

LAWS OF FIJI

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CHAPTER 234

MONEYLENDERS

ARRANGEMENT OF SECTIONS

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*Ordinances Nos. 14 of 1938, 23 of 1938, 48 of 1940,
22 of 1942, 2 of 1945, 22 of 1957, 7 of 1966,
Acts Nos. 21 of 1972, 30 of 1974, 13 of 1977.*

AN ACT TO MAKE PROVISION FOR THE CONTROL OF MONEYLENDING

[1st January, 1939.]

Short title

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

Interpretation

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

"authorised name" and "authorised address" mean respectively the name under which and the address at which a moneylender is authorised by a licence granted under this Act to carry on business as moneylender;

"company" means any body corporate being a moneylender;

"firm" means an unincorporated body of two or more individuals or one or more individuals and one or more corporations or two or more corporations who have entered into partnership with one another with a view to carrying on business for profit;

"interest" does not include any sum lawfully charged in accordance with the provision of this Act by a moneylender for or on account of stamp duties, fees payable by law and legal costs but, save as aforesaid, includes any amount by whatsoever name called in excess of the principal paid or payable to a moneylender in, consideration of or otherwise in respect of a loan;

"licence" means a moneylender's licence under this Act;

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

(a) anybody corporate incorporated or empowered by any written law or Imperial enactment to lend money in accordance with such law or enactment; or
(*Substituted by 13 of 1997, s. 13.*)

(b) any person bona fide carrying on the business of banking or insurance or bona fide carrying on any business not having for its primary object the lending of money in the course of which and for the purposes whereof he lends money at a rate of interest not exceeding ten per cent per annum; or

(c) any pawnbroker licensed under the provisions of the Second Hand Dealers Act; or
(*Cap. 238*)

(d) any body corporate for the time being exempted by the Minister from the provisions of this Act;
(*Amended by 48 of 1940, s. 2.*)

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

"Registrar" means the Registrar of Moneylenders appointed under this Act and includes an assistant registrar or any officer authorised by either of them.

Certain persons and firms presumed to be moneylenders

3. Save as excepted in paragraphs (a), (b), (c) and (d) of the definition of "moneylender" in section (2), any person who lends a sum of money in consideration of a larger sum being repaid shall be presumed until the contrary be proved to be a moneylender.

Appointment of Registrar

4. The Minister may appoint any person either by name or office to be Registrar of Moneylenders* under this Act and also such assistant registrars as he may think fit.

* *Administrator- General appointed by Notice 25th November, 1938*

Licences to be taken out by moneylenders

5.-(1) Every moneylender, whether carrying on business alone or as a partner in a firm, shall take out annually in respect of every address at which he carries on his business as such a moneylender's licence which shall expire on the thirty-first day of December in every year and, subject as hereinafter provided, there shall be charged on every such licence a fee of sixty dollars or, if the licence be taken out less than twelve months before the expiration thereof, of five dollars for each month or part of a month of the period of the licence. No licence shall be issued to a person not ordinarily resident in Fiji.

(Amended by 22 of 1942. s. 2 and 30 of 1974, s. 2.)

Form of licences

(2) Licences shall be in such form as the Minister may direct and shall be granted on payment of the appropriate fee to the Registrar.

Regulations relating to licences

(3) The Minister may make regulations prescribing the procedure to be followed in making application for licences and subject to the provisions of this Act the information to be furnished to the Registrar upon such application.

List to be published

6.-(1) The Registrar shall in the month of January in every year cause to be published in the Gazette a correct list of all persons licensed under this Act, and additions to or alterations in the list shall be published from time to time as they are made.

(2) Every such printed list purporting to be published as aforesaid shall be evidence in all courts that the person therein specified are licensed according to the provisions of this Act, and the absence of the name of any person from such printed list shall be evidence unless the

contrary be shown that such person is not licensed according to the provisions of this Act.
(Section inserted by 49, of 1940, s. 3.)

