



LAWS OF MALAYSIA

REPRINT

Act 400

MONEYLENDERS ACT 1951

Incorporating all amendments up to 1 January 2006

PUBLISHED BY
THE COMMISSIONER OF LAW REVISION, MALAYSIA
UNDER THE AUTHORITY OF THE REVISION OF LAWS ACT 1968
IN COLLABORATION WITH
PERCETAKAN NASIONAL MALAYSIA BHD
2006

MONEYLENDERS ACT 1951

First enacted 1951 (Ord. No. 42 of
1951)

Revised 1989 (Act 400 w.e.f
14 December 1989)

PREVIOUS REPRINT

First Reprint 2001

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LAWS OF MALAYSIA

Act 400

MONEYLENDERS ACT 1951

An Act for the regulation and control of the business of moneylending, the protection of borrowers of the monies lent in the course of such business, and matters connected therewith.

[Peninsular Malaysia—31 March 1952, L.N. 79/1952]

PART I

PRELIMINARY

Short title and application

1. (1) This Act may be cited as the Moneylenders Act 1951.

(2) This Act shall apply to the States of *Peninsular Malaysia only.

Interpretation

2. In this Act, unless the context otherwise requires—

“authorized name” and “authorized address” mean respectively the name under which and the address at which a moneylender is authorized by a licence granted under this Act to carry on business as a moneylender;

“borrower” means a person to whom money is lent by a moneylender;

“company” means any body corporate being a moneylender;

*NOTE—All references to “West Malaysia” shall be construed as reference to “Peninsular Malaysia” —see the Interpretation (Amendment) Act 1997 [Act A996], subsection 5(2).

“Deputy Registrar” means the Deputy Registrar of Moneylenders appointed under section 4;

“firm” means an unincorporated body of two or more individuals or one or more individuals and one or more corporations or two or more corporations who have entered into partnership with one another with a view to carrying on business for profit;

“Inspector” means an Inspector of Moneylenders appointed under section 4;

“interest” does not include any sum lawfully charged in accordance with this Act by a moneylender for or on account of stamp duties, fees payable by law and legal costs but, save as aforesaid, includes any amount by whatsoever name called in excess of the principal paid or payable to a moneylender in consideration of or otherwise in respect of a loan;

“licence” means a moneylender’s licence issued under this Act;

“Minister” means the Minister charged with the responsibility for local government;

“moneylender” means any person who lends a sum of money to a borrower in consideration of a larger sum being repaid to him;

“moneylending agreement” means an agreement made in writing between a moneylender and a borrower for the repayment, in lump sum or instalments, of money borrowed by the borrower from the moneylender;

“police officer” means a senior police officer as defined in the Police Act 1967 [*Act 344*];

“prescribed” means prescribed by regulations made under this Act;

“principal” means, in relation to a loan, the amount actually lent to and received by the borrower;

“Registrar” means the Registrar of Moneylenders appointed under this Act.

Non-application of Act and exemption therefrom

2A. (1) This Act shall not apply to—

- (a) any authority or body established, appointed or constituted by any written law, including any local authority;
- (b) any co-operative society registered under the *Co-operative Societies Act 1993 [Act 502];
- (c) any bank or merchant bank licensed under the Banking and Financial Institutions Act 1989 [Act 372] or any bank licensed under the Islamic Banking Act 1983 [Act 276];
- (d) any insurance company licensed under the **Insurance Act 1996 [Act 553];
- (e) any company licensed under the Takaful Act 1984 [Act 312];
- (f) any pawnbroker licensed under the Pawnbrokers Act 1972 [Act 81];
- (fa) a development financial institution prescribed under the Development Financial Institutions Act 2001 [Act 618]; and
- (g) any licensed finance company as defined in subsection 2(1) of the Banking and Financial Institutions Act 1989.
- (h) (*Deleted by Act A1193*).

(2) The Minister may—

- (a) in consideration of the special circumstances relating to the nature of the business of any company, or the objects of any society, and its financial standing; and
- (b) if he is satisfied that it would not be contrary to the public interest to do so,

by notification in the *Gazette* exempt such company or society from all or any of the provisions of this Act, and such exemption shall be granted for such duration as may be specified in the notification, and may be made subject to such limitations, restrictions or conditions as the Minister may specify in the notification.

*NOTE—This Act has replaced the Co-operative Societies Act 1948 [Act 287]—see section 95 of Act 502.

**NOTE—This Act has replaced the Insurance Act 1963 [Act 89]—see subsection 214(1) of Act 553.

(3) The Minister may at any time revoke any exemption granted by him under subsection (2) if he is satisfied, after giving the company or society concerned an opportunity to be heard, that the company or the society, as the case may be, has failed to observe any limitation, restriction or condition subject to which the exemption was granted, or that it is otherwise no longer suitable to continue to be granted exemption.

3. (*Deleted by Act A1193*).

Appointment of Registrar, Deputy Registrar, Inspector, and other officers and servants

*4. (1) For the purposes of this Act, the Minister may appoint a Registrar of Moneylenders and such number of Deputy Registrars of Moneylenders, Inspectors of Moneylenders and other officers and servants as the Minister may deem fit from amongst members of the public service.

(2) The Registrar and Deputy Registrars shall have and may exercise any of the powers conferred on an Inspector by or under this Act.

Delegation of powers of Registrar

4A. (1) The Registrar may, in writing, delegate all or any of his powers or functions under this Act, except his power of delegation, to any Deputy Registrar or Inspector appointed under section 4.

(2) Without prejudice to subsection (1), the Registrar may, in writing, delegate any of his powers or functions under this Act in respect of the investigation of offences under this Act and the enforcement of the provisions of this Act to any public officer.

(3) Any delegation under subsection (1) or (2) may be revoked at any time by the Registrar and does not prohibit the Registrar from himself exercising the powers or performing the functions so delegated.

*NOTE—For saving and transitional provision of this section—see subsections 46(1), (8) and (9) of Act A1193.

PART II

LICENSING OF MONEYLENDERS

Licence to be taken out by moneylender

5. (1) No person shall conduct business as a moneylender unless he is licensed under this Act.

(2) Any person who carries on business as a moneylender without a valid licence, or who continues to carry on such business after his licence has expired or been suspended or revoked shall be guilty of an offence under this Act and shall be liable to a fine of not less than twenty thousand ringgit but not more than one hundred thousand ringgit or to imprisonment for a term not exceeding five years or to both, and in the case of a second or subsequent offence shall also be liable to whipping in addition to such punishment.

Application for licence

*5A. (1) An application for a licence to carry on business as a moneylender shall be made in writing to the Registrar in a prescribed form, and accompanied by such documents or information as may be prescribed.

(2) The Registrar may in writing, at any time after receiving the application but before it is determined, require the applicant to provide within a specified time or any extension of time granted by the Registrar, such additional documents or information as may be considered necessary by the Registrar for the purpose of determining the suitability of the applicant for the licence.

(3) Where any additional documents or information required under subsection (2) is not provided by the applicant within the time specified in the requirement or any extension of time granted by the Registrar, the application shall be deemed to be withdrawn and shall not be further proceeded with.

(4) Without prejudice to subsection (3), the applicant may submit a fresh application for a licence to the Registrar, but such application shall not be made while his application for a licence is still pending before the Registrar.

*NOTE—For saving and transitional provisions of this section—see subsection 46(3) of Act A1193.

Grant of a licence

5B. (1) Notwithstanding subsection 5A(2) or (3), the Registrar may, upon receiving an application for a licence under subsection 5A(1), grant or refuse to grant the licence to the applicant, and the Registrar shall inform the applicant of his decision.

(2) The licence shall be in such form as may be prescribed.

*(3) The applicant shall pay the prescribed application fee for the licence to the Registrar upon being informed by the Registrar of the approval of his application for the licence.

Duration of licence

5C. (1) Subject to section 9D and subsection (3), a licence shall, unless sooner revoked, be valid for a period not exceeding two years.

(2) Where a licence is granted, the Registrar shall specify in the licence the date on which the licence is to come into force and the date of its expiry.

(3) Where on the date of expiry of the licence, an application for the renewal of the licence under section 5E is pending before the Registrar, that licence shall remain in force until the application is disposed of, or sixty days after the date of expiry of the licence, whichever is the earlier.

Conditions attached to licence

5D. (1) The Registrar may stipulate in the licence such conditions as he may think fit and he may, at any time during the duration of the licence, add to, revoke or vary any of the conditions.

