

**ANDHRA PRADESH (ANDHRA AREA)PAWNBROKERS ACT,
1943**

23 of 1943

[23rd November, 1943]

CONTENTS

1. Short title, extent and commencement
2. Definitions
3. Pawnbroker to obtain licence annually
4. Grant and refusal of licences
5. Pawnbrokers to exhibit their names over shops etc.
6. Interest and charges allowed to pawnbrokers
7. Pawn-ticket to be given to pawner
8. Person producing pawn-ticket presumed to be entitled to redeem pledge
9. Protection of owners and pawners not having pawn-tickets
10. Pawnbrokers to keep books, give receipts etc
11. Redemption of pledge
12. Sale of pledge and inspection of sale book
13. Liability of pawnbroker in case of fire
14. Compensation for depreciation of pledge
15. Pawnbroker advancing smaller amount or receiving higher interest than that specified in accounts to be punishable
16. Certain other acts of pawnbrokers to be punishable
17. Certain acts of pawners to be punishable
18. General penalty for contravention of Act, etc.
19. Jurisdiction to try offences
20. Arrest without warrant
21. Contracts not to be void on account of offences but interest and costs not to be allowed in certain cases
- 21A. Power to exempt companies registered before 1st November, 1944
22. Power to make rules
23. Amendment of Act VII of 1935
24. Amendment of Act VII of 1935
25. Savings

**ANDHRA PRADESH (ANDHRA AREA)PAWNBROKERS ACT,
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An Act to regulate and control the business of Pawnbrokers in the Andhra Area of the State of Andhra Pradesh. Whereas it is expedient to make provision for the regulation and control of the business of pawnbrokers in the Andhra Area of the State of Andhra Pradesh, it is hereby enacted as follows:

1. Short title, extent and commencement :-

(1) This Act may be called the Andhra Pradesh (Andhra Area) Pawnbrokers Act, 1943.

(2) It extends to the whole of the Andhra Area of the State of Andhra Pradesh.

(3) This section shall come into force at once, and the State Government may, from time to time, by notification in the Andhra Pradesh Gazette apply the remaining provisions of this Act to the whole or any portion of the Andhra Area of the State of Andhra Pradesh from such date as may be specified in the notification, and may cancel or modify any such notification.

2. Definitions :-

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

[(1) [***]];

(2) "company " means a company

(a) registered under any of the enactments relating to companies for the time being in force [in any part of India or in the United Kingdom or in any of the British Dominions, or in any of the Colonies of Dependencies [of the United Kingdom, [***]; or

(b) incorporated by an Act of Parliament [of the United Kingdom] or by Royal Character or Letters Patent or by any [Central Act.]

(3) "co-operative society " means a society registered or deemed to be registered under [the Andhra Pradesh] (Andhra Area) Co-operative Societies Act, 1932 (Act VI of 1932);

(4) "interest" does not include any sum lawfully charged in accordance with the provisions of this Act by a pawnbroker for or on account of charges, but save as aforesaid, includes any amount by whatsoever name called, in excess of the principal, paid or

payable to pawnbroker in consideration of or otherwise in respect of a loan;

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

(i) a deposit of money or other property in a Government Post Office Savings Bank or in a company or with a co-operative society;

(ii) an advance made by [banking company] as defined in S. 277F of the Indian Companies Act, 1913, or a co-operative society;

(iii) an advance made by Government or by any person authorized by Government to make advances in their behalf, or by any local authority;

(iv) an advance made by any person bonafide carrying on any business not having for its primary object the lending of money, if such loan is advanced in the regular course of such business; and

(v) an advance made by a landlord to his tenant, by a lessor to his lessee, or by one partner in cultivation or cosharer to another for the purpose of carrying on agriculture;

(6) "pawnbroker " means a person who carries on business of taking goods and chattels in pawn for a loan;

Explanation: Every person who keeps a shop for the purpose of sale of goods or chattels and who purchases goods or chattels and pays or advances thereon any sum of money, with or under an agreement or understanding expressed or implied that the goods or Chattels may be afterwards repurchased on any term is a pawnbroker within the meaning of this clause.