Particulars to be shown on licences

7. Every licence granted to a moneylender shall show his true name and the name under which and the address at which he is authorised by the licence to carry on business as such, and a licence shall not authorise a moneylender to carry on business at more than one address or under more than one name or under any name which includes the word "bank" or otherwise implies that he carries on the business of banking, and no licence shall authorise a moneylender to carry on business under any name except-

(a) his true name; or

(b) the name of a firm in which he is a partner; or

(c) a business name whether of an individual or of a firm in which he is a partner under which he or the firm has been registered under the Registration of Business Names Act.
(Cap. 249.)

Offences

8. If any person-

(a) takes out a licence in any name other than his true name; or

(b) carries on business as a moneylender without holding a licence or, being licensed as a moneylender, carries on business as such in any name other than his authorised name or at any other place than his authorised address or addresses; or

(c) in the course of his business as a moneylender enters into any agreement with respect to any advance or repayment of money or takes any security, for money otherwise than in his authorised name,

he shall be guilty of an offence under this Act and shall be liable to a fine not exceeding two hundred dollars and for a second or subsequent offence shall be liable to the fine aforesaid or to imprisonment for a term not exceeding twelve months and an offender being a company shall for a second or subsequent offence be liable to a fine not exceeding one thousand dollars.

(Amended by 2 of 1945, s. 117)

Grounds for refusing licence

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

(a) that satisfactory evidence has not been produced of the good character of the applicant and, in the case of a company, of the persons responsible for the management thereof;

(b) that satisfactory evidence has been produced that the applicant or any person responsible or proposed to be responsible for the management of his business as a moneylender is not a fit and proper person to hold a licence;

(c) that the applicant or any person responsible or proposed to be responsible for the management of his business as a moneylender is or by order of a court disqualified from holding a licence;

(d) that the applicant has not complied with the provisions of any regulations made under section 5 with respect to applications for licences;

(e) that the applicant or his firm has knowingly lent money to a minor after the commencement of this Act.

(2) Any person aggrieved by the refusal of the Registrar to grant a licence may appeal to the Minister whose decision shall be final.

Suspension and forfeiture of moneylenders' licence

10-(1) Where any person being the holder of a licence is convicted of any offence under this Act the court-

(a) may order that the licence held by that person and, in the case of a partner in a firm, by any other partner in respect of that firm, shall either be suspended for such time as the court thinks fit or be forfeited, and may also if the court thinks fit declare any such person or any person responsible for the management of the money lending business carried on by the person convicted to be disqualified from obtaining a licence for such time as the court thinks fit; and

(b) shall cause particulars of the conviction and of any order made by the court under this subsection to be endorsed on the licence held by the person convicted or by any other person affected by the order and shall cause copies of those particulars to be sent to the authority by whom any licence so endorsed was granted:

(Amended by 23 of 1938, s. 2.)

Provided that-

(i) where by the order of a court the licence held by any person is suspended or forfeited or any person is disqualified from obtaining a licence he may, whether or not he is the person convicted, appeal against the order in the same manner as any person may appeal against his conviction. Such appeal shall be to the Supreme Court in accordance with the provisions of Part X of the Criminal Procedure Code. Pending the appeal the Court shall defer the operation of the order;

(Cap. 21.)

(ii) an order for forfeiture or suspension made under this subsection shall not affect any moneylending transaction other than that in respect of which such order is made entered into before such order is made.

Production of licences

(2) Any licence required by a court for endorsement in accordance with subsection (1) shall be produced in such a manner and within such time as may be directed by the court by the person by whom it is held, and any person who without reasonable cause makes default in producing any licence so required shall, in respect of each offence, be liable to a fine not exceeding ten dollars for each day during which the default continues.

(Amended by 2 of 1945, s. 117.)

Names to be stated on documents issued by moneylender

11. A moneylender shall not for the purpose of his business as such issue or publish or cause to be issued or published any advertisement, circular, business letter or other similar document which does not show in such manner as to be not less conspicuous than any other name the authorised name of the moneylender and any moneylender who acts in contravention of this section shall be liable to a fine not exceeding one hundred dollars in respect of each offence.