(2) Any person who fails to comply with any of the conditions of the licence shall be guilty of an offence under this Act and shall be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding twelve months or to both.

*NOTE—For saving and transitional provisions of this subsection—see subsection 46(4) of Act A1193.

Renewal of licence

***5E.** (1) An application for the renewal of a licence shall be made by the holder of the licence at least sixty days before the date of expiry of the licence, and the application shall be accompanied by such documents and information as may be required by the Registrar.

(2) Notwithstanding subsection (1), the Registrar may, subject to the payment of a penalty not exceeding three hundred ringgit imposed on the holder of the licence, allow an application for the renewal of a licence made after the time specified in subsection (1), but no application for such renewal shall be allowed where the application is made after the date of expiry of the licence.

(3) Where the holder of the licence fails to renew the licence before the date of expiry of the licence, he shall not be entitled to make a new application for a licence within a period of two years from the date of expiry of the licence.

(4) The holder of the licence shall pay the prescribed renewal fee for the licence to the Registrar upon being informed by the Registrar of the approval of his application for the renewal of the licence.

Requirement to display licence

5F. (1) A moneylender shall at all times display his licence in a conspicuous place at the premise where he carries out or operates his business.

(2) Any person who contravenes this section shall be guilty of an offence under this Act and shall be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding six months or to both.

Particulars to be shown on licences

6. (1) Every licence granted to a moneylender shall show his true name and the name under which, and the address at which, he is authorized by the licence to carry on business as such. A licence

**NOTE*—For saving and transitional provisions of this section—see subsections 46(3) and (4) of Act A1193.

shall not authorize a moneylender to carry on business at more than one address or under more than one name or under any name which includes the word “bank” or otherwise implies that he carries on the business of banking, and no licence shall authorize a moneylender to carry on business under any name except—

- (a) his true name;
- (b) the name of a firm in which he is a partner; or
- (c) a business name, whether of an individual or of a firm in which he is a partner, under which he or the firm has been registered under the Registration of Businesses Act 1956 [*Act 197*].

(2) Any licence taken out in a name other than the moneylender’s true name shall be void.

7. (*Deleted by Act A1193*).

Offences

8. If any person—

- (a) takes out a licence in any name other than his true name;
- (b) being licensed as a moneylender, carries on business as such in any name other than his authorized name or at any other place than his authorized address or addresses;
- (c) in the course of business as a moneylender enters into any moneylending agreement with respect to any advance or repayment of money or takes any security for money otherwise than in his authorized name; or
- (d) lends money to a person under the age of eighteen years,

he shall be guilty of an offence under this Act and shall be liable to a fine not exceeding* fifty thousand ringgit and for a second or subsequent offence shall be liable to the fine aforesaid or to imprisonment for a term not exceeding twelve months and an offender being a company, society, firm or other body of persons shall for a second or subsequent offence be liable to a fine not exceeding **one hundred thousand ringgit.

*NOTE—Previously “one thousand ringgit”—see Act A1193.

**NOTE—Previously “five thousand ringgit”—see Act A1193.

Circumstances under which licence shall not be issued

9. (1) The licence applied for under section 5A shall not be issued—

(a) if—

- (i) an applicant;
- (ii) a director, general manager, manager or secretary of an applicant or any other person holding a similar office or position, where the applicant is a company;
- (iii) a president, vice-president, secretary or treasurer of an applicant or any other person holding a similar office or position, where the applicant is a society; or
- (iv) a partner or any member of an applicant or any other person holding a similar office or position, where the applicant is a firm or other body of persons,

is a person convicted of an offence involving fraud or dishonesty, or an offence relating to Chapter XVI or XVII of the Penal Code [*Act 574*], or is an undischarged bankrupt;

(b) where at the time the application is made—

- (i) an applicant;
- (ii) a director, general manager, manager or secretary of an applicant, where the applicant is a company;
- (iii) a president, vice-president, secretary or treasurer of an applicant, where the applicant is a society; or
- (iv) a partner or any member of an applicant, where the applicant is a firm or other body of persons,

has, due to a conviction for an offence under this Act, been sentenced to a fine exceeding ten thousand ringgit or to imprisonment (other than imprisonment in default of a fine not exceeding ten thousand ringgit);

(c) where at the time the application is made, a person who—

- (i) had been a director of a company carrying on the business of moneylending or had been directly concerned in the management of the business of the company;

- (ii) had been a president, vice-president, secretary or treasurer of a society carrying on the business of moneylending, or had been directly concerned in the management of the business of the society; or
- (iii) had been a partner or any member of a firm or other body of persons carrying on the business of moneylending, or had been directly concerned in the management of the business of the firm or other body of persons,

which has been wound up or dissolved by a court, is a director, president, vice-president, secretary, treasurer, partner or member, or is directly concerned in the management of the business of the applicant, where the applicant is a company, society, firm or other body of persons, respectively;

- (d) where the applicant is responsible for the management of his business as a moneylender, and the licence for that business has been revoked;
- (e) where satisfactory evidence has been produced regarding the bad character of the applicant, or of the director, president, vice-president, secretary, treasurer, partner or member, or any person responsible for the management of the business of the applicant, where the applicant is a company, society, firm or other body of persons; or
- (f) where satisfactory evidence has been produced that the applicant, or the director, president, vice-president, secretary, treasurer, partner or member, or any person responsible for the management of the business of the applicant, where the applicant is a company, society, firm or other body of persons, is not a fit and proper person to hold a licence.

(2) Any person aggrieved by the refusal of the Registrar to issue a licence may appeal to the Minister in the prescribed manner and the decision of the Minister shall be final.

Revocation or suspension of licence

9A. (1) If a moneylender—

- (a) has been carrying on his business, in the opinion of the Registrar, in a manner detrimental to the interest of the borrower or to any member of the public;
- (b) has contravened any of the provisions of this Act or any regulations or rules made under this Act;
- (c) has been licensed as a result of a fraud, mistake or misrepresentation in any material particular; or
- (d) has failed to comply with any of the conditions of the licence, the Registrar may, subject to section 9B, revoke the licence issued to the moneylender or suspend the licence for such period as the Registrar thinks fit.

(2) A revocation or suspension of a licence under this section shall not affect any moneylending agreement entered into before such revocation or suspension, other than that in respect of which such revocation or suspension is made.

(3) Where a licence has been revoked or suspended, the licence shall have no effect from the date of revocation of the licence or during the period of suspension of the licence, as the case may be.

Opportunity of being heard

9B. (1) Before revoking or suspending a licence under section 9A, the Registrar shall give the holder of the licence a notice in writing of his intention to do so and require the holder of the licence to submit reasons why the licence should not be revoked or suspended.

(2) After considering the reasons submitted by the holder of the licence, the Registrar shall decide whether to revoke or suspend the licence, or to take no further action, and the Registrar shall notify the holder of the licence of his decision.

Appeal to Minister

9C. Any person aggrieved by any decision taken by the Registrar under section 9A may, within fourteen days after having been notified of the decision under subsection 9B(2), appeal against that decision to the Minister whose decision is final and shall not be questioned in any court.

Validity of licence extended in successful appeal

9D. Where the Minister allows an appeal against the revocation or suspension of a licence under this Act, the validity of the licence shall be extended by a period corresponding to that during which the licence had no effect and such extended period shall be inserted in the licence.

Prohibition of subsequent application pending appeal on earlier application

9E. (1) Where an applicant appeals against the refusal of the Registrar to issue a licence to him, or a holder of a licence appeals against the revocation of his licence by the Registrar, he shall not subsequently make an application for a licence until the appeal against the Registrar's decision has been determined by the Minister.

(2) In the event that any licence is issued as a result of a subsequent application made in the circumstances specified in subsection (1), the licence so granted shall be void and shall have no effect.

(3) Any person who contravenes this section shall be guilty of an offence under this Act and shall be liable to a fine not exceeding twenty thousand ringgit or to imprisonment for a term not exceeding three months or to both.

Surrender of licence

9F. (1) Upon the revocation of the licence under section 9A, or the rejection of an appeal against the revocation of the licence under section 9C, the holder of the licence shall, within 14 days from the date of the notice of revocation, or the notice of rejection of appeal against revocation, being served on him, surrender his licence to the Registrar.

(2) Any person who fails to surrender his licence as required under subsection (1) shall be guilty of an offence under this Act and shall be liable to a fine not exceeding twenty thousand ringgit or to imprisonment for a term not exceeding twelve months or to both.

