be punished with a fine of not less than \$30,000 and not more than \$300,000 and with imprisonment for a term not exceeding 7 years.

[5/2010]

(1A) Subject to section 231 of the Criminal Procedure Code (Cap. 68) —

- (a) a person who is convicted for the first time of an offence under subsection (1) shall also be liable to be punished with caning with not more than 6 strokes; or
- (b) a person who is convicted of a second or subsequent offence under subsection (1) shall also be liable to be punished with caning with not more than 12 strokes.

[5/2010]

(2) Where any contract for a loan has been granted by an unlicensed moneylender, or any guarantee or security has been given for such a loan —

- (a) the contract for the loan, and the guarantee or security, as the case may be, shall be unenforceable; and
- (b) any money paid by or on behalf of the unlicensed moneylender under the contract for the loan shall not be recoverable in any court of law.

(3) Subsections (1) and (2) shall not apply to a moneylender who —

- (a) is not ordinarily resident in Singapore;
- (b) is not a licensee; and
- (c) carries on the business of moneylending in Singapore through an agent who is a licensee or an exempt moneylender.

(3A) Without prejudice to the generality of subsection (1), a person assists in a contravention of subsection (1) if —

- (a) he collects or demands payment of a loan on behalf of a person whom he knows or has reasonable grounds to believe is carrying on a business in contravention of section 5(1);
- (b) he receives, possesses, conceals or disposes of any funds or other property, or engages in a banking transaction relating to any funds, on behalf of any person knowing or having reasonable grounds to believe that —
 - (i) the person is carrying on a business in contravention of section 5(1); and
 - (ii) either the funds are (or are intended to be) disbursed as a loan by that person, or the funds or property is repayment of a loan made by the person;
- (c) being the owner or person having management or control of any premises, he allows the premises to be used to carry on a business knowing or having reasonable grounds to believe that the carrying on of such business contravenes section 5(1);
- (d) he lends or provides funds, or lends, sells or provides any pre-paid subscriber identification module (SIM) card or other property to a person, knowing or having reasonable grounds to believe that the funds or property will be used for the carrying on of a business in contravention of section 5(1);

- (e) he keeps the records and accounts of a business knowing or having reasonable grounds to believe that the carrying on of such business contravenes section 5(1); or
- (f) he promotes or advertises a business knowing or having reasonable grounds to believe that the carrying on of such business contravenes section 5(1).

[5/2010]

(3B) In subsection (3A), “funds” and “property” have the meanings given to those words in section 15A.

[5/2010]

(4) For the purposes of subsection (1), where the bank account or automated teller machine card of any person, or a telecommunication service subscribed in the name of or purchased by any person, is proved to the satisfaction of the court to have been used to facilitate the carrying on of the business of moneylending by an unlicensed moneylender, that person shall be presumed, until the contrary is proved, to have assisted in the contravention of section 5(1).

(5) In this section, unless the context otherwise requires, “telecommunication service” has the same meaning as in the Telecommunications Act (Cap. 323).

Other offences under this Part

15.—(1) Any person who, in connection with an application for the issue or renewal of a licence or for the approval of any place of business for moneylending —

- (a) knowingly or recklessly furnishes any information or statement to the Registrar which is false or misleading in a material particular;
- (b) wilfully omits to state any matter without which the application is misleading in a material particular; or
- (c) produces to the Registrar any book, record or other document which he knows or has reason to believe contains information which is false or misleading in a material particular,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$40,000 or to imprisonment for a term not exceeding 12 months or to both.

(2) Any licensee who —

(a) contravenes any condition of his licence; or

(b) carries on the business of moneylending under any name other than his business name,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000.

PART IIA

FREEZING OF PROCEEDS OF UNLICENSED MONEYLENDING

Interpretation of this Part

15A. In this Part, unless the context otherwise requires —

“account” means any deposit or current account opened with a bank;

“deal with” means —

(a) in respect of property comprising funds —

(i) use, alter, move, allow access to or transfer; or

(ii) deal with in any other way that would result in any change in volume, amount, location, ownership, possession, character or destination; and

(b) in respect of any other property, use to obtain funds in any way, including (but not limited to) by selling, hiring or mortgaging the property;

“funds” includes cheques, bank deposits and other financial resources;

“property” means property of every kind, whether tangible or intangible, movable or immovable, and whether situated within or outside Singapore, and includes funds.

[5/2010]

Proceeds of unlicensed moneylending

15B.—(1) In this Part, property is proceeds of unlicensed moneylending if it is wholly or partly derived or realised, whether directly or indirectly, from a contravention of section 5(1).

[5/2010]

- (2) Property becomes proceeds of unlicensed moneylending if —
- (a) it is wholly or partly derived or realised from a dealing with or disposal of proceeds of unlicensed moneylending; or
 - (b) it is wholly or partly acquired using proceeds of unlicensed moneylending,

including by virtue of a previous application of this subsection.

[5/2010]

(3) Property remains proceeds of unlicensed moneylending even if —

- (a) it is credited to an account; or
- (b) it is dealt with or disposed of.

[5/2010]

Order specifying proceeds of unlicensed moneylending

15C.—(1) Where —

- (a) the Minister is satisfied that a person has been associated with activities which contravene section 5(1) and the person is detained under an order made under section 30(a) of the Criminal Law (Temporary Provisions) Act (Cap. 67) in connection with such activities; and
- (b) the Minister has reasonable cause to believe that any property owned or held by any person is proceeds of unlicensed moneylending by reason of the activities referred to in paragraph (a),

the Minister may by order specify —

- (i) such property to be proceeds of unlicensed moneylending (referred to in this Part as specified property); or
- (ii) any account which has been credited with such property as an account with proceeds of unlicensed moneylending (referred to in this Part as specified account).

[5/2010]

(2) The Minister may vary or revoke the order at any time.

[5/2010]

(3) The Minister shall revoke the order if the person referred to in subsection (1)(a) is no longer detained and is not subject to the supervision of the police under an order made under section 32 of the Criminal Law (Temporary Provisions) Act.

[5/2010]

Orders: further provisions

15D.—(1) Where the Minister makes an order under section 15C, he shall —

- (a) either publish the order in the *Gazette* or serve a copy of the order on certain persons only; and
- (b) if he varies or revokes the order, take steps to publish the variation or revocation in the *Gazette* or bring the variation or revocation to the attention of the persons served with a copy of the order, as the case may be.

