

Tamil Nadu Pawnbrokers Act, 1943

23 of 1943

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Tamil Nadu Pawnbrokers Act, 1943

23 of 1943

An Act to regulate and control the business of pawnbrokers in the State of Tamil Nadu. WHEREAS it is expedient to make provision for the regulation and control of the business of pawnbrokers in the State of Tamil Nadu. It is hereby enacted as follows:-

1. Short Title, Extent And Commencement :-

- (1) This Act may be called the Tamil Nadu Pawnbrokers Act, 1943.
- (2) It extends to the whole of the State of Tamil Nadu.
- (3) This section shall come into force at once and the State Government may, from time to time, by notification in the 1[Tamil Nadu Government Gazette] apply the remaining provisions of this Act to the whole or any portion of the State of Tamil Nadu from such date as may be specified in the notification, and may cancel or modify any such notification.

* Received the assent of the Governor-General on the 6th November 1943. First published in the Fort St. George Gazette, Part IV-B on the 23rd November 1943 at pages 115-125.

1 Substituted for the words "Fort St. George Gazette" by Tamil Nadu Pawnbrokers (Amendment) Act, 1994 (Tamil Nadu Act 1 of 1994).

2. Definitions :-

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

- (1) "city of 1[Chennai]" includes all places within the local limits of the ordinary original jurisdiction of the High Court of Judicature at Madras;
- (2) "company" means a company --
 - (a) registered under any of the enactments relating to companies for the time being in force 2[in India or] in the United Kingdom or in any of the British Dominions, or in any of the Colonies or Dependencies of the United Kingdom 3[***]; or
 - (b) incorporated by an Act of Parliament 4[of the United Kingdom] or by Royal Charter or Letters Patent or by any 5[Central Act];
- (3) "Co-operative society" means a society registered or deemed to be registered under the Tamil Nadu Co-operative Societies Act,

1932*;

5[(3-A) "Inspector" means an Inspector appointed under sub-section (1) of section 10-B];

(4) "interest" does not include any sum lawfully charged in accordance with the provisions of this Act by a pawnbroker for or on account of charges, but save as aforesaid, includes any amount, by whatsoever name called, in excess of the principal, paid or payable to a pawnbroker in consideration of or otherwise in respect of a loan;

(5) "loan" means an advance 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 company or with a co-operative society;

(ii) an advance made by a 6[banking company as defined in 7[section 5(1) (c)] of the Banking Companies Regulation Act, 1949 (Central Act X of 1949)] or a co-operative society;

(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 person bona fide 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; and

(v) an advance made by a landlord to his tenant, by a lessor to his lessee, or by one partner in cultivation or co-sharer to another for the purpose of carrying on agriculture;

(6) "pawnbroker" means a person who carries on the business of taking goods and chattels in pawn for a loan.

Explanation.-- Every person who keeps a shop for the purchase or sale of goods or chattels and who purchases goods or chattels and pays or advances thereon any sum of money, with or under an agreement or understanding expressed or implied that the goods or chattels may be afterwards re-purchased on any terms is a pawnbroker within the meaning of this clause;

(7) "pawner" means a person delivering an article for pawn to a pawnbroker;

(8) "pledge" means an article pawned with a pawnbroker;

(9) "prescribed" means prescribed by rules made under this Act;

(10) "principal" in relation to a loan means the amount actually lent to the pawner; and

(11) "year" means the financial year.

1 Substituted for the word "Madras" by the City of Madras

(Alteration of Name) Act, 1996 (Tamil Nadu Act 28 of 1996).

2 The words "or in British India, or in any State in India" were omitted by the Adaptation (Amendment) Order, 1950.

3 These words were inserted by *ibid*.

4 Substituted for the words "Act of the Indian Legislature" by *ibid*.

5 Clause 3-A was inserted by Tamil Nadu Act 31 of 1961.

* See now, the Tamil Nadu Co-operative Societies Act, 1983 (Tamil Nadu Act 31 of 1983).

6 Substituted by the Tamil Nadu Pawnbrokers (Amendment) Act, 1945 (Tamil Nadu Act XXVI of 1945).

7 Substituted by the Tamil Nadu Pawnbrokers (Amendment) Act, 1961 (Tamil Nadu Act 31 of 1961).

3. Pawnbroker To Obtain Licence [xx] :-

1(1) No person shall, after the expiry of three months from the date on which the provisions of this Act (other than section 1) come into force in any area, carry on or continue to carry on business as pawnbroker at any place in such area, unless he has obtained a pawnbrokers licence under this Act.

Explanation.-- Where a pawnbroker has more than one shop or place of business, whether in the same town or village or in different towns and villages, he shall obtain a separate pawnbrokers licence in respect of each such shop or place of business.

(2) 2[***]

1 The word "annually" was omitted by section 3(1) of the Tamil Nadu Pawnbrokers (Amendment) Act, 1993 (Tamil Nadu Act 1 of 1994).

2 Sub-section (2) was omitted by section 10 (2), *ibid*.

Prior to omission, sub-section (2) read as under:

(2) Every pawnbrokers licence granted under this Act shall expire on the last day of the year for which it was granted, but may be renewed from year to year.

4. Grant And Refusal Of Licences :-

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

(a) if the shop or place of business for which the licence is applied for is situated in the City of 1[Chennai], to the Collector of 1[Chennai]; and

(b) if such shop or place of business is situated at any place outside the City of 1[Chennai], to the Revenue Divisional Officer having jurisdiction over the area in which the shop or place of business is situated.

(2) The licence shall not be refused except on one or both of the following grounds, namely:--

(a) that the applicant is of bad character.