(Amended by 2 of 1945, s. 117.)

No circular implying a banking business to be issued

12. If a moneylender for the purpose of his business as such issues or publishes or causes to be issued or published any advertisement, circular or document of any kind whatsoever containing expressions which might reasonably be held to imply that he carries on the business of banking he shall be liable to a fine not exceeding two hundred dollars and on a second or subsequent offence shall be liable to the fine aforesaid or to imprisonment for a term not exceeding twelve months and an offender being a company shall for a second or subsequent offence be liable to a fine not exceeding one thousand dollars.

(Amended by 2 of 1945, s. 117.)

Restrictions on moneylenders' advertisements

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

(a) to borrow money from a moneylender;

(b) to enter into any transaction involving the borrowing of money from a moneylender;

(c) to apply to any place with a view to obtaining information or advice as to borrowing any money from a moneylender.

Newspaper advertisements

(2) Subject as hereunder provided no person shall publish or cause to be published in any newspaper or other printed paper issued periodically for public circulation or by means of any poster or placard an advertisement advertising any such particulars or containing any such invitation as aforesaid:

Provided that an advertisement in conformity with the requirements of this Act relating to the use of names on moneylenders' documents may be published by or on behalf of a moneylender in any newspaper or any such paper as aforesaid or by means of a poster or placard exhibited at any authorised address of the moneylender if it contains no addition to the particulars necessary to comply with the said requirements except any of the following particulars, that is to say, any authorised address at which he carries on business as a moneylender and the telegraphic address and telephone number thereof, any address at which he formerly carried on business, a statement that he lends money with or without security and of the highest and lowest sums that he is prepared to lend, and a statement of the date on which the business carried on by him was first established.

Prohibition of agents and canvassers inviting borrowers

(3) No money lender or any person on his behalf shall employ any agent or canvasser for the purpose of inviting any person to borrow money or to enter into any transaction involving the borrowing of money from a moneylender and no person shall act as such agent or canvasser or demand or receive, directly or indirectly; any sum or other valuable consideration by way of commission or otherwise for introducing or undertaking to introduce to a moneylender any person desiring to borrow money.

(4) Where any document issued or published by or on behalf to a moneylender purports to indicate the terms of interest upon which he is willing to make loans or any particular loans, the document shall either express the interest proposed in terms of a rate per cent per annum or per mensem.

(5) Any person acting in contravention of any of the provisions of this section shall be guilty of an offence against this Act and shall in respect of each offence, be liable to imprisonment for a term not exceeding six months or to a fine not exceeding one hundred dollars or to both such imprisonment and fine.

(Amended by 2 of 1945, s. 117.)

Boards to be affixed at place of business of moneylenders

14.-(1) Every person licensed as a moneylender under the provisions of this Act shall affix in a conspicuous position outside his authorised address a board bearing the words "Licensed Moneylender" distinctly printed in letters not less than two inches high.

(2) Any person who fails to comply with the provisions of subsection (1) shall be liable to a fine not exceeding ten dollars.

(Amended by 2 of 1945, s. 117.)

Contract by unlicensed moneylender unenforceable

15. No contract for the repayment of money lent after the commencement of this Act by an unlicensed moneylender shall be enforceable.

Note or memorandum of moneylender's contract to be given to the borrower

16.-(1) No contract for the repayment by a borrower or his agent of money lent to him or to any agent on his behalf by a moneylender or his agent after the commencement of this Act or for the payment by him of interest on money so lent, and no security given by the borrower or by any such agent as aforesaid in respect of any such contract, shall be enforceable unless a note or memorandum in writing of the contract in the English language be signed by the parties to the contract or their respective agents or, in the case of a loan to a partnership firm, by a partner in or agent of the firm, and unless a copy thereof authenticated by the lender or his agent be delivered to the borrower or his agent or, in the case of a loan to a partnership firm, to a partner in or agent of the firm, before the money is lent, and no such contract or security shall be enforceable if it is proved that the note or memorandum aforesaid was not so signed before the money was lent or before the security was given as the case may be:

Provided that-

(a) where a security is given to secure an immediate loan and subsequent loans the security shall be enforceable in respect of any subsequent loan thereby secured if the note or memorandum in respect of such subsequent loan be signed and delivered to the borrower before the money shall be lent;

(b) where a security is given to secure an immediate loan and subsequent loans, and the terms both of the immediate loan and of the subsequent loans are set out in the document constituting the security, it shall not be necessary, for the note or memorandum in respect of any such subsequent loan to set out the terms thereof, but a reference in such note or memorandum to the above-mentioned security shall be sufficient for the purposes of this section if the note or memorandum contains the particulars referred to in paragraphs (a), (b) and (c) of subsection (3).

(Proviso inserted by 48 of 1940, s. 4.)

(2) In this section the expression "borrower" includes a surety.

(3) The note or memorandum aforesaid shall contain all the terms of the contract and in particular shall show separately and distinctly-

(a) the date of the loan;

(b) the principal; and

(c) the rate of interest per cent per annum payable in respect of such loan or, where the interest is not expressed in terms of a rate per cent per annum, the amount of such interest.

All dates and numbers shall be written in the English language notwithstanding that they are also written in any other way.

(4) Where a promissory note in the English language given by a borrower to a moneylender in respect of a loan contains in the body of the note or by writing thereon all the terms of the contract and is countersigned by the lender or his agent, such promissory note shall in itself be a sufficient note or memorandum of the contract for the purpose of this section.

Prohibition of compound interest

17. Any contract made after the commencement of this Act for the loan of money by a moneylender shall be illegal in so far as it provides directly or indirectly for the payment of compound interest or for the rate or amount of interest to be increased by reason of any default in the payment of sums due under the contract:

Provided that provision may be made by, any such contract that if default is made in the payment upon the due date of any sum payable to the moneylender under the contract, whether in respect of principal or interest, the moneylender shall be entitled to charge simple interest on that sum from the date of default until the sum is paid at a rate not exceeding the rate payable in respect of the principal apart from any default, and any interest so charged shall not be reckoned for the purpose of this section as part of the interest charged in respect of the loan.

Accounts to be kept in permanent books

18.-(1) Every money lender shall keep or cause to be kept a regular account of each loan made after the commencement of this Act clearly stating in plain words and in English numerals with or without the numerals lot the script otherwise used the terms and transactions incidental to the account entered in a book paged and bound in such manner as not to facilitate the elimination of pages or the interpolation or substitution of pages.

Consequences of not keeping accounts in the prescribed manner.

(2) If any person subject to the obligations of this section fails to comply with any of the requirements thereof, he shall not be entitled to enforce any claim in respect of any transaction in relation to which default shall have been made. He shall also be guilty of an offence under this Act and shall be liable to a fine not exceeding ten dollars or in the case of a continuing offence to a fine not exceeding two dollars for each day or part of a day during which such offence continues.

(Amended by 2 of 1945, s. 117)

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

19-(1) In respect of every contract for the repayment of money lent by a moneylender whether made before or after the commencement of this Act the moneylender shall, on any reasonable demand in writing being made by the borrower at any time during the continuance of the contract and on tender by the borrower of the sum of ten cents for expenses, supply to the borrower or, if the borrower so requires, to any person specified in that behalf in the demand, a statement of account in English figures signed by the moneylender or his agent showing-

(a) the date on which the loan was made, the amount of the principal of the loan and the rate per cent per annum or the amount of interest charged; and

(b) the amount of any payment already received by the moneylender in respect of the loan the date on which it was made; and

(c) the amount of all sums due to the moneylender for principal but unpaid and the dates upon which they became due and the amount of interest due and unpaid in respect of each such sum; and

(d) the amount of every sum not yet due which remains outstanding and the date upon which it will become due.