Transfer or assignment of licence prohibited

9G. (1) Subject to subsections (2) and (3), the holder of a licence shall not transfer or assign his licence to any other person, or cause or permit any other person to use his licence or provide the services authorized in the licence.

(2) Except with the prior written consent of the Registrar, the holder of a licence shall not appoint any person for the purpose of exercising any of the rights conferred on him under the licence, or cause or permit any such person to exercise any such right.

(3) The Registrar may authorize the transfer of a licence where—

(a) the holder of a licence—

(i) being a company, is liquidated and a receiver or manager is appointed in relation to the moneylending business of the company; or

(ii) being a society, firm or other body of persons is dissolved and a receiver or manager is appointed in relation to the moneylending business of the society, firm or other body of persons; or

(b) for any reason the Registrar is satisfied that it would be just to do so.

(4) Except where the Registrar has given his consent or authorization under subsection (2) or (3), the holder of a licence who purports to transfer or assign his licence to any other person, or causes or permits any other person to use his licence or to provide the services authorized in the licence, shall be guilty of an offence under this Act and shall be liable to a fine not exceeding twenty thousand ringgit or to imprisonment for a term not exceeding twelve months or to both.

10. *(Deleted by Act A1193).*

PART III

INVESTIGATION, SEARCH, SEIZURE AND ARREST

Powers of Inspector or police officer in investigation

10A. (1) Every Inspector or police officer making an investigation under this Act shall have the power to require information, whether orally or in writing, from any person acquainted or supposed to be acquainted with the facts and circumstances of the case under investigation.

(2) Any person who, on being required by an Inspector or police officer to give information under this section, refuses to comply with such requirement or furnishes as true any information which he knows or has reason to believe to be false, shall be guilty of an offence under this Act and shall be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding twelve months or to both.

(3) Where any information furnished by a person to an Inspector or police officer is proved to be untrue or incorrect in whole or in part, it shall be no defence to allege that the information or any part of the information was misinterpreted, or furnished inadvertently or without criminal or fraudulent intent.

Power to investigate complaints and inquire into information

10B. (1) Every complaint relating to the commission of an offence under this Act may be made orally or in writing to an Inspector or police officer.

(2) Where a complaint is made orally, it shall be reduced into writing and read over to the person making the complaint.

(3) Every complaint, whether in writing or reduced into writing, shall be signed by the person making the complaint.

(4) Every complaint, whether in writing or reduced into writing, shall be entered in a book kept at the office of the Registrar and there shall be appended to such entry the date and hour on which such complaint was made.

(5) Where an Inspector or police officer has reason to suspect the commission of an offence under this Act following a complaint made under subsection (1) or information otherwise received by him, he shall cause an investigation to be made and for such purpose may exercise all the powers of investigation provided for under this Act.

Power to examine persons

10c. (1) An Inspector or police officer investigating an offence under this Act may—

- (a) order any person to attend before him for the purpose of being examined orally in relation to any matter which may, in his opinion, assist in the investigation into the offence;
- (b) order any person to produce before him any book, document or any certified copy of such book or document, or any other article which may, in his opinion, assist in the investigation into the offence; or
- (c) by written notice require any person to furnish a statement in writing made on oath or affirmation, setting out in the notice all such information which may be required, being information which, in the opinion of the Inspector or police officer, would be of assistance in the investigation into the offence.

(2) A person to whom an order under paragraph (1)(a) has been given shall—

- (a) attend in accordance with the terms of the order to be examined, and shall continue to attend from day to day as directed by the Inspector or police officer until the examination is completed; and
- (b) during such examination, disclose all information which is within his knowledge, or which is available to him, or which is capable of being obtained by him, in respect of the matter in relation to which he is being examined, whether or not any question is put to him with regard to such matter, and where any question is put to him he shall answer the question truthfully and to the best of his knowledge and belief.

(3) A person to whom an order has been given under paragraph (1)(b) shall not conceal, destroy, alter, remove from or send out of Malaysia, or deal with, expend, or dispose of, any book, document or article specified in the order, or alter or deface any entry in any such book or document, or cause such act to be done, or assist or conspire to do such act.

(4) A person to whom a written notice has been given under paragraph (1)(c) shall, in his written statement made on oath or affirmation, furnish and disclose truthfully all information required under the notice which is within his knowledge, or which is available to him, or which is capable of being obtained by him.

(5) A person to whom an order or a notice is given under subsection (1) shall comply with such order or notice and with the provisions of subsection (2), (3) or (4) in relation to the order or notice, but nothing contained in subsection (2), (3) or (4) shall be construed as compelling the person who is being examined under this section to disclose any information, book, document or article which may incriminate him for any offence under this Act or any other written law.

(6) An Inspector or police officer examining a person under paragraph (1)(a) shall record in writing any statement made by the person and the statement so recorded shall be signed by the person being examined or affixed with his thumbprint as the case may be, after it has been read to him in the language in which he made it and after he has been given an opportunity to make any corrections he may wish, and if such person refuses to sign the record, the Inspector or police officer shall endorse on the record under his hand the fact of such refusal and the reasons for such refusal, if any, stated by the person being examined.

(7) The record of an examination under paragraph (1)(a), or a written statement on oath or affirmation made pursuant to paragraph (1)(c), or any book, document or article produced under paragraph (1)(b) or in the course of an examination under paragraph (1)(a) or under a written statement on oath or affirmation made pursuant to paragraph (1)(c) shall, notwithstanding any written law or rule of law to the contrary, be admissible in evidence in any proceedings in any court for an offence under this Act, regardless whether such proceedings are against the person who was examined, or who produced the book, document or article, or who made the written statement on oath or affirmation, or against any other person.

(8) Any person who contravenes this section shall be guilty of an offence under this Act and shall on conviction be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding fifteen months or to both.

Search by warrant

10D. (1) If it appears to a Magistrate, upon written information and after such inquiry as he considers necessary, that there is reasonable cause to believe that an offence under this Act has been committed or is being committed on or in respect of any premises, the Magistrate may issue a warrant authorizing an Inspector or police officer named in that warrant to enter such premises with such assistance as may be required, and if necessary by force.

(2) An Inspector or police officer may, in the premises entered under subsection (1), inspect—

- (a) any book, account or document, including computerized data, which contains or is reasonably suspected to contain any information regarding any offence suspected to have been committed under this Act; and
- (b) any mark, signboard, card, letter, pamphlet, item, thing, article or goods that are reasonably believed to furnish evidence regarding the commission of such offence,

and may seize such book, account, document or data or any copy or extract of such book, account, document or data, or such mark, signboard, card, letter, pamphlet, item, thing, article or goods.

(3) An Inspector or police officer conducting a search under subsection (1) may, if in his opinion it is reasonably necessary to do so for the purpose of investigating the offence, search any person who is in, or on, such premises and detain such person and remove him to such place as may be necessary to facilitate such search.

(4) An Inspector or police officer making a search of a person under subsection (3) may seize or take possession of any book, account, document, card, letter, pamphlet, item, thing, article or goods found on the person for the purpose of the investigation being carried out by the Inspector or police officer.

(5) Where, by reason of their nature, size or amount, it is not practicable to remove any book, account, document, mark, signboard, card, letter, pamphlet, item, thing, article or goods seized under this section, the Inspector or police officer making the seizure shall, by any means, seal such book, account, document, mark, signboard, card, letter, pamphlet, item, thing, article or goods in the premises or container in which they are found.

(6) A person who, without lawful authority, breaks, tampers with or damages the seal referred to in subsection (5) or removes any book, account, document, mark, signboard, card, letter, pamphlet, item, thing, article or goods under seal, or attempts to do so shall be guilty of an offence under this Act and shall be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding fifteen months or to both.

(7) Whenever it is necessary so to do, an Inspector or police officer exercising any power under subsection (1) may—

- (a) break open any outer or inner door or window of any premises and enter into the premises, or otherwise forcibly enter into the premises and every part of the premises;
- (b) remove by force any obstruction to such entry, search, seizure, detention or removal as he is empowered to effect; or
- (c) detain any person found on any premises searched under subsection (1) until such premises have been searched.

(8) No person shall be searched under this section except by an Inspector or police officer who is of the same gender as the person to be searched.

Power of arrest

10E. If any person is found committing an offence under this Act, or is reasonably suspected of having committed, or has attempted to commit, or is about to commit, such an offence, he may be arrested by an Inspector or police officer with a warrant and shall be brought immediately before a Magistrate to be dealt with according to the law.