Explanation.-- If any evidence of bad character is adduced against the applicant, he shall be given an opportunity of rebutting such evidence; and

(b) that the shop or place at which he intends to carry on the business of a pawnbroker or any adjacent house or shop or place, owned or occupied by him, is frequented by thieves or persons of bad character:

2[Provided that the licence shall not be refused under this subsection unless the applicant has had a reasonable opportunity of making his representations.]

3[(3) In granting or refusing to grant a licence under this section, the licensing authority may consult such authority or officer as may be prescribed.

(3-A) Any person aggrieved by an order of the licensing authority refusing to grant a licence under this section may, within such time as may be prescribed, appeal to such authority as the State Government may specify in this behalf and such authority may make such order in the case as it may think fit.]

4[(4) Every licence shall be granted in such form and subject to such conditions including --

(a) the condition for deposit of such sum as security for the observance of the conditions of any such licence,

(b) the condition for forfeiture of the whole or part of the sum so deposited for contravention of any condition on which a licence has been granted,

(c) the condition for the replenishment of the sum so forfeited within such time, as may be prescribed and on payment of such fee not exceeding five hundred rupees as the State Government may, from time to time, by notification in the Tamil Nadu Government Gazette, determine.

(5) Every licence granted under this section shall be valid for a period of one year and may be renewed, from time to time, for a period of three years at a time on payment of a renewal fee which is equal to three times the amount of fee payable under subsection (4) for the grant of such licence.]

- 1 Substituted for the word "Madras" by the City of Madras (Alteration of Name) Act, 1996 (Tamil Nadu Act 28 of 1996).
- 2 Proviso was added by the Tamil Nadu Pawnbrokers (Amendment) Act, 1961 (Tamil Nadu Act 31 of 1961).
- 3 Sub-sections (3) and (3-A) were substituted for the original sub-section (3) by the Tamil Nadu Pawnbrokers (Amendment) Act, 1961 (Tamil Nadu Act 31 of 1961).
- 4 Sub-section (4) was substituted by the Tamil Nadu Pawnbrokers (Amendment) Act, 1993 (Tamil Nadu Act 1 of 1994).

5. Pawnbrokers To Exhibit Their Names Over Shops, Etc :-

Every pawnbroker shall --

- (a) always keep exhibited in large characters over the outer door of his shop or place of business his name with the word pawnbroker, in the chief language of the locality; and
- (b) always keep placed in a conspicuous part of his shop or place of business so as to be legible to all persons resorting thereto the information required to be printed on pawntickets by rules made under this Act, in the chief language of the locality.

6. Interest And Charges Allowed To Pawnbrokers :-

(1) No pawnbroker shall charge interest in respect of a loan on a pledge at a rate exceeding such rate as the State Government may, by notification, fix, from time to time:

1[Provided that the rate of interest to be fixed by the State Government under this sub-section shall not exceed five per cent more than the current bank rate of lending as may be fixed by the Reserve Bank of India, from time to time.]

(2) A pawnbroker may demand and take from the pawner such charges and in such cases as may be prescribed.

(3) A pawnbroker shall not demand or take from the pawner any profit, interest, charge or sum whatsoever, other than the interest due to him and the charges, if any, referred to in subsection (2).

1 Proviso to sub-section (1) was added by Tamil Nadu Act 34 of 1979 and the proviso was substituted by Tamil Nadu Act 51 of 1992 with effect from 14th September 1992.

7. Pawnticket To Be Given To Pawner :-

1[(1)] Every pawnbroker shall, on taking a pledge in pawn, give to the pawner a pawnticket in the prescribed form 2[which shall be in

English and in such language of the locality as may be prescribed] and shall not take a pledge in pawn unless the pawner takes the pawnticket.

3[(2) Every pawnbroker shall pay to the pawner the entire amount of the principal of the loan mentioned in the pawnticket and no amount shall be deducted from the loan towards future interest or on any other account whatsoever.]

1 Section 7 was re-numbered as sub-section (1) of that section by section 5 (1) of the Tamil Nadu Pawnbrokers (Amendment) Act, 1993 (Tamil Nadu Act 1 of 1994).

2 These words were inserted by section 5 (1) *ibid*.

3 Sub-section (2) was added by section 5 (2) *ibid*.

8. Conditions Relating To Redemption Of Pledge :-

1(1) In the absence of a decree or an order of a civil Court, or an order of a Magistrate or an officer of police not below the rank of Sub-Inspector prohibiting the delivery by the pawnbroker, of the pledge, to the pawner, the pawner shall, on production of the pawnticket and on payment of the sum legally payable in respect thereof, be entitled to the delivery of the pledge.

(2) On a declaration in the prescribed form from the pawner that the right to redeem the pledge has been transferred to, or is vested in, some other person and on a declaration from that other person that he is in possession of the pawnticket and that he is entitled to redeem the pledge, the pawnbroker shall cause an endorsement to be made on the pawnticket that the holder thereof is such other person, and shall cause the necessary entry to be made in the pledge book and, thereafter, the former persons right to redeem shall be extinguished and such other person shall be deemed to be the pawner for the purposes of this section.

(3) Where a person claiming to be the messenger or agent of the pawner produces the pawnticket and offers to redeem the pledge, the pawnbroker, may, after obtaining from the person so claiming, a declaration in the prescribed form, allow redemption if the pawnbroker is satisfied that the person who claims to be such messenger or agent is, in fact, such messenger or agent:

Provided that such pawnbroker shall remain liable to compensate the pawner if it be found later that such messenger or agent had not, in fact, been duly authorised by the pawner to redeem the pledge:

Provided further that, where a person claiming to be the messenger

or agent of the pawner produces the pawnticket and offers to redeem the pledge, the pawnbroker may send a notice in the prescribed form by registered post to the pawner to the address left by the pawner with the pawnbroker, and if he does not hear anything from the pawner contrary to the claim within two weeks after the date on which the notice would, in the usual course of post, reach the pawner, the pawnbroker may allow the person claiming to be such messenger or agent to redeem the pledge and shall, in that event, be exonerated from further liability to the pawner or any person claiming under him.

