

Tamil Nadu Money Lenders Act, 1957

26 of 1957

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Tamil Nadu Money Lenders Act, 1957

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An Act to regulate and control the business of money-lenders in the

1[State of Tamil Nadu]. WHEREAS it is expedient to make provision for the regulation and control of the business of money-lenders in the 1[State of Tamil Nadu]. BE it enacted in the Eighth Year of the Republic of India as follows:-- 1 These words were substituted for the words "State of Madras" by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.

1. Short Title, Extent And Commencement :-

(1) This Act may be called the 2[Tamil Nadu] Money-lenders Act, 1957.

(2) It extends to the whole of the 1[State of Tamil Nadu].

(3) It shall come into force in any area on such date as the Government may, by notification specify which date shall not be earlier than the expiry of one month from the publication of the notification and the Government may cancel or modify any such notification.

1 These words were substituted for the words "State of Madras" by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.

2 Substituted for the word "Madras" by ibid.

2. Definitions :-

In this Act, unless the context otherwise requires --

1[(1) "bank" means --

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

(b) the State Bank of India constituted under the State Bank of India Act, 1955 (Central Act 23 of 1955);

(c) 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);

(d) a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (Central Act 5 of 1970);

(e) a Regional Rural Bank established under the Regional Rural Banks Act, 1976 (Central Act 21 of 1976);

(f) the Industrial Development Bank of India established under the Industrial Development Bank of India Act, 1964 (Central Act 18 of 1964);

(g) the Agricultural Refinance and Development Corporation established under the Agricultural Refinance and Development Corporation Act, 1963 (Central Act 10 of 1963);
(h) the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (Central Act 31 of 1956);
(i) the Industrial Finance Corporation of India established under the Industrial Finance Corporation Act, 1948 (Central Act XV of 1948);
(j) the Tamil Nadu Industrial Investment Corporation Limited; and
(k) any other financial or banking institution notified in this behalf by the Government in the Tamil Nadu Government Gazette.]

(1-A) "citizen of India" means a person who is a citizen of India within the meaning of Part II of the Constitution of India and the Citizenship Act, 1955 (Central Act LVII of 1955);

(2) "co-operative society" means a society registered or deemed to be registered under the Tamil Nadu Co-operative Societies Act, 1961* (Tamil Nadu Act 53 of 1961).

(3) "Government" means the State Government;

(4) "interest" includes the return to be made over and above what was actually lent whether the same is charged or sought to be recovered specifically by way of interest or otherwise but does not include any sum charged by a lender in accordance with the provisions of this Act or any other law for the time being in force for or on account of costs, charges or expenses;

(5) "licence" means a money-lenders licence granted under this Act;

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

(i) a deposit of money or other property in a Government Post Office Savings Bank or in a Bank, in a company as defined in the Companies Act, 1956 (Central Act I of 1956) or with a co-operative society;

(ii) an advance made by a Bank or a co-operative society or an advance made from a provident fund to which the Provident Funds Act, 1925 (Central Act XIX of 1925) applies;

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

(iv) an advance made by any authority specified by Government by notification;

(v) an advance made bona fide by any person carrying on any business, not having for its primary object the lending of money, if

such loan is advanced in the regular course of such business;

(vi) an advance made on the basis of a negotiable instrument and defined in the Negotiable Instruments Act, 1881 (Central Act XXVI of 1881), exceeding 2[rupees ten thousand];

3[(vi-a) an advance made by any company or corporation owned or controlled by the Central Government or any State Government;]

(vii) an advance made to its members by any Nidhi or Permanent Fund registered under any law in force in India;

(viii) an advance made under any Chit Fund Scheme;

(ix) an advance made by an agriculturist to his tenant;

(7) A person shall be deemed to molest another person if he --

(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 of, any such property, or

(c) loiters at or near a house or other place where such other person resides, or works, or carries on business, or happens to be, or

(d) does any act calculated to annoy or intimidate the member of the family of such other person, or

(e) moves or acts in a manner which cause or is calculated to cause alarm or danger to the person or property of such other person;

(8) "money-lender" means a person whose main or subsidiary occupation is the business of advancing and realising loans, but excludes a bank or a co-operative society.

