

Bihar Money-Lenders Act, 1974

22 of 1975

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Bihar Money-Lenders Act, 1974

An Act to consolidate and amend the law relating to regulation of money lending transactions and to grant relief to debtors in the State of Bihar. Be it enacted by the Legislature of the State of Bihar in the twenty fifth year of the Republic of India as follows:- 1. This Act received the assent of the President of India on the 20th March, 1975 and its authoritative English Text was published with the Law Department's Notification No. Log. 1028, dated 22nd July, 1975 (see Bihar Gazette (Extraordinary) dated the 25th July, 1975. This has superseded the authoritative English Text published previously (Bihar Gazette (Extraordinary Gazette), Patna No. 537, dated the 29th April, 1975). For Objects and Reasons see Bihar Vidhan Parishad Secretariat notification No. 335/7- 4334 (2). V.P., dated 16th December, 1974 published in Bihar Gazette (Extraordinary), Gazette No. Patna 1127, dated the 16th December, 1974.

CHAPTER 1 PRELIMINARY

1. Short Title, Extent And Commencement :-

- (1) This Act may be called the Bihar Money-Lenders Act, 1974.
- (2) It extends to the whole of the State of Bihar.
- (3) It shall come into force at once.

2. Definitions :-

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

- (a) "Anchal Adhikari" means an officer appointed as such by the State Government;
- (b) "Collector" includes an Additional Collector, an Additional Deputy Commissioner and any other officer not below the rank of a Deputy Collector specially empowered by the State Government to discharge all or any of the functions of a Collector under this Act;
- (c) "Commissioner" includes, Additional Commissioner and any officer not below the rank of the Collector of a district appointed by the State Government to discharge all or any of the functions of a Commissioner under this Act;
- (d) "Court" includes the Anchal Adhikari, any officer deciding a dispute arising out of the provisions of this Act, a Certificate Officer under the Bihar and Orissa Public Demands Recovery Act, 1914 and also includes any Officer appointed as such by the State Government by notification in this behalf to exercise the powers

and perform all or any of the functions of an Anchal Adhikari or a Collector or a Commissioner under this Act;

(e) "Decree" includes an award and an order of Contribution passed under the Bihar and Orissa Co-operative Societies Act 1935 or any decree passed by an Anchal Adhikari, or a Revenue Officer under this Act;

(f) "Decree-holder" includes a Certificate holder under the Bihar and Orissa Public Demands Recovery Act, 1914;

(g) "Interest" means rate of interest and includes the amount to be returned over and above the money actually lent whether the same is charged or sought to be recovered specifically by way of interest or otherwise;

(h) "Judgment debtor" includes a certificate debtor under the Bihar and Orissa Public Demands Recovery Act, 1914;

(i) "Land Reforms Deputy Collector" means-

(i) an officer appointed as such by the State Government, or

(ii) an officer not below the rank of a Deputy Collector empowered by the State Government by notification in the Official Gazette to perform all or any of the functions of a Land Reforms Deputy Collector under this Act;

(j) "Loan" means an advance, whether of money or in kind, on interest made by a money lender and shall include mandeoria, sawaiya, rehan, Bandhak, pauni, sundbharha, kishti and any transaction on a bond bearing interest executed in respect of a past liability and any transaction which, in substance, is a loan but shall not include-

(i) a loan advanced by the State Government or by any local body authorised by the State Government;

(ii) a deposit of money in a Post Officer Savings Bank or a deposit of money or any other property in any other Bank or in any Company or with a Co-operative Society registered, or deemed to be registered, under the Bihar and Orissa Co-operative Societies Act, 1935.

Explanation.-

(i) A bond bearing interest executed in respect of goods taken on credit constitutes a loan,

(ii) To supply goods on credit is not a loan.

(k) "Money lender" means a person who advances a loan and shall include a Hindu undivided family and the legal representatives and successors in interest, whether by inheritance, assignment or otherwise of a person who advances a loan;

(l) prescribed means prescribed by Rules made under this Act;

- (m) "Principal" means in relation to a loan the amount actually lent to the debtor;
- (n) "Registered money lender" means a person whose registration certificate granted under Section 4 still subsists and has not been cancelled under Section 33 and shall include a Hindu undivided family and the legal representatives and successors-in-interest whether by inheritance, assignment or otherwise of a registered money-lender;
- (o) "Secured Loan" means a loan for which the money-lender holds a mortgage charge or lien on the property of the debtor or any part thereof as a security for the loan;
- (p) "Sub Registrar" means a Sub Registrar appointed as such under the Registration Act, 1908 and includes an Anchal Adhikari or any other officer who may be appointed to perform the duties of a Sub-Registrar under this Act by the State Government by a notification published in the Official Gazette;
- (q) "Suit" includes any proceeding taken for the recovery of a loan before the Anchal Adhikari, any Officer deciding a dispute arising out of the provisions of this Act, a Certificate Officer under the Bihar and Orissa Public Demands Recovery Act, 1914 or any person exercising the powers and performing all or any of the functions of an Anchal Adhikari, a Collector or a Commissioner under this Act and also includes an appeal, and
- (r) "Unsecured loan" means any loan other than a secured loan.
- Comments & Case laws

3. Exemption Of Money-Lenders From Operation Of This Act :-

The State Government may, by notification for any special reasons or reason to be stated in such notification, exempt any class of money lenders or any class of loans in the whole or any part of the State of Bihar from the operation of all or any of the provisions of this Act.