A statement of account given in the form of the First Schedule shall be deemed to comply with the requirements of this subsection.

Copy of documents for borrower

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

Civil effect of non-compliance

(3) If a moneylender to whom a demand has been made under this section fails without reasonable excuse to comply therewith within one month after the demand has been made he shall not, so long as the default continues, be entitled to sue for or recover any sum due under the contract on account either of principal or interest, and interest shall not be chargeable in respect of the period of the default and, if such default is made or continued after proceedings have ceased to lie in respect of the loan, the moneylender shall be liable to a fine not exceeding ten dollars for every day on which the default continues.

(Amended by 2 of 1945, s. 117)

Receipts to be given

(4) A moneylender receiving any payment of money under a contract for the repayment of money lent shall on demand by the payer give a duly stamped receipt therefor.

Any person acting in contravention of the provisions of this subsection shall be guilty of an offence under this Act and shall be liable to a fine not exceeding ten dollars in respect of each such offence.

(Amended 2 of 1945, s. 117.)

Provisions as to bankruptcy proceedings for moneylenders' loans

20-(1) Where a debt due to a moneylender in respect of a loan made by him after the commencement of this Act includes interest, that interest shall, for the purposes of the provisions of the Bankruptcy Act relating to the presentation of a bankruptcy petition, voting at meetings, compositions and schemes of arrangement and dividend, be calculated at a rate not exceeding eight per cent per annum, but nothing in the foregoing provision shall prejudice the right of the creditor to receive out of the estate, after all the debts proved in the estate have been paid in full, any higher rate of interest to which he may be entitled.

(Cap. 48.)

Statement must accompany affidavit verifying debt

(2) No proof of a debt due to a moneylender in respect of a loan made by him shall be admitted for any of the purposes of the Bankruptcy Act unless the affidavit verifying the debt has exhibited thereto a statement which complies with the provisions of section 19 and shows, where the amount of interest included in the unpaid balance represents a rate per cent per annum exceeding eight per cent, the amount of interest which would be so included if it were calculated at the rate of eight per cent per annum.

(Cap. 48.)

(3) General rules may be made under section 118 of the Bankruptcy Act for the purpose of carrying into effect the objects of this section.

(Cap. 48.)

Accounts under section 19 to be produced when suing in Court

21.-(1) Where proceedings are taken in any court by a moneylender for the recovery of any money lent after the commencement of this Act or the enforcement of any agreement or security made or taken after the commencement of this Act in respect of money lent either before or after the commencement of this Act he shall produce a statement of his account as prescribed in section 19.

Reopening of transactions of moneylenders

(2) Where there is evidence which satisfies the court that the interest charged in respect of the sum actually lent is excessive and that the transaction is harsh and unconscionable or substantially unfair the court may reopen the transaction and take the moneylender and the person sued take an account between and may, notwithstanding, any statement or settlement of account or any agreement purporting to close previous dealings or create a new obligation, reopen any account already taken between them and relieve the person sued from payment of any sum in excess of the sum adjudged by the court to be fairly due in respect of such principal, interest and legal costs as the court, having regard to the risk and all the circumstances, may adjudge to be reasonable, and, if any such excess has been paid or allowed in account by the debtor, may order the creditor to repay it and may set aside either wholly or in part or revise or alter any security given or agreement made in respect of money lent by the moneylender and, if the moneylender has parted with the security may order him to indemnify the borrower or other person sued:

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

Proceeding by borrower against moneylender

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

Bankruptcy

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

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

(Cap. 48.)

Application to all moneylending

(5) The foregoing provisions of this section shall apply to any transaction whatever its form may be that is substantially one of moneylending by a moneylender.

Bona fide assignee

(6) Nothing in the foregoing provisions of this section shall affect the rights of any bona fide assignee or holder for value without notice.

