

THE PUNJAB REGISTRATION OF MONEY-LENDERS' ACT, 1938.

PUNJAB ACT NO. III OF 1938.

[Received the assent of his Excellency the Governor on the 31st August, 1938, and was first published in the Punjab Gazette, Extraordinary of the 2nd September, 1938.]

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Year	No.	Short title	Whether repealed or otherwise affected by legislation
1938 ..	III	The Punjab Registration of Money Lenders' Act, 1938	Amended by the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948 (G.G.O. 40). Amended by the Adaptation of Laws Order, 1950. Amended by the Adaptation of Laws (Third Amendment) Order, 1951. Extended to the territories which, immediately before the 1st November, 1956, were comprised in the State of Patiala and East Punjab States Union by Punjab Act No. 44 of 1960 ² . Amended by the Punjab Re-organisation (Chandigarh) (Adaptation of Laws on State and Concurrent Subjects) Order, 1968.

WHEREAS it is expedient to register money-lenders and to regulate their business in the manner hereinafter appearing, it is hereby enacted as follows :—

Preamble.

1. (1) This Act shall be called the Punjab Registration of Money-lenders' Act, 1938.

Short title, extent and commencement.

(2) It shall extend to ³[Union Territory of Chandigarh].

(3) It shall come into force on such ⁴[date] as the ⁵[Central Government] may, by notification, direct.

¹. For Statement of Objects and Reasons see *Punjab Government Gazette* (Extraordinary), 1938, page 87 ; for the Select Committee's report see *Punjab Government Gazette*, 1938, Part V, Pages 134—151, and for the proceedings in Assembly see the Punjab Legislative Assembly Debates, 1938, Volume V, pages 227—257, 978—1030, 1031—1089, 1100—1170, 1174—1234 and 1292—1324.

². For Statement of Objects and Reasons, see *Punjab Government Gazette* (Extraordinary), 1960, page 1945.

³Substituted for the words "Punjab" by the Punjab Re-organisation (Chandigarh) (Adaptation of Laws on State and Concurrent Subjects) Order, 1968.

⁴It came into force on 1st July, 1939,—vide Punjab Government Notification No. 3470-J-39/20108, dated 2nd June, 1939.

⁵Substituted for the words State Government by the Punjab Re-organisation, Chandigarh Adaptation of Laws on State and concurrent subjects Order, 1968.

Definitions

2. In this Act, unless there is anything repugnant in the subject or context—

- (1) "Bank" means a company carrying on the business of banking and registered under any of the enactments relating to companies for the time being in force in the United Kingdom or in any of the Colonies or Dependencies thereof in or ¹[any part A State or Part C State] or incorporated by an Act of Parliament ²[of the United Kingdom] or by Royal Charter or Letters Patent or by any Act of ³[Parliament].
- (2) "Collector" means a Collector of the District or such other officer not below the rank of Assistant Collector first grade as may be specially empowered by the ⁴[Central Government] to discharge the functions of a Collector for the purposes of this Act.
- (3) "Commissioner" means the Commissioner of the Division in which a money-lender is registered.
- (4) "Company" means a Company registered under any of the enactments relating to companies for the time being in force in the United Kingdom or any of the Colonies or Dependencies thereof or in ¹[any Part A State or Part C State] or incorporated by an Act of Parliament ²[of the United Kingdom] or by Royal Charter or Letters Patent and includes Life Assurance Companies to which the Indian Life Assurance Companies Act, 1912, applies.
- (5) "Co-operative Society" means a society registered under the provisions of Co-operative Societies Act, 1912.
- (6) "Court" includes a court acting in the exercise of its insolvency jurisdiction.
- (7) "Interest" includes the return to be made over and above what was actually lent, whether the same is charged or sought to be recovered specially by way of interest or otherwise.

¹Substituted for the words "British India" by the Adaptation of Laws (Third Amendment) Order, 1951.

²Inserted by the Adaptation of Laws (Third Amendment) Order, 1951.

³Substituted for the words "the Indian Legislature" by the Adaptation of Laws (Third Amendment) Order, 1951.