(7) "pawner " means a person delivering an article for pawn to a pawnbroker;

(8) "pledge " means an article pawned with a pawnbroker;

(9) "prescribed" means prescribed by rules made under this Act;

(10) "principal" in relation to a loan means the amount actually lent to the pawner; and

(11) "year" means the financial year.

3. Pawnbroker to obtain licence annually :-

(1) No person shall, after the expiry of three months from the date on which the provisions of this Act (other than Section 1) came into force in any area, carry on or continue to carry on business as a pawnbroker at any place in such area, unless he has obtained a pawnbroker's licence under this Act.

Explanation :- Where a pawnbroker has more than one shop or place of business, whether in the same town or village or in different towns and villages, he shall obtain a separate pawnbroker's licence in respect of each such shop or place of business.

(2) Every pawnbroker's licence granted under this Act shall expire on the last day of the year for which it was granted, but may be renewed from year to year.

4. Grant and refusal of licences :-

(1) Every application for a pawnbroker's licence shall be in writing and shall be made to the Revenue Divisional Officer having jurisdiction over the area in which the shop or place of business is situated.]

(2) The licence shall not be refused except on one or both of the following grounds, namely:

(a) that the applicant is of bad character.

Explanation : If any evidence of bad character is adduced against the applicant, he shall be given an opportunity of rebutting such evidence; and

(b) that the shop or place at which he intends to carry on the business of a pawnbroker or any adjacent shop or place, owned or occupied by him, is frequented by thieves or persons of bad character.

[(3) Any order refusing a licence may, on the application of the aggrieved party, be revised by the Collector of the district concerned.]

(4) Every licence shall be granted in such form and subject to such conditions as may be prescribed and on payment of such fee not exceeding twenty-five rupees as the [State] Government may, from time to time, by notification in the [Andhra Pradesh Gazette] determine.

5. Pawnbrokers to exhibit their names over shops etc. :-

Every pawnbroker shall,

(a) always keep exhibited in large characters over the outer door of his shop or place of business his name with the word pawnbroker, in the chief language of the locality; and

(b) always keep placed in a conspicuous part of shop or place of business so as to be legible to all persons resorting thereto the information required to be printed on pawn tickets by rules are under this Act, in the chief language of the locality.

6. Interest and charges allowed to pawnbrokers :-

(1) The State Government may from time to time by notification in the Andhra Pradesh Gazette, fix the maximum rates of interest for any local area or class of pawnbrokers, in respect of secured loans and unsecured loans.

(1A) No pawnbroker shall charge interest in respect of a loan on the pledge at a rate exceeding the maximum rate fixed by the State Government under sub-section (1).

(2) A pawnbroker may demand and take from the pawner such charges and in such cases as may be prescribed.

(3) A pawnbroker shall not demand or take from the pawner any profit, interest, charge or sum whatsoever, other than the interest due to him and the charges, if any, referred to in sub-section (2).

7. Pawn-ticket to be given to pawner :-

Every pawnbroker shall on taking a pledge in pawn, give to the pawner a pawn-ticket in the prescribed form, shall not take a pledge in pawn unless the pawner takes the pawn-ticket.

8. Person producing pawn-ticket presumed to be entitled to redeem pledge :-

(1) The holder for the time being of a pawn-ticket shall be presumed to be the person entitled to redeem the pledge, and subject to the provisions of this Act, every pawnbroker shall on payment of the principal and interest, deliver the pledge to the person producing the pawn- ticket, and he is hereby indemnified for so doing.

(2) Except as otherwise expressly provided in this Act a pawnbroker shall not be bound to deliver back a pledge unless the pawn-ticket

is delivered to him.