Existing powers of any court

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

Interest above 12 per cent per annum presumed excessive

22-(1) Where in any proceedings in respect of any money lent by a moneylender after the commencement of this Act or in respect of any agreement or security made or taken after the commencement of this Act in respect of money lent either before or after the commencement of this Act it is found that the interest charged exceeds the rate of twelve per cent per annum or the corresponding rate in respect of any other period, the court shall, unless the contrary is proved, presume for the purposes of section 21 that the interest charged is excessive and that the transaction is harsh and unconscionable or substantially unfair, but this provision shall be without prejudice to the powers of the court under the section where the court is satisfied that the interest charged, although not exceeding twelve per cent per annum, is excessive.

Production and endorsement of licences

(2) Where a court reopens a transaction of a moneylender under the provisions of section 21 the court may require the moneylender to produce any licence granted to him in accordance with the provisions of this Act and may cause such particulars as the court thinks desirable to be endorsed on any such licence and a copy of the particulars to be sent to the Registrar.

Court may act though debt is barred

(3) The powers of a court under the provisions of subsection (3) of section 21 may be exercised notwithstanding that the moneylender's right of action for the recovery of the money lent is barred.

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

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

(Amended by 23 of 1938; s. 3 and 21 of 1972, s. 2)

Prohibition of charge for expenses on loans by moneylender

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

Calculation of interest

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

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

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

(a) give to the assignee notice in writing that the debt, agreement or security is affected by the operation of this Act; and

(b) supply to the assignee all information necessary to enable him to comply with the provisions of this Act relating to the obligation to supply information as to the state of loans and copies of documents relating thereto;

Indemnity

and any person acting in contravention of any of the provisions of this section shall be liable to indemnify any other person who is prejudice by the contravention and shall also be guilty of an offence against this Act and shall in respect of each offence be liable to imprisonment for a term not exceeding one year or to a fine not exceeding two hundred dollars or to both such imprisonment and fine.

(Amended by 2 of 1945, s 117.)

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

Application of Act as respects assignees

26.-(1) Subject as hereinafter provided the provisions of this Act shall continue to apply as respects any debt to a moneylender in respect of money lent by him after the commencement of this Act or in respect of interest on money so lent or of the benefit of any agreement made or security taken in respect of any such debt or interest notwithstanding that the debt or the benefit of the agreement or security may have been assigned to any assignee and, except where the context otherwise requires, references in this Act to a moneylender shall accordingly be construed as including any such assignee as aforesaid:

Right of bona fide holders for value, etc., under contracts with moneylenders

Provided that-

(a) notwithstanding anything in this Act-

(i) any agreement with or security taken by a moneylender in respect of money lent by him after the commencement of this Act shall be valid in favour of any bona fide assignee or holder for value without notice of any defect due to the operation of this Act and of any person deriving title under him; and

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

But in every such case the moneylender shall be liable to indemnify the borrower or any other person who is prejudiced by virtue of this section and nothing in this proviso shall render valid an agreement or security in favour of or apply to proceedings commenced by an assignee or holder for value who is himself a money lender; and

(b) for the purposes of this Act the provisions of section 40 of the Land Transfer Act shall apply as if the expression "purchaser" included a person making any such payment or transfer as aforesaid.

Void agreements

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

Penalty for taking promissory not in which amount left blank or not truly stated

27. Any moneylender who takes as security for any loan a promissory note or other contract for the repayment of money lent in which the principal is to the knowledge of the lender, not truly stated or is left blank shall be guilty of an offence and shall be liable to a fine not exceeding one hundred dollars or, in the event of a second or subsequent offence, to imprisonment for a term not exceeding six months or to a fine not exceeding two hundred dollars or to both such imprisonment and fine.

False statements or representations to induce borrowing an offence

28. If any moneylender or any manager, agent or clerk of a moneylender or if any person being a director, manager, or other officer of any corporation carrying on the business of a moneylender by any false, misleading or deceptive statement, representation or promise or by any dishonest concealment of material facts fraudulently induces or attempts to induce any person to borrow money or to agree to the terms on which money is or is to be borrowed, he shall be guilty of an offence and shall be liable to imprisonment for a term not exceeding two years or to a fine not exceeding one thousand dollars or to both such imprisonment and fine.