CHAPTER 2 REGISTRATION OF MONEY-LENDERS AND ACCOUNTS TO BE KEPT BY THEM

4. Register Of Money-Lenders :-

(1) Every Anchal Adhikari or such other Officer as may be appointed by the State Government by notification in this behalf published in the Official Gazette, shall maintain a register of

money-lenders in such form and containing such particulars as may be prescribed.

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

5. Registration Of Money-Lenders And Registration Fee :-

(1) Every money lender shall get himself registered and unless he is so registered it shall not be lawful for him to act as such.

(2) For the purpose of registration as a money-lender a person shall make an application in writing stating therein-

(a) the name and address of the applicant;

(b) the name and style under which he carries on or desires to carry on business as a money-lender;

(c) the principal places of his business and the branches thereof, if any;

(d) whether any certificate of registration previously granted to him under the Act has been cancelled; and

1[(dd) In case of a company, it has obtained a Registration Certificate under Section 45-1 A(1) of Reserve Bank of India Act, 1934 and its photo copy have been attached with the application].

(e) such other particulars as may be prescribed.

(3) (a) Every application made under sub-section (2) shall be accompanied with the prescribed registration fee, and shall be presented to the Anchal Adhikari within whose jurisdiction the principal place of business referred to in clause (c) of sub-section (2) is situated.

(b) Any such application which is not accompanied with the prescribed registration fee or does not contain the particulars specified in sub-section (2) shall be summarily rejected.

(4) The State Government may by rules prescribed for different classes of money lenders and for different areas a registration fee not exceeding twenty five rupees to be paid by an applicant for registration:

Provided that the Government may by notification exempt any person or class of persons from the payment of the registration fee either generally or in any specified area.

(5) On receipt of an application under clause (a) of sub-section (3) the Anchal Adhikari, shall, except where a certificate previously granted to the applicant has been cancelled under section 33 and the order of the cancellation is in force, grant a registration certificate in the prescribed form to the applicant.

SCHEDULE

Category of money-lenders.	Provision of Act from which exempted.
1	2
1. A Banking Company as defined in the Banking Regulation Act, 1949.	From all provisions of the said Act.
2 The State Bank of India constituted under the State Bank of India Act, 1955.	
3. A Subsidiary Bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959.	
4. A corresponding new bank constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (Act V of 1970).	
5. A primary credit as defined in clause (c) (iv) of Section 2 of the Reserve Bank of India Act, 1934.	
6. A Co-operative Bank as defined in clause (b) (ii) of Section 2 of the Reserve Bank of India Act 1934.	
7. The Reserve Bank of India constituted under the Reserve Bank of India Act, 1934.	
8. Agriculture Re-finance Corporation constituted under the Agriculture. Refinance Corporation Act, 1963.	
9. The Life Insurance Corporation of India constituted under the Life Insurance Corporation Act, 1956.	
10. The Industrial Finance Corporation of India, constituted under the Industrial Finance Corporation Act, 1948.	
11. The Bihar State Financial Corporation constituted under the State Financial Corporation Act, 1951.	
12. A Regional Rural Bank established under Section 3 of the Regional Bank Ordinance, 1975.	
13. The Unit Trust of India.	
14. The General Insurance Corporation of India.	
15. The Bihar State Credit and Investment Corporation.	
16. The Bihar State Industrial Development Corporation.	

1. Inserted by. (Act 5 of 2007).

6. Duration Of Registration Certificate :-

A registration certificate granted under Section 5, shall unless sooner cancelled under Section 33 remain in force for five years from the date on which it is granted.

7. Duty Of Registered Money-Lender To Maintain Accounts And To Give Receipts And Inspection Of Accounts :-

(1) Every registered money-lender shall in respect of every loan advanced by him after the commencement of the Bihar Money-Lenders Act, 1938 (Bihar Act III of 1938) and every transaction made by him after the commencement]1 of the said Act relating to any loan advanced by him before or after the commencement of the said Act-

(a) regularly record and maintain or cause to be recorded or maintained an account showing for each debtor-

(i) the date of the loan, the amount of the principal of the loan and rate per centum per annum of interest charged on the loan;

(ii) the amount of every payment received by the money-lenders in respect of the loan and the date of such payment, and

(iii) any other terms which may be agreed upon between the money lender and the debtor;

(b) give to the debtor or his agent, a receipt for every sum paid by, or on behalf of the debtor duly signed, and if necessary, stamped at the time of such payment.

