

Rajasthan Money-Lenders Act, 1963

[09 March 1964]

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SCHEDULE 1 :- SCHEDULE

Rajasthan Money-Lenders Act, 1963

[09 March 1964]

An Act to make better provision for the regulation and control of transactions of money-lending in the State of Rajasthan

Be it enacted by the Rajasthan State Legislature in the Fourteenth Year of the Republic of India as follows:-

1. Pub. in Raj. Govt. Gaz. Exty. Pt. 4(A) dated 20.03.1964.

1. Short title, extent and commencement :-

- (1) This Act may be called the Rajasthan Money-lenders Act, 1963.
- (2) It extends to the whole of the State of Rajasthan.
- (3) It shall come into force on such date¹ as the State Government may, by notification in the Official Gazette, appoint in this behalf,

1. Brought into force from 01.10.1965 vide Noti. Pub. in Raj. Govt. Gaz. Exty. Pt. 4(C) dated 01.09.1965.

2. Definitions :-

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

- (1) bank means a banking company as defined in the ¹[Banking Regulation Act, 1949 (Central Act X of 1949), and includes the State Bank of India and any other banking institution notified by the Central Government under section 51 of the said Act;
- (2) business of money-lending means the business of advancing loans whether or not in connection with or in addition to any other business;
- (3) capital means a sum of money which a money-lender invests in the business of money-lending;
- (4) company means a company as defined in section 3 of the Companies Act, 1956 (Central Act 1 of 1956);
- (5) co-operative society means a society registered or deemed to have been registered under the Rajasthan Co-operative Societies Act, 1953 (Rajasthan Act IV of 1953) or under the Co-operative Societies Act, 1912 (Central Act II of 1912) or under any Act of any other State Legislature relating to co-operative societies;
- (6) interest includes any sum, by whatsoever name called, in excess of the principal paid or payable to a money-lender in consideration of or otherwise in respect of a loan, but does not include any sum lawfully charged by a money-lender for or on account of costs charges or expenses in accordance with the provisions of this Act or any other law for the time being in force;
- (7) licence means a licence granted under this Act;
- (8) licence fee means the fee payable in respect of a licence;
- (9) loan means an advance at interest, whether of money or in kind, but does not include-
 - (a) a deposit of money or other property in a Government Post Office Savings Bank or in any other bank or in a company or with a co-operative society;
 - (b) a loan to or by, or a deposit with, any society or association registered or deemed to be registered under the Rajasthan Societies Registration Act, 1958 or any other enactment, relating to a public, religious or charitable object;
 - (c) a loan advanced by Government or by any local authority authorised by Government;
 - (d) a loan advanced to a Government servant from a fund established for the welfare and assistance of Government servants and which is sanctioned by the State Government;
 - (e) a loan advanced by a co-operative society;
 - (f) an advance made to a subscriber to, or a depositor in, a

Provident Fund from the amount standing to his credit in the fund in accordance with the rules of the fund;

(g) a loan to or by an insurance company as defined in the Insurance Act, 1938 (Central Act IV of 1938);

(h) a loan to, or by a bank;

(i) an advance made on the basis of a Negotiable Instrument as defined in the Negotiable Instruments Act, 1881 (Central Act XXVI of 1881) other than a promissory note;

(j) except for the purposes of Section 27 and 29,

(i) a loan to a trader, or

(ii) a loan to a money-lender who holds a valid licence;.

(10) money-lender means

(i) an individual, or

(ii) an undivided Hindu family, or

²[(iii) a company (not being a banking company as defined in Section 5 of the Banking Regulation Act, 1949), body or institution other than such of them as may, by notification in the Official Gazette, be exempted from the provisions of this Act by the State Government on being satisfied that it is necessary or expedient so to do in public interest, or]

(iv) an un-incorporated body of individuals, who or which,-

(a) carries on the business of money-lending in the State: or

³[(b) supplies, as a trader or dealer, goods other than agricultural goods on credit on condition of payment of interest by the-buyer at a rate higher than that prescribed in Section 29 in case the payment of sale price is not made within the stipulated period; or)

⁴[(c)] has his or its principal place of such business in the State.

(11) principal means in relation to a loan, the amount actually advanced to the debtor;

(12) Provident Fund means a Provident Fund as defined in the Provident Funds Act, 1925 (Central Act X of 1925) and includes a Government Provident Fund and a Railway Provident Fund as defined in the said Act;

(13) recognised language means--

(i) Hindi written in the Devnagari script, or

(ii) English, if the debtor so desire in writing, or

(iii) where both the parties speak the same language, that language;

(14) register means a register of money-lenders maintained under Section 4;

(15) suit to which this Act applies means any suit or proceeding-

(a) for the recovery of a loan made after the date on which the Act

comes into force; or

(b) for the enforcement of any security taken, or any agreement made, after the date on which this Act comes into force in respect of any loan made either before or after the said date; or

(c) for the redemption of any security given after the date on which this Act comes into force in respect of any loan made either before or after the said date;

(16) trader means a person who in the regular course of business buys and sells goods or other property, whether movable or immovable, and includes-

(a) a whole-sale or retail merchant,

(b) a commission agent,

(c) a broker,

(d) a manufacturer,

(e) a contractor, and

(f) a factory owner,

but does not include an artisan or a person who sells his agricultural produce or cattle or buys agricultural produce or cattle for his use.

Explanation-For the purposes of clause (16) an artisan means a person who does not employ more than ten workers in a manufacturing process on any one day of the twelve months immediately preceding.

1. Substituted by Raj. Act No. 6 of 1993. Pub. in Raj. Govt. Gaz. Exty. Pt. 4(A) dated 09.12.1993.

2. Substituted by Raj. Act No. 6 of 1986. Pub. in Raj. Govt. Gaz. Exty. Pt. 4(A) dated 13.02.1986.

3. Inserted by Raj. Act No. 6 of 1993. Pub. in Raj. Govt. Gaz. Exty. Pt. 4(A) dated 09.12.1993.

4. Substituted by Raj. Act No. 6 of 1993. Ibid..

3. Appointment of Registrar General, Registrars and Assistant Registrars :-

The State Government may, by notification in the Official Gazette, appoint such officers, as it thinks proper, to be a Registrar General, Registrars and Assistant Registrars of money-lenders for the purposes of this Act and may define the areas within which each such officer shall exercise his powers and perform his duties.

