

THE PUDUCHERRY MONEY LENDER'S ACT, 1970
(No. 26 of 1970)

ARRANGEMENT OF SECTIONS

SECTION

1. Short title, extent and commencement.
 2. Definition.
 3. Money-lender to obtain licence.
 4. Grant and refusal of licences.
 5. Change of place of business by money-lender.
 6. Money-lenders to exhibit their names over shops.
 7. Interest and charges allowed to money-lenders.
 8. Power to deposit in Court, money due on loan.
 9. Money-lender to keep books, give receipts, etc.
 10. Appointment of Inspectors and their powers.
 - 10-A. Entry of wrong sum in bond, etc., to be an offence.
 11. Money-lender advancing smaller amount or securing higher interest than that specified in the accounts, etc., to be punishable.
 12. Cognizance of offences.
 - 12-A. Offences under section 18A to be cognizable.
 13. Penalty for molestation of debtor.
 14. Power to cancel licences, etc.
 15. Publication of order of cancellation.
 16. No compensation for cancellation of licence.
 17. Penalty for carrying on business without licence.
 18. Penalties.
 - 18-A. Non-citizens not to carry on business of money lending.
 19. Transfer of licence to heir.
 20. Jurisdiction to try offences.
 - 20-A. Power of court to limit interest recoverable in certain cases.
 - 20-B. Power of court to direct payment of decretal amount by instalments.
 - 20-C. Reopening of transaction.
 - 20-D. Inquiry for taking accounts and declaring the amount due.
 - 20-E. Composition of offence.
 21. Contracts not to be void on account of offence.
 - 21-A. Savings
 22. Power to make rules.
-

THE PUDUCHERRY MONEY LENDER'S ACT, 1970
(Act No. 26 of 1970)

AN ACT

to regulate and control the business of money lenders in the Union territory of Puducherry.

BE it enacted in the Twenty-first Year of the Republic of India as follows:-

Short title, extent and commencement

1. (1) This Act may be called the Puducherry Money Lender's Act, 1970.

(2) It extends to the whole of the Union territory of Puducherry.

(3) It shall come into force on such ¹date as the Government may, by notification in the Official Gazette, appoint.

Definitions

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

*[(a) "bank" means -

(i) a banking company to which the Banking Regulation Act, 1949 (Central Act 10 of 1949) applies;

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

(iii) a subsidiary bank as defined in clause (k) of section 2 of the State Bank of India (Subsidiary Banks) Act, 1959 (Central Act 38 of 1959);

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

1. The Act came into force on the 1st day of October 1970, vide Notification No. E-2763-69/ Rev, dated 18th September 1970.

* Amended vide Act No: 7 of 1983 w.e.f 11-12-1983 and published in Extraordinary Gazette Part-II No. 30 dated 31-12-1983.

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

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

(vii) the Agricultural Refinance and Development Corporation established under the Agricultural Refinance and Development Corporation Act, 1963 (Central Act 10 of 1963);

(viii) the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (Central Act 31 of 1956);

(ix) the Industrial Finance Corporation of India established under the Industrial Finance Corporation Act, 1948 (Central Act 15 of 1948); and

(x) any other financial or banking institution notified in this behalf by the Government in the Official Gazette;

(aa) "citizen of India" means a person who is a citizen of India within the meaning of Part II of the Constitution of India and the Citizenship Act, 1955 (Central Act 5 of 1955);

(b) "co-operative society" means a society registered or deemed to be registered under any law for the time being in force in the Union territory relating to co-operative societies;]

(c) "Government" means the Administrator appointed by the President under article 239 of the Constitution;

(d) "Inspector" means an Inspector appointed under section 10;

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

(f) "licence" means a money-lender's licence granted under this Act;

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

(i) a deposit of money or other property in a Government Post Office Savings Bank or in a Bank in a company as defined in the Companies Act, 1956 (Central Act 1 of 1956) or with a co-operative society;

(ii) an advance made by a bank or a co-operative society or an advance made from a provident fund to which the Provident Funds Act, 1925 (Central Act 19 of 1925) applies;

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

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

(v) an advance made bona fide by any person carrying on any business, not having for its primary object the lending of money, if such loan is advanced in the regular course of such business;

(vi) an advance made on the basis of a negotiable instrument as defined in the Negotiable Instruments Act, 1881 (Central Act 26 of 1881) exceeding [rupees ten thousand];

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

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

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

(h) a person shall be deemed to "molest" another person if he---

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

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

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

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

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

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

Explanation: --- Where a person who carries on in the Union territory the business of advancing and realising loans is resident outside the Union territory, the agent of such person resident in the Union territory shall be deemed to be the money-lender in respect of that business for the purposes of this Act.

