

CAP. 142.

CYPRUS

MONEYLENDERS

CHAPTER 142 OF THE LAWS

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MONEYLENDERS.

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**A LAW TO MAKE PROVISION WITH RESPECT TO PERSONS
CARRYING ON BUSINESS AS MONEYLENDERS.**

3 of 57.
25 of 57.

[6th February, 1957.]

Short title.

1. This Law may be cited as the Moneylenders Law.

Interpre-
tation.

2. In this Law, unless the context otherwise requires :—

“ business name ” means the name or style under which any business is carried on, whether in partnership or otherwise ;

“ Commissioner ” means the Commissioner of the district within which a moneylender has his place or places of business ;

“ company ” means any body corporate being a moneylender ;

“ firm ” means an unincorporate 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 ;

“ interest ” does not include any sum lawfully charged in accordance with the provisions of this Law by a moneylender for or on account of costs, charges or expenses, 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 ;

“ Law ”, where used in relation to this or any other Law enacted in the Colony, shall include a reference to any Regulations made under such Law ;

“ moneylender ” includes every person whose business is that of money lending, or who carries on or advertises or announces himself or holds himself out in any way as carrying on that business, whether or not he also carries on any other business or possesses or owns property or money derived from sources other than the lending of money and whether or not he carries on the business of money lending as a principal or as an agent, but shall not include—

- (a) any society registered under the Co-operative Societies Law ; or Cap. 114.
- (b) any body corporate, incorporated or empowered by special Law to lend money in accordance with such Law ; or
- (c) any bank having a licence under the Banking Business (Temporary Restrictions) Law to carry on and *bona fide* carrying on the business of banking ; or Cap. 124.
- (d) any person *bona fide* carrying on the business of insurance ; or
- (e) any person *bona fide* carrying on any business not having for its primary object the lending of money, in the course of which and for the purposes whereof he lends money ; or
- (f) any person or body corporate exempted from the provisions of this Law by Order of the Governor in Council ;

“prescribed” means prescribed by Regulations made under section 21 of this Law ;

“principal” means in relation to a loan the amount actually lent to the borrower ;

“register” means the register of moneylenders maintained under section 5 (1) of this Law ;

“registered name” and “registered address” mean, respectively, the name under which and the address at which a moneylender is authorised by a certificate of registration issued under this Law to carry on business as a moneylender ;

“Registrar” means the Registrar of Moneylenders of each district who shall be the Commissioner or such other person as the Governor may appoint.

Registration
of money-
lenders.

3. (1) A moneylender, carrying on business either alone or as partner in a firm—

(a) shall be registered as a moneylender in accordance with the provisions of this Law in his own or usual trade name and with the address, or the addresses if more than one, at which he carries on his business as moneylender ;

(b) shall carry on the money lending business in his registered name, and in no other name and in no other description and at the registered address or addresses, and at no other address ;

(c) shall not enter into any agreement in the course of his business as a moneylender with respect to the advance or repayment of money, or take any security for money in the course of his business as a moneylender, otherwise than in his registered name.

(2) If a moneylender fails to register himself as required by this Law, or carries on business otherwise than in his registered name, or in more than one name, or elsewhere than at his registered address, or fails to comply with any other requirement of subsection (1), he shall be guilty of an offence and shall on conviction be liable to imprisonment not exceeding six months or to a fine not exceeding one hundred pounds or to both such imprisonment and fine, and in the case of a body corporate, to a fine not exceeding four hundred pounds.

4. (1) No moneylender shall be registered under any name including the word "bank" or under any name implying that he carries on banking business, and where any moneylender is registered under any such name, the name shall be removed by the Registrar from the register and a notification thereof shall be sent to the moneylender.

Prohibition of money-lenders being registered as bankers.

(2) Any moneylender who either directly or indirectly acts in such a way as might reasonably lead a member of the public to infer that he carries on a banking business shall be guilty of an offence and shall on conviction be liable to imprisonment not exceeding six months or to a fine not exceeding one hundred pounds or to both such imprisonment and fine.

5. (1) Subject to the provisions of this Law, the Registrars shall perform all or any of the following duties, that is to say:—

Duties of Registrars.

- (a) on payment of the prescribed fee, shall register all moneylenders in the prescribed form and issue to them certificates of registration in the prescribed form ;
- (b) shall maintain the register and keep such books and accounts and render such accounts and returns as may be required from time to time by the Governor ;
- (c) may require any moneylender to furnish to the Registrar within such time as the Registrar may appoint full and accurate returns in such form as may be prescribed ;
- (d) with the approval of the Governor, may appoint such officers, servants or agents at such remuneration and on such terms and conditions as may be necessary for the proper and efficient execution of the duties of the Registrar.