Search without warrant

10F. If the Inspector or police officer in any of the circumstances referred to in section 10D has reasonable cause to believe that by reason of delay in obtaining a search warrant under that section the investigation would be adversely affected or the evidence of the commission of the offence is likely to be tampered with, removed, damaged or destroyed, the Inspector or police officer may enter the premises and exercise in, and in respect of the premises, all the powers referred to in section 10D in as full and ample a manner as if he were authorized to do so by a warrant issued under that section.

Seizure of movable property

10G. (1) In the course of an investigation into an offence under this Act, an Inspector or police officer may seize any movable property which he has reasonable grounds to suspect to be the subject matter of an offence under this Act or evidence relating to the commission of an offence under this Act.

(2) The occupant of the place searched or, any person on his behalf, shall in every instance be permitted to attend during the search and a list of all movable property seized pursuant to subsection (1) and of the places in which such property are respectively found shall be prepared by the Inspector or police officer effecting the seizure and signed by him.

(3) A copy of the list referred to in subsection (2) shall be served on the owner of such property or on the person from whom the property was seized as soon as possible and shall be signed by such owner or person.

Further provisions relating to seizure of movable property

10H. (1) Where any movable property is seized under this Act, the seizure shall be effected by removing the movable property from the possession, custody or control of the person from whom it was seized and placing it under the custody of such person or authority and at such place as an Inspector or police officer may determine.

(2) Where it is not practicable, or it is otherwise not desirable, to effect the removal of any property under subsection (1), the Inspector or police officer may leave it at the premises in which it is seized under the custody of such person as he may determine for the purpose.

Obstruction of inspection and search

10i. (1) Any person who—

- (a) refuses any Inspector or police officer access to any premises or any part of such premises, or fails to submit to a search of his person by a person authorized to search him under this Act;
- (b) assaults, obstructs, hinders or delays an Inspector or police officer in the execution of his duty under this Act;
- (c) fails to comply with any lawful demand, notice, order or requirement of an Inspector or police officer in the execution of his duty under this Act;
- (d) omits, refuses or neglects to give to an Inspector or police officer any information which may reasonably be required of him and which he is empowered to give;
- (e) fails to produce to, or conceals or attempts to conceal from an Inspector or police officer any book, account, document, data, mark, signboard, card, letter, pamphlet, item, thing, article or goods in relation to which such Inspector or police officer has reasonable grounds for suspecting that an offence under this Act has been or is being committed, or which is liable to seizure under this Act;
- (f) rescues or endeavours to rescue or causes to be rescued any thing which has been duly seized; or
- (g) destroys any thing to prevent the seizure or the securing of the thing,

shall be guilty of an offence under this Act and shall be liable to a fine not exceeding twenty thousand ringgit or to imprisonment for a term not exceeding twelve months or to both.

(2) Any person who abets the commission of any offence as specified under subsection (1) shall be guilty of an offence under this Act and shall be liable to a fine not exceeding twenty thousand ringgit or to imprisonment for a term not exceeding twelve months or to both.

(3) Any person who, while committing or abetting the commission of any offence under subsection (1) or (2), causes hurt to an Inspector, police officer or any public officer who is carrying out the enforcement of this Act shall be guilty of an offence under this Act and shall be liable to the punishment as specified in subsection (1) or (2), respectively, and to whipping.

Authority to act

10j. An Inspector when acting under this Part, shall on demand, declare his office and produce to the person against whom he is acting such written authorization as the Registrar may direct to be carried by such Inspector.

Release of property seized

10k. (1) Where any property has been seized under this Act, an Inspector or police officer superior in rank to the police officer who effected the seizure, may, if there is no prosecution for an offence under this Act, or upon the completion of proceedings for such offence, or if it is not otherwise required for the purpose of any proceedings under this Act, release the property to its owner, or to the person from whose possession, custody or control it was seized, or to such person who may be entitled to the property, and in such event the officer effecting the seizure, the Government, or any person acting on behalf of the Government, shall not be liable to any proceedings by any person if the seizure of the property and the release of the property had been effected in good faith.

(2) A record in writing shall be made by the officer effecting any release of the property under subsection (1) in respect of such release specifying in detail the circumstances of, and the reasons for such release.

PART IV

EVIDENCE

Evidence of accomplice and *agent provocateur*

10L. (1) Notwithstanding any written law or rule of law to the contrary, in any proceedings against any person for an offence under this Act—

- (a) no witness shall be regarded as an accomplice by reason only of such witness having—
 - (i) accepted, received, obtained, solicited, agreed to accept or receive, or attempted to obtain any sum of money from a moneylender; or
 - (ii) been in any manner concerned in the commission of such offence or having knowledge of the commission of the offence;
- (b) no agent provocateur, whether or not he is an Inspector or police officer, shall be presumed to be unworthy of credit by reason only of his having attempted to commit or having abetted the commission of, or having abetted or having been engaged in a criminal conspiracy to commit, such offence if the main purpose of the attempt to commit, abetment in the commission of, or abetment or engagement in the criminal conspiracy to commit, the offence was to secure evidence against such person; and
- (c) any statement, whether oral or written, made to an *agent provocateur* by such person shall be admissible as evidence at his trial.

(2) Notwithstanding any written law or rule of law to the contrary, a conviction for any offence under this Act solely on the uncorroborated evidence of any accomplice or agent provocateur shall not be illegal and no such conviction shall be set aside merely because the court which tried the case has failed to refer in the grounds of its judgement to the need to warn itself against the danger of convicting on such evidence.

Protection of informers and information

10M. (1) Except as hereinafter provided, no complaint as to an offence under this Act shall be admitted in evidence in any civil or criminal proceedings, and no witness shall be obliged or permitted to disclose the name or address of any person who gave the information, or the substance and nature of the information received from him, or state any matter which might lead to his discovery.

(2) If any application, particular, return, account, document or written statement which is given in evidence or liable to inspection in any civil or criminal proceedings contains any entry in which any person who gave the information is named or described, or which might lead to his discovery, the court before which the proceedings are held shall cause all such entries to be concealed from view or to be obliterated so far as may be necessary to protect such person from discovery, but no further.

(3) If in any proceedings relating to any offence under this Act, the court, after full inquiry into the case, is of the opinion that the person who gave the information wilfully made in his complaint a material statement which he knew or believed to be false or did not believe to be true, or is of the opinion that justice cannot be fully done between the parties to the proceedings without the discovery of the person who gave the information, the court may require the production of the original complaint, if in writing, and permit inquiry and require full disclosure concerning that person.

Admissibility of statements by accused persons

10N. (1) In any trial or inquiry by a court into an offence under this Act, any statement, whether the statement amounts to a confession or not or is oral or in writing, made at any time, whether before or after the person is charged and whether in the course of an investigation or not and whether or not wholly or partly in answer to questions, by an accused person to or in the hearing of any Inspector or police officer, whether or not interpreted to him by any other Inspector or police officer or any other person, whether concerned or not in the arrest of that person, shall, notwithstanding any written law or rule of law to the contrary, be admissible at his trial in evidence and, if that person tenders himself as a witness, any such statement may be used in cross-examination and for the purpose of impeaching his credit.

(2) No statement made under subsection (1) shall be admissible or used as provided for in that subsection if the making of the statement appears to the court to have been caused by any inducement, threat or promise having reference to the charge against the person, proceeding from a person in authority and sufficient in the opinion of the court to give that person grounds which would appear to him reasonable for supposing that by making it he would gain any advantage or avoid any evil of a temporal nature in reference to the proceedings against him.

(3) Where any person is arrested or is informed that he may be prosecuted for any offence under this Act, he shall be served with a notice in writing, which shall be explained to him, to the following effect:

“You have been arrested/informed that you may be prosecuted for ...(the possible offence under this Act). Do you wish to say any thing? If there is any fact on which you intend to rely in your defence in court, you are advised to mention it now. If you hold it back till you go to court, your evidence may be less likely to be believed and this may have a bad effect on your case in general. If you wish to mention any fact now, and you would like it written down, this will be done.”

(4) Notwithstanding subsection (3), a statement by any person accused of any offence under this Act made before there is time to serve a written notice under that subsection shall not be rendered inadmissible in evidence merely by reason of no such written notice having been served on him if such written notice has been served on him as soon as is reasonably possible after the statement was made.

(5) No statement made by an accused person in answer to a written notice served on him pursuant to subsection (3) shall be construed as a statement caused by any inducement, threat or promise as is described in subsection (2), if it is otherwise voluntary.