(j) "notification" means a notification published in the Official Gazette;

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

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

(m) "Union territory" means the Union territory of Puducherry;

(n) "year" means the financial year.

Money-lender to obtain licence

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

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

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

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

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

Provided that nothing contained in the sub-section shall affect the operation of section 69 of the Indian Partnership Act, 1932 (Central Act 9 of 1932).

Grant and refusal of licences

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

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

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

*(2) Every licence shall be granted and renewed in such form and subject to such conditions including conditions as to payment of licence fee not exceeding five hundred rupees as the Government may from time to time, by notification in the official gazette, determine].

(3) The licensing authority may be order in writing refuse to grant *[and renew] a licence if any authority is satisfied:-

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

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

(c) that the applicant has:--

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

(ii) been found guilty of an offence under Chapter XVII or Chapter XVIII of the Indian Penal Code (Central Act 45 of 1860); or

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

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

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

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

* Amended vide Act No: 7 of 2004 w.e.f 7-9-2004 and published in Extraordinary Gazette Part-II No. 24 dated 10-9-2004.

** Amended vide Act No: 7 of 1983 w.e.f 11-12-83 and published in Extraordinary Gazette Part-II No. 30 dated 31-12-83.

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

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

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

Change of place of business by money-lender

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

Money-lenders to exhibit their names over shops

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

Interest and charges allowed to money-lenders

7. *[(1) Notwithstanding anything contained in the decree dated 22nd September, 1935, no money lender shall charge interest on any loan, at a rate exceeding such rate as the Government may, by notification, fix from time to time:

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

* Amended vide Act No: 7 of 1983 w.e.f 11-12-1983 and published in Extraordinary Gazette Part-II No. 30 dated 31-12-1983.

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

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

Power to deposit in Court, money due on loan

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

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

(3) The procedure laid down in the Code of Civil Procedure, 1908 (Central Act 5 of 1908) for the trial of suits shall, as far as may be, apply to applications under this section.

(4) An appeal shall lie from an order passed by a Court under subsection (2) as if such an order relates to the execution, discharge or satisfaction of a decree within the meaning of section 47 of the Code of Civil Procedure, 1908 (Central Act 5 of 1908).

Money-lender to keep books, give receipts, etc.

9. (1) Every money-lender shall:-

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

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

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

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

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

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

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

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

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

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

(5) In any suit or proceeding relating to a loan if the Court finds that a money-lender has not maintained an account as required by clause (a) of sub-section (1), he shall not be allowed his costs.

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

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

Appointment of Inspectors and their powers

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

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

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

(ii) On receiving the warrant referred to in sub-clause (i), the Inspector may enter the place and inspect the books, accounts, records, files, documents, *[Securities, safes and vaults] in such premises and may take to his office for further investigation such books, accounts, records, files *[documents and securities] as he considers necessary:

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

* Amended vide Act No: 7 of 1983 w.e.f 11-12-1983 and published in Extraordinary Gazette Part-II No. 30 dated 31-12-1983.

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

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

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

Entry of wrong sum in bond, etc., to be an offence

* [10A. (1) No money lender, whether licensed or not, shall take from a debtor or an intending borrower any note, promise to pay, acknowledgement, power-of-attorney, bond, security or other document which does not state the actual amount of the loan, the rate of interest charged and the time, if any, within which the principal is stipulated to be repaid in full, or which states any of such particulars incorrectly, nor shall he take from any debtor or an intending borrower any document in which any entry is left blank for completion at a later date.

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

(3) Notwithstanding anything contained in section 21 or in any other law for the time being in force, any note, promise to pay, acknowledgement, power-of-attorney, bond, security or other document referred to in sub-section (1) shall be void and unenforceable].

* Inserted vide Act No: 7 of 1983 w.e.f 11-12-1983 and published in Extraordinary Gazette Part-II No. 30 dated 31-12-1983.

Money-lender advancing smaller amount or securing higher interest than that specified in the accounts, etc., to be punishable

11. *[(1) any money-lender whether licensed or not:-

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

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

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

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

(a) any document relating to the loan; or

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

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

Cognizance of offences

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

* Amended vide Act No: 7 of 1983 w.e.f 11-12-1983 and published in Extraordinary Gazette Part-II No. 30 dated 31-12-1983.

Offences under section 18A to be cognizable

*[12A. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), an offence under section 18A shall be deemed to be a cognizable offence within the meaning of that Code].

Penalty for molestation of debtor

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

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

Power to cancel licences, etc.

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

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

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

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

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

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

* Inserted vide Act No: 7 of 1983 w.e.f 11-12-1983 and published in Extraordinary Gazette Part-II No. 30 dated 31-12-1983.