Explanation.-- Where a person who carries on in the 4[State of Tamil Nadu] the business of advancing and realising loans is resident outside the 4[State of Tamil Nadu], the agent of such person resident in the 4[State of Tamil Nadu] shall be deemed to be the money-lender in respect of that business for the purposes of this Act;

(9) "principal" in relation to a loan means the amount actually lent to the debtor;

(10) "year" means the financial year.

1 Clauses (1), (1-A) and (2) were substituted for original clauses (1) and (2) by section 2(i) of the Tamil Nadu Money-lenders (Amendment) Act, 1979 (Tamil Nadu Act 41 of 1979).

* Now, the Tamil Nadu Co-operative Society Act, 1983 (Tamil Nadu Act 31 of 1983).

2 Substituted for the words "rupees three thousands" by section 2(ii)(a) of the Tamil Nadu Money-lenders (Amendment) Act, 1979

(Tamil Nadu Act 41 of 1979).

3 Clause (vi-a) was inserted by section 2(ii)(b), *ibid*.

4 Substituted for the words "State of Madras" by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.

3. Money-Lender To Obtain Licence :-

(1) No person shall, on and after the date on which the provisions of this Act are brought into force in any area carry on, or continue to carry on, business as a money-lender at any place in such area except under and in accordance with the terms of a licence.

(2) Where a money-lender has more than one shop or place of business, whether in the same town or village or in different towns or villages, he shall obtain a separate licence in respect of each such shop or place of business.

(3) (a) Where a money-lender is a registered firm, the licence shall be obtained in the firms name.

(b) Where a money-lender is an undivided Hindu family, the licence shall be obtained in the name of the manager or the karnavan or the yajaman, as the case may be, described as such in the licence.

(c) Where a money-lender is any other association of individuals, not required to be registered under the Companies Act, 1956 (Central Act 1 of 1956), a separate licence shall be obtained by each such individual in his name describing himself as a member of the association:

Provided that nothing contained in this sub-section shall affect the operation of section 59 of the Indian Partnership Act, 1932 (Central Act IX of 1932).

4. Grant And Refusal Of Licence :-

(1) Every application for a money-lenders licence shall be in writing and shall be made to the licensing authority prescribed under this Act:

Provided that a person under the age of eighteen years shall be eligible to apply for a licence only through a guardian:

Provided further that if any person acting as a guardian on behalf of a minor applies for, and obtains a licence under this Act, such guardian shall be subject to all the provisions of this Act as if the licence has been granted to himself.

(2) Every licence shall be granted in such form and subject to such conditions as may be prescribed including conditions as to payment

of licence fees not exceeding one hundred rupees.

(3) The licensing authority may, by order in writing, refuse to grant a licence, if such authority is satisfied --

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

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

(c) that the applicant 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) been found guilty of an offence under Chapter XVII or Chapter XVIII of the Indian Penal Code (Central Act XLV of 1860); or

(iii) been found guilty of an offence 1[under section 10-A or section 11] or section 13 on two or more occasions; or

(d) that the applicant has had his licence cancelled within six months before the date of application.

(4) Any person aggrieved by an order of the licensing authority under sub-section (3) may, within one month from the date of communication of such order to him, appeal to the prescribed authority.

(5) Every licence granted under this Act shall, subject to the provisions of sub-section (7), expire on the last day of the year in which it was granted.

(6) A licence granted under sub-section (2) may be renewed from year to year and the provisions of sub-sections (1) to (5) shall apply in relation to the renewal of a licence as they apply in relation to the grant of a licence.

(7) If orders refusing to renew a licence are not communicated to a money-lender by the licensing authority before the expiry of his current licence, the money-lender shall, notwithstanding such expiry, be deemed to have a valid licence till orders are received by him on his application for renewal.

(8) Nothing in this section shall be deemed to disentitle a money-lender, whose licence has expired or has not been renewed, from taking steps to recover any loan advanced during the period when the licence was in force.