(6) Where in any criminal proceedings against a person for an offence under this Act, evidence is given that the accused, on being informed that he might be prosecuted for it, failed to mention any such fact, being a fact which in the circumstances existing at the time he could reasonably have been expected to mention when so informed, the court, in determining whether the prosecution has made out a prima facie case against the accused and in determining

whether the accused is guilty of the offence charged, may draw such inferences from the failure as appear proper; and the failure may, on the basis of those inferences, be treated as, or as capable of amounting to, corroboration of any evidence given against the accused in relation to which the failure is material.

- (7) Nothing in subsection (6) shall in any criminal proceedings—
- (a) prejudice the admissibility in evidence of the silence or other reaction of the accused in the face of any thing said in his presence relating to the offence in respect of which he is charged, in so far as evidence thereof would be admissible apart from that subsection; or
 - (b) be taken to preclude the drawing of any inference from any silence or other reaction of the accused which could be drawn from that subsection.

Provisions as to evidence

10o. (1) A copy of a licence, certified by the Registrar to be a true copy of such licence, shall be admissible as evidence for all purposes for which the original of such copy would have been admissible had such original been produced and admitted as evidence, without proof of the signature or authority of the person signing the licence or the copy of the licence.

(2) When in any proceedings for an offence under this Act it is necessary to prove that a person was, or was not, the holder of a licence, a certificate purporting to be signed by the Registrar and certifying that the person was or was not, the holder of a licence, shall be admissible as evidence and shall constitute *prima facie* proof of the facts certified in such certificate, without proof of the signature or the authority of the Registrar to issue the certificate.

PART V

CONDUCT OF MONEYLENDING BUSINESS

Moneylender and borrower must enter into a moneylending agreement

***10p.** (1) A moneylender who intends to lend money to a borrower shall enter into a moneylending agreement with the borrower, and that agreement shall be in the prescribed form.

*NOTE—For saving and transitional provisions of this section—see subsections 46(5), (6) and (7) of Act A1193.

(2) Any moneylender who contravenes this section shall be guilty of an offence under this Act and shall be liable to a fine of not less than ten thousand ringgit but not more than fifty thousand ringgit or to imprisonment for a term not exceeding five years or to both, and in the case of a second or subsequent offence shall also be liable to whipping in addition to such punishment.

(3) Any moneylending agreement which does not comply with the prescribed form shall be void and have no effect and shall not be enforceable.

Advertisement by moneylender

***11.** (1) No advertisement regarding the business of moneylending carried on by a moneylender shall be issued or published or caused to be issued or published by the moneylender, unless an advertisement permit in respect of that advertisement has been granted by the Registrar.

(2) Any person who contravenes this section shall be guilty of an offence under this Act and shall be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding twelve months or to both.

Application for advertisement permit

11A. An application for an advertisement permit by a moneylender shall be made in writing to the Registrar in the prescribed form and accompanied by such particulars and documents as may be prescribed.

No circular implying a banking business to be issued

12. If a moneylender for the purpose of the business carried on by him as such issues or publishes or causes to be issued or published any advertisement, circular or document of any kind whatsoever containing expressions which might reasonably be held to imply that he carries on the business of banking he shall be liable to a fine not exceeding **ten thousand ringgit and on a second or subsequent offence shall be liable to the fine aforesaid or to imprisonment for a term not exceeding twelve months or to both and an offender being a company, society, firm or other body of persons shall for a second or subsequent offence be liable to a fine not exceeding ***fifteen thousand ringgit.

**NOTE*—For saving and transitional provisions of this section—see subsection 46(2) of Act A1193.

***NOTE*—Previously “one thousand ringgit”—see Act A1193.

****NOTE*—Previously “five thousand ringgit”—see Act A1193.

13. *(Deleted by Act A1193).*

14. *(Deleted by Act A1193).*

Contract by unlicensed moneylender unenforceable

15. No moneylending agreement in respect of money lent after the coming into force of this Act by an unlicensed moneylender shall be enforceable.

Moneylending agreement to be given to the borrower

16. (1) No moneylending agreement shall be enforceable unless the agreement has been signed by all the parties to the agreement and a copy of the agreement duly stamped is delivered to the borrower by the moneylender before the money is lent.

(2) A moneylender who executes a moneylending agreement which does not comply with this section shall be guilty of an offence under this Act and shall be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding twelve months or to both.

Prohibition of compound interest

17. (1) Any moneylending agreement made on or after the commencement of this Act, for the loan of money by a moneylender shall be illegal in so far as it provides, directly or indirectly, for the payment of compound interest, or for the rate or amount of interest to be increased by reason of any default in the payment of sums due under the moneylending agreement:

Provided that provision may be made in any such moneylending agreement that if default is made in the payment upon the due date of any sum or instalment payable to the moneylender under the moneylending agreement, whether in respect of principal or interest, the moneylender shall be entitled to charge simple interest on the unpaid sum or instalment which shall be calculated at the rate of eight per centum per annum from day to day from the date of default in payment of the sum or instalment until that sum or instalment is paid, and any interest so charged shall not be reckoned for the purposes of this Act as part of the interest charged in respect of the loan.

(2) This section shall not apply to transactions known as *Thavannai* transactions, between one moneylender and another moneylender, provided that any such transaction is evidenced by a written document duly stamped.

(3) (*Deleted by Act A1193*).

Interest for secured and unsecured loans

17A. (1) For the purposes of this Act, the interest for a secured loan shall not exceed twelve per centum per annum and the interest for an unsecured loan shall not exceed eighteen per centum per annum.

(2) Notwithstanding subsection (1), interest shall not at any time be recoverable by a moneylender of an amount in excess of the sum then due as principal unless a Court, having regard to all the circumstances, otherwise decrees.

(3) Where in a moneylending agreement the interest charged for a secured loan or an unsecured loan, as the case may be, is more than that specified in subsection (1), that agreement shall be void and have no effect and shall not be enforceable.

(4) Any moneylender who contravenes this section shall be guilty of an offence under this Act and shall be liable to a fine not exceeding twenty thousand ringgit or to imprisonment for a term not exceeding eighteen months or to both.

Accounts to be kept in permanent books

18. (1) Every moneylender shall keep or cause to be kept a regular account of each loan made after the commencement of this Act clearly stating in plain words and in English numerals with or without the numerals of the script otherwise used the terms and transactions incidental to the account entered in a book paged and bound in such manner as not to facilitate the elimination of pages or the interpolation or substitution of pages.

(2) If any person subject to the obligations of this section fails to comply with any of the requirements thereof, he shall not be entitled to enforce any claim in respect of any transaction in relation to which default shall have been made. He shall also be guilty of an offence under this Act and shall be liable to a fine

not exceeding *ten thousand ringgit, or in the case of a continuing offence, to a fine not exceeding **one thousand ringgit for each day or part of a day during which such offence continues.

Obligation to supply information as to state of loan and copies of documents relating thereto

19. (1) In respect of every moneylending agreement with regard to money lent by a moneylender whether made before or after the commencement of this Act the moneylender shall, on any reasonable demand in writing being made by the borrower at any time during the continuance of the moneylending agreement and on tender by the borrower of the sum of three ringgit for expenses, supply to the borrower or, if the borrower so requires, to any person specified in that behalf in the demand, a statement of account in English figures signed by the moneylender showing—

- (a) the date on which the loan was made, the amount of the principal of the loan and the rate per centum per annum or the amount of interest charged; and
- (b) the amount of any payment already received by the moneylender in respect of the loan and the date on which it was made; and
- (c) the amount of all sums due to the moneylender for principal but unpaid and the dates upon which they became due and the amount of interest due and unpaid in respect of each such sum; and
- (d) the amount of every sum not yet due which remains outstanding and the date upon which it will become due.

A statement of account given in the form in the First Schedule shall be deemed to comply with the requirements of this subsection.

(2) A moneylender shall, on any reasonable demand in writing by the borrower and on tender of the sum of five ringgit, supply a copy of any document relating to a loan made by him or any security therefor to the borrower or if the borrower so requires, to any person specified in that behalf in the demand.

(3) If a moneylender to whom a demand has been made under this section fails without reasonable excuse to comply therewith within one month after the demand has been made he shall not, so long as the default continues, be entitled to sue for or recover

*NOTE—Previously “fifty ringgit”—see Act A1193.