(3) Any person aggrieved by an order of the licensing authority cancelling a licence may, within one month of the date of communication of such order to him, appeal to the prescribed authority.

Publication of order of cancellation

15. Every order of cancellation of a licence under this Act shall be notified in the Official Gazette and also on the notice-board of the office of the licensing authority.

No compensation for cancellation of licence

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

Penalty for carrying on business without licence

17. Whoever carries on the business of money-lending without a licence or otherwise than in conformity with the terms and conditions of a licence shall be punished with fine which may extend to one thousand rupees: Provided that a person shall not be deemed to carry on the business of money-lending without a licence, if he had ceased to carry on the business of money-lending but was taking steps to recover any loan advanced by him.

Penalties

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

Explanation. — The cancellation of a licence under section 14 shall not be deemed to be a penalty for the purposes of this sub-section.

* Amended vide Act No: 7 of 1983 w.e.f 11-12-1983 and published in Extraordinary Gazette Part-II No. 30 dated 31-12-1983.

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

*[(3) Any person, who after having been convicted of the offence of carrying on, or continuing to carry on, the business of money lending in contravention of the provisions of section 3, continues to commit the same offence in the same year, shall in addition to the fine which may extend to one thousand rupees, be punishable with additional fine of fifty rupees for each day after the previous date of conviction during which he continues so to offend].

Non-citizens not to carry on business of money lending

** [18A. (1) Notwithstanding anything contained in section 3 and 4, no person who is not a citizen of India shall, on and from the date of publication of the Puducherry Money Lenders (Amendment) Act, 1983 in the Official Gazette (hereinafter in this section referred to as the said date), carry on the business of money lending:

Provided that nothing in this sub-section shall apply to the nationals of France and of the French Union domiciled in the Union territory on the 1st November, 1954.

(2) All licences granted under this Act to any person referred to in sub-section (1) shall be deemed to have been cancelled on and from the said date and all transactions of money lending carried on by such person as a money lender, shall cease from the said date.

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

* Amended vide Act No:7 of 2004 w.e.f 7-9-2004 and published in Extraordinary Gazette Part-II No. 24 dated 10-9-2004.

** Inserted vide Act No: 7 of 1983 w.e.f 11-12-1983 and published in Extraordinary Gazette Part-II No. 30 dated 31-12-1983.

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

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

Transfer of licence to heir

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

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

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

(4) Any licence transferred under sub-section (3) shall be deemed to have been granted to the applicant himself and shall be valid for the period for which it would have been valid if the licence had not been transferred; and the provisions of this Act shall apply accordingly.

Jurisdiction to try offence

*[20. No Court inferior to that of a Judicial Magistrate of the first class shall try any offence punishable under this Act.

* Substituted vide Act No: 7 of 1983 w.e.f 11-12-1983 and published in Extraordinary Gazette Part-II No. 30 dated 31-12-1983.

Power of court to limit interest recoverable in certain cases

20A. Notwithstanding anything contained in any agreement or any law for the time being in force, no court shall in respect of any loan whether advanced before or after the date of the publication of the Puducherry Money Lenders (Amendment) Act, 1983 in the Official Gazette, decree on account of interest a sum greater than the principal of the loan due on the date of the decree.

Power of court to direct payment of decretal amount by instalments

20B. Notwithstanding anything contained in the Code of Civil Procedure, 1908, the court may, at any time, on application of a judgement debtor, and after notice to the decree holder, direct that the amount of any decree passed against him, whether before or after the date of the publication of the Puducherry Money Lenders (Amendment) Act, 1983 in the Official Gazette, in respect of a loan, shall be paid in such number of instalments and subject to such conditions and payable on such dates, as having regard to the circumstances of judgement debtor and the amount of the decree, it considers fit.

Reopening of transaction

20C. Notwithstanding anything contained in any law for the time being in force, the court shall, in any suit to which this Act applies, whether heard ex-parte or otherwise:-

- (a) reopen any transaction, or any account already taken between the parties;
- (b) take an account between the parties;
- (c) reduce the amount charged to the debtor in respect of any excessive interest;
- (d) if on taking accounts it is found that the money lender has received more than what is due to him,

pass a decree in favour of the debtor in respect of such excess amount:

Provided that in the exercise of these powers, the court shall not--

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

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

Explanation: - For the purposes of this section, "excessive interest" means interest charged at a rate higher than that fixed by the Government under sub-section (1) of section 7.

Inquiry for taking accounts and declaring the amount due

20D. (1) Any debtor may make an application at any time to the court, whether the loan to which the suit relates has or has not become payable, for taking accounts and for declaring the amount due to the money lender. Such applications shall be in the prescribed form and accompanied by the prescribed fee.