1 Substituted for the expression "under section 11" by section 3 of the Tamil Nadu Moneylenders (Amendment) Act, 1979 (Tamil Nadu Act 41 of 1979).

5. Change Of Place Of Business By Money-Lender :-

No money-lender shall change his place of business without previous notice to the licensing authority and without having the address of the new place of business duly endorsed on his licence.

6. Money-Lenders To Exhibit Their Names Over Shops :-

Every money-lender shall always keep exhibited over his shop or place of business his name with the words "money-lender" and its equivalent in the regional language.

7. Interest And Charges Allowed To Money-Lenders :-

1[(1) No money-lender shall charge interest on any loan, at a rate exceeding such rate as the Government may, by notification, fix, from time to time:

Provided that the rate of interest as may be fixed by the Government shall be correlated to the current bank rates of lending as may be fixed by the Reserve Bank of India, from time to time.]

(2) A money-lender may demand and take from the debtor such charges and in such cases as may be prescribed.

(3) A money-lender shall not demand or take from the debtor any interest, profit or other sum whatsoever in excess of that payable under sub-section (1).

1 Sub-section (1) was substituted by the Tamil Nadu Money-lenders (Amendment) Act, 1979 (Tamil Nadu Act 41 of 1979).

8. Power To Deposit In Court Money Due On Loan :-

(1) Where a money-lender refuses to accept the whole or any portion of the money or other property due in respect of his loan, the debtor may deposit the said money or property into the Court having jurisdiction to entertain a suit for recovery of such loan and apply to the Court to record full or part satisfaction of the loan, as the case may be.

(2) Where any such application is made, the Court shall, after due inquiry, pass orders recording full or part satisfaction of the loan, as the case may be.

(3) The procedure laid down in the Code of Civil Procedure, 1908 (Central Act V of 1908) for the trial of suits shall, as far as may be, apply to applications under this section.

(4) An appeal shall lie from an order passed by a Court under sub-

section (2) as if such an order relates to the execution, discharge or satisfaction of a decree within the meaning of section 47 of the Code of Civil Procedure, 1908 (Central Act V of 1908).

9. Money-Lender To Keep Books, Give Receipts, Etc :-

(1) Every money-lender shall --

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

(i) the date of the loan, the amount of the principal of the loan, the rate of interest charged on the loan and the nature of security taken, if any; and

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

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

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

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

(d) submit such returns relating to the loans advanced by him to the Inspector concerned, in such form and at such times as may be prescribed.

(2) All records or entries made in the books, accounts and documents referred to in sub-section (1) shall be in such language as may be prescribed in respect of any area.

(3) A debtor to whom a statement of account has been furnished under clause (c) of sub-section (1) and who fails to object to the correctness of the account shall not, by such failure alone, be deemed to have admitted the correctness of such account.

(4) In the receipt to be given under clause (b) of subsection (1) or in the statement of account to be furnished under clause (c) of that sub-section, the figures shall be entered only in Arabic numerals.

(5) In any suit or proceeding relating to a loan, if the Court finds

that a money-lender has not maintained an account as required by clause (a) of sub-section (1), he shall not be allowed his costs.

(6) If any money-lender fails to give the debtor or his agent a receipt as required by clause (b) of sub-section (1) or to furnish on a requisition made under clause (c) of that sub-section a statement of account as required therein within one month after such requisition has been made, he shall not be entitled to any interest for the period of his default.

(7) Notwithstanding any agreement between the parties or any law for the time being in force, when a statement is furnished to a debtor under this section on any day during a month, the interest due shall be calculated as payable for the entire month irrespective of the fact that such statement is furnished on any such day.

10. Appointment Of Inspectors And Their Powers :-

(1) The Government or any authority or officer empowered by them may, by notification, appoint one or more persons to be Inspectors for the purposes of this Act and specify in such notification the local limits of their jurisdiction.

(2) Every Inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (Central Act XLV of 1860).