(c) deliver or send by registered post to the debtor or his agent, within fifteen days of advancing the loan, a copy of the entries recorded under sub-clause (i) and (iii) of clause (a);

(d) deliver or send by registered post to the debtor or his agent, at least once in every calendar year, statement of account signed by himself or his agent, showing the balance of amount that may be outstanding against such debtor on account of the principal and interest at the time of delivering or sending by registered post the said statement of account, the amount of every payment received by the money-lender in respect of the loan and the date of such payment during the period to which the statement relates; and

(e) give to the debtor a signed receipt for every pawned article with its general description, immediately after it is pawned, mentioning the amount for which it is pawned.

(2) A person to whom a copy of entries in the account has been delivered or sent under clause (c) of sub-section (1) or a statement of account has been delivered or sent under clause (d) of sub-section (1) and who fails to object to the correctness of the account or the statement of account shall not, by reason of such failure alone, be deemed to have admitted the correctness of such account or such statement of account.

(3) The registers maintained by the Anchal Adhikari or the prescribed officer under Section 4, all accounts maintained by a money-lender under this Act, all documents in respect of loans advanced by a money-lender of which he may be in possession and

his registration certificate shall be liable to be inspected and examined by such authority as may be prescribed by the State Government by notification published in the Official Gazette in this behalf and such authority shall have the same powers in making enquiries with respect to correct maintenance of account and registers under this Act as are vested in a Court under the Code of Civil Procedure, 1908 (Act V of 1908) in trying a suit, namely:

- (a) admission of evidence by affidavits;
- (b) summoning and enforcing the attendance of any person and examining him on oath;
- (c) compelling production of documents; and
- (d) award of costs.

(4) all inquiries and proceedings under this Section before the prescribed authority shall be deemed to be judicial proceeding for the purpose of Sections 193, 196 and 228 of the Indian Penal Code, 1860 (Act 45 of 1860).

(5) A money lender shall in a suit for recovery of money advanced by him as loan file a copy of the relevant extracts from his register of accounts relating to the said loan and he shall not be entitled to maintain any claim beyond the entries made in his register of accounts.

(6) The State Government after the commencement of this Act may by notification published in the Official Gazette require every money-lender to declare within such period and to such authority, as may be specified therein, the date and amount of loan advanced by him to any member of Scheduled Caste and Scheduled Tribe along with the details, of interest, repayments of loan, if any, particulars of the debtor and other terms and conditions of the loan.

(7) If any money-lender fails to declare the particulars of the loan advanced by him within the period specified in the notification as required under sub section (6) or within such extended period, as may be allowed by the State Government, it shall be presumed that he has not advanced any loan to such member and any claim to such loan or the interest due thereon shall notwithstanding anything to the contrary contained in any other law for the time being in force, not be entertained in any court or Conciliation Board.

1. The said Act has been repealed and re-enacted by the Bihar Money-Lenders Act, 1974 (Bihar Act 22 of 1975) and any reference to the former Act should be construed to refer to be the latter Act.

CHAPTER 3 PROVISION RELATING TO SUITS IN RESPECT OF LOANS AND EXECUTION OF DECREE

8. Suit For Recovery Of Loan Maintainable Only By Registered Money Lenders :-

No Court shall entertain a suit filed by a money lender for recovery of loan advanced by him after the commencement of this Act, unless such money-lender was registered as such under this Act or the Bihar Money-Lenders Act, 1938 (Bihar Act III of 1938)]¹ at the time when the loan was advanced.

1. This Act has been repealed and re-enacted by the Bihar Money-Lenders Act, 1974 (Bihar Act 22 of 1975). Any reference to the former Act should be construed to refer to the latter Act.

9. Maximum Rates Of Interest :-

Notwithstanding anything to the contrary contained in any other law or in anything having the force of law or in any contract, no Court shall in any suit brought by a money lender in respect of loan, advanced before or after the commencement of this Act pass a decree for interest at a rate exceeding twelve per centum per annum in the case of a secured loan and fifteen per centum per annum in the case of an unsecured loan.

10. Agreement For Payment Of Compound Interest To Be Void :-

Notwithstanding anything to the contrary contained in any other law or in anything having the force of law or in any contract, an agreement entered into by a debtor for the payment of compound interest on loans advanced after the commencement of the Bihar Money-lenders Regulation of Transaction) Act, 1939 (Bihar Act VII of 1939) shall be void.