- (8) "Loan" means an advance whether secured or unsecured of money or in kind at interest and shall include any transaction which the court finds to be in substance a loan, but it shall not include—
- (i) an advance in kind made by a landlord to his tenant for the purposes of husbandry; provided the market value of the return does not exceed the market value of the advance as estimated at the time of advance ;
 - (ii) a deposit of money or other property in a Government Post Office Bank, or any other Bank, or with a company, or with a co-operative society or with any employer as security from his employees ;
 - (iii) a loan to, or by, or a deposit with any society or association registered under the Societies Registration Act, 1860, or under any other enactment;
 - (iv) a loan advanced by or to the Central or any ¹[State] Government or by or to any local body under the authority of the Central or any ¹[State] Government;
 - (v) a loan advanced by a bank, a co-operative society or a company whose accounts are subject to audit by a certificated auditor under the ²Indian Companies Act, 1913;
 - (vi) a loan advanced by a trader to a trader, in the regular course of business, in accordance with trade usage;
 - (vii) an advance made on the basis of a negotiable instrument as defined in the Negotiable Instruments Act, 1881, other than a promissory note.

¹Substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

²Repealed and replaced by the Companies Act, 1956 (1 of 1956.)

(9) "Money lender" means a person, or carrying on the business of advancing loans as defined in this Act, and shall include the legal representatives and the successors-in-interest whether by inheritance, assignment or otherwise, of such person or firm; provided that nothing in this definition shall apply to—

(a) a person who is the legal representative or is by inheritance the successor-in-interest of the estate of a deceased money-lender together with all his rights and liabilities; provided that such person only—

(i) winds up the estate of such money-lender;

(ii) realises outstanding loans;

(iii) does not renew any existing loan, nor advance any fresh loan ;

(b) a *bona fide* assignment by a money-lender of a single loan to any one other than the wife or husband of such assignor, as the case may be, or any person, who is descended from a common grandfather of the assignor.

(10) "Prescribed" means prescribed by rules made under this Act.

(11) "Trader" means a person who in the regular course of business, buys and sells goods or other property, whether movable or immovable and shall include—

a wholesale or a retail merchant,

a commission agent,

a broker,

a manufacturer,

a contractor,

a factory owner,

but shall not include a person who sells only his own agricultural produce or cattle, or buys agricultural produce or cattle for his own use.

3. Notwithstanding anything contained in any other enactment for the time being in force, a suit by a money-lender for the recovery of a loan, or an application by a money-lender for the execution of a decree relating to a loan, shall, after the commencement of this Act, be dismissed, unless the money-lender—

Suits and applications by money-lenders barred unless money-lender is registered and licensed

(a) at the time of the institution of the suit or presentation of the application for execution ; or

(b) at the time of decreeing the suit or deciding the application for execution—

(i) is registered ; and

(ii) holds a valid licence, in such form and manner as may be prescribed ; or

(iii) holds a certificate from a Commissioner granted under section 11, specifying the loan in respect of which the suit is instituted, or the decree in respect of which the application for execution is presented ; or

(iv) if he is not already a registered and licensed money-lender, satisfies the Court that he has applied to the Collector to be registered and licensed and that such application is pending : provided that in such a case, the suit or application shall not be finally disposed of until the application of the money-lender for registration and grant of licence pending before the Collector is finally disposed of.

4. Every money-lender may apply for registration of his name at the office of the Collector of the District ; and his name shall be registered on furnishing such particulars as may be prescribed and on payment of a fee of Rs. 5.

Registration of money-lenders.

5. Every money-lender may apply to the Collector for a licence which shall be granted for such period, in such form, and on such conditions, and on payment of such fees, as may be prescribed.

Licensing of money-lenders.

Explanation.—When an application for the renewal of a licence has been received from a licensed money-lender before the expiry of his licence, the existing

licence shall be deemed to continue in force until orders on the application have been issued.

Where licence
may be cancelled.