[5/2010]

(2) Where the Minister serves a copy of the order on certain persons under subsection (1), only those persons are subject to the prohibition in section 15E(1).

[5/2010]

(3) The High Court may, on the application of a person affected by the order, set aside the order in whole or in part.

[5/2010]

(4) An application under subsection (3) shall be made within 30 days from the date of publication or service of the order, as the case may be.

[5/2010]

(5) The order may be set aside in whole or in part by the High Court if, and only if, the applicant proves to the satisfaction of the Court that any specified property is not, or any specified account has not been credited with, proceeds of unlicensed moneylending.

[5/2010]

(6) The correctness, validity or legality of the order made under section 30 or 32 (as the case may be) of the Criminal Law (Temporary Provisions) Act (Cap. 67), or of any ground upon which such order is made, shall not be raised as an issue or called into question in the course of an application under subsection (3) or during any proceedings relating to such application.

[5/2010]

(7) A person who makes an application under subsection (3) shall serve a copy of the application on the Attorney-General not later than 7 days before the date fixed for the hearing of the application.

[5/2010]

(8) Rules of Court may provide for the manner in which proceedings relating to an application under subsection (3) may be commenced or carried on.

[5/2010]

Freezing proceeds of unlicensed moneylending

15E.—(1) A person shall not deal with any specified property, or any funds in any specified account, unless he does so under the authority of a licence granted under section 15H.

[5/2010]

(2) A person who, without reasonable excuse, contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction —

(a) in the case where the person is a body corporate, to a fine not exceeding \$200,000; or

(b) in any other case, to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 2 years or to both.

[5/2010]

(3) This section is subject to section 15D(2).

[5/2010]

Exception

15F.—(1) A person is not guilty of an offence under section 15E if he credits a specified account with interest or other earnings due on the account.

[5/2010]

(2) For the avoidance of doubt, section 15E applies to any funds credited to the specified account in accordance with subsection (1).

[5/2010]

Circumvention of section 15E

15G. Where a person —

- (a) enters into; or
- (b) knowingly does any act in furtherance of,

any arrangement which facilitates, or is likely to facilitate, whether by means of any concealment or disguise or otherwise, the dealing with property in contravention of section 15E(1), he shall be guilty of an offence and shall be liable on conviction —

- (i) in the case where the person is a body corporate, to a fine not exceeding \$300,000; or
- (ii) in any other case, to a fine not exceeding \$150,000 or to imprisonment for a term not exceeding 3 years or to both.

[5/2010]

Licences

15H.—(1) The Minister may grant a licence to exempt any act from the prohibition in section 15E.

[5/2010]

(2) A licence may be —

- (a) general or granted to a category of persons or to a particular person;
- (b) subject to conditions; and
- (c) of indefinite duration or subject to an expiry date.

[5/2010]

(3) The Minister may vary or revoke a licence at any time.

[5/2010]

(4) Where the Minister grants, varies or revokes a licence, he shall —

- (a) in the case of a licence granted to a particular person, give written notice of the grant of the licence, or the variation or revocation thereof to that person; and
- (b) in the case of a general licence or a licence granted to a category of persons, take such steps as the Minister considers appropriate to publicise the grant of the licence, or the variation or revocation thereof.

[5/2010]

(5) Any person who does any act under the authority of a licence but fails to comply with any condition attaching to that licence shall be guilty of an offence and shall be liable on conviction —

- (a) in the case where the person is a body corporate, to a fine not exceeding \$80,000; or
- (b) in any other case, to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 2 years or to both.

[5/2010]

(6) The Minister may delegate any power or duty under this section to the Commissioner of Police, except the power of delegation conferred by this subsection.

[5/2010]

PART III

REGULATION OF BUSINESS OF MONEYLENDING, ENFORCEMENT AND PROCEEDINGS

Regulation of advertising and marketing, etc.

16.—(1) No licensee shall knowingly or recklessly issue or publish, or cause to be issued or published, any advertising or marketing material in any form, or any business letter, circular or other document, which contains any information which is false or misleading in a material particular.

(2) For the purpose of subsection (1), any advertising or marketing material or any business letter, circular or other document shall be

presumed, unless the contrary is proved, to contain information which is false or misleading in a material particular if such material or document —

- (a) does not state the business name of the licensee;
- (b) states the business name of the licensee in an inconspicuous manner;
- (c) states that the licensee offers loans at a specified percentage of interest without stating the rate of the interest, and the actual rate of interest charged is not per annum;
- (d) states that the licensee offers loans at a specified rate of interest but the actual rate of interest charged is higher; or
- (e) states that the licensee offers loans at a specified percentage rate of interest without stating that conditions apply, or without stating the conditions which apply, when the rate of interest offered is subject to conditions.

(3) Without prejudice to the generality of the power of the Registrar to issue directions under section 26(1), the Registrar may issue directions to any licensee with respect to the issue, publication or contents of advertising or marketing materials or the conduct of advertising or marketing activities.

(4) Any licensee who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 6 months or to both.

Prohibition of unsolicited loans

17.—(1) No licensee shall —

- (a) grant a loan to any person;
- (b) grant approval to any person to obtain a loan from the licensee; or
- (c) send or deliver, directly or indirectly, any article or document to any person on an undertaking by the licensee that such article or document, when used or

produced in a specified manner, enables a loan to be obtained from the licensee,

without the person having first applied to the licensee in writing for the loan.

(2) Any licensee who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 6 months or to both.

Signage at place of business

18.—(1) Every licensee shall affix, in a conspicuous position at or in each of his places of business, a sign bearing his business name and the words “Licensed Moneylender” in the English language such as to be visible to any person immediately outside the place of business.

(2) Any licensee who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000.

Licensees to inform borrowers of terms of loan

19.—(1) Every licensee shall, before granting any loan to a borrower, inform the borrower in writing as to such matters relating to the terms and conditions of the loan as may be prescribed.

(2) The licensee shall cause the written information provided to the borrower under subsection (1) to be signed by the borrower or his agent together with an acknowledgment in writing by the borrower or his agent, as the case may be, that he has been informed by the licensee of the terms and conditions of the loan.