11. Maximum Amount Which A Money Lender May Realise From The Debtor On Account Of Principal And Interest :-

(1) Notwithstanding anything to the contrary contained in any other law or in anything having the force of law or in any agreement, it shall not be lawful for a money-lender to realise from a debtor on account of principal and interest, in case of loan in cash more than double of the amount of the loan advanced by him, or in case of a loan in kind, one and half time the amount of the loan

advanced by him.

(2) No Court shall in any suit brought by a money lender before or after the commencement of this Act or in any appeal or proceedings in revision arising out of such suit pass a decree for the amount which together with interest for the period preceding the institution of the suit, including any amount already paid towards principal or interest, either through the Court or otherwise is in case of loan in case more than double the amount of the loan advanced, or in cash more than double the amount of the loan advanced, or in case of a loan in kind more than one and a half times the amount of the loan advanced, or if the loan is based on a document, in case of a loan in money, more than double the amount of the loan mentioned in or evidenced by such document or, in case of a loan in kind more than one and a half times the amount of the loan mentioned in or evidenced by such document.

12. Usufructuary Mortgage And Their Redemption :-

Notwithstanding anything to the contrary, contained in any law or anything having the force of law or in any agreement, the principal amount and all dues in respect of an usufructuary mortgages relating to any agricultural land, whether executed before or after the commencement of this Act, shall be deemed to have been fully satisfied and the mortgage shall be deemed to have been wholly redeemed on expiry of a period of seven years from the date of the execution of the mortgage bond in respect of such land and the mortgagor shall be entitled to recover possession of the mortgaged land in the manner prescribed under the Rules:

Provided that if the mortgage bond had been executed before the commencement of this Act nothing in this section shall entitle the mortgagor to claim any accounts or profits from the mortgagee by the reason of the benefit of redemption of the mortgage under this provisions.

Explanation.-

Nothing in this Section shall be construed to confer a right of effecting usufructuary mortgage of land on persons who do not possess transferable rights in such land.

13. Power Of Court To Re-Open Certain Transaction :-

In any suit brought by a money lender before or after the commencement of this Act in respect of a loan advanced before the commencement of this Act or in any appeal or proceeding in

revision arising out of such suit, the Court may exercise all or any of the following powers:-

(a) reopen the transaction, take an account between the parties, and relieve the debtor of all liability in respect of any simple interest in excess of twelve per centum per annum in the case of secured loan and fifteen per centum per annum in the case of an unsecured loan;

(b) notwithstanding any agreement purporting to close previous dealings and to create a new obligation, re-open any account already taken between them and relieve the debtor of full liability in respect of any simple interest in excess of twelve per centum per annum in the case of a secured loan and fifteen per centum per annum in the case of an unsecured loan;

(c) set aside either wholly or in part or revise or alter any security given or agreement made in respect of any loan and if the money lender has parted with the security, order him to identify the debtor in such manner and to such extent as it may deem just;

(d) direct the money-lender to repay to the debtor any amount which the money lender has realised from the debtor in excess of the amount which he is entitled to realise under this Act.

Provided that in the exercise of these powers, the Court shall not re-open any agreement purporting to close previous dealing and to create a new obligation which has been entered into by the parties or any person from whom they claim at a date more than twelve years before the institution of such suit.

14. Transfer Of Equity Of Redemption By A Mortgagor By Sale Otherwise Than In Execution Of Decree :-

If the equity of redemption of a mortgagor is transferred by sale otherwise than in execution of decree and if out of the consideration money for the transfer any amount due under the mortgage in respect of interest for any period preceding the date of transfer is left in deposit with the transferee for payment to the mortgagee, the portion of the amount so left in deposit, which is in excess of the amount which would have been payable as simple interest at the rate of twelve per centum per annum for such period, shall not, in any suit brought before or after the commencement of this Act be taken into account for the purpose of Section 13 and, notwithstanding anything to the contrary contained in the said Section the mortgagee shall, in any such suit, be entitled, to recover the amount of such excess in addition to any

amount which he may otherwise be entitled:

Provided, however, that if the amount of such excess exceeds the limit provided by Section 11 the mortgagee shall not recover the amount of such excess and the transferee shall refund such excess to the mortgagor.

15. Decree May Order Payment Of Amount Due In Respect Of A Loan By Installment :-

Notwithstanding anything to the contrary contained in any other law or in anything having the force of law or in any contract between the money-lender and the person to whom the loan was advanced, the Court may, subject to the provisions of Section 17, order at the time of passing the decree in any suit brought before or after the commencement of this Act relating to a loan, including a loan secured by a mortgage that any amount decreed in such suit shall be paid in such number of installments and subject to such conditions and on such dates as it considers fit.