9. Protection of owners and pawners not having pawn-tickets :-

(1) The following provisions shall have effect for the protection of owners of articles pawned, and of pawners not having their pawn-tickets to produce

(a) Any person claiming to be the owner of a pledge but not holding the pawn-ticket, or any person claiming to be entitled to hold a pawn-ticket, but alleging that the same has been lost, mislaid, destroyed or stolen, or fraudulently obtained from him, may apply to the pawnbroker for a printed form of declaration (which shall be in the prescribed form), which the pawnbroker shall deliver to him: Provided that an application shall not be made under this clause where the loan exceeds two hundred and fifty rupees unless the applicant has caused a public notice of the claim, containing such particulars as may be prescribed to be published in the prescribed manner not less than the prescribed number of days before the date of the application.

(b) If the applicant delivers back to the pawnbroker the declaration duly made before any Magistrate or Judge by the applicant and by a person identifying him, the applicant shall have, as between himself and the pawnbroker, all the same rights and remedies as if he had produced the pawn-ticket:

Provided that such a declaration shall not be effectual for this purpose:

(i) in cases where the loan exceeds two hundred and fifty rupees, unless the applicant executes a bond with two sureties, to the satisfaction of pawnbroker or of such authority or person as may be prescribed in this behalf, agreeing to indemnify the pawnbroker in respect of any liability which may be incurred by him by reason of delivering the pledge or otherwise acting in conformity with the declaration; and

(ii) in all cases, unless the declaration is duly made and delivered back to the pawnbroker within such period after the delivery of the form of the applicant, as may be prescribed.

(c) The pawnbroker is hereby indemnified for not delivering the pledge to any person until the expiration of the period aforesaid.

(d) The pawnbroker is hereby further indemnified for delivering the pledge or otherwise acting in conformity with the declaration, unless he has had notice within the meaning of the Transfer of Property Act, 1882 (Central Act 4 of 1882) that the declaration was fraudulent or was false in any material particular.

(2) Any person making a declaration under sub-section (1), either as an applicant or as identifying an applicant, knowing the same to be false in any materials particular, shall be punished with imprisonment for a term which may extend to six months or with fine which may extend to one hundred rupees or with both.

10. Pawnbrokers to keep books, give receipts etc :-

(1) Every pawnbroker shall,

(a) regularly record and maintain or cause to be recorded and maintained, in a pledge book in the prescribed form, an account showing for each debtor separately

(i) the date of the loan, the amount of the principal of the loan and the rate of interest charged or the loan per cent per annum or per rupee per mensem or per rupee per annum.

(ii) the amount of every payment received by the pawnbroker in respect of the loan, and the date of such payment;

(iii) a full and detailed description of the article or of each of the articles taken in pawn;

(iv) the time agreed upon for the redemption of the pawn; and

(v) the name and address of the pawner, and where the pawner is not the owner of the article or of any of the articles pawned, the name and address of the owner thereof;

(b) keep and use in his business, the following documents and books (which shall be in the prescribed form) and enter therein from time to time, as occasion requires, in a fair and legible manner, such particular and in accordance with such directions, as may be prescribed,

(i) pawn-ticket;

(ii) sale book of pledges;

(iii) declarations where pledge is claimed by owner;

(iv) declaration of pawn-ticket lost; and

(v) receipt of redemption of pledge.

(c) give to the pawner or his agent a receipt for every sum paid by him, duly signed and, if necessary, stamped at the time of such payment; and

(d) on requisition in writing made by the pawner furnish to the pawner or, if he so requires, to any person mentioned by him in that behalf in his requisition, a statement of account signed by himself or his agent, showing the particulars referred to in Clause (a) and also the amount which remains outstanding on account of the principal and of interest, and charge such sum as the State Government may prescribe as fee therefor.

(2) All records or entries made in the books, accounts and documents referred to in sub-section (1) shall be either in English or in such language of the locality as may be prescribed; and all such books, accounts and documents and all pledges taken by the pawnbroker shall be open to inspection at any time by any Police Officer not below the rank of Sub- Inspector or by any Head Constable authorized in writing by such a Police Officer or by any Revenue Officer not below the rank of a Deputy Tahsildar.

(3) Notwithstanding anything contained in the Indian Evidence Act, 1872, (Central Act 1 of 1872), a copy of the account referred to in Clause (a) of sub-section (1), certified in such manner as may be prescribed, shall be admissible in evidence in the same manner and to the same extent as the original account.