(3) (a) 1[A District Magistrate, an Additional District Magistrate, or a Sub-Divisional Magistrate] may, on receiving a report from an Inspector that a person carries on without a licence or that a money-lender carries on in contravention of the provisions of this Act or the conditions of the licence granted thereunder the business of money-lending at any place within the jurisdiction of such Magistrate, issue a warrant empowering the Inspector to enter such place with such assistants as he considers necessary and inspect the books, accounts, records, files, documents, 2[securities, safes and vaults] in such premises. On receiving such warrant, the Inspector may enter the place and inspect the books, accounts, records, files, documents, 2[securities, safes and vaults] in such premises and may take to his office for further investigation such books, accounts, records, files, 3[documents and securities] as he considers necessary:

Provided that if the Inspector removes from the premises any books, accounts, records, files, 3[documents and securities], he shall give to the person in charge of the place, a receipt describing the books, accounts, records, files, 4[documents and securities] so

removed by him:

Provided further that within twenty-four hours of the removal of the books, accounts, records, files, 4[documents and securities] from the premises, the Inspector shall either return them to the person from whose custody they were removed or produce them in the Court of the Magistrate who issued the warrant. Such Magistrate may return the books, accounts, records, files, 4[documents and securities] or any of them to the person from whose custody they were removed by the Inspector after taking from such person such security as the Magistrate considers necessary for the production of the books, accounts, records, files, 4[documents and securities] when required whether by the Inspector or by the Court or may pass such other orders as to their disposal as appear just and convenient to the Magistrate.

(b) An Inspector shall have authority to require any person whose testimony he may require regarding any loan or any money-lending business, to attend before him or to produce or cause to be produced any document and to examine such person on oath.

(4) An Inspector may apply for assistance to an officer in charge of a police station and take police officers to accompany and assist the Inspector in performing his duties under this Act.

1 Substituted for the words "A Magistrate of the first class in the mufassal or a Presidency Magistrate in the Presidency town" by section 5(i) of the Tamil Nadu Money-lenders (Amendment) Act, 1979 (Tamil Nadu Act 41 of 1979).

2 Substituted for the words "safes, valuts and pledges" by section 5 (ii), *ibid*.

3 Substituted for the words "and documents" by section 5 (iii), *ibid*.

4 Substituted for the words "and documents" by section 5(iii) of the Tamil Nadu Moneylenders (Amendment) Act, 1979 (Tamil Nadu Act 41 of 1979).

10A. Entry Of Wrong Sum In Bond, Etc., To Be An Offence:-

1(1) No money-lender, whether licensed or not, shall take from a debtor or an intending borrower any note, promise to pay, acknowledgement, power of attorney, bond, security or other document which does not state the actual amount of the loan, the rate of interest charged and the time, if any, within which the principal is stipulated to be repaid in full, or which states any of such particulars incorrectly, nor shall he take from any debtor or an intending borrower any document in which any entry is left blank for completion at a later date.

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

(3) Notwithstanding anything contained in section 21 or in any other law for the

time being in force, any note, promise to pay, acknowledgement, power of attorney, bond, security or other document referred to in sub-section (1) shall be void and unenforceable].

1 Section 10-A was inserted by section 6, *ibid*.

11. Money-Lender Advancing Smaller Amount Or Securing Higher Interest Than That Specified In The Accounts, Etc., To Be Punishable :-

1[(1) Any money-lender whether licensed or not --

(a) who actually advances an amount less than the amount shown in his accounts or registers or other documents relating to the loan, or

(b) who takes or receives interest or any other charge at a rate higher than the rate shown in the accounts, registers or documents aforesaid or allowed under this Act, shall be punished with imprisonment for a term not exceeding six months but not less than three months:

Provided that the Court may, in addition to such imprisonment, impose fine which may extend to one thousand rupees.]

(1-A) Notwithstanding anything contained in the Indian Evidence Act, 1872 (Central Act I of 1872), or in any other law for the time being in force, in any suit by or against a money-lender, whether licensed or not, or in any prosecution or other proceeding in a Court, the burden of proving that the money-lender had actually advanced to the debtor the amount specified in --

(a) any document relating to the loan; or

(b) the accounts or registers of such money-lender, shall be on the money-lender.]

(2) If a money-lender is convicted of an offence 2[under section 10-A or under this section] the Court convicting him may cancel his licence as a money-lender.