4. Register of money-lenders :-

Every Assistant Registrar shall maintain for the area of his jurisdiction a register of money-lenders in such form as may be prescribed:

Provided that any register maintained in any area immediately before the commencement of this Act under the provisions of the enactments repealed by Section 49 shall, in so far as it is not inconsistent with this Act or the rules made thereunder, be deemed to have been maintained under this Act.

5. Money-lenders not to carry on business of money-lending except for area under licence and except in accordance with terms of licence :-

Save as provided in section 49, no money-lender shall, after the expiration of six months from the date on which this Act is brought into force, carry on or continue to carry on, the business of money-lending except in the area for which he has been granted a licence and except in accordance with the terms and conditions of such licence.

6. Application by money-lender for grant or renewal of licence :-

(1) Every money-lender shall make an application in the prescribed form for the grant of a licence to the Assistant Registrar of the area within the limits of which the place, where he intends to carry on the business of money-lending, or, if he intends to carry on such business at more than one place in the area, the principal place of such business, is situated.

(2) Such application shall contain the following particulars, namely:-

(a) the name in which such money-lender intends to carry on business and the name of the person proposed to be responsible for the management of the business;

(b) if the application is by or on behalf of;

(i) an individual, the name and address of such individual;

(ii) an undivided Hindu family, the names and addresses of the manager and the adult co-parceners of such family;

(iii) a company, the names and addresses of the directors, manager or principal officer managing it;

(iv) an un-incorporated body of individuals, the names and

addresses of such individuals;

(c) the area and the place or principal place of the business of moneylending in the State;

(d) the name of any other place in the State where the business of moneylending is carried on or intended to be carried on;

(e) whether the person signing the application has himself, or any of the adult coparceners of an undivided Hindu family or any director, manager or principal officer of the company or any member of the un-incorporated body on behalf of which such application has been made, as the case may be, has carried on the business of money-lending in the State in the year ending on the 31st day of March immediately preceding the date of the application either individually or in partnership or jointly with any other coparcener or any other person and whether in the same or any other name;

(f) the total amount of the capital which such person intends to invest in the business of money-lending in the years for which the application has been made;

(g) if the places at which the business of money-lending is to be carried on are more than one, the names of persons who shall be in charge of the management of the business at each such place;

(h) such other particulars as may be prescribed.

(3) The application shall be in writing and shall be signed,-

(a) (i) if the application is made by an individual, by the individual;

(ii) if the application is made on behalf of an undivided Hindu family, by the manager of such family;

(iii) if the application is made by a company or un-incorporated body, by the managing director or any other person having control of its principal place of business in India or of its place of business in the area in which it intends to carry on the business; or

(b) by an agent authorised in this behalf by a power of attorney by the individual money-lender himself, or the family or the company or the un-incorporated body, as the case may be.

(4) ¹[The application shall be accompanied by a security amount of one thousand rupees and also] by a licence fee at the following rates:-

(a) if the place at which the business of money-lending is to be carried on is not more than one.	Rs.15/-
(b) if the business of money-lending is to be carried on at more than one place within the limits of the area of the	Rs.15/-for the licence for the principal place of business, and Rs.6/- for the licence for each of the other places in

Explanation.--For the purposes of this section, "place" means, in relation to the business of money-lending, the shop or address or place at which the money-lender carries on his business of money-lending.

(5) The fee payable under this section shall be paid in the manner prescribed and shall not be refunded, notwithstanding the fact that the grant of the licence is refused or the application is withdrawn.

(6) An application for renewal of a licence previously granted under this Act shall be made within ¹[one month] before the expiration of the term thereof to the Assistant Registrar referred to in sub-section (1) in the prescribed form and containing the prescribed particulars:

²[Provided that where such application is made after the expiration of the period specified in this sub-section, it shall also be accompanied by a late fee calculated by multiplying the amount of licence fee with the number of months of delay:

Provided further that the licence shall be liable to be cancelled after three months of such expiration].

(7) Save as otherwise provided in this Act, the provisions thereof shall, as far as may be, apply to the renewal of licences and to renewed licences in the same manner as they apply respectively to the grant of licences and to licences granted originally.

(8) Where a licence granted to a money-lender is lost, destroyed or torn or, otherwise defaced in such manner as to render it illegible, the money-lender may obtain a duplicate licence in the prescribed manner on payment of such fee as may be prescribed.

1. Substituted by Raj. Act 6 of 1993. Pub. in Raj. Govt. Gaz. Exty. Pt. 4(A) dated 09.12.1993.

2. Substituted by Raj. Act 6 of 1993. Ibid.

7. Inquiry into and disposal of application :-

(1) ¹[(a) On receipt of an application under section 6, the Assistant Registrar may, after making such enquiry as he deems fit, grant a licence in such form and subject to such conditions as may be prescribed and enter the name of such licence-holder in the register maintained by him under section 4].

(b) If the application is in respect of more than one place of business in the area under the jurisdiction of the Registrar, a separate licence in respect of each such place shall be granted in the name of the applicant and the person responsible for the management of the business at such place.

(2) If the application also contains a request for the grant of a licence to carry on the business of money-lending at any place within the State outside the jurisdiction of the ¹[Assistant Registrar] who granted the licence in respect of the principal place of business of the money-lender, the ¹[Assistant Registrar] shall forward copies of the application and of the licence granted to the ¹[Assistant Registrar] having jurisdiction,

who may grant a licence on payment of the licence fee provided for in section 6 without making any inquiry in respect of the application.