16. Power To Direct Payment Of Amount Of Any Decree By Installments :-

Notwithstanding anything to the contrary contained in any other law or in anything having the force of law or in any contract between the money-lender and the person to whom the loan was advanced, the Court may, subject to the provisions of Section 17, direct at any time on the application of the judgment debtor, after notice to the decree holder, that the amount of any decree passed before or after the commencement of this Act in respect of a loan, including any decree in a suit relating to a mortgage by which a loan is secured, shall be paid in such number of installments and subject to such conditions and on such dates as it considers fit;

Provided that in case of any member of a Scheduled Caste and Scheduled Tribe, the court in fixing such date may postpone the payment of the first instalment for a period not exceeding five years from the date of the order without any interest for such period.

17. Circumstances Which Court Shall Consider In Fixing Installments :-

Before fixing the installments referred to in Sections 15 and 16, the Court shall take into consideration the circumstances, the amount

of the decree and the capacity of the judgment-debtor to pay the installments on the due date.

18. Court To Estimate The Value Of Judgment-Debtors Property :-

(1) When an application is made before or after the commencement of this Act for the execution of a decree passed in respect of loan or interest on loan advanced, by the sale of the judgment-debtors property, the Court executing the decree, shall notwithstanding anything to the contrary contained in any other law or in any thing having the force of law, hear the parties to the decree and estimate the value of such property and of that portion of such property, the proceeds of the sale of which it considers will be sufficient to satisfy the decree:

Provided that the Court may order the whole property of the judgment-debtor to be sold if it is satisfied that by reason of the nature of such property or any other special circumstances such property cannot reasonably and conveniently be sold in part.

(2) Any person aggrieved by an order passed under sub-section (1) may appeal to the Court to which appeals from the Court executing the decree ordinarily lie.

19. Only Sufficient Portion Of Judgment-Debtors Property To Be Sold :-

Notwithstanding anything to the contrary contained in any other law or in anything having the force of law, the proclamation of the intended sale of property in execution of a decree passed before or after the commencement of this Act in respect of a loan or the interest on a loan shall include only so much of the property of the judgment-debtor the proceeds of the sale of which the Court considers will be sufficient to satisfy the decree and shall state that value of the property or portion of the property to be sold, as determined under Section 18 and such property or portion of the property, as the case may be, shall not be sold at a price lower than the price specified in the said proclamation:

Provided that if the property to be sold is immovable and the decree-holder specified which portion of such property should be sold, the Court shall order that such portion or so much of such portion as may be deemed necessary to satisfy the decree may be sold:

Provided further that if the highest amount bid for the property

included in the sale proclamation is less than the price specified for such property in the proclamation, the Court may sell the property for such higher amount if the decree-holder consents in writing to forego so much of the amount decreed as is equal to the difference between the highest amount bid and the price specified for such property in the sale proclamation.

20. Exemption Of Portion Of Holding From Attachment Or Sale In Execution Of A Decree :-

(1) Notwithstanding anything to the contrary contained in any other law or in anything having the force of law, where a decree is passed before or after the commencement of this Act for the payment by an agricultural debtor of the amount due on any loan advanced to him by a money-lender, the Court executing the decree:

(i) shall exempt from sale one acre of the land comprised in the holding or holdings of the judgment debtor, if the area of such land does not exceed three acres;

(ii) shall exempt one acre, and may exempt any further portion of such land if the area of such land exceeds three acres;

provided that the total area exempted from sale does not exceed one third of the total area of such land; and

(iii) shall not pass decree for the payment of the amount due on account of any loan advanced to the agricultural debtor, on homestead and up to one acre of homestead land of the debtor.

(2) For the purposes of this Section "agricultural debtor" means a raiyat, the total area of whose holdings does not exceed such area as the State Government may fix for the district in which such holding or holdings are situated.

21. Saving Of Courts Power Under The Usurious Loans Act, 1918 :-

Save as otherwise provided in Section 13, nothing in this Act shall affect the powers of Court under the Usurious Loans Act, 1918.

22. Payment Of Loans In Cash To A Debtor Etc, To Be Made In The Presence Of The Sub-Registrar :-

Where a loan is advanced on a registered document the entire amount of the loan, or so much amount out of it as may be payable in cash at the time of execution of the debtor or his duly authorised

agent in the presence of the Sub-Registrar who will register the document and the said Sub-Registrar shall make an endorsement to that effect on the document.

Illustration.-

The consideration for a mortgage bond for Rs. 5,000 is made up of the following sums:

- (i) Rs. 1,000 paid to the mortgagor long ago before the execution of the bond;
- (ii) Rs. 1,500 paid to him in cash at the time of the execution of the bond; and
- (iii) Rs. 2,500 to be paid to him in future as and when required by him.

Only the second out of these three sums (namely, the sum of Rs. 1,500 to be paid at the time of the execution of the bond) shall be payable to mortgagor or his duly authorised agent in the presence of the Sub-Registrar who will register the document.