(3) Where any loan has been granted in contravention of subsection (1) or (2), the licensee shall not be entitled to enforce —

- (a) the payment of all sums of interest, late interest and permitted fees payable under the contract for the loan, whether by the borrower or any surety; or
- (b) any guarantee or security given for the loan to recover any such sum.

(4) For the purposes of subsection (3), if any amount of interest, late interest or permitted fees has been paid, it shall be recoverable as a debt due to the borrower or surety, as the case may be, and if not recovered, shall be set-off against the outstanding amount of the loan.

(5) Any licensee who contravenes subsection (1) or (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 6 months or to both.

Note of moneylender's contract to be given to borrower

20.—(1) No contract for a loan granted by a licensee, and no guarantee or security given by or on behalf of a borrower for the loan, shall be enforceable and no money paid by or on behalf of the licensee pursuant to the contract for the loan shall be recoverable in any court of law unless —

- (a) a note of the contract for the loan, in the prescribed form, is signed by the parties to the contract for the loan or their respective agents;
- (b) where any party to the contract for the loan (including a surety) or his agent does not understand the English language, the licensee or the licensee's agent explains the terms of the note of the contract for the loan in a language that he understands before he signs the note; and
- (c) a copy of the note of the contract for the loan, duly signed by the licensee or his agent, is delivered to the borrower and the surety (if any) or their respective agents before or at the time the loan is paid to the borrower or any other person on the direction of the borrower.

(2) Any licensee who makes or causes to be made any note of a contract for a loan in which the principal or rate of interest is, to the knowledge of the licensee, not stated or not truly stated shall be guilty of an offence and shall be liable on conviction —

- (a) to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 6 months or to both; and

(b) in the case of a second or subsequent offence, to a fine not exceeding \$40,000 or to imprisonment for a term not exceeding 12 months or to both.

(3) This section shall not apply to any loan on revolving credit that may be drawn down and repaid by the borrower or his agent at any time and from time to time subject to a limit approved by the licensee.

Provision of statements of account, loan documents and receipts

21.—(1) Every licensee shall, at least once every half year ending on 30th June or 31st December and not later than 21 days after that date, supply to every borrower, so long as a contract for a loan granted by the licensee to the borrower is subsisting, a statement of account in the English language containing such particulars as may be prescribed.

(2) The statement of account under subsection (1) shall be —

(a) supplied to the borrower without charge; and

(b) sent by pre-paid post to such address in Singapore, or by electronic communication to such email address, as specified by the borrower.

(3) A licensee shall, on an application made in writing by a borrower or surety, or a former borrower or surety, and on the payment of a processing fee of \$10 or such other amount as may be prescribed, supply to the applicant or any other person on the direction of the applicant not later than 21 days after the date the application is made —

(a) a statement of account in relation to the loan to which the applicant is or was a borrower or surety, containing the particulars prescribed under subsection (1), for any period of account, not exceeding the duration of the loan, as may be specified by the applicant which shall not in any case be earlier than 5 years before the date the statement is prepared; or

(b) a copy of any document relating to a contract for a loan granted, or any guarantee or security given for the loan, in

relation to which the applicant is or was a borrower or surety.

(4) A licensee who receives any cash payment from or on behalf of a borrower under a contract for a loan shall immediately issue to the payer a receipt, which shall set out in the English language —

- (a) the business name, the address of the place of business from which the loan was taken or the principal place of business, and the telephone number, of the licensee; and
- (b) the amount paid and the date of the payment.

(5) A licensee who issues a receipt in accordance with subsection (4) shall —

- (a) obtain, on the licensee's copy of the receipt, a signature of the payer acknowledging that he has received the receipt; and
- (b) where the payer is other than the borrower —
 - (i) record, on the licensee's copy of the receipt, such particulars of the payer as may be prescribed; and
 - (ii) attach such documents as may be prescribed to the licensee's copy of the receipt.

(6) The Minister may prescribe such other information to be provided, in such form or manner and within such time as may be prescribed, by a licensee to a borrower in relation to any payment made by or on behalf of the borrower to the licensee.

(7) Any licensee who, without reasonable excuse, contravenes subsection (1), (2), (3), (4) or (5) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000.

(8) Where a licensee has contravened subsection (1), (2), (3), (4) or (5), or any requirement relating to the provision of information prescribed under subsection (6), the licensee shall not be entitled to enforce —

- (a) the payment of all sums of interest, late interest and permitted fees payable under the contract for the loan, whether by the borrower or any surety; or

- (b) any guarantee or security given for the loan to recover any such sum.

(9) For the purposes of subsection (8), if any amount of interest, late interest or permitted fees has been paid, it shall be recoverable as a debt due to the borrower or surety, as the case may be, and if not recovered, shall be set-off against the outstanding amount of the loan.

Charges other than permitted fees unenforceable

22.—(1) The Minister may prescribe the types or amounts of costs, charges and expenses that a licensee may impose in respect of every loan granted by the licensee, including the fees or charges for or on account of legal costs.

(2) Where, under any contract for a loan between a licensee and a borrower, the borrower is required to pay to the licensee any sum (not being a sum for or on account of stamp duties or fees payable by or under this Act or any other written law) on account of costs, charges or expenses other than or in excess of the permitted fees, such sum —

- (a) shall not be recoverable from the borrower or any surety;
- (b) if so paid, shall be recoverable as a debt due to the borrower or surety, as the case may be; and
- (c) if not recovered, shall be set-off against the outstanding amount of the loan, and all sums of interest, late interest and permitted fees payable under the contract for the loan.

Re-opening of certain transactions

23.—(1) When proceedings are brought in any court by a licensee for the recovery of a loan or the enforcement of a contract for a loan or any guarantee or security given for a loan, and the court is satisfied that the interest or late interest charged in respect of the loan is excessive and that the transaction is unconscionable or substantially unfair, the court shall re-open the transaction and take an account between the licensee and the person sued.

(2) In taking an account under subsection (1), the court may re-open any account already taken between the parties to the proceedings 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 late interest as the court, having regard to the risk and all the facts and circumstances of the case (including facts and circumstances arising or coming to the knowledge of any party after the date of the transaction), may determine to be reasonable.