1. Substituted by Raj. Act 6 of 1993. Ibid.

8. Grounds for refusal of licence :-

(1) The grant of a licence shall not be refused except on any of the following grounds:-

(a) that the applicant, or any person responsible or proposed to be responsible for the management of his business as a money-lender, is disqualified from holding a licence;

(b) that the applicant has not complied with the provisions of this Act or the rules in respect of an application for the grant of a licence;

(c) that the applicant has made wilful default in complying with or knowingly acted in contravention of any requirement of this Act;

(d) that satisfactory evidence has been produced that the applicant or any person responsible or proposed to be responsible for the management of his business of money-lending has

(i) knowingly participated in or connived at any fraud or dishonesty in the conduct of or in connection with the business of money-lending, or

(ii) has been convicted of an offence specified in the Schedule to the Act and sentenced to imprisonment for any term with or without any fine:

Provided that the State Government may at any time on an application in the prescribed form accompanied by the prescribed fee remove a disqualification under clause (d) (ii) of this sub-section having regard to the time which has elapsed since the order and the circumstances under which it was made or to the time that has elapsed since the conviction and to the nature of the offence.

(2) The ¹[Assistant Registrar] shall, before refusing a licence under sub-section (1), give to the applicant a reasonable opportunity of producing evidence, if any, in support of the application and of showing cause why the licence should not be refused, and record the evidence adduced before him and his reasons for such refusal.

(3) An appeal shall lie from an ²[an order of the Assistant Registrar] refusing a licence under sub-section (1) to the ²[Registrar] and may be preferred within sixty days from, the date on which the order is communicated to the applicant.

(4) The decision of the 2[Registrar] on such appeal shall be final.

1. Substituted by Raj. Act 6 of 1993. Pub. in Raj. Govt. Gaz. Exty. Pt. 4(A) dated 09.12.1993.

2. Substituted by Raj. Act 6 of 1993. Ibid.

9. Assistant Registrars power to cancel licence :-

¹[(1) The ¹[Assistant Registrar] may, during the term of any licence, cancel the same by an order in writing on the ground that the person to whom it was granted has been guilty of any act or conduct for which he might under section 8, have refused him the grant of the licence and which at or conduct was not brought to his notice at the time of the grant.

(2) Before cancelling a licence under sub-section (1), the ²[Assistant Registrar] shall give notice in writing to the licensee and may hold such inquiry as may be necessary.

(3) An appeal shall lie from an ¹[order of the Assistant Registrar] cancelling a licence under sub-section (1) to the ¹[Registrar] and may be preferred within sixty days from the date on which the order is communicated to the licensee.

(4) The decision of the ¹[Registrar] on such appeal shall be final.

1. Substituted by Raj. Act 6 of 1993. Ibid.

2. Substituted by Raj. Act 6 of 1993. Pub. in Raj. Govt. Gaz. Exty. Pt. 4(A) dated 09.12.1993.

10. Term of licence :-

A licence shall be valid for a period of three years from the ¹[date of its issue or upto 31st March of the year in which its terms is to expire, whichever is earlier]:

Provided that when an application for renewal of a licence has been received by an Assistant Registrar within the prescribed period, the licence shall, until the application is finally disposed of, be deemed to be valid.

1. Substituted by Raj. Act 6 of 1993. Ibid.

11. Dismissal of suit by money-lender not holding licence :-

¹ (1) Where a suit to which this Act applies is filed by a money-lender and the Court in which it is filed is satisfied that at the time when the loan or any part thereof to which the suit relates was advanced, the money-lender did not hold a valid licence, it shall dismiss the suit forthwith without going into the merits of the claim and shall order the refund of the security, if any, without repayment of the loan.

(2) Nothing in this section shall affect-

(a) suits pending in any Court on the date of the commencement of the Rajasthan Money-lenders (Amendment) Ordinance, 1975, which may be disposed of according to the law existing immediately before such commencement:

(b) suits in respect of loans advanced by a money-lender before the date on which this Act came into force: and

(c) the powers of the Court of Wards or an Official Assignee or a receiver or an administrator or a court under the law relating to insolvency for the time being in force or a liquidator under the Companies Act, 1956 (Central Act 1 of 1956) to release the property of a money-lender.]

and shall order refund of the security, if any, without repayment of loan. However, there are exceptions to this principle of the rule, namely :-

(i) Provisions not to apply if suit was pending on the commencement of Rajasthan Money Lenders (Amendment) Ordinance, 1975 and those pending suits to be disposed of in accordance with the provisions prevailing before the promulgation of the Ordinance of 1975.

(ii) Suits in respects of loans advanced before coming into force of the , Rajasthan Money Lenders Act, 1963.

(iii) It will not affect the powers of Courts of Wards or an official assignee or receiver or administrator in relation to insolvency law in force or official liquidator under the Companies Act, 1956 to release property of a money lender.

Burden of proof.--

Suit by money lender having no valid licence barred in view of Sec. 11. The burden to prove suit for recovery in view of restrictions placed by the Act lies on the Plaintiff. Had Narain Tiwari vs. Damodar Busar, 1988 (1) RLW (Raj.) 615=1987 WLN (UC) 631=1987 (2) RLR 59.

Similarly when the defendant raises an, objection that the plaintiff is a money lender without obtaining a valid licence, the burden to prove liability lies on him. On his successfully proving the burden, it

will swift to the plaintiff to prove maintainability of the suit. Smt. Prayagwati vs. Kalyan Prasad & Anr., 1995 (2) RLW 47=1995 (2) WLC 219.

Dismissal of suit.--

Plaintiff a regular money lender when loan advanced to the defendant on 24.03.1985. Plaintiff not obtaining licence within six months from the commencement of the Act, High Court observed that the suit was rightly dismissed. Ram Gopal vs. Bhagwati Prasad, 1998 (2) WLC 495.

Holding a valid licence.--

Merely because the licence was given for renewal an adverse inference cannot be drawn that the money lender was not in possession of a licence. Suit was rightly decreed by the trial Court, as affirmed by the First Appellate Court and the High Court. Nizamuddin vs. Jugal Kishore, 1996 (3) RLW (Raj.) 690=AIR 1996 Raj. 207.

Exceptions.--

Sec. 11 provides an exception of its application to the pending cases. M/s. Arora Finance Co. vs. Al azeerAhmed, 1988 (1) RLW 592=1988 (1) RLR 840.

