

Assam Money Lenders (Amendment) Act, 1968

18 of 1969

[01 September 1969]

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PREAMBLE

An

Act

further to amend the Assam Money Lenders' Act, 1934

Whereas it is expedient further to amend the Assam Money Lenders' Act, 1934 (Assam Act IV of 1934), hereinafter called the principal Act, in the manner hereinafter appearing;

It is hereby enacted in the Nineteenth Year of the Republic of India as follows:-

1. Short title, extent and commencement :-

- (1) This Act may be called the Assam Money Lenders (Amendment) Act, 1968.
- (2) It shall have the like extent as the principal Act.
- (3) It shall come into force at once.

2. Amendment of section of Assam Act IV of 1934 :-

In section 2 of the principal Act,--

(1) for clause (1), the following shall be substituted, namely:--

"(1) Money Lender means a person who in the regular course of business, advances a loan as defined in this Act and shall include, subject to the provisions of section 6, the legal representatives and the successors in interest whether by inheritance, assignment or otherwise of the person who advanced the loan and money-lending shall be construed accordingly;"

(2) in clause (3), after item (ii) of sub-clause (b), the following shall be inserted as sub-clause (c), namely:--

"(c) a loan advanced by Life Insurance Corporation of India, Financial Corporation of India or any other Corporate body."

(3) after clause (4), the following shall be inserted as clause (5), namely:--

"(5) Registrar means any officer appointed by the State Government to perform the duties under this Act."

3. Substitution of section 6 of Assam Act IV of 1934 :-

For section 6 of the principal Act, the following shall be substituted, namely:--

6. "Maintenance of accounts by Money Lender and supply of statements thereof to borrower.

(1) Every Money Lender shall--

(a) regularly maintain an account for each borrower separately of all transactions with dates and places of such transactions in respect of any loan advanced to that borrower;

(b) furnish such borrower every, year with a legible statement of accounts in the prescribed manner signed by the moneylender or his authorised agent of any balance or amount that may be outstanding against such borrower on such dates. Such statement of accounts shall include all transactions in respect of the loan entered into during the year to which the statement relates.

(2) The account required under clause (a) of sub-section (1) shall be so maintained that items due by way of interest shall be shown as separate and distinct from the principal sum and separate totals of principal and interest shall be shown. The money-lender shall not include the interest of any portion of it in the principal sum, and the principal and interest shall be separately shown in the opening balance of each new annual account:

Provided that--

(i) if the loan has, since it was originally advanced, passed by inheritance or assignment to a widow or minor, such widow or minor shall not be bound to maintain and furnish the account under sub-section (1) for a period of two years from the date of such passing;

(ii) nothing in this section shall be deemed to lay upon any person the duty of maintaining and furnishing the account under sub-section (1) in the case of a loan wherein the title to recover is sub-judice between two or more persons claiming as money-lenders adversely to each other unless and until the title has been finally decided by a court of competent jurisdiction."

4. Insertion of a new section 6A in Assam Act IV of 1934 :-

After section 6 of the principal Act, the following shall be inserted as section 6A, namely:--

6A. "Receipt for repayment of loan.

Every money-lender, who received repayment from his borrower on account of any loan advanced to him or payment of any interest thereon shall forthwith give a receipt therefor."

5. Insertion of new section 7A, 7B, 7C, and 7D in Assam Act IV of 1934 :-

After section 7 of the principal Act, the following shall be inserted as sections 7A, 7B, 7C and 7D, namely:--

7A. "Register of Money-lenders.

(1) Every Registrar shall maintain a register of money-lenders in such form as may be prescribed.

(2) Such register shall be deemed to be a public document within the meaning of the Indian Evidence Act, 1872 (Act 1 of 1872).

7B. Registration of Moneylenders and registration certificates.

Every person who carries on or intends to carry on the business of money-lending shall get himself registered by an application made to the Registrar in prescribed form and with prescribed fees and, on such registration, the Registrar shall grant a registration certificate to him in such form as may be prescribed.

7C. Bar to carry on business without registration certificate.

(1) No person shall carry on the business of money-lending unless he holds a valid registration certificate in this behalf.

(2) Whoever contravenes the provisions of sub-section (1) shall be punishable for the first offence with simple imprisonment which may extend to three months or with fines which may extend to Rs.

500 or with both, and for a second or subsequent offence, with imprisonment of either descriptions which may extend to six months or with fines which may extend to rupees one thousand or with both.

7D. Suit not to proceed, without registration certificate, etc.

No suit for the recovery of a loan advanced by a money-lender shall proceed in a civil court until the court is satisfied that he holds a valid registration certificate or that he is not required to have a registration certificate by reason of the fact that he does not carry on the business of money-lending."

6. Substitution of section 12 of Assam Act IV of 1934 :-

For section 12 of the principal Act, the following shall be substituted, namely:--

12. "General provisions regarding penalties.

Whoever fails to comply with or acts in contravention of any provision of this Act, shall, if no specific penalty has been provided for in this Act, be punishable--

(a) for the first offence with simple imprisonment which may extend to two months or with fine which may extend to rupees five hundred or with both, and

(b) for the second or subsequent offence with imprisonment of either description which may extend to six months or with fine which may extend to rupees one thousand or with both."

7. Insertion of a new section 12A in Assam Act IV of 1934 :-

After section 12 of the principal Act, the following shall be inserted as section 12A, namely:--

12A. "Court competent to try offences under this Act and take cognizance of offence.

(1) No Court other than a Court of a Magistrate of the first class shall take cognizance of, or try an offence under this Act.

(2) No Court shall take cognizance of any offence under this Act except on a complaint in writing made by an aggrieved person or an officer not below the rank of a Sub-Inspector of Police or by the Registrar or any other Officer specially or generally authorised on this behalf by the State Government."

8. Section 8 :-

After section 13 of the principal Act, the following shall be inserted as section 13A, namely:--

"13A. Notwithstanding anything contained in this Act the provisions of sections 3, 4, 8, 9 and 10 of the Act shall apply also to a person or body of persons who advances a loan but who is not a money lender as defined in sub-section (1) of section 2 of this Act."

9. Amendment of section 14 of Assam Act IV of 1934 :-

In section 14 of the principal Act,--

(1) in sub-section (2),--

(a) for items (i) and (ii), the following shall be substituted, namely:--

"(i) the form and manner in which the money-lenders shall keep accounts and furnish the same to the borrower under sub-section (1) of section 6;

(ii) the form of maintaining register, fixation and realisation of registration fees, issue of registration certificate as provided in sections 7A and 7B;"

(b) after item (iv), the following shall be inserted as item (v), namely:--

"(v) any other matter which is required to be of may be prescribed."

(2) after sub-section (3), the following shall be inserted as sub-section (4), namely:--

"(4) Every rule made under this section shall be laid, as soon as may be, after it is made, before the Assam Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or two successive sessions, and if, before the expiry of the session in which it is so laid or the sessions immediately following, the Assam Legislative Assembly agree in making any modification in the rule or the Assam Legislative Assembly agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under the rule."

10. Savings :-

All money lenders who come within the purview of this Act shall get themselves registered within six months from the date of commencement of this Act in accordance with section 7B of the

Assam Money-Lenders Act, 1934 as amended by this Act.