(2) In the performance of his duties under this Law, the Registrar shall act with the advice of a Committee consisting of not less than five persons appointed by him, with the approval of the Governor ;

Provided that at any meeting at which the said Committee is consulted by the Registrar, three members of such Committee shall form a quorum.

Certificate of registration.

6. (1) A certificate of registration issued to a moneylender on registration under this Law shall be in the prescribed form and shall be issued for a period of one year, or such other shorter period as may be prescribed, and may be renewed on payment of the prescribed fee.

(2) A certificate of registration shall show the registered name and the registered address of the moneylender and shall specify the district in respect of which it is issued :

Provided that a moneylender shall not be required to obtain a separate certificate of registration for each one of the branches of his business within the same district.

Refusal to register.

7. (1) The Registrar shall not refuse to register a moneylender except on one or more of the following grounds :—

(a) that satisfactory evidence has been produced that the applicant, or any person responsible or proposed to be responsible, for the management of his business as a moneylender, is not a fit and proper person to be registered ;

(b) that the applicant, or any person responsible or proposed to be responsible, for the management of his business as a moneylender, is by order of a Court disqualified from being registered under this Law ;

(c) that the applicant in connection with his application under consideration has failed to comply with the provisions of this Law or of any regulations made thereunder with respect to application for registration as a moneylender.

(2) Any person aggrieved by the refusal of the Registrar to register him under this Law may, within fourteen days of the communication of such refusal to him, appeal to the Governor whose decision thereon shall be final and conclusive.

Disqualification from registration.

8. The Court, in addition to any punishment which it may impose upon any person convicted for an offence under the provisions of this Law, may disqualify, for a period not exceeding two years, such person from being registered as a moneylender under this Law and shall notify the Registrar to this effect, and if such person is registered as a moneylender under this Law at the time of his conviction, the certificate of registration relating to

him shall thereupon be cancelled by the Registrar, and the register amended accordingly.

9. (1) A moneylender shall not transfer his business to premises other than those specified in his certificate of registration, until he has notified the Registrar of the proposed transfer. Transfer of business to other premises.

(2) Any moneylender who fails to comply with subsection (1) shall be guilty of an offence and shall on conviction be liable to a fine not exceeding twenty-five pounds.

10. (1) Every registered moneylender shall furnish to the Registrar annually in the prescribed form and within such time as may be notified in the *Gazette* a return showing the transactions relating to his moneylending operations during the preceding twelve months including all loans outstanding on the date of the return. Returns to be submitted by money-lenders.

(2) Any moneylender who fails to comply with subsection (1) or who knowingly makes a return which is false in any material particular shall be guilty of an offence and shall on conviction be liable to imprisonment not exceeding six months or to a fine not exceeding one hundred pounds or to both such imprisonment and fine.

11. (1) Every moneylender shall give to the borrower at the time when the borrower signs the contract evidencing the loan advanced to him a true copy of such contract. He shall also give to the borrower a receipt for every payment made to him on account of a loan or of interest thereon. Every such receipt shall be given immediately the payment is made : Money-lenders to give receipts and keep record of transaction.

Provided that where the form of the contract evidencing the loan is prescribed such contract shall be in the prescribed form.

(2) Every moneylender shall keep a book (which shall be securely bound and paged so that leaves cannot be removed or inserted without apparent damage) in which he shall enter in connection with every loan made by him—

- (a) the name and address of the borrower ;
- (b) the date on which the loan was made ;
- (c) the amount of the principal ;
- (d) the rate of interest ;

(e) all sums received in respect of the loan or the interest thereon, with the dates of payment thereof and shall produce such book when required to do so by any Court or by the Registrar ;

(f) such other particulars as may be prescribed.

(3) The entries in the said book shall be made forthwith on the making of the loan or the receipt of sums paid in respect thereof as the case may be.

(4) Any moneylender who fails to comply with any of the requirements of this section shall be guilty of an offence and shall on conviction be liable to a fine not exceeding ten pounds or, in the case of a continuing offence, to a fine not exceeding five pounds for each day or part of a day during which such offence continues and furthermore shall not be entitled to enforce any claim in respect of any transaction in relation to which the default shall have been made.

Obligation of money-lenders to supply information as to state of loan and copies of documents relating thereto.

12. (1) In respect of every contract for the repayment of money lent by a moneylender (whether made before or after the commencement of this Law) the moneylender shall, on any reasonable demand (sent by registered post or made in the presence of two witnesses), by the borrower at any time during the continuance of the contract and on tender by the borrower of the sum of fifty mils for expenses, supply to the borrower or, if the borrower so requires, to any person specified in that behalf in the demand, a statement signed by the moneylender or his agent 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 of the interest charged ; and
- (b) the amount of any payment already received by the moneylender in respect of the loan or the interest thereon and the date on which it was made ; and
- (c) the amount of every sum due to the moneylender, but unpaid and the date upon which it became due, and the amount of interest accrued due and unpaid in respect of every such sum ; and
- (d) the amount of every sum not yet due which remains outstanding, and the date upon which it will become due.