1. Substituted by Raj. Act 13 of 1976. Pub.in Raj. Govt. GaZ. Exty. Pt. 4(A) dated 13.02.1976.

12. Section :-

¹[Omitted]

1. Omitted. by Raj. Act 13 of 1976. Pub. in Raj. Govt. Gaz. Exty. Pt. 4(A) dated 13.02.1976.

13. Application for cancellation of licence :-

(1) Any person may, during the currency of a licence, file an application to the ¹[Assistant Registrar] for the cancellation of the licence issued to a money-lender on the ground that such moneylender has been guilty of any act or conduct for which the ²[Assistant Registrar] may, under section 8, refuse to grant a licence.

(2) Alongwith such application the said person shall deposit such amount not exceeding one hundred rupees as the ¹[Assistant Registrar] may deem fit.

(3) On the receipt of such application and deposit or of a report to

that effect from an officer acting under section 16, the ²[Assistant Registrar] shall hold an inquiry in the prescribed manner and, if he is satisfied that the money-lender has been guilty of such act or conduct, he may cancel the licence of the money-lender and may also direct the return of the deposit made under sub-section (2).

(4) If in the opinion of the ²[Assistant Registrar] an application made under subsection (1) is frivolous or vexatious, he may, out of the deposit made under subsection (2), direct to be paid to the money-lender such amount as he deems fit as compensation.

(5) Any person aggrieved by an order of the ²[Assistant Registrar] under subsection (3) or sub-section (4), may within sixty days from the date on which the order is communicated to him and on payment of such fee as may be prescribed appeal to the ²[Registrar] and the order of the ²[Registrar] on such appeal shall be final.

1. Substituted by Raj. Act 6 of 1993. Pub. in Raj. Govt. Gaz. Exty. Pt. 4(A) dated 09.12.1993.

2. Substituted by Raj. Act 6 of 1993. /bid.

14. Application of section 5 of Central Act 36 of 1936 to certain appeals :-

¹The provisions of section 5 of the Limitation Act, 1963 (Central Act 36 of 1963) shall apply to all appeals made under section 8, 9 and 13 for the purpose of the said section of the said Act, the Registrar shall be deemed to be a Court].

1. Substituted by Raj. Act 6 of 1993. /bid.

15. Registrar, Assistant Registrar and authorised officer to have powers of Civil Courts :-

For the purposes of sections 7, 13 and 16, the Registrar, Assistant Registrar and, as the case may be, the officer authorised under section 16 shall have and may exercise the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (Central Act V of 1908), in respect of the following matters:-

(a) enforcing the attendance of any person and examining him on oath:

(b) compelling the production of documents and material objects:

(c) issuing commissions for the examination of witnesses; and

(d) proof of facts by affidavits.

16. Power of authorised officer to require production of record or documents :-

(1) For the purpose of verifying the business of money-lending is carried on in accordance with the provisions of this Act, any Registrar, Assistant Registrar or any other officer authorised by the State Government in this behalf may require any money-lender or any person in respect of whom the Registrar, Assistant Registrar or the officer so authorised has reason to believe That he is carrying on the business of money-lending in the State to produce any record or document in his possession which, in his opinion, is relevant for the purpose and thereupon such money-lender or person shall produce such record or document.

(2) The Registrar, Assistant Registrar or officer so authorised may, after reasonable notice, at any reasonable time enter any premises where he believes such record or document to be and may ask any question necessary for interpreting or verifying such record or document.

17. Courts power to cancel or suspend a licence :-

(1) A Court passing an order of conviction against a money-lender for an offence under this Act, or a Court trying a suit to which this Act applies, if satisfied that such money-lender has committed such contravention of the provisions of this Act or the rules made thereunder as would, in its opinion, make him unfit to carry on the business of money-lending may.--

(a) if it is a competent Court, pass an order under sub-section (3);
or

(b) if it is not a competent Court, record its opinion and forward the proceedings to a competent Court having jurisdiction in the place where such Court is held.

(2) A competent Court to which the proceedings are submitted under clause (b) of sub-section (1) may, if it thinks fit, examine the parties and recall and examine any person who has already given evidence in the proceedings and may call for and take any further evidence and pass such order in the case as it thinks fit in accordance with the provisions of sub-section (3).

(3) A competent Court referred to in clause (a) of sub-section (1) or to which proceedings are submitted under sub-section (2),

(a) may order that all the licences held by any money-lender in the

State, referred to in sub-section (1), be cancelled or suspended for such time as it thinks fit.

(b) may, if it thinks fit, declare any such money-lender, or if such moneylender is an undivided Hindu family, a company or an unincorporated body, such family, company or body and also any person responsible for the management of the business of money-lending carried on by such family company or body, be disqualified from holding any licence in the State for such time as the Court may think fit:

Provided that no order or declaration shall be made under this sub-section unless a reasonable opportunity has been given to the person concerned to show cause against the order or declaration proposed to be made.

(4) Any person aggrieved by the decision of a competent Court under sub-section (3) may, within ninety days of the passing of the order, appeal against such order to the High Court; and the competent Court which passed the order or the High Court in appeal may, if it thinks fit, stay the operation of the order under this section pending the disposal of the appeal.

(5) Where a Court convicts a money-lender of an offence under this Act, or make an order or declaration under clause (a) or clause (b) of sub-section (3), it shall cause the particulars of the conviction, order or declaration, as the case may be, to be endorsed on all the licences held by the money-lender convicted or any other person affected by the order or the declaration and shall cause copies of the order or the declaration to be sent to the ¹[Assistant Registrar] by whom the licences were granted for the purpose of entering such particulars in the registers.

(6) Any licence required by a Court for endorsement in accordance with subsection (5) shall be produced by the person by whom it is held in such manner and within such time as may be directed by the Court, and any person who, without reasonable cause, makes default in producing the licence as required shall be liable, on conviction, to a fine not exceeding five hundred rupees for each day of the period during which the default continues.

(7) The powers conferred on a Court under sub-section (3) and sub-section (5) may be also exercised by any Court in appeal.

(8) For the purposes of this section, a "Competent Court" means a court of the District Judge or in any area, such Court subordinate to the High Court as the State Government may, by notification in the Official Gazette, designate in this behalf.