**NOTE—Previously “ten ringgit”—see Act A1193.

any sum due under the moneylending agreement on account either of principal or interest, and interest shall not be chargeable in respect of the period of the default and, if such default is made or continued after proceedings have ceased to lie in respect of the loan, the moneylender shall be liable to a fine not exceeding fifty ringgit for every day on which the default continues.

(4) A moneylender receiving any payment of money from a borrower under a moneylending agreement for the repayment of money lent shall give, upon receiving the payment, a receipt to the borrower and any person acting in contravention of this subsection shall be guilty of an offence under this Act and shall be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding ten months or to both.

Provisions as to bankruptcy proceedings for moneylenders' loans

20. (1) Where a debt due to a moneylender in respect of a loan made by him after the commencement of this Act includes interest, that interest shall, for the purposes of the Bankruptcy Act 1967 [Act 360] relating to the presentation of a bankruptcy petition, voting at meetings, compositions and schemes of arrangement and dividend, be calculated at a rate not exceeding eight per centum per annum, but nothing in the foregoing provision shall prejudice the right of the creditor to receive out of the estate, after all the debts proved in the estate have been paid in full, any higher rate of interest to which he may be entitled.

(2) No proof of a debt due to a moneylender in respect of a loan made by him shall be admitted for any of the purposes of the Bankruptcy Act 1967 unless the affidavit verifying the debt has exhibited thereto a statement which complies with section 19 and shows, where the amount of interest included in the unpaid balance represents a rate per centum per annum exceeding eight per centum, the amount of interest which would be so included if it were calculated at the rate of eight per centum per annum.

(3) General rules may be made under the Bankruptcy Act 1967 for the purpose of carrying into effect the objects of this section.

Accounts under section 19 to be produced when suing in court

21. (1) Where proceedings are taken in any Court by a moneylender for the recovery of any money lent after the commencement of this Act or the enforcement of any moneylending agreement or security made or taken after the commencement of this Act in respect of money lent either before or after the commencement of this Act, he shall produce a statement of his account as prescribed in section 19.

(2) Where there is evidence which satisfies the Court that the interest charged in respect of the sum actually lent is excessive and that the transaction is harsh and unconscionable or substantially unfair, the Court shall reopen the transaction and take an account between the moneylender and the person sued and shall, notwithstanding any statement or settlement of account or any agreement purporting to close previous dealings and create a new obligation, reopen any account already taken between them and relieve the person sued from payment of any sum in excess of the sum adjudged by the Court to be fairly due in respect of such principal, interest and legal costs as the Court, having regard to the risk and all the facts and circumstances (including facts and circumstances arising or coming to the knowledge of the parties after the date of the transaction) may adjudge to be reasonable, and, if any such excess has been paid or allowed in account by the debtor, may order the creditor to repay it and may set aside either wholly or in part or revise or alter any security given or moneylending agreement made in respect of money lent by the moneylender and, if the moneylender has parted with the security, may order him to indemnify the borrower or other person sued:

Provided that nothing in this subsection shall prevent any further or other relief being given in circumstances in which a Court of equity would give such relief.

(3) Any court in which proceedings might be taken for the recovery of money lent by a moneylender shall have and may, at the instance of the borrower or surety or other person liable or of the trustee in bankruptcy, exercise the like powers as may be exercised under this section where proceedings are taken for the recovery of money lent, and the Court shall have power, notwithstanding any provision or agreement to the contrary, to entertain any application under this Act by the borrower or surety or other person liable notwithstanding that the time for repayment of the loan or any instalment thereof may not have arrived.

(4) On any application relating to the admission or amount of a proof by a moneylender in any bankruptcy proceedings the Director General of Insolvency shall exercise the like powers as may be exercised by the Court under this section when proceedings are taken for the recovery of money:

Provided that if the moneylender is dissatisfied with the decision of the Director General of Insolvency the Court may, on the application of the moneylender made under the Bankruptcy Act 1967 reverse or vary that decision.

(5) The foregoing provisions of this section shall apply to any transaction whatever its form may be that is substantially one of moneylending by a moneylender.

(6) Nothing in the foregoing provisions of this section shall affect the rights of any *bona fide* assignee or holder for value without notice.

(7) Nothing in this section shall be construed as derogating from the existing powers or jurisdiction of any court.

(8) For the purposes of this section, interest charged in respect of money lent by a moneylender is excessive when the rate of that interest exceeds the maximum rate of interest permitted under this Act.

22. (*Deleted by Act A1193*).

Prohibition of charge for expenses on loans by moneylender

23. Any moneylending agreement between a moneylender and a borrower or intending borrower for the payment by the borrower or intending borrower to the moneylender of any sum on account of costs, charges or expenses other than stamp duties, fees payable by law and legal costs incidental to or relating to the negotiations for or the granting of the loan or proposed loan shall be illegal, and if any sum is paid to a moneylender by a borrower or intending borrower as, for or on account of any such costs, charges or expenses other than as aforesaid that sum shall be recoverable as a debt due to the borrower or intending borrower, or in the event of the loan being completed, shall, if not so recovered, be set off against the amount actually lent and that amount shall be deemed to be reduced accordingly.

24. (Deleted by Act A1193).

Notice and information to be given on assignment of moneylender's debts

25. (1) Where any debt in respect of money lent by a moneylender, whether before or after the commencement of this Act or in respect of interest on any such debt, or the benefit of any moneylending agreement made or security taken in respect of any such debt or interest, is assigned to any assignee, the assignor (whether he is the moneylender by whom the money was lent or any person to whom the debt has been previously assigned) shall, before the assignment is made—

- (a) give to the assignee notice in writing that the debt, moneylending agreement or security is affected by the operation of this Act; and
- (b) supply to the assignee all information necessary to enable him to comply with this Act relating to the obligation to supply information as to the state of loans and copies of documents relating thereto,

and any person acting in contravention of this section shall be liable to indemnify any other person who is prejudiced by the contravention and shall also be guilty of an offence against this Act and shall in respect of each offence be liable to imprisonment for a term not exceeding one year or to a fine not exceeding *five thousand ringgit or to both:

Provided that an offender being a company, society, firm or other body of persons shall in respect of each offence be liable to a fine of **ten thousand ringgit.

(2) In this section the expression “assigned” means assigned by any assignment *inter vivos* other than an assignment by operation of law, and the expressions “assignee” and “assignor” have corresponding meanings.

Application of Act as respects assignees

26. (1) Subject as hereinafter provided this Act shall continue to apply as respects any debt to a moneylender in respect of money lent by him after the commencement of this Act or in respect of interest on money so lent or of the benefit of any moneylending

*NOTE—Previously “one thousand ringgit”—*see* Act A1193.

**NOTE—Previously “five thousand ringgit”—*see* Act A1193.

agreement made or security taken in respect of any such debt or interest notwithstanding that the debt or the benefit of the moneylending agreement or security may have been assigned to any assignee and, except where the context otherwise requires, references in this Act to a moneylender shall accordingly be construed as including any such assignee as aforesaid.

(2) Notwithstanding anything in this Act—

- (a) any moneylending agreement with or security taken by a moneylender in respect of money lent by him after the commencement of this Act shall be valid in favour of any *bona fide* assignee or holder for value without notice of any defect due to the operation of this Act and of any person deriving title under him; and
- (b) any payment or transfer of money or property made *bona fide* by any person, whether acting in a fiduciary capacity or otherwise, on the faith of the validity of any such moneylending agreement or security without notice of any such defect shall, in favour of that person, be as valid as it would have been if the moneylending agreement or security had been valid:

Provided that in every such case the moneylender shall be liable to indemnify the borrower or any other person who is prejudiced by virtue of this section and nothing in this subsection shall render valid a moneylending agreement or security in favour of or apply to proceedings commenced by an assignee or holder for value who is himself a moneylender.

(3) Notwithstanding anything contained in this Act, for the purpose of this section an assignee or holder for value or person making any such payment or transfer as aforesaid shall not be prejudicially affected by notice of any such defect as aforesaid unless—

- (i) it is within his own knowledge, or would have come to his knowledge if such inquiries and inspections had been made as ought reasonably to have been made by him; or
- (ii) in the same transaction, with respect to which a question of notice to such assignee or holder for value or person arises, it has come to the knowledge of his counsel as such or of his solicitor or other agent as such, or would

have come to the knowledge of his solicitor or other agent as such if such inquiries and inspections had been made as ought reasonably to have been made by the solicitor or other agent.

(4) Nothing in this section shall render valid for any purpose any moneylending agreement, security or other transaction which would, apart from this Act, have been void or unenforceable.