1 Sub-sections (1) and (1-A) were substituted for the original sub-section (1) by section 7(i) of the Tamil Nadu Money-lenders (Amendment) Act, 1979 (Tamil Nadu Act 41 of 1979).

2 Substituted for the expression "under sub-section (1)" by section 7(ii) of the Tamil Nadu Money-lenders (Amendment) Act, 1979 (Tamil Nadu Act 41 of 1979).

12. Cognizance Of Offences :-

No Court shall take cognizance of an offence punishable under this Act or the rules made thereunder except on a complaint in writing made by any prescribed authority.

12A. Offence Under Section 18-A To Be Cognizable :-

1Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), an offence under section 18-A shall be deemed to be a cognizable offence within the meaning of that Code.

1 Section 12-A was inserted by section 8, *ibid*.

13. Penalty For Molestation Of Debtor :-

1[Whoever molests or abets the molestation of any debtor for the recovery of any loan shall be punished with imprisonment for a term not exceeding six months but not less than three months:

Provided that the Court may, in addition to such imprisonment, impose fine which may extend to one thousand rupees.]

1 Section 13 was substituted by section 9, *ibid*.

14. Power To [Cancel Or Suspend Licences], Etc :-

1(1) The licensing authority may, at any time, during the term of any licence, cancel it by an order in writing --

(a) if the licensee carries on the business in contravention of any of the provisions of this Act or the rules made thereunder or the conditions of the licence, or

(b) if any reason for which the licensing authority could have refused to grant the licence to the money-lender under subsection (3) of section 4, is brought to the notice of that authority after the grant of the licence, or

(c) if the licensee is convicted for an offence under 2[section 10-A or section 11] or section 13, or

(d) if the licensee maintains false accounts or is found to molest or abet the molestation of any debtor for the recovery of any debt.

(2) Before cancelling a licence under sub-section (1), the licensing authority shall give the licensee a notice in writing stating the grounds on which it is proposed to take action and requiring him to show cause against it within such time as may be specified in the notice.

3[(2-A) Notwithstanding anything contained in subsection (1) or sub-section (2), where, in the opinion of the licensing authority, any licence granted under this Act is liable to be cancelled under sub-section (1), the licensing authority may, pending cancellation of the licence under sub-section (1) and for reasons to be recorded in writing, suspend any licence granted under this Act, and in such a case, no show cause notice is necessary.]

(3) Any person aggrieved by an order of the licensing authority

cancelling a licence may, within one month of the date of communication of such order to him, appeal to the prescribed authority.

1 Substituted for the words "cancel licences" by section 2(a) of the Tamil Nadu Moneylenders (Amendment) Act, 1982 (Tamil Nadu Act 51 of 1982).

2 Substituted for the expression "under section 11" by section 10 of the Tamil Nadu Moneylenders (Amendment) Act, 1979 (Tamil Nadu Act 41 of 1979).

3 Sub-section (2-A) was inserted by section 2(b) of the Tamil Nadu Money-lenders (Amendment) Act, 1982 (Tamil Nadu Act 51 of 1982).

15. Publication Of Order Of Cancellation [Or Suspension] :-

1 Every order of cancellation 1[or suspension] of a licence under this Act shall be notified in the District Gazette and also on the notice-board of the office of the licensing authority.

1 These words were added by section 3(i), by the Tamil Nadu Money-lenders (Amendment) Act, 1982 (Tamil Nadu Act 51 of 1982).

16. No Compensation For [Cancellation Or Suspension] Of Licence :-

1 A person whose licence is 2[cancelled or suspended under section 14 3[or is deemed to have been cancelled under sub-section (2) of section 18-A] shall not be entitled to any compensation in respect of 4[such cancellation or suspension] or to the refund of any fee paid in respect of such licence.

1 Substituted for the word "cancellation" by section 4(a) of the Tamil Nadu Money-lenders (Amendment) Act, 1982 (Tamil Nadu Act 51 of 1982).