1. cubs. by Rai. Act 6 of 1903. Pub in Rai Govt. Gat. F,xty. Pt. 4(A) dated 09.12.1993.

18. No compensation for suspension or cancellation of licence :-

Where any licence is suspended or cancelled under this Act, no person shall be entitled to any compensation or the refund of any licence fee.

19. Persons debarred from doing business during period of suspension or cancellation of licence :-

A person whose licence has been suspended or cancelled in accordance with the provisions of this Act shall, during the period of suspension or cancellation, as the case may be, be disqualified from holding any licence in the State.

20. Person whose licence is suspended or cancelled not to apply without giving particulars of endorsement or disqualification :-

No person whose licence has been endorsed under section 17 or who has been disqualified from holding a licence, shall apply for, or be eligible to hold, a licence without giving particulars of such endorsement or disqualification.

21. Transfer of licence to heir :-

(1) Where a licensee under this Act dies, any person claiming to be his legal representative may apply to the licensing authority for transferring in his name the licence standing in the name of the deceased.

(2) Every such application shall be in such form and shall contain such particulars as may be prescribed.

(3) The licensing authority may, if it is satisfied that the applicant is in fact the legal representative of the deceased and that he is otherwise eligible to obtain a licence under this Act, transfer the licence in the name of the applicant after obtaining from him a declaration in the prescribed form.

(4) Any licence transferred under sub-section (3) shall be deemed to have been granted to the applicant himself and shall be valid for the period which it would have been valid if the licence had not

been transferred and the provisions of this Act shall apply accordingly.

22. Duty of money-lenders to keep accounts and furnish copies :-

(1) Every money-lender shall keep and maintain a cash book, a ledger and a receipt book in such form and in such manner as may be prescribed.

(2) Every money-lender shall,-

(a) deliver or cause to be delivered in the prescribed manner

(i) to the debtor within three months from the date on which a loan is made, a statement in the prescribed form and in any recognised language showing in clear and distinct terms the amount and date of the loan and of its maturity, the nature of the security, if any, for the loan, the name and address of the debtor and of the money-lender and the rate of interest thereon and such other particulars as may be prescribed:

Provided that no such statement shall be required to be delivered to a debtor if he is supplied by, the money-lender with a pass-book which shall be in the prescribed form and shall contain an up-to-date account of the transactions with the debtor:

(ii) to the Assistant Registrar within the said period, a statement containing the particulars referred to in sub-clause (i);

(b) upon repayment of a loan in full, mark indelibly every paper signed by the debtor with words indicating payment of cancellation, and discharge every mortgage, restore every pledge, return, every note and cancel or re-assign every assignment given by the debtor as security for the loan,

(3) Notwithstanding anything contained in sub-clause (ii) of clause (a) of subsection (2), the State Government may, by order in writing, permit such class of money-lenders as may be specified in the order to deliver or cause to be delivered to the Assistant Registrar a statement containing the particulars referred to in sub-clause (i) of clause (a) of sub-section (2) in respect of all loans, made during every such period as may be specified in the order, and upon the issue of such order a moneylender electing to deliver a periodical statement as provided in this sub-section shall deliver or cause to be delivered the same within a period of thirty days from the date of expiry of the aforesaid period.

(4) No money-lender shall receive any payment from a debtor on account of any loan without giving him a clear and complete receipt

in. the prescribed form for the payment and shall take the signatures of the debtor on the counterfoil of the receipt maintained for the purpose.

(5) No money-lender shall receive any payment from a debtor as a pawn, pledge or security for a loan without giving him a plain signed receipt for the same with its description, estimated value, the amount of the loan advanced against it and such other particulars as may be prescribed. Such money-lenders shall maintain the duplicates of such receipts in a separate register.

23. Delivery of statement of accounts and copies thereof by money-lender :-

(1) Every money-lender shall deliver or cause to be delivered every year to each of his debtors a legible statement of such debtors account signed by the money-lender or his agent of any amount that may be outstanding against such debtor. The statement shall show

(i) the amount of principal, the amount of interest and the amount of fees referred to in Section 24, separately, due to the money-lender at the beginning of the year;

(ii) the total amount of loans advanced during the year;

(iii) the total amount of repayments received during the year; and

(iv) the amounts of principal and interest due at the end of the year.

The statement shall be signed by the money-lender, or his agent, and shall be in any recognised language. It shall be in such form and shall be supplied to the debtor on or before such date as may be prescribed.

The money-lender shall, on or before the aforesaid date, deliver or cause to be delivered a copy of each such ¹[statement to the Assistant Registrar, shall also file his affidavit affirming that he has charged interest on the amount of loans at the rate prescribed under and in accordance with section 29].

(2) In respect of any particular loan, whether advanced before or after the date on which this Act comes into force, the money-lender shall on demand in writing being made by the debtor at any time during the period when the loan or any part thereof has not been repaid, and on payment of the prescribed fee supply to the debtor, or if the debtor so requires to any person specified in that behalf in the demand, a statement, in any recognised language, signed by the money-lender or his agent, and containing the relevant

particulars specified in sub-section (1).

(3) A money-lender shall, on a demand in writing by the debtor and on tender of the prescribed sum of expenses, supply a copy of any document relating to a loan made by him or any security therefor to the debtor, or if the debtor so requires to any person specified in that behalf in the demand.

(4) For the purpose of this section, "year" means the year for which the accounts of the money-lender are ordinarily maintained in his own books.

1. Substituted by Raj. Act 6 of 1993. Pub. in Raj. Govt. Gaz. Exty. Pt. 4(A) dated 09.12.1993.

24. Fees for certain statements supplied to debtor and Assistant Registrars :-

(1) A money-lender may recover from a debtor fees for the statements supplied under sub-section (2) or sub-section (3) of Section 22 or sub-section (1) of Section 23 to the debtor and to the Assistant Registrar.

(2) Such fees shall be recoverable at such rates and in such manner as may be prescribed, subject to the maximum of two rupees per debtor, per year, irrespective of the number of statements supplied to the debtor or to the Assistant Registrar during the relevant year.