CHAPTER 4 CONCILIATION PROCEEDINGS

23. Power Of The State Government To Refer Disputes To The Board :-

If in the opinion of the State Government it is necessary or expedient so to do, the State Government may, by notification in the Official Gazette, refer any dispute whether any suit or proceeding be or be not pending in a court with regard to the whole or part of the subject of such dispute to a Conciliation Board to be constituted by the State Government for each district/hereinafter referred to as the Board) for the purpose of bringing about an amicable settlement of such dispute and if no such settlement can be brought about, for deciding the same in such manner as appears to the Board to be reasonable.

Explanation.-

"Dispute" for the purpose of this chapter shall mean a dispute of difference regarding loan the amount of which singly or in aggregate exceeds one hundred rupees (excluding interest) between a debtor and his money-lender.

24. Constitution Of The Board :-

(1) A Board to be constituted by the State Government under Section 23 shall consist of a Chairman who shall be person agreed upon by both the parties or otherwise an officer not below the rank

of Sub-Deputy Collector nominated by the State Government, and two members to represent the parties to the dispute. The nomination of the person to represent any party shall be made on the recommendation of that party:

Provided that if any party does not recommend any person to represent him or recommend a person who is not available within such time as the State Government considers reasonable, the State Government may nominate such person as it thinks fit to represent that party.

(2) If at any time before such Board has completed its work, the services of the Chairman or any member of such Board ceases to be available, or any member of such Board fails to the meeting of the Board on two successive dates without showing cause to the satisfaction of the Chariman, the State Government may nominate any person to take his place and proceeding shall be continued before such Board as so constituted and thereafter no act of the Board shall be deemed to be invalid by reason only of a defect in the constitution of the Board or by reason of such act having been done during the period of any vacancy in the membership of the Board.

25. Consequences To Ensur On Reference :-

When a dispute is referred to a Board under this Chapter, then notwithstanding anything contained in any other law-

- (a) the jurisdiction of a court in any suit or proceeding in respect of the subject-matter of the dispute shall be barred from the date of the notification under Section 23; and
- (b) any suit or proceeding in a Court in regard to the whole or any part of such dispute shall be discontinued.

26. Duty Of Board To Bring About Amicable Settlement Of Disputes :-

(1) A Board to which a dispute is referred under Section 23, shall, after giving such notice to the parties and in such manner as it thinks fits, endeavor to bring about an amicable settlement of the dispute and for this purpose such Board shall, in such manner as it thinks fit and without delay, investigate the dispute and all matters affecting the merits thereof and the right settlement thereof and in so doing may do such lawful things as it thinks fit for the purpose of inducing the parties to come to a fair and amicable settlement of the dispute:

Provided that an amicable settlement of the dispute shall in no case involve the transfer of land of the debtor.

(2) Where such a settlement is brought about the Board shall record the same and give its decision accordingly.

27. Board To Enquire Into And Decide The Dispute In Case No Amicable Settlement :-

is reached

(1) Where a Board does not succeed in bringing about an amicable settlement of the dispute; it shall make an enquiry into the same, receive such evidence as it considers necessary, and decide the amount; if any, payable to the money-lender and order payment of the amount, with or without cost, in installments as provided in Sections 15 and 16.

(2) In case it is decided that nothing is due from the debtor, the Board may award costs, if any, to the debtor.

(3) The decision of the Board shall be deemed to be a decree within the meaning of clause (2) of Section 2 of the Code of Civil Procedure, 1908.

28. Opinion Of Majority To Prevail :-

In the event of the members of the Board disagreeing, the decision of majority shall prevail:

Provided that nothing in this section shall be deemed to prevent any member of such Board to have on records his minute of dissent against such decision.

29. Form And Effect Of Decision Of Board :-

(1) The decisions of the Board shall be in writing and shall be signed by all the members of such Board and it shall contain such particulars as may be prescribed by Rules made by the State Government in this behalf.

(2) The decision of the Board shall be final and shall not be called in question in any Court of law.

30. Board To Follow Its Own Procedure :-

Subject to the provisions of this Act and subject to any rules made by the State Government in this behalf, the procedure to be followed by the Board shall be such as it may consider just and convenient and the Board shall not be bound to follow any laws of evidence and procedure.

31. Power Of Board To Summon Witnesses And Compel Production Of Documents :-

The Board shall have the same power regarding the summoning and attendance of witnesses and compelling the production of documents as a Civil Court has under the Code of Civil Procedure, 1908.

32. Delegation Of Powers Of State Government :-

The State Government may, by notification, delegate the powers vested in it by Sections 23 and 24 to any officer not below the rank of an Additional District Magistrate subordinate to the State Government.