(3) In relieving the person sued under subsection (2), the court may, without prejudice to its power to grant any further or other equitable relief —

- (a) order the licensee to repay any excess paid to him;
- (b) set aside either wholly or in part, or revise or alter, any guarantee or security given or the contract for the loan; and
- (c) if the licensee has disposed of the security, order the licensee to indemnify the borrower or other person sued for the loss of the security.

(4) Any court shall have and may exercise the powers referred to in subsections (1), (2) and (3) in relation to proceedings for relief brought by a borrower, a surety or other person liable to repay a loan to a licensee, notwithstanding —

- (a) any provision or agreement to the contrary;
- (b) that the time for repayment of the loan or any instalment thereof may not have arrived; and
- (c) that the licensee's right of action for the recovery of the loan is barred.

(5) Where a licensee has filed, in the bankruptcy of a borrower or surety, a proof of debt arising from a loan granted by him, the Official Assignee may exercise such powers as may be exercised by a court under this section when assessing whether the debt or liability is proved and its value.

(6) Where in any proceedings in court referred to in subsection (1) or where proof of debt has been filed as referred to in subsection (5), it is found that the interest or late interest charged on any loan exceeds such maximum rate of interest or late interest as may be prescribed for the loan, the court or the Official Assignee, as the case may be, shall presume for the purposes of this section, unless the contrary is

proved, that the interest or late interest charged in respect of the loan is excessive and that the transaction is unconscionable or substantially unfair.

(7) Subsection (6) shall be without prejudice to the powers of a court under this section where the court is satisfied that the interest or late interest charged under the circumstances, although not exceeding such maximum rate of interest or late interest as may be prescribed for the loan, is excessive or that the transaction is unconscionable or substantially unfair.

(8) For the purposes of subsections (6) and (7) —

- (a) the court shall, when determining whether the interest or late interest charged in respect of any loan exceeds such maximum rate of interest or late interest as may be prescribed for the loan, take no account of the permitted fees as agreed between the licensee and the borrower; and
- (b) the Minister may prescribe different maximum rates of interest to apply to different classes or descriptions of borrowers or loans.

(9) Nothing in this section shall be construed as derogating from —

- (a) the jurisdiction or powers of any court; or
- (b) the powers of the Official Assignee.

Accounts to be kept and submissions to Registrar

24.—(1) Every licensee shall keep or cause to be kept, for a period of not less than 5 years from the prescribed time —

- (a) such accounts relating to his business of moneylending as are prescribed so as to exhibit and explain the financial position in his business, including entries from day to day in sufficient detail of all sums of money received and paid;
- (b) such notes of the contracts for the loans in which he is or has been concerned; and
- (c) such other documents as may be prescribed.

(2) Notwithstanding subsection (1), a licensee shall keep any accounts, note of a contract for a loan or other document referred to in that subsection, which has been specified or described by the Registrar in relation to a specific transaction or borrower or as belonging to a class of documents, for such longer time as may be required in connection with an investigation into an offence under this Act.

(3) Every licensee shall submit to the Registrar the following statements, in such form and manner as the Registrar may require, not later than 14 days after the end of each quarter of each year commencing from the first day of January, April, July or October of the year:

- (a) a statement containing every moneylending transaction entered into by the licensee during that quarter; and
- (b) a statement showing his cash and loan position for that quarter.

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

(5) Any licensee who contravenes subsection (1) or (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$30,000 or to imprisonment for a term not exceeding 12 months or to both.

(6) Any person who —

- (a) fails to submit to the Registrar any statement under subsection (3); or
- (b) fails to comply with 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 \$20,000.

(7) Any licensee who knowingly or recklessly furnishes to the Registrar any information —

- (a) in a statement under subsection (3); or

- (b) in an account or explanation to the Registrar under subsection (4),

which is false or misleading in a material particular shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$30,000 or to imprisonment for a term not exceeding 12 months or to both.

(8) Where a licensee submits a statement after the time for submission prescribed under subsection (3), the Registrar may impose a late submission fee not exceeding \$100 for every day or part thereof that the submission is late, subject to a maximum of \$2,000.

Power to inspect, and require information or documents

25.—(1) For the purpose of determining whether this Act has been complied with, the Registrar or an officer duly authorised by him (referred to in this section as an authorised officer) may at any time —

- (a) inspect any premises where a moneylender is or is believed to be carrying on business and the books, records and other documents kept there;
 - (b) require the moneylender or any other person to furnish any information, book, record or other document;
 - (c) make or cause to be made a copy of any book, record or other document inspected or produced;
 - (d) take photographs or video recording of the premises inspected or any part thereof; and
 - (e) seize and remove from the premises any book, record or other document, or any machine or equipment containing any book, record or other document.
- (2) Any person who, without reasonable excuse, fails or refuses —
- (a) to grant to the Registrar or an authorised officer access to the premises or any part thereof, or to any book, record or other document, under subsection (1)(a);

- (b) to furnish the Registrar or an authorised officer with any information, book, record or other document required under subsection (1)(b);
- (c) to permit the Registrar or an authorised officer to make or cause to be made a copy of any book, record or other document under subsection (1)(c);
- (d) to permit the Registrar or an authorised officer to take any photograph or video recording of the premises inspected or any part thereof under subsection (1)(d); or
- (e) to permit the Registrar or an authorised officer to seize or remove from the premises any book, record or other document, or any machine or equipment containing any book, record or other document under subsection (1)(e),

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 6 months or to both.

(3) Any person who obstructs or prevents the Registrar or an authorised officer from exercising his powers under subsection (1) in any manner other than as described in subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$30,000 or to imprisonment for a term not exceeding 12 months or to both.

(4) Any person who, knowingly or recklessly —

- (a) gives to the Registrar or an authorised officer any information under subsection (1) that is false or misleading in a material particular; or
- (b) produces to the Registrar or an authorised officer, or grants him access to, any book, record or other document under subsection (1) which contains a statement or omits any matter which renders it false or misleading in a material particular,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$30,000 or to imprisonment for a term not exceeding 12 months or to both.