PART VI

MISCELLANEOUS

Attestation of moneylending agreement

27. (1) A moneylending agreement shall be attested by an Advocate and Solicitor of the High Court, an officer of the Judicial and Legal Service, a Commissioner for Oaths, District Officer, Justice of the Peace or such other person as may be appointed by the Minister generally for such purpose.

(2) The attester shall explain the terms of the moneylending agreement to the borrower, and shall certify on the agreement that the borrower appears to understand the meaning of the terms of the agreement.

(3) Any moneylending agreement which is not attested in accordance with this section shall be void and have no effect and shall not be enforceable.

28. (*Deleted by Act A1193*).

False statements or representations to induce borrowing an offence

29. If—

- (a) a moneylender or employee of the moneylender;
 - (b) any person being a director, general manager, manager or other officer of a company, being a moneylender;
 - (c) any person being a president, vice-president, secretary, treasurer or other officer of a society, being a moneylender;
- or

- (d) any person being a partner or member, or other officer of a firm or other body of persons, being a moneylender,

by any false, misleading or deceptive statement, representation or promise or, by any dishonest concealment of material facts fraudulently induces or attempts to induce any person to borrow money or to agree to the terms on which money is or is to be borrowed, he shall be guilty of an offence under this Act and shall be liable to imprisonment for a term not exceeding two years or to a fine not exceeding twenty thousand ringgit or to both.

General offences

29A. (1) Any person who—

- (a) for the purpose of the issuance of a licence to himself or to any other person, or for preventing the imposition of any condition in relation to such licence, makes any statement or declaration which to his knowledge is false or incorrect, either in whole or in part, or is misleading in any material respect;
- (b) furnishes any particulars or documents in relation to an application for the issuance of a licence which to his knowledge are false or incorrect or misleading in any material respect;
- (c) makes any entry in a register, record, return, account or any other document required to be kept, maintained or furnished under this Act, which is false or incorrect or misleading in any material respect;
- (d) alters, tampers with, defaces or mutilates any licence or other document which is required to be exhibited on a moneylender's premises, or lends or allows such licence or document to be used by any other person;
- (e) forges, or has in his possession with intent to deceive a document that so closely resembles a licence, record, return, account or any other document that is required to be kept, maintained, or furnished under this Act;
- (f) alters any entry made in a register, licence, record, return, account or any other document that is required to be kept, maintained or furnished under this Act;

- (g) exhibits on a moneylender's premises a licence or any other document that is required to be exhibited on those premises, where such licence or document has been altered, tampered with, defaced or mutilated;
- (h) exhibits on a moneylender's premises an imitation of a licence or other document that is required to be exhibited on those premises;
- (i) prepares, maintains or authorizes the preparation or maintenance of false records, returns, accounts or any other documents that are required to be furnished under this Act; or
- (j) falsifies or authorizes the falsification of records, returns, accounts or any other documents that are required to be furnished under this Act,

shall be guilty of an offence and shall be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding twelve months or to both.

(2) In any prosecution under this section, when it has been proved that any application, statement, declaration, particular, return, account, record or other document is false or incorrect in whole or in part, or is misleading in any material respect, it shall be presumed, until the contrary is proved, that such application, statement, declaration, particular, return, account, record or other document was false or incorrect, or misleading in any material respect, to the knowledge of the person making, preparing, maintaining, signing, delivering or supplying it.

(3) Notwithstanding paragraph (1)(g) or (h), a person shall not be found guilty of an offence if he proves that he had acted in good faith and had no reasonable grounds for supposing that the licence or any other document exhibited on his premises had been altered, tampered with, defaced, or mutilated, or that such licence or document was an imitation.

(4) If an Inspector or police officer has reasonable cause to believe that a licence or any other document exhibited on a moneylender's premises, or a licence, record, account, return or any other document produced to him in pursuance of this Act by the person in charge of those premises is a licence, record, account, return or document in relation to which an offence under this section has been committed, he may seize the licence, record, account, return or document.

Harassment or intimidation, etc. of borrower

29B. (1) Any moneylender who, either personally or by any person acting on his behalf, harasses or intimidates a borrower or any member of the borrower's family or any other person connected with the borrower at, or watches or besets, the residence or place of business or employment of the borrower, or any place at which the borrower receives his wages or any other sum periodically due to him, shall be guilty of an offence under this Act and shall be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding fifteen months or to both, and in the case of a second or subsequent offence shall also be liable to whipping in addition to such punishment.

(2) Any person who, acting on behalf of the moneylender, commits or attempts to commit any of the acts specified in subsection (1), shall be guilty of an offence under this Act and shall be liable to a fine not exceeding twenty thousand ringgit or to imprisonment for a term not exceeding twelve months or to both.

(3) Any person who, while committing, or attempting to commit any offence under subsection (1) or (2), causes hurt to a person, shall be guilty of an offence under this Act and shall be liable to imprisonment for a term not exceeding two years and whipping.

(4) For the purposes of subsection (1), the doing of an act of harassment or intimidation upon another person includes the making of statements, sounds or gestures, or exhibiting of any object intending that such word or sound shall be heard or that such gesture or object shall be seen by such person or intruding upon the privacy of such person.

(5) For the purposes of this section and subsection 10i(3)—

- (a) "causes hurt" means doing any act with the intention of thereby causing hurt to any person, or with the knowledge that he is likely thereby to cause hurt to any person, and does thereby cause hurt to any person;
- (b) "harassment" includes aggravation, annoyance, badgering, bedevilment, bother, hassle, irritation, molestation, nuisance, persecution, pestering, torment, trouble or vexation in circumstances in which a reasonable person, having regard to all or any of the circumstances would be offended, humiliated or intimidated; and

- (c) “intimidation” shall have the meaning as assigned to “criminal intimidation” in section 503 of the Penal Code.

Offences by companies, societies, firms or other body of persons

29c. (1) Where an offence under this Act has been committed by a moneylender—

- (a) being a company, any person who at the time of the commission of the offence was a director, general manager, manager, secretary or other similar officer of the company, or was purporting to act in any such capacity;
- (b) being a society, any person who at the time of the commission of the offence was a president, vice-president, secretary, treasurer or other similar officer of the society, or was purporting to act in any such capacity;
- (c) being a firm or other body of persons, any person who at the time of the commission of the offence was a partner or member or other similar officer of the firm or other body of persons, or was purporting to act in any such capacity,

shall be deemed to have committed the offence, unless he proves that the offence was committed without his knowledge, consent or connivance, and that he took reasonable precautions and had exercised due diligence to prevent the commission of the offence.

(2) The prosecution of any person under subsection (1) for an offence shall not prevent the prosecution of the company, society, firm or other body of persons for that offence.

(3) Unless expressly provided otherwise, any act or omission by an employee of a moneylender shall, for the purpose of any prosecution or proceeding under this Act, be deemed to be the act or omission of the moneylender, unless the court is satisfied that the act or omission was committed without the moneylender’s knowledge, or that all reasonable steps and precautions had been taken to prevent the commission of such act or omission.

(4) In the event of any act or omission by an employee of a moneylender which would have been an offence under this Act if committed by the moneylender, the employee of the moneylender shall also be guilty of that offence.

Prosecution

29D. No prosecution for an offence under this Act shall be instituted except by or with the written consent of the Public Prosecutor.

Service of notification or document

29E. (1) Any notification or document required to be given or served under this Act shall be sent by prepaid registered post to the person to or upon whom the notification or document is required to be given or served.

(2) Where a notification or document is given or served in accordance with subsection (1), it shall be deemed to have been given or served on the person to whom it is addressed on the day succeeding the day on which the notification or document would have been received in the ordinary course of post, if the notification or document is addressed to the authorized address of the person to whom the notification or document is intended to be sent to.

Power to compound

29F. (1) The Registrar or any Inspector specifically authorized in writing by name or by office in that behalf by the Registrar may, with the consent of the Public Prosecutor, compound any offence under this Act which is prescribed to be a compoundable offence by accepting from the person reasonably suspected of having committed the offence and to whom an offer to compound has been made, a sum of money not exceeding fifty per centum of the amount of the maximum fine for that offence.

(2) An offer to compound under subsection (1) may be made at any time after the offence has been committed but before any prosecution for it has been instituted.

(3) Where the amount specified in the offer to compound is not paid within the time specified in the offer, or within such extended period as may be granted by the Registrar or an Inspector specifically authorized under subsection (1), prosecution for that offence may be instituted at any time after such period against the person to whom the offer to compound was made.