(2) A moneylender shall, on any reasonable demand in writing by the borrower, and on tender of the sum of fifty mils for expenses, 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 ten days after the demand has been made, he shall be guilty of an offence and shall on conviction be liable to a fine not exceeding twenty-five pounds.

13. (1) Where proceedings are taken in any Court by any moneylender for the recovery of any money lent, or the enforcement of any agreement or security made or taken in respect of money lent, the statement of claim whereby the plaintiff presents his claim to the Court shall contain the particulars prescribed in subsection (1) of section 12.

Powers of
Court in
certain
cases.

(2) Where in any such proceedings there is evidence which satisfies the Court that default in payment of any sum due to the plaintiff under a contract for the loan of money has been made by the borrower and it is proved that any further amount is outstanding under the contract but not yet due, the Court may determine the contract and order the principal outstanding to be paid to the plaintiff in one amount or by such instalments as the Court may order with such interest thereon, if any, as the Court may allow up to the date of payment.

(3) The foregoing provisions of this section shall apply to any transaction which, whatever its form may be, is substantially one of moneylending.

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

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

14. (1) Where proceedings are taken in any Court by a moneylender for the recovery of any money lent after the commencement of this Law, or the enforcement of any agreement or security made or taken after the commencement of this Law, in respect of money lent either before or after the commencement of this Law, and there is evidence

Reopening
of transac-
tions of
money-
lenders.

which satisfies the Court that the interest charged in respect of the sum actually lent is excessive, or that the amounts charged for expenses, inquiries, fees, premiums, renewals, or any other charges, are excessive, and that, in either case, the transaction is harsh and unconscionable, or is otherwise such that a Court of equity would give relief, the Court may reopen the transaction, and take an account between the moneylender and the person sued, and may, 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 charges, as the Court, having regard to the risk and all the circumstances, 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 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.

(2) Any Court in which proceedings may 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, exercise the like powers as may be exercised under subsection (1) and the Court shall have power, notwithstanding any provision or agreement to the contrary, to entertain any application under this Law 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.

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

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

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

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

15. Notwithstanding the provisions of section 80 of the Contract Law, the contents of a bond in customary form as defined under that Law shall not be conclusive evidence of the facts therein stated if the creditor under such bond is a moneylender.

Bonds in customary form due to money-lenders not conclusive.
Cap. 149.

16. Where in any proceedings taken in any Court any question arises as to whether any person is a "money-lender" within the definition of that term contained in section 2 of this Law, the burden of proving that such person is not a "moneylender" shall lie on the person so alleging.

Burden of proof.

17. Any agreement or security made or taken after the commencement of this Law in respect of money lent by any moneylender not registered under the provisions of this Law shall not be valid and enforceable.

Enforceability of agreements.

18. The creation in favour of any moneylender registered under this Law of liens, pledges or charges on any crops or any other agricultural produce or on any produce of animal husbandry, forest produce, fisheries or handicrafts shall be void and of no effect.

Liens on crops, etc. prohibited.

19. If any person, 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 the offence of cheating and shall be liable on conviction to the penalties prescribed for that offence in the Criminal Code.

Penalties for false statements and representations.

Cap. 154.

20. If any moneylender, or any person being a manager, agent or clerk of a moneylender, or a director, manager or other officer of any corporation carrying on the business of 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, shall be guilty of an offence and shall on conviction be liable to imprisonment not exceeding six months or to a

Inducing borrowing by false statements.

fine not exceeding one hundred pounds or to both such imprisonment and fine.

Power of
Governor
in Council
to make
Regulations.

21. The Governor in Council may make Regulations for all or any of the following matters :—

- (a) to regulate the registration of moneylenders and the procedure to be followed for this purpose and to prescribe the forms of certificates of registration or other document in connection with such registration and the fees to be paid in connection therewith ;
- (b) to regulate the duties and functions of Registrars under this Law ;
- (c) to provide for the supply to any person of an extract of any particulars registered under the Law and prescribe the fees to be paid therefor ;
- (d) to prescribe the form of contract evidencing a loan ;
- (e) to prescribe anything which under this Law is required or permitted to be prescribed ;
- (f) generally for the better carrying into effect of the purposes of the Law.

Savings.
Cap. 132.
Cap. 150.

22. (1) The provisions of this Law shall be in addition to, and not in derogation of, the provisions of the Dealings between Merchants and Farmers Law and the provisions of the Interest Law.

(2) Subject to the provisions of sections 12 and 14 of this Law, nothing in this Law contained shall apply to any loan made, or to any moneylending transaction effected, before the date of the commencement of this Law.

Date of
coming into
operation.

23. This Law shall come into operation on a date to be fixed by the Governor by notice in the *Gazette*.