Power to obtain information from Comptroller of Income Tax

25A.—(1) In the course of any investigation or proceedings into or relating to an offence by any person under section 14 or 28, whenever committed, or a conspiracy to commit, or an attempt to commit, or an abetment of any such offence, the Public Prosecutor may, notwithstanding anything in any other written law to the contrary, by written notice require the Comptroller —

- (a) to furnish, as specified in the notice, all information available to the Comptroller relating to the affairs of that person or of the spouse, son or daughter of that person; and
- (b) to produce or furnish, as specified in the notice, any document or a certified copy of any document relating to that person, spouse, son or daughter which is in the possession or under the control of the Comptroller.

[5/2010]

(2) The Comptroller to whom a notice is sent by the Public Prosecutor under subsection (1) shall, notwithstanding the provisions of any written law or any oath of secrecy to the contrary, be legally bound to comply with the terms of that notice within such time as may be specified therein.

[5/2010]

(3) In this section, “Comptroller” means the Comptroller of Income Tax, or any Deputy Comptroller or Assistant Comptroller of Income Tax appointed under section 3(1) of the Income Tax Act (Cap. 134).

[5/2010]

General power to issue directions

26.—(1) The Registrar may issue directions, either of a general or specific nature, to any licensee or exempt moneylender for or in respect of every purpose which the Registrar considers necessary for carrying out the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the Registrar may by such directions —

- (a) require any licensee or exempt moneylender to display or exhibit such cautionary statements as the Registrar thinks

fit in a conspicuous position at or in every place of business for moneylending;

- (b) require any licensee or exempt moneylender to provide cautionary statements in writing to borrowers; or
- (c) set out the manner in which any licensee or exempt moneylender shall conduct the business of moneylending.

(3) Any licensee or exempt moneylender who fails or refuses to comply with any direction issued under subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000.

(4) For the avoidance of doubt, any written direction issued under subsection (1) shall be deemed not to be subsidiary legislation.

False statements or representations to induce borrowing an offence

27. If any moneylender, any director, partner, agent or employee of the moneylender, or any person who is responsible for the management of the business of moneylending of the moneylender —

- (a) by any false, misleading or deceptive statement, representation or promise; or
- (b) by any dishonest concealment of material facts,

fraudulently induces or attempts to induce any person to borrow money or to agree to the terms on which money is or is to be borrowed, he shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$40,000 or to imprisonment for a term not exceeding 2 years or to both.

Harassing borrower, besetting his residence, etc.

28.—(1) Subject to subsection (3), where an unlicensed moneylender —

- (a) displays or uses any threatening, abusive or insulting words, behaviour, writing, sign or visible representation; or

- (b) commits any act likely to cause alarm or annoyance to his borrower or surety, any member of the family of the borrower or surety, or any other person,

in connection with the loan to the borrower, whether or not the unlicensed moneylender does the act personally or by any person acting on his behalf, the unlicensed moneylender shall be guilty of an offence and —

- (i) in the case where the unlicensed moneylender is a body corporate, shall be liable on conviction to a fine of not less than \$10,000 and not more than \$100,000; or
- (ii) in any other case —
 - (A) shall on conviction be punished with imprisonment for a term not exceeding 5 years and shall also be liable to a fine of not less than \$5,000 and not more than \$50,000; and
 - (B) in the case of a second or subsequent offence, shall on conviction be punished with imprisonment for a term of not less than 2 years and not more than 9 years and shall also be liable to a fine of not less than \$6,000 and not more than \$60,000.

[5/2010]

(2) Subject to subsection (3), any person who, acting on behalf of an unlicensed moneylender, commits or attempts to commit any of the acts specified in subsection (1) shall be guilty of an offence and —

- (a) shall on conviction be punished with imprisonment for a term not exceeding 5 years and shall also be liable to a fine of not less than \$5,000 and not more than \$50,000; and
- (b) in the case of a second or subsequent offence, shall on conviction be punished with imprisonment for a term of not less than 2 years and not more than 9 years and shall also be liable to a fine of not less than \$6,000 and not more than \$60,000.

[5/2010]

(3) Subject to section 231 of the Criminal Procedure Code (Cap. 68) —

- (a) except as provided in paragraph (b), a person who is convicted for the first time of an offence under subsection (1) or (2) shall also be liable to be punished with caning with not more than 6 strokes;
- (b) a person who is convicted for the first time of an offence under subsection (1) or (2) shall also be punished with caning —
- (i) with not less than 3 and not more than 6 strokes if it is proved to the satisfaction of the court that, in the course of committing the offence, damage was caused to any property;
 - (ii) with not less than 5 and not more than 8 strokes if it is proved to the satisfaction of the court that, in the course of committing the offence, hurt was caused to another person; and
 - (iii) with not less than 6 and not more than 12 strokes if it is proved to the satisfaction of the court that, in the course of committing the offence, hurt was caused to another person and damage was caused to any property;
- (c) except as provided in paragraph (d), a person who is convicted of a second or subsequent offence under subsection (1) or (2) shall also be liable to be punished with caning with not more than 12 strokes; or
- (d) a person who is convicted of a second or subsequent offence under subsection (1) or (2) shall also be punished with caning —
- (i) with not less than 5 and not more than 10 strokes if it is proved to the satisfaction of the court that, in the course of committing the offence, damage was caused to any property;
 - (ii) with not less than 6 and not more than 12 strokes if it is proved to the satisfaction of the court that, in the course of committing the offence, hurt was caused to another person; and

- (iii) with not less than 9 and not more than 18 strokes if it is proved to the satisfaction of the court that, in the course of committing the offence, hurt was caused to another person and damage was caused to any property.

[5/2010]

(3A) For the purposes of paragraph (a) of subsection (1), a person who —

- (a) uses any threatening, abusive or insulting words in any telephone call made by him; or
- (b) by any means sends any thing which contains any threatening, abusive or insulting words, writing, sign or visible representation,

whether from a place in Singapore or outside Singapore, to any person or place in Singapore shall be taken to have committed an act referred to in that paragraph.

[5/2010]

(3B) For the purposes of paragraph (b) of subsection (1), a person who makes any telephone call, or by any means sends any article, message, word, sign, image or representation, whether from a place in Singapore or outside Singapore, to any person or place in Singapore, which is likely to cause alarm or annoyance to a person referred to in that paragraph, shall be taken to have committed an act referred to in that paragraph.