25. Debtor not bound to admit correctness of accounts :-

A debtor to whom a statement of accounts or a pass book has been furnished under Section 22 shall not be bound to acknowledge or deny its correctness and his failure to do so shall not, by itself, be deemed to be an admission of the correctness of the accounts.

26. Procedure of Court in suits regarding loans :-

Notwithstanding anything contained in any law for the time being in force, in any suit to which this Act applies

(a) a Court shall, before deciding the claim on merits, frame and decide the issue whether the money-lender has complied with the provisions of Section 22 and Section 23;

¹[(b) if the Court finds that the provisions of Section 22 and Section 23 have not been complied with by the money-lender in respect of the whole or any part of the claim, it shall dismiss

(i) the whole suit with costs where such contravention has been in

respect of the entire claim in the suit; or

(ii) so much of the claim with costs proportionate thereto in respect of which the said provisions have not been complied with by the moneylender.]

Explanation.--A money-lender who has given the receipt or furnished a statement of accounts or a pass book in the prescribed form and manner, shall be held to have complied with the provisions of Section 22 or section 23, as the case may be, in spite of any errors and omissions, if the Court finds that such errors and omissions, are not material or not made fraudulently.

1. Substituted by Raj. Act 13 of 1976. Pub. in Raj. Govt. Gaz. Exty. Pt. 4(A) dated 13.02.1976.

27. Maximum amount of interest recoverable on loans and discharge of loans in certain cases :-

¹[(1) No money-lender shall recover towards the interest in respect of any loan advanced by him, an amount in excess of the amount of principal.

(2) Any loan in respect of which the money-lender has realised from the debtor an amount equal to or more than twice the amount of the principal, shall stand discharged and the amount, if any, so realised in excess of twice the amount of the loan shall be refunded by the money-lender to the debtor:

Provided that no refund shall be made if such excess amount had been realised prior to three years from the date of commencement of the Rajasthan Money-lenders (Amendment) Act, 1976.]

1. Substituted by Raj. Act 13 of 1976. Ibid.

28. Power of Court to direct payment of decretal amount by instalments :-

Notwithstanding anything contained in the Code of Civil Procedure, 1908 (Central Act V of 1908), the Court may, at any time, on the application of a judgment-debtor, after, notice to the decree-holder, direct that the amount of any decree passed against him, whether before or after the date on which this Act comes into force, in respect of a loan shall be paid in such number of instalments and subject to such conditions, and payable on such dates, as, having regard to the circumstances of the judgment-debtor and the amount of the decree, it considers fit:

Provided that nothing contained in this section shall apply to a decree passed under Order XXXIV of the First Schedule to the said Code.

29. Limitation on rates of interest :-

(1) The State Government may, from time to time, by notification in the Official Gazette, fix the maximum rates of simple interest for any class of business of money-lending in respect of secured and unsecured loans.

(2) No money-lender shall charge or receive from a debtor interest at a rate exceeding the maximum rate fixed by the State Government under sub-section (1).

(3) Notwithstanding anything contained in any law for the time being in force, no agreement between a money-lender and a debtor for payment of interest at rates exceeding the maximum rates fixed by the State Government under sub-section (1) shall be valid and no Court shall, in any suit to which this Act applies, award interest exceeding the said rates.

(4) If any money-lender charges or receives from a debtor interest at the rate exceeding the maximum rates fixed by the State Government under sub-section (1), he shall, for the purpose of section 40 be deemed to have contravened the provisions of this Act.

30. Prohibition of charge for expenses on loans by money-lenders :-

No money-lender shall receive from a debtor or intending debtor any sum other than reasonable costs of investigating title to the property, costs of stamp, registration of documents and other usual out-of-pocket expenses in cases where an agreement between the parties includes a stipulation that property is to be given as security or by way of mortgage and where both parties have agreed to such costs and reimbursement thereof, or where such costs, charges or expenses are leviable under the provisions of the Transfer of Property Act, 1882 (Central Act IV of 1882) or any other law for the time being in force.

31. Notice and information to be given on assignment of loans :-

(1) Where a loan advanced, whether before or after the date on

which the Act comes into force, or any interest on such loan or the benefit of any agreement made or security taken in respect of such loan or interest is assigned to any assignee, the assignor (whether he is the money-lender by whom the money was lent or any person to whom the debt has been previously assigned) shall, before the assignment is made-

(a) give the assignee notice in writing that the loan, interest, agreement or security is affected by the operation of this Act.

(b) supply to the assignee all information necessary to enable him to comply with the provisions of this Act, and

(c) give the debtor notice in writing of the assignment supplying the name and address of the assignee.

(2) Any person acting in contravention of the provisions of subsection (1) shall be liable to indemnify any other person who is prejudiced by, the contravention.

32. Application of Act as respects assignees :-

(1) Save as hereinafter provided, where any debt due to a money-lender in respect of money lent by him, whether before or after the date on which, this Act comes into force or of interest on money so lent, or of the benefit of any agreement made or security taken in respect of any such debt or interest, has been assigned, the assignee shall be deemed to be the moneylender and all the provisions of this Act shall apply to such assignee as if he were the money-lender.

(2) Notwithstanding anything contained in this Act or in any other law for the time being in force, where for any reason any such assignment is invalid and the debtor has made any payment of money or transfer of property on account of any loan which has been so assigned, the assignee shall in respect of such payment or transfer be deemed to be the agent of the money-lender for all purposes of this Act.

33. Reopening of transactions or accounts already taken :-

Notwithstanding anything contained in any law for the time being in force, the Court shall, in any suit to which this Act applies, whether heard *exparte* or otherwise;

(a) re-open any transaction or any account already taken between the parties;

(b) take an account between the parties:

(c) reduce the amount charged to the debtor in respect of any

excessive interest;

(d) if on taking accounts it is found that the money-lender has *received more than what is due to him, pass a decree in favour of the debtor in respect of such amount:

Provided that, in the exercise of these powers, the Court shall not

(i) re-open any adjustment or agreement purporting to close previous dealings and to create new obligations which have been entered into by the parties or any person through whom they claim at a date more than six years from the date of the suit;

(ii) do anything which affects any decree of a Court.

Explanation.--For the purpose of this section "excessive interest" means interest at a rate which contravenes any of the provisions of section 29.