(4) (a) Where the pawner is dead and a person produces the pawnticket claiming to be the legal representative of the pawner and offers to redeem the pledge, the pawnbroker shall allow such redemption, after obtaining from such person --

(i) a declaration in the prescribed form duly made by such person before any Magistrate or Judge; and

(ii) a bond duly executed by such person with one or more sureties to the satisfaction of the pawnbroker or of such authority or person as may be prescribed in this behalf, agreeing to indemnify the pawnbroker in respect of any liability which may be incurred by him by reason of delivering the pledge or otherwise acting in conformity with the declaration:

Provided that no such declaration or bond shall be necessary, if such person produces an order of a civil Court having jurisdiction to entertain a suit for the redemption of the pledge, authorising him to redeem the pledge as the legal representative of the deceased pawner and, in any such case, the pawnbroker shall allow redemption.

(b) The amount of every bond executed under clause (a) shall be fixed with due regard to the circumstances of the case and shall not be excessive.

(5) Where a person comes into possession of a pawnticket as the assignee of the pawner, such person shall give notice of such assignment to the pawnbroker in the prescribed form, but the pawnbroker shall not be bound to recognise the claim of such person to redeem the pledge unless the pawner intimates to the pawnbroker the fact of such assignment or unless the pawnbroker, after having sent a notice in the prescribed form by registered post to the pawner to the address left by the pawner with the pawnbroker intimating to him the claim made under the alleged assignment, does not hear anything from the pawner contrary to the claim within two weeks after the date on which the notice

would, in the usual course of post, reach the pawner.

(6) Where the pawner alleges that the pawnticket has been lost or destroyed and claims redemption of the pledge, the pawnbroker shall, after obtaining from the pawner, a declaration in the prescribed form allow such redemption unless the pawnbroker has received intimation from any other person that he is in possession of the pawnticket and is entitled to redeem the pledge:

Provided that, before allowing such redemption, the pawnbroker may insist on security to his satisfaction or to the satisfaction of such authority or person as may be prescribed in this behalf being given by the pawner against possible claim by any other person.

(7) Where a person claims to be the owner of a pledge and alleges that the pledge was pawned without his knowledge or authority, the pawnbroker shall take a declaration from such person in the prescribed form and send a notice in the prescribed form by registered post to the pawner to the address left by the pawner with the pawnbroker, and similarly to every other person who has made any claim to the pawnbroker of being entitled to redeem the pledge, and if the pawnbroker does not receive any communication in writing from the pawner or any other such person prohibiting the delivery of the pledge to the claimant, within two weeks after the date on which the notice or notices would, in the usual course of post, reach the addressee or addressees, the pawnbroker may allow the claimant to redeem the pledge, and the pawnbroker shall, in that event, be exonerated from further liability to the pawner or any person claiming under him.

1 Section 8 was substituted by the Tamil Nadu Pawnbrokers (Amendment) Act, 1961 (Tamil Nadu Act 31 of 1961).

9. Omitted :-

1[* * * *]

1 Section 9 was omitted by the Tamil Nadu Pawnbrokers (Amendment) Act, 1961 (Tamil Nadu Act 31 of 1961).

10. Pawnbrokers To Keep Books, Give Receipts, Etc :-

(1) Every pawnbroker shall --

(a) regularly record and maintain or cause to be recorded and maintained in a pledge book in the prescribed form, an account showing for each pawner separately, --

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

rupee per mensem or per rupee per annum;

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

(iii) a full and detailed description of the articles or of each of the articles taken in pawn;

(iv) the time agreed upon for the redemption of the pawn; 1[***]

(v) the name and the address of the pawner, and where the pawner is not the owner of the article or of any of the articles pawned, the name and address of the owner thereof; 2[and]

3[(vi) such other particulars as may be prescribed.]

4[(aa) regularly record and maintain or cause to be recorded and maintained a cash-book in the prescribed form indicating the actual cash balance];

(b) keep and use in his business the following documents and books (which shall be in the prescribed form) and enter therein, from time to time, as occasion requires, in a fair and legible manner such particulars and in accordance with such directions as may be prescribed:--

(i) pawnticket;

(ii) sale of book of pledges;

(iii) declaration where pledge is claimed by owner;

(iv) declaration of pawnticket lost; and

(v) receipt on redemption of pledge;

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

(d) on requisition in writing made by the pawner furnish to the pawner 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 sum as the 5[State] Government may prescribe as fee therefor:

6[Provided that no such statement shall be required to be furnished to a pawner if he is supplied by the pawnbroker with a pass-book in the prescribed form containing an up-to-date account of the pawnbrokers transactions with the pawner.]

7[(2) All records or entries made in the books, accounts and documents referred to in sub-section (1) shall be either in English or in such language of the locality as may be prescribed; and all such books, accounts and documents and all pledges taken by the pawnbroker shall be open to inspection at any time by the

Inspector having jurisdiction. 8[All such books, accounts and documents and other records and files shall be prescribed by the pawnbroker for a period of three years from the date of redemption of the pledges or the date of disposal of the pledges in public auction, as the case may be:

9[Provided that all the entries made in the pawnticket shall be in English and in such language of the locality as may be prescribed.]