[5/2010]

(4) For the purposes of subsection (2), any person who does any of the acts specified in subsection (1) in connection with a demand for the repayment of a loan to an unlicensed moneylender shall be presumed, until the contrary is proved, to act on behalf of such unlicensed moneylender.

(5) For the purposes of subsection (3), a person is deemed to have caused damage to any property if he does any of the following acts:

- (a) defacing the property by means of any pen, marker or any other delible or indelible substance;

- (b) defacing the property by affixing, posting up or displaying on such property any poster, placard, bill, notice, paper or other document;
- (c) defacing the property through the use of paint, coffee, soya sauce or any other delible or indelible substance;
- (d) destroying or damaging the property through the use of fire or any other substance;
- (e) doing any other act of mischief which causes a change in any property or which diminishes its value or utility.

Abetment of section 28

28A.—(1) For the purposes of Chapter V of the Penal Code (Cap. 224), a person shall be taken to have abetted the commission of an offence under section 28 if —

- (a) he gives instruction to another person to carry out any act specified in section 28(1) in connection with a demand for the repayment of a loan to an unlicensed moneylender;
- (b) he provides or arranges transport for another person for the purpose of carrying out any such act knowing or having reasonable cause to believe that the act is in connection with such a demand;
- (c) he acts as or arranges a lookout for a person carrying out any such act knowing or having reasonable cause to believe that the act is in connection with such a demand; or
- (d) he provides or arranges transport to a person for the purpose of his acting as a lookout for a person carrying out any such act, and he knows and has reasonable cause to believe that the act is in connection with such a demand.

[5/2010]

(2) For the purposes of Chapter V of the Penal Code, where —

- (a) a person gives instruction to another person to carry out any act specified in section 28(1) in connection with a demand for the repayment of a loan to an unlicensed moneylender; and

- (b) a person, knowing or having reasonable cause to believe that the act is in connection with a demand, verifies that the act has been carried out in accordance with such instruction,

the person referred to in paragraph (b) shall be taken to have abetted the commission of an offence under section 28(1) or an offence under subsection (1)(a) (as the case may be) by the person giving the instruction.

[5/2010]

(3) For the avoidance of doubt, this section is without prejudice to the generality of the term “abetment” under the Penal Code.

[5/2010]

Offences involving minors below 16

28B.—(1) Subject to subsection (2), any person of or above the age of 21 years who causes or procures any person below the age of 16 years to commit an offence under section 14 or 28 shall be guilty of an offence and —

- (a) if the offence under section 14 is thereby committed, shall on conviction be punished with imprisonment for a term not exceeding 7 years and shall also be liable to a fine of not less than \$30,000 and not more than \$300,000;
- (b) if the offence under section 28 is thereby committed, shall on conviction be punished with imprisonment for a term of not less than 2 years and not more than 9 years and shall also be liable to a fine of not less than \$6,000 and not more than \$60,000; or
- (c) in any other case, shall be liable on conviction to a fine not exceeding \$30,000 or to imprisonment for a term not exceeding 12 months or to both.

[5/2010]

(2) Subject to section 231 of the Criminal Procedure Code (Cap. 68) —

- (a) a person who is convicted of an offence under subsection (1) for causing or procuring any person below the age of 16 years to commit an offence under section 14

shall, if the offence under section 14 is thereby committed, also be liable to be punished with caning with not more than 12 strokes; and

- (b) a person who is convicted of an offence under subsection (1) for causing or procuring any person below the age of 16 years to commit an offence under section 28 shall, if the offence under section 28 is thereby committed, also be liable to be punished with caning with not more than 12 strokes.

[5/2010]

Offence of providing false contact information

28C.—(1) A person shall be guilty of an offence if —

- (a) in connection with a loan by an unlicensed moneylender to him or any other person, he gives any contact information which he knows or believes to be false to the unlicensed moneylender or a person acting on the moneylender's behalf, having reasonable cause to believe that the moneylender or a person acting on his behalf will use the information for the purpose of committing an offence under section 28(1) or (2) against any other person; and
- (b) the unlicensed moneylender or a person acting on his behalf uses the contact information for the purpose of committing an offence under section 28(1) or (2) against any other person.

[5/2010]

(2) Any person who is guilty of an offence under subsection (1) shall be liable on conviction to imprisonment for a term not exceeding 12 months.

[5/2010]

(3) In subsection (1), “contact information” means a residential address, business address, telephone number, facsimile number or any other information given to enable an unlicensed moneylender to contact a borrower.

[5/2010]

Special provisions relating to non-resident principal

29.—(1) When any fine is imposed on an agent who is or has been licensed to carry on a business of moneylending in Singapore on behalf of a principal not resident in Singapore in respect of an offence under this Act committed by the agent in the course of carrying on the business, the fine shall, unless the court imposing the fine otherwise directs, be recoverable out of the property belonging to the principal or the agent, or to both, and situated within Singapore.

(2) Any property of the principal referred to in subsection (1) may be taken in execution and sold under any warrant issued against the agent for the levy of the amount of the fine.

(3) When it is made to appear to any court by any person entitled to make an application under section 23 that any transaction entered into with a moneylender not resident in Singapore *prima facie* ought to be re-opened, the court may —

- (a) issue an order of attachment attaching any property of the moneylender situated 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 re-opening of the transaction under section 23.

Powers of police officer

30. 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 the premises of any licensee, or any person who is suspected of carrying on the business of moneylending, to inspect or seize any book, record or other document relating to any moneylending transaction without a warrant being issued by a Magistrate for that purpose.

Public Prosecutor's power to order inspection of customer information

30A.—(1) The Public Prosecutor may, if he considers that any evidence of the commission of an offence under section 14 or 28, whenever committed, or a conspiracy to commit, an attempt to commit, or an abetment of such an offence, by a person is likely to be found in any document containing customer information relating to that person, to the spouse, son or daughter of that person, or to a person reasonably believed by the Public Prosecutor to be a trustee or an agent for that person, by order authorise any police officer of or above the rank of assistant superintendent so named to inspect any document of a bank specified in the order.

[5/2010]

(2) The police officer so authorised may, at all reasonable times, enter the bank specified in the order and inspect the documents kept therein and may take copies of any relevant entry in any such document.