(4) Where an offence has been compounded under subsection (1), no prosecution shall, within the time specified in subsection (3), be instituted in respect of the offence against the person to whom the offer to compound was made.

(5) All monies paid to the Registrar or to an Inspector specifically authorized under subsection (1) shall be paid into and form part of the Federal Consolidated Fund.

Jurisdiction

29G. Notwithstanding any written law to the contrary, a Court of a Magistrate of the First Class shall have jurisdiction to try any offence under this Act, and to impose the full punishment for any such offence.

Power to make regulations

29H. (1) The Minister may make such regulations as may be expedient or necessary for the purpose of giving full effect to the provisions of this Act, or for carrying out or achieving the objects and purposes of this Act.

(2) Without prejudice to the generality of subsection (1), the Minister may make regulations for or in respect of all or any of the following matters:

- (a) the procedure to be followed in making an application for a licence, including the forms to be used, conditions to be complied with, and documents and information to be furnished in respect of such an application;
- (b) the matters to be considered in respect of the granting of a licence to a person;
- (c) the procedure regarding the surrender, suspension and revocation of licences;
- (d) the procedure for the issuance of copies of a licence, where the licence is lost or destroyed;
- (e) the offences which may be compounded and the procedure for compounding such offences;

- (f) the fees to be paid, the manner for the payment of fees and the persons liable to pay the fees, the exemption of any person or classes of persons from payment of such fees, or the reduction of such fees;
- (g) the form of register and other records to be kept and maintained by the Registrar, the procedure and other matters relating to the opening, maintenance and closure of the register, the inspection and taking of extracts from the register or records, the supply of copies of the register or records and the fees to be paid for such inspection, extracts and copies; or
- (h) the form of moneylending agreements to be used by a moneylender and a borrower and other matters relating to such agreements.

(3) Any regulations made under this section may provide that any contravention of the provisions of such regulations shall be an offence and may provide for the imposition of a fine not exceeding ten thousand ringgit or a term of imprisonment not exceeding twelve months or to both.

30. *(Deleted by Act A1193).*

***30A.** *(Deleted by Act A1193).*

31. *(Omitted).*

*NOTE—For saving and transitional provisions of this section—see subsection 46(10) of the Act A1193.

FIRST SCHEDULE

[Section 19]

TABLE 1

PRINCIPAL AND INTEREST

Principal	Date lent	Rate per centum per annum or the Amount of interest

TABLE 2

REPAYMENT

Amounts repaid	Date
1.	
2.	
3.	
4.	
5.	
6.	
7.	

TABLE 3

AMOUNT OF ARREARS

Principal	Date Due	Interest	Date Due
1.			
2.			
3.			
4.			
5.			
6.			
7.			

TABLE 4

SUMS NOT YET DUE

Principal	Date Due	Interest	Date Due
1.			
2.			
3.			
4.			
5.			
6.			
7.			

 SECOND SCHEDULE

[Section 24]

(Deleted by Act A1193)

 THIRD SCHEDULE
(Omitted)

LAWS OF MALAYSIA
Act 400
MONEYLENDERS ACT 1951

LIST OF AMENDMENTS

Amending law	Short title	In force from
Ord. 51/1953	Moneylenders (Amendment) Ordinance 1953	15-10-1953
L.N. 655/1953	Member for Home Affairs Order 1953	05-11-1953
L.N. 481/1955	Ministers (Transfer of Functions) Order 1955	09-08-1955
L.N. 273/1956	Minister for Natural Resources and Local Government (Transfer of Functions) Order 1956	02-04-1956
L.N. 332/1958	Federal Constitution (Modification of Laws) (Ordinances and Proclamations) Order 1958	13-11-1958
Act 91	Courts of Judicature Act 1964	16-03-1964
P.U. (A) 186/1979	Ministers of the Federal Government Order 1979	28-07-1978
Act A671	Subordinate Courts (Amendment) Act 1987	22-05-1987
Act A688	Moneylenders (Amendment) Act 1988	19-02-1988
P.U. (A) 290/1990	Revision of Laws (Moneylenders Act) Order 1990	14-12-1989
P.U. (A) 406/1991	Revision of Laws (Rectification) Order 1991	14-12-1989
Act A1193	Moneylenders (Amendment) Act 2003	01-11-2003

LAWS OF MALAYSIA

Act 400

MONEYLENDERS ACT 1951

LIST OF SECTIONS AMENDED

Section	Amending authority	In force from
Long title	Act A1193	01-11-2003
Part 1	Act A1193	01-11-2003
2	L.N. 332/1958 Act A688 Act A1193	13-11-1958 19-02-1988 01-11-2003
2A	Act A688 Act A1193	19-02-1988 01-11-2003
3	Act A1193	01-11-2003
4	L.N. 332/1958 Act A1193	13-11-1958 01-11-2003
4A	Act A1193	01-11-2003
Part II	Act A1193	01-11-2003
5	Ord. 51/1953 L.N. 655/1953 L.N. 481/1955 L.N. 273/1956 L.N. 332/1958 Act A1193	15-10-1953 05-11-1953 09-08-1955 02-04-1956 13-11-1958 01-11-2003
5A	Act A1193	01-11-2003
5B	Act A1193	01-11-2003
5C	Act A1193	01-11-2003
5D	Act A1193	01-11-2003
5E	Act A1193	01-11-2003
5F	Act A1193	01-11-2003

Section	Amending authority	In force from
6	Ord. 51/1953 Act A1193	15-10-1953 01-11-2003
7	Act A1193	01-11-2003
8	Ord. 51/1953 L.N. 332/1958 Act A1193	15-10-1953 13-11-1958 01-11-2003
9	Ord. 51/1953 L.N. 332/1958 Act A1193	15-10-1953 13-11-1958 01-11-2003
9A	Act A1193	01-11-2003
9B	Act A1193	01-11-2003
9C	Act A1193	01-11-2003
9D	Act A1193	01-11-2003
9E	Act A1193	01-11-2003
9F	Act A1193	01-11-2003
9G	Act A1193	01-11-2003
10	Act A1193	01-11-2003
Part III	Act A1193	01-11-2003
10A	Act A1193	01-11-2003
10B	Act A1193	01-11-2003
10C	Act A1193	01-11-2003
10D	Act A1193	01-11-2003
10E	Act A1193	01-11-2003
10F	Act A1193	01-11-2003
10G	Act A1193	01-11-2003
10H	Act A1193	01-11-2003
10I	Act A1193	01-11-2003
10J	Act A1193	01-11-2003

Section	Amending authority	In force from
10K	Act A1193	01-11-2003
Part IV	Act A1193	01-11-2003
10L	Act A1193	01-11-2003
10M	Act A1193	01-11-2003
10N	Act A1193	01-11-2003
10o	Act A1193	01-11-2003
Part V	Act A1193	01-11-2003
10P	Act A1193	01-11-2003
11	Ord. 51/1953 Act A1193	15-10-1953 01-11-2003
11A	Act A1193	01-11-2003
12	Ord. 51/1953 Act A1193	15-10-1953 01-11-2003
13	Act A1193	01-11-2003
14	Act A1193	01-11-2003
15	Ord. 51/1953 Act A1193	15-10-1953 01-11-2003
16	Act A1193	01-11-2003
17	Act A1193	01-11-2003
17A	Act A1193	01-11-2003
18	Act A1193	01-11-2003
19	Act A1193	01-11-2003
20	L.N. 332/1958	13-11-1958
21	L.N. 332/1958 Act A1193	13-11-1958 01-11-2003
22	Act A1193	01-11-2003
23	Act A1193	01-11-2003
24	Act A1193	01-11-2003

Section	Amending authority	In force from
25	Act A1193	01-11-2003
26	Act A1193	01-11-2003
Part VI	Act A1193	01-11-2003
27	Ord. 51/1953 L.N. 332/1958 Act A671 Act A1193	15-10-1953 13-11-1958 22-05-1987 01-11-2003
28	Act A1193	01-11-2003
29	Act A1193	01-11-2003
29A	Act A1193	01-11-2003
29B	Act A1193	01-11-2003
29C	Act A1193	01-11-2003
29D	Act A1193	01-11-2003
29E	Act A1193	01-11-2003
29F	Act A1193	01-11-2003
29G	Act A1193	01-11-2003
29H	Act A1193	01-11-2003
30	Act A1193	01-11-2003
30A	Ord. 51/1953 Act A1193	15-10-1953 01-11-2003
Second Schedule	Act A1193	01-11-2003