10[(2-A) The cash balance shown in the cash-book maintained under clause (aa) of sub-section (1) shall tally with the entries made in the relevant registers and accounts.]

(3) Notwithstanding anything contained in the Indian Evidence Act, 1872 (Central Act I of 1872), a copy of the account referred to in clause (a) of sub-section (1) certified in such manner as may be prescribed, shall be admissible in evidence in the same manner and to the same extent as the original account.

(4) A pawner to whom a statement of account has been furnished under clause (d) 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.

(5) In the pawnticket furnished to the pawner, in the receipt given under clause (c) of sub-section (1) and in the statement of account furnished under clause (d) of that sub-section, the figures shall be entered only in Arabic numerals.

1 The word "and" was omitted by Tamil Nadu Act 31 of 1961.

2 The word "and" was added by *ibid*.

3 Added by Tamil Nadu Act 31 of 1961.

4 Clause (aa) was added by section 6 (1) of the Tamil Nadu Pawnbrokers (Amendment) Act, 1993 (Tamil Nadu Act 1 of 1994).

5 Substituted for the word "Provincial" by the Adaptation Order of 1950.

6 Added by the Tamil Nadu Pawnbrokers (Amendment) Act, 1961 (Tamil Nadu Act 31 of 1961).

7 Original sub-section (2) was substituted by *ibid*.

8 This sentence was added by section 6 (2) of the Tamil Nadu Pawnbrokers (Amendment) Act, 1993 (Tamil Nadu Act 1 of 1994).

9 Proviso was added by *ibid*.

10 Sub-section (2-A) was added by section 6(3) by *ibid*.

10A. Pawnbroker To Keep Pledge In His Shop Or Place Of Business :-

1Every pawnbroker shall, ordinarily, keep every pledge in the shop or place of business for which the licence has been granted. If in any case, the pawnbroker

keeps the pledge in any place other than such shop or place of business, he shall, within a period of seven days from the date on which the holder of a pawnticket intimates his desire to inspect the pledge concerned, produce such pledge at the shop or place of business aforesaid for such inspection.

1 Sections 10-A and 10-B were inserted by Tamil Nadu Act 31 of 1961.

10B. Appointment Of Inspectors And Their Powers :-

(1) The State 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 Judicial Magistrate of the first class or a Metropolitan Magistrate] may, on receiving a report from an Inspector or from any police officer not below the rank of Sub-Inspector that --

(i) any person carries on business as a pawnbroker without a licence at any place within the jurisdiction of such Magistrate, or

(ii) any pawnbroker carries on business in contravention of the provisions of this Act or the rules made thereunder or the conditions of the licence granted under this Act, at any place within the jurisdiction of such Magistrate, issue a warrant empowering the Inspector, or, as the case may be, such police officer to enter such place with such assistants as he considers necessary and inspect the books, accounts, records, files, documents, safes, vaults and pledges in such premises. On receiving such warrant, the Inspector or the police officer may enter the place and inspect the books, accounts, records, files, documents, safes, vaults and pledges in such premises and may take to his office for further investigation such books, accounts, records, files and documents as he considers necessary:

2[Provided that if the Inspector has reason to believe that the delay occasioned by obtaining a search warrant will prevent the execution thereof, he may, after recording his reasons in writing, and without a warrant, enter the place and inspect the books, accounts, records, files, documents, safes, vaults and pledges in such premises and may take to his office for further investigation such books, accounts, records, files and documents as he considers necessary:

Provided further that] if the Inspector or the police officer removes from the premises any books, accounts, records, files and documents, he shall give to the person in charge of the place, a receipt describing the books, accounts, records, files and documents so removed by him:

3[Provided also that] within twenty-four hours of the removal of the books, accounts, records, files and documents from the premises, the Inspector or the police officer 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

4[or, as the case may be, in the case referred to in the first proviso, in the Court of the Magistrate who has jurisdiction]. Such Magistrate may return the books, accounts, records, files and documents or any of them to the person from whose custody they were removed by the Inspector or the police officer, after taking from such person such security as the Magistrate considers necessary for the production of the books, accounts, records, files and documents when required whether by the Inspector, the police officer or the Court or may pass such other orders as to their disposal as appear just and convenience to the Magistrate.

(b) An Inspector shall have authority to require any person whose testimony he may require regarding any loan or pledge or any other transaction of a pawnbroker to attend before him or to produce or caused 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 mofussil or a

Presidency Magistrate in the Presidency-town" by section 7(1) of the Tamil Nadu Pawnbrokers (Amendment) Act, 1993 (Tamil Nadu Act 1 of 1994).

2 Substituted for the words "Provided that" by section 7 (2) of the Tamil Nadu Pawnbrokers (Amendment) Act, 1993 (Tamil Nadu Act 1 of 1994).

3 Substituted for the words "Provided further that" by section 7 (3) (a) of the Tamil Nadu Pawnbrokers (Amendment) Act, 1993 (Tamil Nadu Act 1 of 1994).

4 These words were added by section 7 (3) (a), *ibid*.

11. Redemption Of Pledge :-

1(1) Every pledge shall be redeemable within one year from the date of pawning, exclusive of that day; and there shall be added to that year of redemption seven days of grace within which every pledge shall continue to be redeemable.

(2) A pledge shall further continue to be redeemable until it is disposed of as provided in this Act, although the period of redemption and days of grace have expired.

Explanation.-- Where the contract between the parties provides a longer period for redemption for more than one year, the provisions of this section shall be read and construed as if references to such longer period had been substituted for the reference to the period of one year therein.]

1 Section 11 was substituted by Tamil Nadu Act 31 of 1961.

12. Sale Of Pledge And Inspection Of Sale Book :-

(1) A pledge pawned shall not be disposed of by the pawnbroker otherwise than by sale at a public auction, conducted in accordance with such rules as may be prescribed.