[5/2010]

(3) The Public Prosecutor may delegate his power under this section to a Deputy Public Prosecutor or the Commissioner of Police, except the power of delegation conferred by this subsection.

[5/2010]

(4) In this section, “customer information” has the meaning given to that expression in section 40A of the Banking Act (Cap. 19).

[5/2010]

PART IV**MISCELLANEOUS****Certain offences seizable and non-bailable**

31. Every offence under section 14 or 28 shall be deemed to be a seizable and non-bailable offence within the meaning of the Criminal Procedure Code (Cap. 68).

Jurisdiction of court

32.—(1) Notwithstanding any provision to the contrary in the Criminal Procedure Code (Cap. 68), a District Court shall have

jurisdiction to try any offence under this Act and shall have power to impose the full penalty or punishment in respect of the offence.

[5/2010]

(2) Where any act constituting an offence, or part of an offence, under section 14 or 28 is committed outside Singapore by a person, he may be dealt with in respect of that offence as if the act had been committed within Singapore.

[5/2010]

Examination of offenders

32A.—(1) Whenever 2 or more persons are charged with an offence under section 14 or 28, whenever committed, or with a conspiracy to commit, or an attempt to commit, or an abetment of such an offence, the court may require one or more of them to give evidence as a witness or witnesses for the prosecution.

[5/2010]

(2) Any such person who refuses to be sworn or to answer any lawful question shall be dealt with in the same manner as witnesses so refusing may by law be dealt with by a Magistrate's Court or District Court, as the case may be.

[5/2010]

(3) Every person so required to give evidence, who in the opinion of the court makes true and full discovery of all things as to which he is lawfully examined, shall be entitled to receive a certificate of indemnity under the hand of the Magistrate or District Judge, as the case may be, stating that he has made a true and full discovery of all things as to which he was examined, and that certificate shall be a bar to all legal proceedings against him in respect of all those things.

[5/2010]

Offences by bodies corporate, etc.

33.—(1) Where an offence under this Act committed by a body corporate is proved —

- (a) to have been committed with the consent or connivance of an officer; or
- (b) to be attributable to any neglect on his part,

the officer as well as the body corporate shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(3) Where an offence under this Act committed by a partnership is proved —

(a) to have been committed with the consent or connivance of a partner; or

(b) to be attributable to any neglect on his part,

the partner as well as the partnership shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(4) Where an offence under this Act committed by an unincorporated association (other than a partnership) is proved —

(a) to have been committed with the consent or connivance of an officer of the unincorporated association or a member of its governing body; or

(b) to be attributable to any neglect on the part of such officer or member,

the officer or member as well as the unincorporated association shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(5) In this section —

“officer” —

(a) in relation to a body corporate, means any director, partner, member of the committee of management, chief executive, manager, secretary or other similar officer of the body corporate and includes any person purporting to act in any such capacity; or

(b) in relation to an unincorporated association (other than a partnership), means the president, the secretary, or any member of the committee of the

unincorporated association, or any person holding a position analogous to that of president, secretary or member of a committee and includes any person purporting to act in any such capacity;

“partner” includes a person purporting to act as a partner.

(6) The Minister may make rules to provide for the application of any provision of this section, with such modifications as the Minister considers appropriate, to any body corporate or unincorporated association formed or recognised under the law of a territory outside Singapore.

Composition of offences

34.—(1) The Registrar, or the Commissioner of Police or any police officer authorised in writing by the Commissioner of Police, may, in his discretion, compound any offence under this Act which is prescribed as an offence which may be compounded by the Registrar, the Commissioner of Police or such police officer by collecting from a person reasonably suspected of having committed the offence a sum not exceeding —

(a) one half of the amount of the maximum fine that is prescribed for the offence; or

(b) \$5,000,

whichever is the lower.

(2) On payment of such sum of money, no further proceedings shall be taken against that person in respect of the offence.

(3) The Minister may make rules to prescribe the offences which may be compounded under this section and the conditions subject to which, and the manner in which, such offences may be compounded.

Exemption on application

35.—(1) The Minister may, upon the application of any person and the payment of such fees as may be prescribed, issue a certificate to exempt, with or without conditions, any person from all or any of the provisions of this Act.

- (2) Every exemption under subsection (1) —
- (a) may in the first instance be valid for a period of 3 years or less from the date of the granting thereof;
 - (b) 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; and
 - (c) need not be published in the *Gazette*.
- (3) Any person who desires to apply for or extend an exemption shall submit an application to the Registrar in such form and manner, and shall furnish the Registrar with such information, as the Registrar may require.
- (4) Any person who has been granted an exemption under this section and desires to apply to the Minister to vary or revoke any of the existing conditions of his exemption shall —
- (a) submit an application to the Registrar in such form and manner, and furnish the Registrar with such information, as the Registrar may require; and
 - (b) pay such fee as may be prescribed for the making of the application.
- (5) The Minister may prescribe different fees in respect of different classes or descriptions of persons for the purposes of this section.
- (6) An application for the extension of an exemption shall be made not later than one month before the expiry of the exemption.
- (7) Any moneylender who makes an application for the extension of an exemption after the time limited under subsection (6) shall pay a late extension fee not exceeding \$50 for every day or part thereof that the application for extension is late, subject to a maximum of \$1,500.
- (8) The Minister may at any time revoke, whether wholly or in part, any exemption granted to a person under subsection (1) by giving the person a notice of revocation in writing.
- (9) Without prejudice to the generality of subsection (8), the Minister may at any time revoke, whether wholly or in part, any exemption —

- (a) for the contravention of any condition of the exemption or any provision of this Act; or
- (b) if he is satisfied that it is in the public interest to do so.

(10) Any revocation, whether wholly or in part, of an exemption or a condition of exemption under this section, and any amendment of a condition of exemption under this section, shall not affect any moneylending transaction entered into before the date of the revocation or amendment, as the case may be.

Class exemption

36.—(1) The Minister may make rules to exempt any class of persons from any, but not all, of the provisions of this Act, subject to such terms or conditions as may be prescribed.

(2) Any revocation, whether wholly or in part, of an exemption or a condition of exemption under this section, and any amendment of a condition of exemption under this section, shall not affect any moneylending transaction entered into before the date of the revocation or amendment, as the case may be.