34. Application to Court by debtor for taking account :-

(1) Any debtor may make an application at any time to the Court, whether the loan has or has not become payable, for taking accounts and for declaring the amount due to the money-lender.

(2) Such application shall be in the prescribed form and accompanied by the prescribed fee.

(3) On receipt of such application, the Court shall cause a notice of the application to be given to the money-lender.

(4) On the date fixed for the hearing of the application or on such date to which the hearing may be adjourned from time to time, the Court shall make an inquiry and shall, after taking an account of the transactions between the parties, pass an order declaring the amount, if any, still payable by the debtor to the money-lender, in respect of the principal and interest, if any.

(5) In taking accounts under this section the Court shall follow the provisions of Sections 22 to 33 and Section 36.

35. Deposit in Court of money due to money-lender :-

(1) At any time a debtor may tender to a money-lender any sum of money due from him to the moneylender in respect of a loan by way of principal, interest or both or may remit to him such sum of money by money order.

(2) If the money-lender refuses to accept any sum so tendered or remitted, the debtor may deposit the said sum. in Court to the account of the money-lender.

(3) The Court shall thereupon cause written notice of the deposit to be served on the money-lender, and he may, on presenting a

petition verified in the manner provided for the verification of a plaint and stating the sum then due in respect of the loan and his willingness to accept the money so deposited, receive the same and appropriate it first towards the interest and the residue, if any, towards the principal:

Provided that in accepting any sum deposited under this section, the moneylender shall not be bound by any statement made by the debtor, while depositing the same.

(4) A deposit made under sub-section (2) shall operate as an acquittance for the amount so deposited 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.

36. When interest to be paid for entire month :-

Notwithstanding any agreement between the parties or any law for the time being in force, when a statement is delivered or pass book is supplied to a debtor under section 22 or if accounts are taken under section 34 or a tender or remittance is made by a debtor to a money-lender in respect of a loan under section 35 before the tenth day of a calendar month, the interest due shall be calculated as payable for fifteen days of the said month and if the statement is delivered or pass book is supplied or accounts are taken or tender or remittance is made on any sub-subsequent day, then for the entire calendar month irrespective of the fact that such statement is delivered or pass book is supplied or such accounts are taken or such tender or remittance is made on any such day.

37. Money-lenders to exhibit their names over shops :-

¹[(1) Every moneylender shall always keep exhibited over his shop or place of business, in Hindi written in Devnagari script his name with the word money-lender and the number of his licence.

²[(2) If money-lender contravenes the provisions of sub-section (1), the licensing authority may, after giving reasonable opportunity of being heard, impose upon him a penalty which may extend to Rs. 250/- and, if the penalty is not paid within the time fixed for the purpose, cancel the licence.]

1. Renumbered by Raj. Act No. 6 of 1993. Pub. in Raj. Govt. Gaz. Exty. Pt. 4(A) dated 09.12.1993.

2. Inserted by Raj. Act 6 of 1993. Ibid..

38. Entry of wrong sum in bond etc. to be an offence :-

(1) No money-lender shall take any promissory note, acknowledgement, bond or other writing which does not state the actual amount of the loan or which states such amount wrongly or take from any debtor any instrument in which blanks are left to be filled after execution.

(2) Whoever contravenes the provisions of sub-section (1) shall, on conviction, be punishable with fine which may extend to one thousand rupees or with imprisonment of either description which may extend to six months or with both.

39. Penalty for molestation :-

Whoever molests, or abets the molestation of a debtor for the recovery of a debt due by him to a creditor shall, on conviction, be punishable with imprisonment of either description which may extend to three months or with fine which may extend to five hundred rupees or with both.

Explanation.--For the purpose of this section, a person who, with intent to cause another person to obtain from doing any act which he has a right to do or to do any act which he has a right to abstain from doing-

(a) obstructs or uses violence to or intimidates such other person, or

(b) persistently follows such other person from place to place or interferes with any property owned or used by him or deprives him of, or hinders him in, the use thereof, or

(c) loiters near a house or other place where such other person resides or works or carries on business or happens to be or does any act calculated to annoy or intimidate such other person, shall be deemed to molest such other person:

Provided that a person who goes to such house or place in order merely to obtain or communicate information shall not be deemed to molest.

40. Punishment for contravention of certain sections and rules :-

¹[Whoever fails to comply with or acts in contravention of any of the provisions contained in section 5, 21, 22, 23, 29, 30 and 37 or any of the rules made under this Act, shall, on conviction, be punishable.--

- (a) for the first offence, with fine which may extend to two thousand rupees; and
- (b) for the second or subsequent offence, with fine which may extend to five thousand rupees.]

1. Substituted by Raj. Act No. 6 of 1993. Pub. in Raj. Govt. Gaz. Exty. Pt. 4(A) dated 09.12.1993.

41. Offences by corporation etc :-

If the person contravening any of the provisions of this Act is an undivided Hindu Family or a company or an un-incorporated body, the person responsible for the management of the business of such family, company or body shall be deemed to be guilty of such contravention.

42. Cognizance of certain offences :-

¹[(1) No Court shall take cognizance of any offence punishable under section 40 for contravening the provisions of sections ²[x x] 22 or 23, except with the previous sanction of the Registrar.

³(2) Notwithstanding anything contained in any law for the time being in force, a contravention of the provisions of section 5 shall be a cognizable offence.