(2) Where the highest bid at the sale by auction is the bid of the pawnbroker, the sale shall not take effect unless the bid is for a sum exceeding the sum payable on the pawn inclusive of interest and prescribed charges.

(3) At any time within three years after the public auction, the holder of the pawnticket may inspect the entry relating to the sale either in the pawnbrokers book or in such catalogue of the auction as may be prescribed.

(4) 1[(a) Where a pledge has been sold for more than the amount of the loan and the interest and prescribed charges due at the time of the sale, the pawnbroker shall, within thirty days after the sale, pay to pawner by money order the surplus after deducting therefrom the deficit, if any, referred to in clause (b), necessary costs and the prescribed charges of the sale. If the surplus has been returned undelivered, the pawnbroker shall pay the amount so returned to the holder of the pawnticket on demand made within

six months after the sale.]

(b) If 2[* * *] it appears that the sale of the pledge has resulted in a surplus but that within twelve months before such sale, the sale of any other pledge or pledges of the same person has resulted in a deficit, the pawnbroker may set-off the deficit against the surplus and shall be liable to pay only the balance, if any, after such set-off.

3[(c) If the surplus amount is not paid and no demand for the same is made within six months after the sale, the pawnbroker shall deposit the amount with the State Government as revenue deposit and shall intimate the fact of such deposit to the licensing authority.

(d) The surplus amount so deposited by the pawnbroker under clause (c) shall be dealt with by the licensing authority in accordance with such rules as may be made by the State Government in this behalf.]

1 Clause (a) was substituted by section 8 (1) of the Tamil Nadu Pawnbrokers (Amendment) Act, 1993 (Tamil Nadu Act 1 of 1994).

Prior to substitution, clause (a) read as under:

"(a) Where a pledge has been sold for more than the amount of the loan and the interest and prescribed charges due at the time of the sale, the pawnbroker shall pay to the holder of the pawnticket on demand made within three years after the sale, the surplus after deducting therefrom the necessary costs and prescribed charges of the sale."

2 The words "on such demand" were omitted by section 8 (2), *ibid*.

3 Clauses (c) and (d) were added by section 8 (3), *ibid*.

12A. Interest Not To Accrue In Respect Of Certain Loans And Pledges Not To Be Disposed Of During Certain Period Of Operation Of The Tamil Nadu Indebted Persons (Temporary Relief) Act, 1975 :-

1(1) Notwithstanding anything contained in this Act or any other law, custom, contract or any decree or order of any Court or other authority, --

(i) in respect of a loan due on the 22nd day of July 1975 to a pawnbroker, no interest shall accrue during the period commencing on the 22nd day of July 1975 and ending with the 15th day of January 1976, and

(ii) (a) where any debtor to whom the provisions of the Tamil Nadu Debt Relief Act, 1976 (Presidents Act 31 of 1976) are applicable, has pledged any article with any pawnbroker, the pawnbroker shall not sell or otherwise dispose of, in any manner whatsoever, any such pledged article during the period up to and inclusive of the date of publication of the list of debtors under clause (a) of sub-section (3-A) of section 5 of the said Act and, in the case of debtors whose names are so published in the said list, the pawnbroker shall not sell or otherwise dispose of, in any manner whatsoever, the articles pledged by such debtors until final orders

(including orders on appeal) are assessed on the applications made by them;
(b) where any debtor who is entitled to have the debt sealed down under section 8 of the Tamil Nadu Debt Relief Act, 1979 (Tamil Nadu Act 40 of 1979), has pledged any article with any pawnbroker, the pawnbroker shall not sell or otherwise disposed of, in any manner whatsoever, any such pledged article during the period upto and inclusive of the expiry of the last day of the eighteenth month immediately following the date of publication of the Tamil Nadu Pawnbrokers and Debt Relief Laws (Amendment) Act, 1980, in the Tamil Nadu Government Gazette, and the period of one week thereafter;

(c) where any debtor to whom the provisions of the Tamil Nadu Debt Relief Act, 1980 (Tamil Nadu Act 13 of 1980) are applicable, has pledged any article with any pawnbroker, the pawnbroker shall not sell or otherwise dispose of, in any manner whatsoever, any such pledged article during the period upto and inclusive of the date of publication of the list of debtors under clause (a) of sub-section (3) of section 5 of the said Act and, in the case of debtors whose names are so published in the said list, the pawnbroker shall not sell or otherwise dispose of, in any manner whatsoever, the articles pledged by such debtors until final orders (including orders on appeal) are passed on the applications made by them;

2[(d) where any debtor to whom the provisions of the Tamil Nadu Debt Relief Act, 1982, are applicable has pledged any article with any Pawnbroker; the Pawnbroker shall not sell or otherwise dispose of, in any manner whatsoever any such pledged article during the period upto and inclusive of the date of publication of the list of debtors under clause (a) of subsection (3) of section 5 of the said Act, in the case of debtors whose names are so published in the said list, the pawnbroker shall not sell or otherwise dispose of in any manner whatsoever, the article pledged by such debtors until final orders (including orders on appeal) are passed on the application made by them.]]

(2) interest shall accrue in respect of a loan obtained from any pawnbroker after the 22nd day of July, 1975.

1 Section 12-A was inserted by the Tamil Nadu Pawnbrokers and Debt Relief Laws (Amendment) Act, 1980.

2 Added by Tamil Nadu Act 50 of 1982.

13. Liability Of Pawnbroker In Case Of Fire :-

(1) 1[Where a pledge is lost by theft or is destroyed or damaged by or in consequence of fire,] the pawnbroker shall nevertheless be liable on application made within the period during which the pledge would have been redeemable, to pay the value of the pledge, after deducting the amount of the principal and interest.