(4) A pawner to whom a statement of account has been furnished under Clause (d) of sub-section (1) and who fails to object to the correctness of the account shall not, by each failure alone, be deemed to have admitted the correctness of such account.

(5) In the pawn-ticket furnished to the pawner, in the receipt given under Clause (c) of sub-section (1) and in the statement of account furnished under Clause (d) of that sub-section the figures shall be entered only in Arabic numerals.

11. Redemption of pledge :-

(1) Every pledge shall be redeemable within one year from the day of pawning, exclusive of that day; and there shall be added to that year of redemption seven days of grace within which every pledge

(if not redeemed within the period of redemption) shall continue to be redeemable.

(2) A pledge pawned for a sum not exceeding ten rupees, if not redeemed within the period of redemption and days of grace, shall at the end of the days of grace become the pawnbroker's absolute property.

(3) A pledge¹ pawned for a sum exceeding ten rupees shall further continue to be redeemable until it is disposed of as provided in this Act, although the period of redemption and days of grace have expired.

Explanation : Where the contract between the parties provides a longer period for redemption than one year, the provisions of sub-sections (1), (2) and (3) shall be read and construed as if references to such longer period had been substituted for the references to the period of one year therein.

12. Sale of pledge and inspection of sale book :-

(1) A pledge pawned for a sum exceeding ten rupees shall, when disposed of by the pawnbroker be disposed of by sale, by auction and not otherwise, and the sale shall be conducted in accordance with such rules as may be prescribed.

(2) A pawnbroker may bid for and purchase at a sale by public auction conducted under sub-section (1), a pledge pawned with him; and on such purchase he shall become the absolute owner of the pledge.

(3) At any time within three years after the public auction, the holder of the pawn-ticket may inspect the entry relating to the sale either in the pawnbroker's book or in such catalogue of the auction as may be prescribed.

(4)

(a) Where on such inspection or otherwise the pledge appears to have been sold for more than the amount of the loan and the interest and charges due at the time of the sale, the pawnbroker shall pay to the holder of the pawn-ticket, on demand made within three years after the sale, the surplus after deducting therefrom the necessary costs and charges of the sale.

(b) If on such demand it appears that the sale of the pledge has

resulted in a surplus but that within twelve months before or after such sale, the sale of another pledge or pledges of the same person has resulted in a deficit, the pawnbroker may set-off the deficit against the surplus and shall be liable to pay only the balance, if any, after such set-off.

13. Liability of pawnbroker in case of fire :-

(1) Where a pledge is destroyed or damaged by or in consequence of fire, the pawnbroker shall nevertheless be liable on application made within the period during which the pledge would have been redeemable, to pay the value of the pledge, after deducting the amount of the principal and interest.

Explanation : For the purpose of this sub-section, the value of the pledge shall be its estimated value (if any) entered in the pledge book at the time of the pawn together with interest on the amount of the principal and shall in no case be less than the aggregate of the amount of the principal and interest and twenty-five per cent on the amount of principal.

(2) A pawnbroker shall be entitled to insure to the extent of the value so estimated.

14. Compensation for depreciation of pledge :-

If a person entitled and offering to redeem a pledge shows to the satisfaction of a Civil Court having jurisdiction to entertain a suit for such redemption that the pledge has become or has been rendered of less value than it was at the time of pawning thereof by or through the default, neglect or wilful misbehaviour of the pawnbroker, the Court, may, if it thinks fit, award reasonable compensation to the owner of the pledge in respect of the damage, and the amount awarded shall be deducted from the amount payable to the pawnbroker, or shall be paid by the pawnbroker (as the case requires) in such manner as the Court directs.

15. Pawnbroker advancing smaller amount or receiving higher interest than that specified in accounts to be punishable :-

(1) Any pawnbroker who actually advances an amount less than that shown in the pawn-ticket or in his accounts or registers or who takes or receives interest or any other charge at a rate higher than that shown in the pawn-ticket or in his accounts or registers shall be punished with fine which may extend to Rs. 500.