1. Renumbered by Raj. Act No. 6 of 1993. Ibid.

2. Deleted by Rai. Act No. 6 or 1993. Ibid.

3. Ins. by Raj. Act No. 6 of 1993. Pub. in Raj. Govt. Gaz. Exty. Pt. 4(A) dated 09.12.1993.

43. Compounding of offences :-

¹[(1) [Subject to the provisions of sub-section (2), the offences punishable] under various sections specified in the first two columns of the table next following may be compounded by the persons mentioned in the third column of that table:-

TABLE

Offence	Section applicable	Person by whom offence may be compounded
Receiving payment without a receipt	22 (4) and	The debtor by whom or on

Receiving payment without a receipt or accepting any article as pawn or pledge or security for a loan without giving a plain signed receipt.	22 (1) and (5), 40	The debtor by whom or on whose behalf payment is made or by whom the article is pawned, pledged or given as security.
Charging or receiving interest at a rate exceeding the maximum rates fixed under sub-section (1) of section 29.	29, 40	The debtor from whom the interest is charged or received.
Charging any sum for expenses on loan by money-lenders.	30, 40	The debtor from whom any sum for expenses on loan is charged.
Entering of wrong sum in bond etc. 2 [x x x]	38	The debtor from whom the document is taken

³[(2) The offences punishable under the sections specified below may be compounded subject to the payment of the compounding fee not exceeding the amount mentioned below by the person charged with the offence to the Registrar:-
-

(i) offence under section 5	Rs. 1000/-
(ii) offences under sub-sections (2), (4) and (5) of section 22 and section 23	Rs. 200/-
(iii) offence under section 29	Rs. 500/-
(iv) offence under section 30	Rs. 250/-
(v) offence under section 38	Rs. 100/-

(3) The composition of an offence under this section shall have the effect of an acquittal of the accused with whom the offence has been compounded.

1. Ins: by Raj. Act No. 6 of 1993. Ibid.

2. Deleted by Raj. Act No. 6 of 1993. Ibid.

3. Substituted by Raj. Act No. 6 of 1993. Ibid.

44. Arrest and imprisonment in execution of decree for money against agricultural debtors abolished :-

Notwithstanding any law for the time being in force, no debtor who cultivates land personally and whose debts do not exceed fifteen thousand rupees shall be arrested or imprisoned in execution of a decree for money passed in favour of a money-lender, whether before or after the date on which this Act comes into force.

Explanation-"To cultivate personally", has the meaning assigned to it by clause (25) of section 5 of the Rajasthan Tenancy Act, 1955 (Rajasthan Act 3 of 1955).

45. Every officer to be public servant :-

Every officer of the State Government acting under the provisions of this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860 (Central Act XLV of 1860).

46. Protection to person Acting under this Act :-

No suit, prosecution or proceeding shall lie against any officer for anything which is in good faith done or intended to be done under this Act.

47. Provisions of Rajasthan Act 28 of 1957 saved :-

Nothing in this Act shall affect any of the provisions of the Rajasthan Relief of Agricultural Indebtedness Act, 1957 (Rajasthan Act 28 of 1957), and no Court shall entertain or proceed under this Act with any suit or proceeding relating to any loan in respect of which proceedings can be taken under the said Act.

48. Power to make rules :-

(1) The State Government may make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing provisions, such rules may provide for all or any of the following matters:-

(a) the form of the register under section 4;

(b) the form of the application for a licence, the further particulars to be included therein and the manner of payment of licence fee under section 6;

(c) form of application for renewal of licence and further particulars to be included therein;

(d) the manner in which a duplicate licence may be obtained and the fee to be paid under sub-section (8) of section 6;

(e) the form of the application and the fee to be paid under the proviso to sub-section (1) of section 8;

(f) the form and conditions of the licence, the manner of payment of licence fee and the manner of inquiry under section 7.

(g) the form of the application and the particulars to be contained therein, and the form of the declaration, to be presented under section 21;

- (h) the form of cash book and ledger and the manner in which they should be maintained under sub-section (1), and the other particulars to be prescribed under sub-section (5) of section 22;
- (i) the manner and form in which statement under sub-section (1) of section 22 may be delivered to the Assistant Registrar and further particulars to be indicated therein;
- (j) the form of pass-book to be supplied by the money-lender under the proviso to part (i) of clause (a) of sub-section (2) of section 22;
- (k) the form of the statement of accounts to be furnished and the date before which it is to be furnished under sub-section (1) and the sum of expenses to be paid under sub-section (3) of section 23;
- (l) the rates at which and the manner in which fees may be recovered under section 24;
- (m) the form of application and the fee to be paid under sub-section (1) of section 34;
- (n) the rates at which and the manner in which fees may be paid for the supply by the Assistant Registrar, Registrar or Registrar General of copies of documents in the record of any application, inquiry or appeal under this Act, and the persons to whom such copies may be supplied;
- (o) any other matter which is required to be or may be prescribed under this Act or any matter for which there is no provision or insufficient provision in this Act and for which provision is, in the opinion of the State Government, necessary for giving effect to the provisions of this Act.

(3) The rules made under this section shall, subject to the condition of previous publication, be published in the Official Gazette.

(4) All rules finally made under this Act shall be laid as soon as may be after they are so made, before the House of the State Legislature, while it is in session, for a period of not less than fourteen days which be comprised in one session or in two successive session and, if, before the expiry of the session in which they are so laid or of the session immediately following, the House of the State Legislature makes any modification in any of such rules or resolves that any such rule should not be made, such 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 thereunder.

49. Repeal :-

Upon the commencement of this Act, all corresponding laws in force in any part of the State shall stand repealed:

Provided that such repeal shall not effect

(a) the previous operation of any Act so repealed or anything duly done or suffered thereunder: or

(b) any right, privilege, obligation or liability acquired, accrued or incurred under any Act so repealed; or

(c) any penalty, forfeiture or punishment incurred in respect of any offence committed against any Act so repealed; or

(d) any investigation, legal proceedings or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;

(e) and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if this Act had not been passed:

Provided further that, subject to the preceding proviso, anything done or any action taken (including rules, delegations and authorisations made, registers maintained, registration certificates and licences granted and notification issued) under a provision of any Act so repealed shall, in so far as it is not inconsistent with any provision of this Act, be deemed to have been done or taken under the corresponding provision of this Act, and shall continue to be in force accordingly, unless and until altered, amended or superseded by anything done or any action taken under this Act.

SCHEDULE 1

SCHEDULE

THE SCHEDULE

(See section 8)

Any offence punishable under any of the following sections of the Indian Penal Code, 1860 (Central Act XLV of 1860), namely:-

Sections 379 to 382, 384 to 389, 392 to 404, 406, 411 to 414, 417 to 424, 450 (with intent to commit theft), 455, 457 (with intent to commit theft) 458 to 462, 465, 477 and 477A.