Explanation.-- For the purpose of this sub-section, the value of the pledge shall be its estimated value (if any) entered in the pledge book at the time of the pawn together with interest on the amount of the principal and shall, in no case, be less than the aggregate of the amount of the principal and interest and twenty-five per cent on the amount of the principal.

(2) A pawnbroker shall be entitled to insure to the extent of the value so estimated.

1 Substituted by Tamil Nadu Act 31 of 1961.

14. Compensation For Depreciation Of Pledge :-

If a person entitled and offering to redeem a pledge shows to the satisfaction of a civil Court having jurisdiction to entertain a suit for such redemption that the pledge has become or has been rendered of less value than it was at the time of pawning thereof by or through the default, neglect or wilful misbehaviour of the pawnbroker, the Court may, if it thinks fit, award reasonable compensation to the owner of the pledge in respect of the damage, and the amount awarded shall be deducted from the amount payable to the pawnbroker, or shall be paid by the pawnbroker (as the case requires) in such manner as the Court directs.

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

1(1) 2The licensing authority specified in sub-section (1) of section 4 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 of the conditions of the licence, or
- (b) if any reason for which such authority could have refused to grant the licence to the pawnbroker under subsection (2) 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 sub-section (1) of section 15, or
- (d) if the licensee maintains false accounts.

(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 under sub-section (1) may, within such time as may be prescribed, appeal to such authority as the State Government may specify in this behalf and such authority may make such order in the case as it may think fit.]

1 Inserted by Tamil Nadu Act 31 of 1961.

2 Added by Tamil Nadu Act 47 of 1983 with effect from 24th January 1984.

3 Inserted by Tamil Nadu Act 47 of 1983.

14B. Publication Of Order Of [Cancellation Or Suspension]

:-

1Every order of 1[cancellation or suspension] of a licence under section 14-A shall be notified in the District Gazette and also on the notice-board of the office of the licensing authority.

1 Added by Tamil Nadu Act 47 of 1983.

14C. No Compensation For [Cancellation Or Suspension] Of Licence :-

1A person whose licence is 1[cancelled or suspended] under section 14-A shall not be entitled to any compensation in respect of such 1[cancellation or suspension] or to the refund of any fee paid in respect of such licence.

1 Added by Tamil Nadu Act 47 of 1983.

14D. Auctioneers To Maintain Certain Registers :-

(1) Auctioneers conducting sales of pledges under this Act shall maintain such registers containing such particulars as may be prescribed.

(2) At any time within three years after the public auction, any police officer not below the rank of Sub-Inspector may inspect the registers referred to in subsection (1) at all reasonable times and at such place as may be prescribed].

15. Pawnbroker Advancing Smaller Amount Or Receiving Higher Interest Than That Specified In Accounts To Be Punishable :-

(1) Any pawnbroker, who actually advances an amount less than that shown in the pawnticket or in his accounts or registers or who takes or receives interest or any other charge at a rate higher than that shown in the pawnticket or in his accounts or registers shall be punished 1[with imprisonment for a term not exceeding six months but not less than three months]:

2[Provided that the Court may, in addition to such imprisonment, impose fine which may extend to one thousand rupees:

Provided further that the Court may, for any adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than three months but not less than one month],

(2) If a pawnbroker is convicted of an offence under subsection (1), after having been previously convicted of such an offence, the Court convicting him may order his licence as a pawnbroker to be cancelled.

1 Substituted for the words "with fine which may extend to five hundred rupees" by section 9 of the Tamil Nadu Pawnbrokers (Amendment) Act, 1993 (Tamil Nadu Act 1 of 1994).

2 These provisos were added by *ibid*.

16. Certain Other Acts Of Pawnbrokers To Be Punishable :-

1A pawnbroker who --

(1) takes an article in pawn from any person appearing to be under the age of eighteen years or to be of unsound mind; or

(2) purchases or takes in pawn or exchanges a pawnticket issued by another pawnbroker; or

(3) employs any person under the age of eighteen years to take

pledges in pawn; or

(4) under any pretence purchases, except at a public auction, any pledge while in pawn with him; or

(5) suffers any pledge while in pawn with him to be redeemed with a view to his purchasing it; or

(6) makes any contract or agreement with any person pawning or offering in pawn any article or with the owner thereof, for the purchase, sale or disposition thereof, within the time of redemption; or

(7) sells or otherwise disposes of any pledge pawned with him except at such time and in such manner as is authorised by or under this Act, shall be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.]

1 Section 16 was substituted by section 12 of the Tamil Nadu Pawnbrokers (Amendment) Act, 1961 (Tamil Nadu Act 31 of 1961).

16A. Punishment For Absconding With Pledges :-

1Any pawnbroker, who absconds or conceals himself in order to evade the return of any pledge to the pawner shall be punished with imprisonment for a term which may extend to two years or with fine or with both.]

1 Section 16-A was substituted by section 10 of the Tamil Nadu Pawnbrokers (Amendment) Act, 1993 (Tamil Nadu Act 1 of 1994).

17. Certain Acts Of Pawners To Be Punishable :-

(1) Any person who --

(a) offers to a pawnbroker an article by way of pawn, being unable or refusing to give a satisfactory account of the means by which he became possessed of the article; or

(b) wilfully gives false information to a pawnbroker as to whether an article offered by him in pawn to the pawnbroker is his own property or not, or to his name and address, or as to the name and address of the owner of the article; or

(c) not being entitled to redeem and not having any colour of title by law to redeem a pledge attempts or endeavours to redeem the same, shall be punished with imprisonment for a term which may extend to six months or with fine which may extend to one hundred rupees or with both.