(2) If a pawnbroker is convicted of an offence under sub-section (1) after having been previously convicted of such an offence, the Court convicting him may order his licence as a pawnbroker to be cancelled.

16. Certain other acts of pawnbrokers to be punishable :-

A pawnbroker who

(1) takes an article in pawn from any person appearing to be under the age of fourteen years, or to be intoxicated; or

(2) purchases or takes in pawn or exchange a pawn-ticket issued by another pawnbroker; or

(3) employs any person under the age of sixteen years to take pledges in pawn; or

(4) under any pretence purchases, except at a public auction, any pledge while in pawn with him; or

(5) suffers any pledge while in pawn with him to be redeemed with a view to his purchasing it; or

(6) makes any contract or agreement with any person pawning or offering to pawn any article, or with the owner thereof, for the purchase, sale, or disposition thereof within the time of redemption; or

(7) sells or otherwise disposes of any pledge pawned with him except at such time and in such manner as is authorised by or under this Act. shall be punished with imprisonment for a term which may extend to six months or with fine which may extend to one hundred rupees or with both.

17. Certain acts of pawners to be punishable :-

(1) Any person who,

(a) offers to a pawnbroker an article by way of pawn, being unable or refusing to give a satisfactory account of the means by which he became possessed of the article; or

(b) wilfully gives false information to a pawnbroker as to whether an article offered by him in pawn to the pawnbroker is his own property or not, or as to his name and address, or as to the name and address of the owner of the article; or

(c) not being entitled to redeem, and not having any colour of title

by law to redeem, a pledge, attempts or endeavours to redeem the same; shall be punished with imprisonment for a term which may extend to six months or with fine which may extend to one hundred rupees or with both.

(2) In every Case falling under sub-section (1), and also in any case where, on an article being offered in pawn, for sale, or otherwise, to a pawnbroker he reasonably suspects that it has been stolen or otherwise illegally or clandestinely obtained, the pawnbroker shall, in the absence of reasonable excuse, inquire into the name and address of the person concerned, and seize and detain such person and the article, if any, and forthwith communicate to the nearest police station the facts of the case and shall deliver the person and the article, if any, seized to the police.

(3) A list of properties believed to have been stolen may be delivered by the police to any pawnbroker licensed under this Act and thereupon it shall be the duty of such pawnbroker,

(a) if any article answering the description of any of the properties set forth in any such list is offered to him in pawn, for sale or otherwise, to proceed in accordance with the provisions of sub-section (2); and

(b) if any such article is already in his possession, forthwith to communicate to the nearest police station the facts of the case (including full particulars as to the name and address of the person concerned in the delivery of the article to the pawnbroker) and also if so required by the police to deliver the article to them.

18. General penalty for contravention of Act, etc. :-

(1) Whoever contravenes any of the provisions of this Act or of any rule or of any terms and conditions of a licence made or granted thereunder shall, if no other penalty is elsewhere provided in this Act for such contravention, be punished with fine which may extend to fifty rupees and, if such person has been previously convicted whether under this section or any other provision contained in this Act, with fine which may extend to one hundred rupees.

(2) Any person who after having been convicted of the offence of carrying on, or continuing to carry on, the business of Pawnbroker in contravention of the provisions of Section 3, continues to commit the same offence in the same year, shall in addition to the fine to which he is liable under sub-section (1), be punished with a

further fine which may extend to ten rupees for each day after the previous date of conviction during which he continues so as to offend.

(3) Any Court convicting a pawnbroker of a contravention of the provisions of Clause (c) or Clause (d) of sub-section (1) of Section 10 , may direct him to furnish a receipt or statement of account in accordance with the provisions of that clause, and if the pawnbroker fails to comply with the direction, the Court may order his licence as a pawnbroker to be cancelled.

19. Jurisdiction to try offences :-

No Court inferior to that of a Magistrate of the second class shall try any offence against this Act.

20. Arrest without warrant :-

Any police officer may arrest without a warrant any person committing in his view an offence against this Act.