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

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

Composition of offence

*[20 E. (1) The Secretary (Revenue), Deputy Collector (Revenue) or any Inspector appointed under sub-section (1) of section 10 of the Act may, whether on application made to him in this behalf or otherwise, give any person, whose licence is liable to be cancelled under sub-section (1) of section 14, option to pay within a specified period, a sum of money not exceeding five hundred rupees for the first occasion and one thousand rupees for every subsequent occasion in lieu of such cancellation or by way of composition of the offence which may have been committed, as the case may be.

* Amended vide Act No: 7 of 2004 w.e.f 7-9-2004 and published in Extraordinary Gazette Part-II No. 24 dated 10-9-2004.

(2) Where the Secretary (Revenue), Deputy Collector (Revenue) or any Inspector appointed under sub-section (1) of section 10 of the Act, on application made under sub-section (1), passes an order refusing to allow composition under this section, he shall record in writing the reasons therefor and furnish to the applicant, on request, a copy of the order.]

Contracts not to be void on account of offence

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

Savings

*[21A. (1) Nothing in this Act shall affect, or shall be deemed to affect any of the benefits conferred on any person by any of the provisions of the Tamil Nadu Debt Relief Act, 1976 (President's Act 31 of 1976) or any other law relating to relief of agricultural indebtedness in force corresponding to that Act, as extended to the Union territory notwithstanding anything to the contrary contained in this Act.

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

Power to make rules

22. (1) The Government may makes rules to carry out all or any of the purposes of this Act.

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

* Inserted vide Act No: 7 of 1983 w.e.f 11-12-1983 and published in Extraordinary Gazette Part-II No. 30 dated 31-12-1983.

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

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

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

(d) the procedure which should be followed and the powers which may be exercised by the authorities exercising functions, holding inquires and hearing appeals under this Act;

(e) any other matter which under this Act is to be, or may be prescribed.

(3) *(a) All rules made under this Act shall be published in the Official Gazette and unless they are expressed to come into force on a particular day, shall come into force on the date on which they are so published.

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

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

STATEMENT OF OBJECTS AND REASONS FOR ACT 26 OF 1970

There are large number of money-lenders in this Union Territory who lend money to the public at exorbitant rates of interest. It has therefore become necessary to control and regulate the business of money-lenders by introducing the system of licensing. The Puducherry Pawn Brokers' Act, 1966 (Act 11 of 1966) has already been passed in this Union territory to regulate and control the business of the Pawn Brokers who give loans after obtaining security from the borrowers. But there is no such law in respect of the business of the money-lenders who give loans without any security. The present bill which has been prepared on the model of the Madras Moneylenders' Act, 1957 (Act XXVI of 1957) seeks to achieve this object.

STATEMENT OF OBJECTS AND REASONS FOR ACT 7 OF 1983

The Puducherry Money Lenders Act, 1970 (Act No.26 of 1970) was enacted on the same lines as the Tamil Nadu Money Lenders Act, 1957. In the course of implementation of their Act, the Tamil Nadu Government encountered some difficulties in the successful implementation of the Act and made amendments to their Act. As the Puducherry Money Lenders Act, 1970 is also on the same lines, it has been felt necessary to make similar amendments to this Act also for example in clause (i) of section 2 of the Act, the term 'bank' has not included in the nationalised banks and subsidiary banks and hence it is proposed to include the said banks also in the definition of that term. It is also proposed to amend item (vi) of clause (6) of section 2 which excludes from the scope of the Act, advances made on the basis of negotiable instruments exceeding Rs. 3,000, so as to enhance the monetary limit from Rs. 3,000 to Rs. 10,000. It is also proposed to insert a new item providing for exemption in respect of advances made by any company or corporation owned or controlled by the Central Government or any State Government.

It has also been felt necessary to amend section 7 (1) of the Act so as to empower the Government to fix and revise the rates of interest from time to time by notification. Similarly, some other consequential amendments have also been proposed wherever necessary.

STATEMENT OF OBJECTS AND REASONS FOR ACT 7 OF 2004

The Puducherry Money Lenders Act, 1970 has been brought into force in this Union Territory with effect from 1-10-1970. After such extension, lesser rate of licence fee and fine amount were prevailing in this Union Territory. Since the rates fixed in this regard were not enhanced from time to time, the revenue to the exchequer was very low and in order to augment more revenue to the exchequer, the licence fee and the renewal fee are proposed to be enhanced from rupees 35 and rupees 25 respectively to Rs. 150 each with the ceiling limit of Rs. 500 for granting licence and its renewal. It is also proposed to provide for compounding of offences under the said Act so as to quicken process of justice.

The Bill seeks to achieve the above objects.