(2) In every case falling under sub-section (1) and also in any case where, an article being offered in pawn, for sale, or otherwise, to a pawnbroker, he reasonably suspects that it has been stolen or otherwise illegally or clandestinely obtained, the pawnbroker shall,

in the absence of reasonable excuse, inquire into the name and address of the person concerned, and seize and detain such person and the article, if any, and forthwith communicate to the nearest police station the facts of the case and shall deliver the person and the article, if any, seized to the police.

(3) A list of properties believed to have been stolen may be delivered by the police to any pawnbroker licensed under this Act and, thereupon, it shall be the duty of such pawnbroker --

(a) if any article answering the description of any of the properties set forth in any such list is offered to him in pawn, for sale or otherwise, to proceed in accordance with the provisions of sub-section (2); and

(b) if any such article is already in his possession, forthwith to communicate to the nearest police station the fact of the case (including full particulars as to the name and address of the person concerned in the delivery of the article to the pawnbroker) and also, if so required by the police, to deliver the article to them.

18. General Penalty For Contravention Of Act, Etc :-

(1) Whoever contravenes any of the provisions of this Act or of any rule or any terms or conditions of a licence made or granted thereunder shall, if no other penalty is elsewhere provided in this Act for such contravention, be punished with fine which may extend to fifty rupees and if such person has been previously convicted whether under this section or any other provision contained in this Act, with fine which may extend to 1[two thousand rupees].

(2) Any person, who after having been convicted of the offence of carrying on, or continuing to carry on, the business of pawnbroker in contravention of the provisions of section 3 continues to commit the same offence in the same year, shall, in addition to the fine to which he is liable under sub-section (1), be punished with a further fine which may extend to 2[fifty rupees] for each day after the previous date of conviction during which he continues so to offend.

(3) Any Court convicting a pawnbroker of a contravention of the provisions of clause (c) or clause (d) of sub-section (1) of section 10, may direct him to furnish a receipt or statement of account in accordance with the provision of that clause and if the pawnbroker fails to comply with the direction, the Court may order his licence as a pawnbroker to be cancelled.

1 Substituted for the words "one hundred rupees" by Tamil Nadu Act 1 of 1994.

2 Substituted for the words "ten rupees" by Tamil Nadu Act 1 of 1994.

19. Jurisdiction To Try Offences :-

1No Court inferior to that of a Chief Metropolitan Magistrate or a Chief Judicial Magistrate shall try any offence punishable under section 16-A.]

1 Substituted by Tamil Nadu Act 1 of 1994.

Prior to substitution read as under:

"19. Jurisdiction to try offences.-- No Presidency Magistrate not being a salaried Presidency Magistrate and no other Court inferior to that of a Magistrate of the second class shall try any offence against this Act."

19A. Order To Pay Compensation :-

1(1) When imposing a sentence of fine for an offence under section 16-A, the Court may, when passing judgment, order the whole or any part of the fine recovered to be applied --

(a) in defraying the expenses properly incurred in the prosecution;

(b) in the payment to any person of compensation for any loss or injury caused by the offence;

(c) in replacing or, as the case may be, restoring to the previous state, the property which has been pledged.

(2) If the fine is imposed in a case which is subject to appeal, no such payment shall be made before the period allowed for presenting the appeal has elapsed, or, if an appeal be presented, before the decision of the appeal.

(3) An order under this section may also be made by an Appellate Court or by the High Court or Court of Sessions when exercising its powers of revision.

(4) At the time of awarding compensation in any subsequent civil suit relating to the same matter, the Court shall take into account any sum paid or recovered as compensation under this section.]

1 Inserted by Tamil Nadu Act 1 of 1994.

20. Omitted :-

1[***]

1 Section 20 was omitted by section 13 of the Tamil Nadu Pawnbrokers (Amendment) Act, 1961 (Tamil Nadu Act 31 of 1961).

21. Contracts Not To Be Void On Account Of Offences But Interest And Costs Not To Be Allowed In Certain Cases :-

1[Where a pawnbroker is guilty of an offence under this Act or where his licence is cancelled 2[or suspended] under any of the provisions of this Act], any contract of pawn or other contract made by him, in relation to his business of pawnbroker, shall nevertheless

not be void by reason only of that offence 3[or cancellation or suspension] nor shall he by reason only of that offence 3[or cancellation or suspension], lose his lien on right to the pledge or to the loan and the interest and other charges, if any, payable in respect thereof 4[nor shall that offence or cancellation] 4[or suspension] affect any obligation or liability incurred by the pawnbroker before that offence 3[or cancellation or suspension]:

Provided that, if a pawnbroker fails to deliver to the pawner a pawnticket as required by 5[sub-section (1) of section 7] or fails to give to the pawner or his agent a receipt as required by clause (c) of sub-section (1) of section 10 or to furnish on a requisition made under clause (d) of that sub-section, a statement of account as required therein within one month after such requisition has been made, the pawnbroker shall not be entitled to any interest for the period of his default:

Provided further that, if in any suit or proceeding relating to a loan, the Court finds that a pawnbroker has not maintained accounts as required by 6[clause (a), clause (ad)] or clause (b) of sub-section (1) of section 10, he shall not be allowed his costs.