2 Substituted for the expression "cancelled under section 14" by section 4(b), *ibid*.

3 These expressions were inserted by the Tamil Nadu Money-lenders (Amendment) Act, 1979 (Tamil Nadu Act 41 of 1979).

4 Substituted for the expression "such cancellation" by section 4(c) of the Tamil Nadu Moneylenders (Amendment) Act, 1982 (Tamil Nadu Act 51 of 1982).

17. Penalty For Carrying On Business Without Licence :-

Whoever carries on the business of money-lending without a licence or otherwise than in conformity with the terms and conditions of a licence shall be punished with fine which may extend to one thousand rupees:

Provided that a person shall not be deemed to carry on the business of money-lending but was taking steps to recover any loan advanced by him.

18. Penalties :-

(1) Whoever contravenes any of the provisions of this Act or of any rule made thereunder or of any terms or conditions of a licence granted or deemed to be granted thereunder or makes a claim or a statement which is false or which he does not believe it to be true shall, if no other penalty is elsewhere provided for in this Act for such contravention, be punished with fine which may extend to one thousand rupees.

Explanation.-- The 1[cancellation or suspension] of a licence under section 14 shall not be deemed to be a penalty for the purpose of this sub-section.

(2) Where a contravention of any of the provisions of this Act or of any rule made thereunder of which a person is convicted consists of an omission to do a thing, the Magistrate may, when convicting the offender, direct him to do the thing before an appointed day and may, on the failure of the offender to do the thing before the said day, pass an order, whether the offender appears in Court or not on that day cancelling his licence.

1 Substituted for the words "cancellation" by section 5 of the Tamil Nadu Money-lenders (Amendment) Act, 1982 (Tamil Nadu Act 51 of 1982).

18A. Non-Citizens Not To Carry On Business Of Money :-

1(1) Notwithstanding anything contained in sections 3 and 4, no person who is not a citizen of India shall, on and from the date of publication of the Tamil Nadu Money-lenders (Amendment) Act, 1979 (Tamil Nadu Act 41 of 1979) in the Tamil Nadu Government Gazette (hereinafter in this section referred to as the said date), carry on the business of money-lending.

(2) All licences granted under this Act to any person who is not a citizen of India shall be deemed to have been cancelled on and from the said date and all transactions of money-lending carried on by such person as a money-lender, shall cease from the said date.

(3) Any person referred to in sub-section (1) who had obtained a licence for money-lending under this Act, prior to the said date may, subject to the provisions of this Act including section 21-A recover through a competent Court, the loans advanced before the said date.

(4) Any person referred to in sub-section (1) who carries on the business of money-lending in contravention of the provisions of the said sub-section or recovers his dues otherwise than in accordance with the provisions of sub-section (3) shall be punished with imprisonment which may extend to one year or with fine or with both.

(5) Any Court trying an offence under this section shall, unless it is proved to the contrary, presume that the accused is not a citizen of India and that he was carrying on the business of money-lending in contravention of the provisions of this section.]

1 Section 18-A was inserted by section 12 of the Tamil Nadu Money-lenders (Amendment) Act, 1979 (Tamil Nadu Act 41 of 1979).

19. 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 he is satisfied that the applicant is in fact the legal representative of the deceased and that he is otherwise eligible to a licence under this Act, transfer the licence in the name of the applicant after obtaining from the applicant 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 for which it would have been valid if the licence had not been transferred, and the provisions of this Act shall apply accordingly.

20. Jurisdiction To Try Offences :-

1 No Court inferior to that of a Metropolitan Magistrate or of a Judicial Magistrate of the first class shall try any offence punishable under this Act.

1 Sections 20, 20-A, 20-B, 20-C and 20-D were substituted for the original section 20 by section 13 of the Tamil Nadu Money-lenders (Amendment) Act, 1979 (Tamil Nadu Act 41 of 1979).

20A. Power Of Court To Limit Interest Recoverable In Certain Cases :-

Notwithstanding anything contained in any agreement or any law for the time being in force, no Court shall, in respect of any loan, whether advanced before or after date of the publication of the Tamil Nadu Money-lenders (Amendment) Act, 1979 (Tamil Nadu Act 41 of 1979), in the Tamil Nadu Government Gazette, decree

on account of interest a sum greater than the principal of the loan due on the date of the decree.