CHAPTER 5 CANCELLATION OF REGISTRATION CERTIFICATE AND PENALTIES

33. Power Of The Collector To Cancel Registration Certificate :-

(1) Where in any suit brought in respect of a loan by a registered money-lender or in respect of any security taken for a loan by a registered money-lender, the court is of the opinion that the registered money-lender has been guilty of fraud or of any contravention of this Act or is otherwise unfit to carry on the business of money-lending, the Court shall make a report to the Collector and the Collector may on receipt of such report and after due, and proper inquiry, cancel for such period not exceeding five years, as he thinks fit the registration certificate granted to the money lender and forward a copy of his order cancelling such certificate within the prescribed period to the Anchal Adhikari who granted the certificate.

(2) When the certificate of registered money-lender has been cancelled under sub-section (1), such money-lender shall not be entitled to make any application under Section 5 during the period in which order of cancellation remains in force.

34. Penalty For Contravention Of The Provisions Of The Act :-

If any money lender or his agent wilfully contravenes any of the provisions of this Act such money lender or his agent, as the case may be, shall be punishable with-imprisonment which may extend

to one year or with fine not exceeding five hundred rupees or with both.

35. Penalty For Taking Salami, Batta, Gadiana Etc :-

If after the commencement of this Act, any money-lender or his agent takes from a debtor at the time of advancing a loan or deducts out of the principal of such loan any salami, batta, gadiana or other exaction of a similar nature by whatever name called or known, such money-lender or his agent, as the case may be shall be punishable with fine which may extend to five hundred rupees: Provided that if the amount of the illegal exaction exceeds five hundred rupees, the money lender shall be punishable with such fine not exceeding the amount of such exaction.

CHAPTER 6 MISCELLANEOUS

36. Contract For Payment Outside The State To Be Void :-

Notwithstanding anything to the contrary contained in any other law or in anything having the force of law, any contract entered into between a money-lender and his debtor in respect of loan advanced after the commencement of this Act providing for the payment of the amount due on such loan at any place outside the State of Bihar shall be void.

37. Power To Deposit In Court Money Due On Account Of A Loan :-

(1) When a debtor tenders to a money-lender or his agent money on account of any interest due on a loan or on account of the principal of a loan and the money lender or his agent refuses to receive the amount tendered or refuses to grant receipt for the same, the debtor may deposit, in any Court in which the money-lender might have instituted a suit for the recovery of such interest or such loan, to the account of the money-lender the amount tendered as aforesaid.

(2) The Court shall thereupon forthwith grant receipt for the deposit under the seal of the Court and cause a written notice of the deposit to be served upon the money-lender.

(3) The money-lender may, at any time within three years after the date of the service upon him of the notice mentioned in sub-section (2), make an application to the Court praying for the amount deposited as aforesaid to be paid to him.

(4) If no application is made under sub-section (3) within the period mentioned in the said sub-section, the amount deposited shall be disposed of in the prescribed manner.

(5) Upon receipt of an application under sub-section (3) the Court may order such amount to be paid to the applicant upon such terms and subject to such conditions as may be specified in the order.

38. Application By Debtor For Declaration Of Satisfaction Of Debt :-

(1) a debtor may after depositing in Court the amount which he admits to be due from him on account of a loan, file an application against a money-lender for a declaration that the debt has been satisfied and if the Court is satisfied on hearing the parties on such an application that the debt, including the amount of principal and legally recoverable interest has been satisfied, it shall pass a decree declaring that the debt has been satisfied.

(2) If on an application made under sub-section (1) the Court finds that any amount is still due from the debtor to the money lender, it shall pass a decree directing the debtor to pay such amount to the money-lender or deposit the same in court within such period as it may deem fit and declaring the debtor free from all liabilities on such payment or deposit being made.

(3) The Court shall forthwith grant a receipt for the deposit made under sub section (2) under the seal of the Court and given notice of it to money-lender.

(4) The money-lender may, at any time within three years of the date of receipt of the notice of deposit, make an application to the Court praying for payment to him of the amount of deposit and along with such application he shall deposit the documents, if any, on which the loan is based.

(5) If no application is made under sub-section (4) within the period mentioned in the said sub-section, the amount deposited shall be disposed of in the prescribed manner.

(6) Upon receipt of an application under sub-section (4) the Court may order such amount to be paid to the application on such term and subject to such condition as may be specified in the order.

(7) The Court shall return the documents deposited by the money-lender under sub-section (4) to the debtor after making endorsement of satisfaction of the loan thereon.

39. A Receipt Given By The Court Shall Operate As An

Acquittance For The Amount Deposited :-

A receipt given by the Court under sub-section (7) of Section 37 of sub-section (3) of Section 38 shall operate as an acquittance for the amount deposited as aforesaid in the same manner and to the same extent as if that amount had been received by the money-lender to whose credit the deposit was made on the date of such deposit.