1 Substituted by Tamil Nadu Act 47 of 1983.

2 Substituted by Tamil Nadu Act 31 of 1961.

3 Substituted by Tamil Nadu Act 47 of 1983.

4 Substituted by Tamil Nadu Act 31 of 1961.

5 Substituted for the words "Section 7" by Tamil Nadu Act 1 of 1994.

6 Substituted for the words "clause (a)" by Tamil Nadu Act 1 of 1994.

21B. Power To Exempt Companies Registered Before 1st November, 1944 :-

1The [State] Government may, by general or special order, exempt any company incorporated under the Indian Companies Act, 1913 (Central ActVII of 1913)*, before the 1st day of November 1944 from any of the provisions of this Act or direct that any such provision shall apply to such company with such modifications as may be specified in the order.]

1 Inserted by Tamil Nadu Act 7 of 1948.

* See now, the Companies Act, 1956 (Central Act I of 1956).

22. Power To Make Rules :-

(1) The [State] Government may 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 of, and the particulars to be contained in, an application for a pawnbrokers licence under this Act;
- 1[(bb) the payment of security deposit for the due observance of the terms and conditions of the licence and its forfeiture for the non-observance of such terms and conditions of the licence and for the replenishment of the sum so forfeited;]
- (c) the form in which books, accounts and documents specified in this Act shall be recorded, maintained, kept or used.
- 2[(3) All rules made under this Act shall be published in the 3[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.
- (4) Every rule made under this Act shall, as soon as possible after it is made, be placed on the table of 4[the Legislative Assembly] and if, before the expiry of the session in which it is so placed or the next session, 5[the Legislative Assembly] agrees in making any modification in any such rule or 5[the Legislative Assembly] agrees that the rule should not be made, the rule shall, thereafter, have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.
- 1 Inserted by Tamil Nadu Act 1 of 1994.
- 2 Sub-sections (3) and (4) were substituted for the original sub-section (3) by section 15(2) of the Tamil Nadu Pawnbrokers (Amendment) Act, 1961 (Tamil Nadu Act 31 of 1961).
- 3 Substituted for the words "Fort St. George Gazette" by the Tamil Nadu Pawnbrokers (Amendment) Act, 1994 (Tamil Nadu Act 1 of 1994).
- 4 Substituted for the words "both Houses of the Legislature" by the Tamil Nadu Adaptation of Laws and Order, 1987.
- 5 Substituted for the words "both Houses of the Legislature" by the Tamil Nadu Adaptation of Laws and Order, 1987.

23. Repealed :-

- (1) 1[***]
- (2) In any area to which the provisions of this Act have been applied by a notification under sub-section (3) of section 1, the provisions of the 2[Tamil Nadu] Debtors Protection Act, 1934

2[(Tamil Nadu) Act VII of 1935)], shall, after the expiry of three months from the date of such application and so long as such notification remains in force, have effect subject to the following modifications, namely:--

(i) in section 2, in clause (5), the words "including a pawnbroker" shall be omitted;

(ii) in the same section, clauses (8) and (9) shall be omitted, and clauses (10) and (11) shall be re-numbered as clauses (8) and (9) respectively;

(iii) section 4 shall be omitted;

(iv) in section 5, after the word and figure "section 3", the word "and" shall be inserted, and the words, brackets and figures "and in the copy of the entries to be delivered under subsection (2) of section 4" shall be omitted;

(v) in sub-section (1) of section 6, the words, brackets and figures "or by sub-section (1) of section 4" shall be omitted;

(vi) in sub-section (2) of the same section, the words, brackets and figures "or if a pawnbroker fails to deliver to the pawner, a copy of the entries as required by sub-section (2) of section 4" shall be omitted;

(vii) in sub-section (2) of section 8, the word "and" shall be inserted at the end of clause (a) and omitted from the end of clause (b);

(viii) in the same sub-section, clause (c) shall be omitted; and

(ix) after section 8, the following section shall be added, namely:--

"9. Saving.-- Nothing contained in this Act shall be deemed to apply to pawnbrokers, that is to say, to persons who carry on the business of taking goods and chattels in pawn for a loan".

1 Sub-section (1) was repealed by section 3 of, and the Second Schedule to, the Tamil Nadu Repealing and Amending Act, 1957 (Tamil Nadu Act XXV of 1957). So far as this Act applied to the added territories, this sub-section was repealed by section 12 of, and the Third Schedule to, the Tamil Nadu (Added Territories) Extension Laws Act, 1962 (Tamil Nadu Act, 14 of 1962).

2 Substituted for the word "Madras" by the Tamil Nadu Adaptation of Laws and Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.

24. Amendment Of [Tamil Nadu] Act Iii Of 1888 :-

1(1) If the provisions of this Act have been applied to the City of 1[Chennai] by a notification under sub-section (3) of section 1,

section 28 of the 2[Chennai] City Police Act, 1888 ([Tamil Nadu] Act III of 1888), shall, after the expiry of three months from the date of such application and so long as such notification is in force, have effect as if the word "pawnbroker" occurring in four places therein and the words "in pawn" were omitted.

(2) Nothing contained in this Act shall be deemed to exempt pawnbrokers from the operations of section 66 of the 3[Chennai] City Police Act, 1888 4[(Tamil Nadu) Act III of 1888].

1 Substituted for the words "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 the City of Madras (Alteration of Name) Act, 1996 (Tamil Nadu Act 28 of 1996).

3 Substituted for the word "Madras" by the City of Madras (Alteration of Name) Act, 1996 (Tamil Nadu Act 28 of 1996).

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

25. Savings :-

Nothing contained in this Act shall apply to any loan advanced on a pledge in any area to which the provisions of this Act have been applied by a notification under sub-section (3) of section 1 before the expiry of three months from the date of such application, and notwithstanding anything contained in section 23 of this Act, the provisions of the Tamil Nadu Debtors Protection Act, 1934 (1[Tamil Nadu] Act VII of 1935), as they stood before such application shall continue to apply to any such loan.

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