

Kerala Money-Lenders (Amendment) Act, 1986

30 of 1986

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Kerala Money-Lenders (Amendment) Act, 1986

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An Act further to amend the Kerala Money Lenders Act, 1958. WHEREAS, it is expedient further to amend the Kerala Money Lenders Act, 1958, for the purposes hereinafter appearing; BE it enacted in the Thirty-seventh Year of the Republic of India as follows:-

1. Short Title And Commencement :-

- (1) This Act may be called the Kerala Money Lenders (Amendment) Act, 1986.
- (2) It shall be deemed to have come into force on the 15th day of October, 1985.

2. Amendment Of Section 2 :-

In section 2 of the Kerala Money Lenders Act, 1958 (35 of 1958) (hereinafter referred to as the principal Act),

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

"(10.A) "bank" means

(i) a banking company to which the Banking Regulation Act, 1949 (Central Act 10 of 1949), applies;

- (ii) the State Bank of India constituted under the State Bank of India Act, 1955 (central Act 23 of 1955);
- (iii) a subsidiary bank as defined in clause (k) of section 2 of the State Bank of India (Subsidiary Banks) Act, 1959 (Central Act 38 of 1959);
- (iv) the Industrial Development Bank of India established under the Industrial Development Bank of India Act, 1964 (Central Act 18 of 1964);
- (v) a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings)Act, 1970 (Central Act 5 of 1970);
- (vi) a Regional Rural Bank established under the Regional Rural Banks Act, 1976 (Central Act 21 of 1976);
- (vii) a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (Central Act 40 of 1980);
- (viii) the Export Import Bank of India established under the Export Import bank of India Act, 1981 (Central Act 28 of 1981);
- (ix) the National Bank for Agriculture and Rural Development established under the National Bank for Agriculture and Rural Development Act, 1981 (Central Act 61 of 1981);
- (x) the Industrial Reconstruction Bank of India established under the Industrial Reconstruction Bank of India Act, 1984 (Central Act 62 of 1984);";
- (b) in clause (7),
 - (i) after sub-clause (b), the following sub-clause shall be inserted, namely:

"(bb) the Industrial Credit and Investment Corporation of India Limited incorporated under the Indian Companies Act, 1913 (7 of 1913);";
 - (ii) sub-clause (d) shall be omitted.

3. Amendment Of Section 4 :-

- (1) In section 4 of the principal Act,
 - (a) in sub-section (2), after item (ii), the following item shall be inserted, namely:

"(iii) that deposits shall be accepted only in accordance with the provisions of the Reserve Bank of India Act, 1934 (Central Act 2 of 1934), and at such rates of interest not exceeding the rates fixed by the Reserve Bank of India under the Non-banking Financial companies (Reserve Bank) Directions, 1977."

(b) in sub-section (3), in clause (c) in item (iii), the words "on two or more occasions" shall be omitted.

4. Amendment Of Section 7 :-

(1) in section 7 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:

"(1) No money lender shall charge interest on any loan at a rate exceeding two per cent above the maximum rate of interest charged by commercial banks on loans granted by them:

Provided that a money-lender shall be entitled to charge a minimum of one rupee as interest on any transaction." 5. Insertion of new section 9I. After section 9H of the principal Act, the following section shall be inserted, namely:

"9I. Audit of accounts of money-lender. (1) The accounts of every money-lender shall be audited at least once in every year by a person who is a chartered accountant within the meanings of the Chartered Accountants Act, 1949 (Central Act 38 of 1949), and the audit report shall be submitted to such officer or authority and before such date as may be specified by the Government in this behalf.

(2) If the audit report under sub-section (1) discloses any irregularity or any contravention or non-compliance of the provisions of this Act or the rules made thereunder or of any of the conditions of the licence, the officer or authority to whom such audit report is submitted may, without prejudice to any other action that may be taken under any other provision of this Act, by order in writing direct the money lender to take such action as may be specified in the order within the time mentioned therein to remedy the irregularity or to take such steps necessary to comply with the provisions of this Act or the rules made thereunder or of the conditions of the licence."

5. Insertion Of New Section 9I :-

After section 9H of the principal Act, the following section shall be inserted, namely:-

"9I. Audit of accounts of money-lender.- (1) The accounts of every money-lender shall be audited at least once in every year by a person who is a chartered accountant within the meanings of the Chartered Accountants Act, 1949 (Central Act 38 of 1949), and the audit report shall be submitted to such officer or authority and before such date as may be specified by the Government in this

behalf.

(2) If the audit report under sub-section (1) discloses any irregularity or any contravention or non-compliance of the provisions of this Act or the rules made thereunder or of any of the conditions of the licence, the officer or authority to whom such audit report is submitted may, without prejudice to any other action that may be taken under any other provision of this Act, by order in writing direct the money lender to take such action as may be specified in the order within the time mentioned therein to remedy the irregularity or to take such steps necessary to comply with the provisions of this Act or the rules made thereunder or of the conditions of the licence."

6. Substitution Of New Section For Section 12 :-

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

"12. Cognizance of offence.-(1) Notwithstanding anything contained in the Code of Criminal procedure, 1973 (Central Act 2 of 1974), every offence punishable under section 13, section 17, section 18A or section 18B shall be cognizable.

(2) No court inferior to that of a Judicial Magistrate of the First Class shall try any offence punishable under this Act."

7. Substitution Of New Section For Section 17 :-

For section 17 of the principal Act, the following section shall be substituted, namely:-

"17. Penalty for carrying on business without licence or in violation of the conditions of licence.-Whoever carries on the business of money lending without a licence or in violation of the conditions of the licence or otherwise than in conformity with the terms and conditions of the licence shall be punished with imprisonment for a term which, in the absence of special reasons to be recorded in the judgement of the court, shall not be less than three months but which may extend to three years and with fine which may extend to fifty thousand rupees."

8. Amendment Of Section 18A :-

In section 18A of the principal Act, after clause (6), the following clause shall be inserted, namely:-

"(6A) takes from the pawner any power of attorney or any other

document with blank entries; or".

9. Repeal And Saving :-

(1) The Kerala Money lenders (Amendment) Ordinance, 1986 (63 of 1986), is hereby repealed.

(2) Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.