Act not apply to certain loans

29.-(1) This Act shall not apply to any loan which fulfils all the following conditions, and no such loan shall be taken into consideration in determining whether or not a person is a moneylender:-

(a) the loan is secured by a registered mortgage of freehold or leasehold land with or without collateral security;

(b) the rate of interest charged does not exceed ten per cent per annum or such other rate as may from time to time be fixed by the Minister in pursuance of the power conferred upon him so to do;

(c) the rate of interest (if any) is expressed in such mortgage in terms of a rate per cent per annum;

(d) the conditions as to interest on the loan do not conflict with the provisions as to interest prescribed by section 17 in the case of loans by moneylenders:

Provided that for the purposes of this paragraph a provision for the reduction of interest on prompt payment shall not be deemed to conflict with that section;

(e) the loan is not subject to any agreement for the payment by the borrower of any cost, charges or expenses other than the following:-

(i) cost, charges or expenses which are properly incurred in connection with the negotiation for or the granting of the loan or any necessary documents incidental thereto;

(ii) costs, charges or expenses properly incurred in connection with protecting, maintaining, preserving, varying, discharging, renewing, realising or attempting to realise any security for the loan, or making good any default by or discharging any outgoing payable by the borrower;

(iii) any other costs, charges or expenses necessarily and properly incurred by the lender as a result of any request by the borrower;

(iv) interest at a rate not exceeding the rate permitted under this section on any such costs, charges and expenses as aforesaid if incurred by the lender.

(2) The Minister may from time to time by notice in the Gazette, vary, in relation to loans made at any date subsequent to such notice, the rate of interest specified in subsection (1).
(Inserted by 22 of 1957, ss. 2 and 4)

FIRST SCHEDULE

(Section 19)

TABLE 1-PRINCIPAL AND INTEREST

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

TABLE 2-REPAYMENT

Amount repaid	Date
1	
2	
3	
4	
5	
6	
7	

TABLE 3-AMOUNT OF ARREARS

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

TABLE 4-SUMS NOT YET DUE

Principal	Date due	Interest	Date due
1			

2			
3			
4			
5			
6			
7			

SECOND SCHEDULE

(Section 24)

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

1. The amount of principal outstanding at any time shall be taken to be the balance remaining after deducting from the principal the total of the portions of any payments appropriated to principal in accordance with the provisions of this Act.
2. The several amounts taken to be outstanding by way of principal during the several periods ending on the dates on which payments are made shall be multiplied in each case by the number of calendar months during which these amounts are taken to be respectively outstanding and there shall be ascertained the amount of the sum so produced.
3. The total amount of the interest shall be divided by one-twelfth part of the aggregate amount mentioned in paragraph 2 and the quotient, multiplied by one hundred, shall be taken to be the rate of interest per cent per annum.
4. If having regard to the intervals between successive payments it is desired so to do the calculation of interest may be made by reference to weeks instead of months and in such a case the foregoing paragraphs shall have effect as though in paragraph 2 the word "weeks" were substituted for the words "calendar months" and in paragraph 3 the words "one-fifty-second" were substituted for the words "one-twelfth".
5. Where any interval between successive payments is not a number of complete weeks or complete months the foregoing paragraphs shall have effect as though one day were one-seventh part of a week or one-thirtieth part of a month as the case may be.

THIRD SCHEDULE

(Section 24)

Amended by 7 of 1966 s. 27.)

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

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

Where- I = where total interest payable.

N- Number of instalments.

P- Principal.

L- Number of calendar months in the intervals between instalments.