6. A licence may be cancelled by the Collector and shall not be renewed for such period as may be specified by him, if after the commencement of this Act, a money-lender commits an act or is guilty of an omission with reference to which he—

- (i) has been held by a Court to have contravened the provisions of section 3 of the Punjab Regulation of Accounts Act, in more than two suits ;
- (ii) has had his suit dismissed, in whole or in part, under section 37 of the Punjab Relief of Indebtedness Act ;
- (iii) has had his suit dismissed with a finding that he has made, dishonestly or fraudulently, a material alteration in any document relating to a loan ;
- (iv) has had his suit dismissed with a finding that it is fraudulent ;
- (v) has been found by a Court to have charged higher rates of interest than those prescribed under section 5 of the Punjab Relief of Indebtedness Act in more than one suit ;
- (vi) has been found guilty by a Court of forgery or cheating in respect of a money transaction ;

Provided that the Collector shall not cancel a licence until the prescribed period of appeal, revision or review, as the case may be, has expired ; or in case of appeal, revision or review, the appeal, revision or review has been finally decided.

When Collector
may act.

7. (1) The Collector may take proceedings *suo motu* or on the application of any person interested for the cancellation of a money-lender's licence :

Provided that no licence shall be cancelled without giving the money-lender a notice in such form as may be prescribed.

(2) The Collector may during the period of limitation for an appeal, either of his own motion or on the application of a party interested, review his own order, provided no appeal is pending with the Commissioner.

8. The name of a money-lender whose licence has been cancelled under section 6, shall be struck off the register maintained at the office of the Collector for the registration of money-lenders :

Effect of cancellation of licence

Provided that a licence shall not be deemed to be cancelled nor the name of the money-lender deemed to be struck off the register during the period an appeal or an application for review or an application under section 11 is pending.

9. Nothing in this Act shall apply to suits or applications for execution pending—

Saving.

(a) at the time of the commencement of this Act ;
or

(b) on the date of the cancellation of the licence of the money-lender, if before his current licence is granted or renewed, a Court has not given any such finding as would render him liable to have his licence cancelled under the provisions of section 6 of this Act.

10. A money-lender may, after the termination of the period for which his licence has been cancelled, apply for registration and for the grant of a licence, to the Collector who shall, on his furnishing such particulars as may be prescribed, register his name on payment of a fee of Rs 5 ; and shall grant him a licence for such period, in such form and subject to such conditions and on payment of such fees, as may be prescribed.

Further registration and licensing of money-lender after expiry of period for which licence was cancelled.

11. (1) An appeal shall lie to the Commissioner against the order of the Collector under section 6 cancelling a licence provided that the appeal shall be instituted within 30 days of the order appealed against, not including the period requisite for obtaining copies of such order.

Appeals, reviews and certificates.

(2) If the money-lender or the appellant is not present at the time of announcement of the original or the appellate order, the order shall be communicated to him in such manner as may be prescribed.

(3) The Commissioner may, in dismissing an appeal grant to the money-lender a certificate specifying the loans in respect of which a suit may be instituted by him or the decrees in respect of which an application for execution may be presented.

(4) A money-lender without appealing against an order of the Collector under section 6, may within 30 days of the Collector's order cancelling his licence, apply to the Commissioner for a certificate of the nature specified in sub-clause (3).

(5) The Commissioner may, either on his own motion, or on the application of a party interested, review his own order at any time within 30 days of the communication of his appellate order to the money-lender concerned.

Exemption.

12. The ¹[Central Government] may, by notification, exempt any person or class of persons from the operation of this Act or from any of the provisions thereof.

Rule-making
power.

13. (1) Subject to previous publication the ¹[Central Government] may make rules, for carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may specify—

- (a) the place where a money-lender shall apply for registration for obtaining a licence, the district or districts in which a money-lender who operates in more than one district shall be required to register, and the area in which a licence shall be valid;
- (b) the scale of fees payable for the issue or renewal of a licence of a money-lender;
- (c) the form of a licence; and the conditions under which a licence shall be issued; and
- (d) the particulars which a money-lender shall supply at the time of being registered.

¹Substituted for the words "State Government" by the Punjab Re-organisation (Chandigarh) (Adaptation. of Laws on State and Concurrent Subjects) Order, 1966.