Rules

37.—(1) The Minister may make rules for carrying out the purposes and provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the Minister may make rules —

- (a) to prescribe the maximum amount which may be lent to a borrower or any class or description of borrowers;
- (b) to prescribe the class or description of borrowers to which a moneylender may grant a loan, or a loan above a specified amount, either generally or in specified circumstances;
- (c) to regulate the use of advertisements by or on behalf of any moneylender, or any solicitation or canvassing for business by or on behalf of any moneylender;

- (d) to prescribe the types of activities and services that a moneylender may not engage in or provide;
- (e) to specify the places where a moneylender may conduct the business of moneylending;
- (f) to require a moneylender to keep particular accounts or records relating to loans;
- (g) to prescribe the manner in which accounts and records are to be kept and the particulars to be entered therein;
- (h) to regulate the conduct of the business of moneylending, or specific types of moneylending activities or services;
- (i) to provide for the detection and prevention of money laundering or the financing of terrorism, or for the reporting of transactions suspected of involving money laundering or terrorism financing;
- (j) to discharge or facilitate the discharge of any obligation binding on Singapore by virtue of a decision of the Security Council of the United Nations;
- (k) to prescribe the forms for the purposes of this Act;
- (l) to prescribe the fees to be paid in respect of any matter required for the purposes of this Act and the refund and remission, whether wholly or in part, of such fees; and
- (m) to prescribe all matters and things which by this Act are required or permitted to be prescribed or which are necessary or expedient to be prescribed to give effect to this Act.

(3) Rules made under this section may —

- (a) relate to any moneylender, whether he is a licensee or he is exempted from any or all of the provisions of this Act;
- (b) relate to all or any class or description of moneylenders; and
- (c) make different provisions for different classes or descriptions of moneylenders.

(4) Rules made under this section may provide that a contravention of any specified provision thereof shall be an offence, and —

- (a) in respect of the rules referred to in subsection (2)(i) or (j), may provide for penalties not exceeding a fine of \$100,000; and
- (b) in respect of any other rules, may provide —
 - (i) in a case where the offender is an individual, for penalties not exceeding a fine of \$20,000 or imprisonment for a term not exceeding 12 months or both for each offence; or
 - (ii) in any other case, for penalties not exceeding a fine of \$50,000 for each offence.

Transitional and savings provisions

38.—(1) Notwithstanding the repeal of the Moneylenders Act, as from 1st March 2009 —

- (a) every licence granted under the repealed Moneylenders Act (Cap. 188, 1985 Ed.) and which continues to be valid immediately before that date shall be deemed to be a licence issued under this Act in respect of the activities authorised by the first-mentioned licence for the remaining period of the licence and shall subsist until its expiry, and may be renewed, revoked, suspended or otherwise dealt with in accordance with the provisions of this Act;
- (b) every exemption granted under the repealed Moneylenders Act (Cap. 188, 1985 Ed.) and subsisting immediately before that date shall, except to the extent that the person exempted qualifies to be an excluded moneylender, be deemed to be an exemption granted under this Act and shall subsist until its expiry, and may be extended, revoked or otherwise dealt with in accordance with the provisions of this Act; and
- (c) every pending application for any licence, exemption, consent or approval under the repealed Moneylenders Act shall be deemed to be an application therefor under this

Act, except that the fees payable for such an application or for the grant of the licence, exemption, consent or approval sought shall be those prescribed under the repealed Moneylenders Act.

(2) Where any person —

(a) is granted an exemption under the repealed Moneylenders Act which subsists immediately before 1st March 2009; and

(b) qualifies to be an excluded moneylender in relation to the activities or services for which the exemption is granted,

the Registrar may, in his discretion, refund such amount of the fees paid by the person in respect of such exemption as is proportionate to the period (being a period of not less than 6 months) for which, but for such person becoming an excluded moneylender, the exemption would continue to subsist.

(3) Any notice, order, decision, direction, requisition or approval made or granted by the Registrar or the Minister under the repealed Moneylenders Act in force immediately before 1st March 2009 shall continue and be deemed to have been made or granted by the Registrar or the Minister, respectively, under this Act and shall have effect accordingly.

(4) All acts done by or on behalf of the Registrar or the Minister under the repealed Moneylenders Act before 1st March 2009 shall continue to remain valid and have effect as though done by or on behalf of the Registrar or the Minister, respectively, under this Act until such time as such acts are invalidated, revoked, cancelled or otherwise determined by the Registrar or the Minister, as the case may be.

(5) Subject to subsection (1)(c), where anything has been commenced by or on behalf of the Registrar or the Minister before 1st March 2009, such thing may be carried on and completed by or on behalf of the Registrar or the Minister, respectively, under the authority of this Act.

(6) Any subsidiary legislation made under the repealed Moneylenders Act (Cap. 188, 1985 Ed.) and in force immediately

before 1st March 2009 shall, so far as it is not inconsistent with the provisions of this Act, continue in force as if made under this Act until it is revoked.

(7) Any written law or document referring to the repealed Moneylenders Act or any provision thereof shall, as far as may be necessary for preserving its effect, be construed as referring or as including a reference to this Act or the corresponding provision in this Act, as the case may be.

LEGISLATIVE HISTORY
MONEYLENDERS ACT
(CHAPTER 188)

This Legislative History is provided for the convenience of users of the Moneylenders Act. It is not part of this Act.

1. Act 31 of 2008 — Moneylenders Act 2008

Date of First Reading	:	20 October 2008 (Bill No. 33/2008 published on 20 October 2008)
Date of Second and Third Readings	:	18 November 2008
Date of commencement	:	1 March 2009 (except section 5(3)(b))

Note: The Moneylenders Act 2008 repealed and re-enacted with amendments the Moneylenders Act (Chapter 188, 1985 Revised Edition).

2. Act 5 of 2010 — Moneylenders (Amendment) Act 2010

Date of First Reading	:	23 November 2009 (Bill No. 23/2009 published on 24 November 2009)
Date of Second and Third Readings	:	12 January 2010
Date of commencement	:	11 February 2010

3. 2010 Revised Edition — Moneylenders Act (Chapter 188)

Date of operation	:	31 March 2010
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