Controlled by Ministry of Finance

CHAPTER 234

MONEYLENDERS

SECTION 2 - EXEMPTIONS

The following bodies corporate have been exempted from the provisions of the Act:-

Legal Notice No. 206 of 1979

Bank of Baroda
Bank of New Zealand
Commercial Bank of Australia Limited,
The Commonwealth Trading Bank of Australia
Continental Illinois Limited
Continental Illinois National Bank and Trust Company of Chicago
Grindlays Dao Heng Bank Limited
International Westminster Bank Limited
Kuwait Pacific Finance Company Limited
Midland Bank Limited
National Bank of Australia Limited,
The Tokai Asia Limited
Tokyo Finance (Asia) Limited

Legal Notice No. 13 of 1980

Mercantile Securities (Hong Kong) Ltd.

Legal Notice No. 65 of 1980

Commonwealth Development Corporation

Legal Notice No. 163 of 1980

Wardley (Vila) Limited

Legal Notice No. 61 of 1981

Wardley International Bank Limited

Legal Notice No. 128 of 1981

UDC Finance Limited

Legal Notice No. 55 of 1982

Westpac Banking Corporation
Bank of New Zealand
Barclays Bank International Limited
Continental Illinois National Bank and Trust Company of Chicago.
Midland Finance (H.K.) Limited
National Westminster Bank Limited
Nordic Bank Limited
Orion Caribbean Limited

Legal Notice No. 33 of 1983

Fiji Development Company Limited

Legal Notice No. 70 of 1983

International Finance Corporation

Legal Notice No. 71 of 1985

The European Investment Bank

SECTION 5-MONEYLENDERS REGULATIONS

TABLE OF PROVISIONS

REGULATION

- 1.Short title
- 2.Form of statement
- 3.Evidence of good character

Regulations 21 November 1938

Short title

1. These Regulations may be cited as the Moneylenders Regulations.

Form of statement

2. Any person intending to apply to the Registrar for a licence under section 5 of the Act shall lodge with the Registrar a statement in the form set out in the Schedule.

Evidence of good character

3. The Registrar may, before issuing a licence, require the applicant to produce evidence of his good character and, in the case of a company, of the persons responsible for the management thereof to the satisfaction of the Registrar.

SCHEDULE

(Regulation 2)

APPLICATION FOR MONEYLENDER'S LICENCE

1. True name of applicant..... (If the applicant is a company the name of the company should be stated here)	
2. Private address of applicant, or in the case of a company, the registered address of the company.....	
3. Name under which it is desired to carry on business as a moneylender 	
4. Address at which it is desired to carry on business* 	
5. True names and addresses of partners, if any 	
6. Name of person or persons (other than owner or partners) responsible or proposed to be responsible for the management of the business. In the case of a company the names of the directors, treasurer and secretary should be	

<p>given</p> <p>.....</p>	
<p>7. Date of issue of any previous licence under the Moneylenders Act and name and address authorised by such licence</p> <p>.....</p>	
<p>8. If registered under the Registration of Business Names Act date of registration and name and address under which registered†</p> <p>.....</p>	
<p>9. Particulars of any convictions under the Moneylenders Act of the applicant, his partner, or any person responsible or proposed to be responsible for the management of the business</p> <p>.....</p>	
<p>10. Particulars of any order under section 10 of the Moneylenders Act suspending or forfeiting any licence of, or disqualifying from obtaining a licence, the applicant or his partner or any person responsible or proposed to be responsible for the management of the business</p> <p>.....</p>	
<p>11. Particulars of any refusal of a licence to the applicant, or his partner or any person responsible or proposed to be responsible for the management of the business</p> <p>.....</p>	
<p>Dated:</p> <p style="text-align: right;">Signed:.....</p>	

*The address to be entered is the address of the head office or branch in respect of which the application is being made. A separate application must be made in respect of each branch.

† The applicant must be prepared, if necessary, to produce the certificates of registration.

SECTION 29 - VARIATION OF RATE OF INTREST

Legal Notice No. 22 of 1982.

The rate of interest specified in subsection (1) of section 29 has been varied in relation to loans made at any date subsequent to the notice, from 10% per annum to 12% per annum.

Controlled by Ministry of Finance.