40. Authorities Under This Act To Have Power Of Civil Court :-

While making enquiries and conducting proceedings under this Act the Collector, the Land Reforms Deputy Collector, the Anchal Adhikari and any authority empowered by the State Government in this behalf shall have the same powers in the matter of admission of evidence; summoning and enforcing the attendance of any party and examining him on oath, compelling the production of documents and, award costs as are vested in Court under the Code of Civil Procedure 1908 (Act V of 1908).

41. Enquiries And Proceedings Under The Act To Be Judicial Proceeding :-

All enquiries and proceedings under this Act before the Commissioner, the Collector, the Land Reforms Deputy Collector, the Anchal Adhikari or any authority empowered by the State Government in this behalf shall be deemed to be judicial proceedings for the purposes of Sections 193 and 228 of the Indian Penal code, 1860 (Act XLV of 1860).

42. Court Fee :-

Every application memorandum of appeal and application for revision filed under this Act shall bear court-fee stamp of such value as may be prescribed.

43. General Direction, Control And Superintendence Of The Collector, Etc :-

The Land Reforms Deputy Collector, and the Anchal Adhikari shall in performance of their duties and in the exercise of their powers under this Act be under the general direction, control and superintendence of the Collector of the district, the Commissioner

and the Board of Revenue.

CHAPTER 7 APPEALS, REVISION AND POWER TO CALL FOR RECORD OF ANY CASE

44. Appeal :-

(1) An appeal shall lie to the Land Reforms Deputy Collector against any order of the Anchal Adhikari passed under this Act if preferred within three months of the date of the order appealed against.

(2) No order modifying or setting aside any order appealed against shall be passed under this Section unless the parties concerned have been given a reasonable opportunity of being heard.

(3) Subject to the provisions of Sections 44 and 45 the order of the Land Reforms Deputy Collector on appeal shall be final.

45. Revision :-

The Collector of the district may, on an application being made to him in this behalf, or for the purposes of satisfying himself as to the legality or propriety of any order made under this Act or the Rules made thereunder by any authority or officer subordinate to him, call for and examine the record of any case pending before or disposed of by such authority or officer and pass such order as he thinks fit:

Provided that the Collector shall not entertain any application from any person, aggrieved by any order, unless it is made within thirty days from the date of order.

Provided further that no order modifying, or setting aside, any order made by such authority or officer shall be passed by the Collector unless the parties concerned have been given a reasonable opportunity of being heard.

46. Power Of The Commissioner Of The Division To Call For The Record Of Any Case :-

The Commissioner of the Division may call for the record of any case which has been decided under this Act by the Court or the Anchal Adhikari or the Land Reforms Deputy Collector or the Collector; and in which either no appeal has been preferred against the order passed or no appeal lies against such order and if it appears to the Commissioner that such officer-

(a) has acted without jurisdiction or exercised jurisdiction not vested in him by law; or

(b) has failed or improperly refused to exercise a jurisdiction so vested in him;

(c) has acted in the exercise of his jurisdiction illegally or with material irregularity;

the Commissioner may after giving reasonable notice to the parties concerned to appear before him and after hearing the parties concerned pass such order in the case as he thinks fit:

Provided that whereupon appearance of the parties the Commissioner is unable to hear them he may transfer the case, for reason to be recorded in writing to the Additional Commissioner or to any officer appointed by the State Government as Commissioner for purposes of this Act; who shall hear the parties and pass such order in the case as he thinks fit.

47. Power To Make Rules :-

(1) State Government may by notification in the Official Gazette, make Rules for carrying out all or any of the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for the following matters, namely:-

(a) the form of the register mentioned in sub-section (1) of Section 4 and the particulars to be contained in such register;

(b) the form of the registration certificate mentioned in sub-section (4) of Section 5;

(c) the particulars to be contained in an application made under sub section (1) of Section 5;

(d) the registration fee to be paid under Section 5;

(e) the period within which the Collector shall forward to the Anchal Adhikari a copy of his order cancelling a registration certificate under sub-section (1) of Section 33; and

(f) the manner in which deposits made under sub-section (4) of Section 37 shall be disposed of,

(3) Every Rule made under this Section shall be laid as soon as may be after it is made, before each House of the State Legislature, while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session, in which it is so laid or the session immediately following both Houses agree in making any modification in the Rule or both Houses 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 be, so

however, that, any such modification or amendment shall be without prejudice to the validity of anything previously done under that Rule.

48. Repeal And Savings :-

(1) The Bihar Money-Lenders Act, 1938 (Bihar Act III of 1938) and the Bihar Money-Lenders (Regulation of Transaction) Act, 1939 (Bihar Act VII of 1939) are hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken in exercise of any power conferred by or under the said Acts shall be deemed to have been taken in the exercise of the powers conferred by or under this Act as if this Act were in force on the day on which such thing was done or action taken.