20B. Power Of Court To Direct Payment To 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 application of a judgment-debtor and after notice to the decree-holder, direct that the amount of any decree passed against him, whether before or after the date of the publication of the Tamil Nadu Money-lenders (Amendment) Act, 1979 (Tamil Nadu Act 41 of 1979), in the Tamil Nadu Government Gazette, 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 judgment-debtor and the amount of the decree, it considers fit.

20C. Re-Opening Of Transaction :-

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 ex parte or otherwise,--

- (a) re-open any transaction, or any account already taken between the parties;
- (b) taken 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 excess 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 has been entered into by the parties or any person through whom they claim at a date more than six years prior to 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 charged at a rate higher than that fixed by the Government under sub-section (1) of section 7.

20D. Inquiry For Taking Accounts And Declaring The Amount Due :-

(1) Any debtor may make an application at any time to the Court, whether the loan to which the suit relates has or has not become payable, for taking accounts and for declaring the amount due to the money-lender. Such application shall be in the prescribed form and accompanied by the prescribed fee.

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

(3) 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.]

21. Contracts Not To Be Void On Account Of Offences :-

1[Subject to the provisions of sub-section (3) of section 10-A], where a money-lender, is guilty of an offence punishable under this Act any contract made by him in relation to his business of money-lending shall not be void by reason only of that offence nor shall he, by reason only of that offence, lose his right to the loan and the interest and other charges, if any, payable in respect thereof.

1 These expressions were substituted for the words "where a money-lender" by section 14 of the Tamil Nadu Money-lenders (Amendment) Act, 1979 (Tamil Nadu Act 41 of 1979).

21A. Saving :-

(1) Nothing in this Act shall affect, or shall be deemed to affect any of the benefits conferred on any of the provisions of the Tamil Nadu Agriculturists Relief Act, 1938 (Tamil Nadu Act IV of 1938) or the Tamil Nadu Debt Relief Act, 1972 (Tamil Nadu Act 38 of 1972) or the Tamil Nadu Indebted Agriculturists (Temporary Relief) Act, 1976 (Presidents Act 15 of 1976) or the Tamil Nadu Indebted Persons (Temporary Relief) Act, 1976 (Presidents Act 16 of 1976) or the Tamil Nadu Indebted Agriculturists and Indebted Persons (Special Provisions) Act, 1976 (Presidents Act 17 of 1976) or the Tamil Nadu Debt Relief Act, 1976 (Presidents Act 31 of 1976) or the Tamil Nadu Debt Relief Act, 1978 (Tamil Nadu Act 40 of 1978), notwithstanding anything to the contrary contained in this Act.

(2) Save as otherwise provided in sub-section (1), the provisions of this Act shall be in addition to, and not in derogation of any of the Acts specified in sub-section (1), or any other law for the time being in force.]

1 Section 21-A was inserted by section 15, *ibid*.

22. Power To Make Rules :-

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

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

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

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

(c) the terms and conditions subject to which a licence may be granted;

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

(e) the procedure which should be followed and the powers which may be exercised by the authorities exercising functions, holding inquiries and hearing appeals under this Act.

1[(3) (a) All rules made under this Act shall be published in the Tamil Nadu Government Gazette and unless they are expressed to come into force on a particular day, shall come into force on the

day on which they are so published.

(b) All notifications issued under this Act shall, unless they are expressed to come into force on a particular day, come into force on the day on which they are published.

(4) Every rule made or notification issued under this Act shall, as soon as possible after it is made or issued, be placed on the table of 2[the Legislative Assembly], and if, before the expiry of the session in which it is so placed or the next session, 2[the Legislative Assembly agrees] in making any modification in any such rule or notification or 3[the Legislative Assembly agrees] that the rule or notification should not be made or issued, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.]

1 Inserted by Tamil Nadu Act 41 of 1979.

2 Substituted for the words "both Houses of the Legislature" by the Tamil Nadu Adaptation of Laws and Order, 1987.

3 Substituted for the words "both Houses agree" by the Tamil Nadu Adaptation of Laws and Order, 1987.