21. Contracts not to be void on account of offences but interest and costs not to be allowed in certain cases :-

When a pawnbroker is guilty of an offence against this Act (not being an offence against any provision of this Act relating to licences), any contract of pawn or other contract made by him, in relation to his business of pawnbroker, shall nevertheless not be void by reason only of that offence, nor shall he, by reason only of that offence, lose his lien on or right to the pledge or to the loan and the interest and other charges, if any, payable in respect thereof:

Provided that if a pawnbroker fails to deliver to the pawner a pawn-ticket as required by Section 7 or fails to give to the pawner or his agent a receipt as required by Clause (c) of sub-section (1) of Section 10 or to furnish on a requisition made under Clause (d) of that sub-section, a statement of account as required therein within one month after such requisition has been made, the pawnbroker shall not be entitled to any interest for the period of his default:

Provided further that if in any suit or proceeding relating to a loan, the Court finds that a pawnbroker has not maintained accounts as required by Clause (a) or Clause (b) of sub-section (1) of Section 10 , he shall not be allowed his costs.

21A. Power to exempt companies registered before 1st November, 1944 :-

The State Government may, by general or special order, exempt any company incorporated under the Indian Companies Act, 1913, before the 1st day of November, 1944; from any of the provisions of this Act or direct that any such provisions shall apply to such company with such modifications as may be specified in the order.]

22. Power to make rules :-

(1) The State Government may, after previous publication, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the forgoing power, such rule may provide for

(a) all matters expressly required or allowed by this Act to be prescribed;

(b) the form of, and the particulars to be contained in an application for a pawnbroker's licence under this Act; and

(c) the form in which books, accounts and documents specified in this Act shall be recorded, maintained, kept or used.

(3) All rules made under this Section shall be published in the [Andhra Pradesh Gazette] and on such publication shall have effect as if enacted in this Act.

23. Amendment of Act VII of 1935 :-

In Clause (2) of S. 2 of the Andhra Pradesh (Andhra Area) Debtor's Protection Act, 1934, the words and figures and includes a life assurance company to which, the Indian Life Assurance Companies' Act, 1912, applies' shall be omitted.

(2) In any area to which the provisions of this Act have been applied by a notification under sub-section (3) of the provisions S. 1 of the Andhra Pradesh (Andhra Area) Debtors' Protection Act, 1934, shall after the expiry of three months from the date of such application and so long as such notification remains in force, have effect subject to the following modifications, namely,

(i) in Section 2 , in Clause (5), the words 'including a pawnbroker' shall be omitted;

(ii) in the same Section, Clauses (8), and (9) shall be omitted, and Clauses (10) and (11) shall be renumbered as Clauses (8) and (9) respectively;

(iii) Section 4 shall be omitted;

Section 5 , after the word and figure 'Section 3', the word 'and' shall be inserted, and the words, brackets and figures 'and in the copy of the entries to be delivered under sub-section (2) of Section 4 shall be omitted;

(v) in sub-section (1) of Section 6, the words, brackets and figures 'or by sub-section (1) of Section 4 shall be omitted;

(vi) in sub-section (2) of the same section, the words, brackets and figures 'or if a pawnbroker fails to deliver to the pawner, a copy of the entries as required by sub-section (2) of Section 4 , shall be omitted;

(vii) in sub-section (2) of Section 8 , the word 'and' shall be inserted at the end of Clause (a) and omitted from the end of Clause (b);

(viii) in the same sub-section, Clause (c) shall be omitted, and

(ix) after Section 8 , the following Section shall be added, namely:
"9. Nothing contained in this Act shall be deemed to apply to pawnbrokers, that is to say, to persons who carry on the business of taking goods and chattels in pawn for a loan".

24. Amendment of Act VII of 1935 :-

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25. Savings :-

Nothing contained in this Act shall apply to any loan advanced on a pledge in any area to which the provisions of this Act have been applied by a notification under sub-section (3) of Section 1 before the expiry of three months from the date of such application, and notwithstanding anything contained in this Act, the provisions of the S. 23 of Andhra Pradesh (Andhra Area) Debtors' Protection Act, 1934 , as they stood before such application shall continue to apply to any such loans.