

## CHAPTER 273

### THE MONEYLENDERS ACT.

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## CHAPTER 273

### THE MONEYLENDERS ACT.

*Commencement:* 1 January, 1952.

#### **An Act to make provision for the regulation of moneylending.**

##### **1. Interpretation.**

- (1) In this Act, unless the context otherwise requires—
  - (a) “authorised name” and “authorised address” mean respectively the name under which and the address at which a moneylender is authorised by a certificate granted under this Act to carry on business as a moneylender;
  - (b) “business name” means the name or style under which any business is carried on, whether in partnership or otherwise;
  - (c) “certificate” means a certificate granted under section 3;
  - (d) “chattels transfer” means a bill of sale, a letter of hypothecation or a hire-purchase agreement;
  - (e) “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;
  - (f) “interest” 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;
  - (g) “magistrate” means a chief magistrate and a magistrate grade I or grade II;
  - (h) “moneylender” includes every person whose business is that of moneylending or who advertises or announces himself or herself or holds himself or herself out in any way as carrying on that business whether or not that person also possesses or earns property or money derived from sources other than the lending of money and whether or not that person carries on the business as a principal or agent; but shall not include—
    - (i) any person bona fide carrying on the business of banking or insurance or 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 of which he or she lends money;

- (ii) any society registered under the Cooperative Societies Act;
- (iii) any body corporate, incorporated or empowered by special Act to lend money in accordance with that Act;
- (iv) any person or body corporate exempted from this Act by order of the Minister;
- (i) “principal” means in relation to a loan the amount actually lent to the borrower.

(2) Where by a contract for the loan of money by a moneylender the interest charged on the loan is not expressed in terms of a rate, any amount paid or payable to the moneylender under the contract, other than simple interest charged in accordance with section 7(2), shall be appropriated to principal and interest in the proportion that the principal bears to the total amount of the interest, and the rate percent per year represented by the interest charged as calculated in accordance with the Schedule to this Act shall be deemed to be the rate of interest charged on the loan.

## **2. Licences to be taken out by moneylenders.**

(1) Except as provided in subsection (2), every moneylender shall take out annually in respect of every address at which he or she carries on his or her business as moneylender, a licence (in this Act referred to as a “moneylenders licence”) which shall expire on the thirty-first day of December in every year, and there shall be charged on every moneylenders licence a licence fee of one thousand shillings, or, if the licence is taken out not more than six months before the expiration of the licence, of five hundred shillings.

(2) If one partner in a firm of moneylenders has duly taken out a moneylenders licence, every other partner in the firm shall, subject to section 3, be issued with a moneylenders licence free of charge for the business of the firm for such time as he or she shall remain a member of the firm.

(3) A moneylenders licence shall be taken out by a moneylender in his or her true name, and shall be void if it is taken out in any other name, but every moneylenders licence shall also show the moneylenders authorised name and authorised address.

- (4) If any person—
  - (a) takes out a moneylenders licence in any name other than his or her true name;

- (b) carries on business as a moneylender without having in force a proper moneylenders licence authorising him or her so to do, or being licensed as a moneylender, carries on business as such in any name other than his or her authorised name, or at any other place than his or her authorised address or addresses; or
- (c) enters into any agreement in the course of his or her business as a moneylender with respect to the advance or repayment of money, or takes any security for money in the course of his or her business as a moneylender, otherwise than in his or her authorised name,

he or she contravenes this Act and for each offence is liable on conviction to a penalty of two thousand shillings; except that on a second or subsequent conviction of any person, other than a company, for an offence under this subsection, the court may, in lieu of or in addition to ordering the offender to pay the penalty aforesaid, order him or her to be imprisoned for a term not exceeding three months, and an offender being a company on a second or subsequent conviction is liable to a penalty of ten thousand shillings.

### **3. Certificate required for grant of moneylenders licence.**

(1) A moneylenders licence shall not be granted except to a person who holds a certificate granted in accordance with the provisions of this section authorising the grant of the licence to that person, and a separate certificate shall be required in respect of every separate licence.

(2) Any moneylenders licence granted in contravention of this section shall be void.

(3) Certificates under this section shall be granted by a magistrate having jurisdiction in the place in which the moneylenders business is to be carried on.

(4) Every certificate granted to a moneylender shall show his or her true name and the name under which, and the address at which, he or she is authorised by the certificate to carry on business as such, and a certificate shall not authorise 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 or she carries on banking business, and no certificate shall authorise a moneylender to carry on business under any name except—

- (a) his or his true name;

- (b) the name of a firm in which he or she is a partner, not being a firm required by the Business Names Registration Act to be registered; or
  - (c) a business name, whether of an individual or of a firm in which he or she is a partner, under which he or she or the firm has, at the commencement of this Act, been registered for not less than three years under the Business Names Registration Act.
- (5) A certificate shall come into force on the date specified in the certificate, and shall expire on the following thirty-first day of December.
- (6) A certificate shall not be refused except on one or more of the following grounds—
- (a) that satisfactory evidence has not been produced of the good character of the applicant, and, in the case of a company, of the persons responsible for the management of the company;
  - (b) that satisfactory evidence has been produced that the applicant, or any person responsible or proposed to be responsible for the management of his or her business as a moneylender, is not a fit and proper person to hold a certificate;
  - (c) that the applicant, or any person responsible or proposed to be responsible for the management of his or her business as a moneylender, is by order of a court disqualified from holding a certificate;
  - (d) that the applicant has not complied with the provisions of any rules made under this Act with respect to applications for certificates.
- (7) Any person aggrieved by the refusal of a magistrate to grant a certificate may appeal to the High Court.

#### **4. Suspension and forfeiture of moneylenders certificates.**

- (1) Where any person, being the holder of a certificate, is convicted of any offence under this Act, the court—
- (a) may order that any certificate held by that person, and in the case of a partner in a firm by any other partner in the firm, shall either be suspended for such time as it thinks fit, or shall be forfeited, and may also, if it thinks fit, declare any such person, or any person responsible for the management of the moneylending business carried on by the person convicted, to be disqualified

- from obtaining a certificate for such time as it thinks fit; and
- (b) shall cause particulars of the conviction and of any order made by it under this section to be endorsed on every certificate held by the person convicted or by any other person affected by the order, and shall cause copies of those particulars to be sent to the authority by whom any certificate so endorsed was granted.

(2) Where by order of a court a certificate held by any person is suspended or forfeited, or any person is disqualified from obtaining a certificate, he or she may, whether or not he or she is the person convicted, appeal against the order in the same manner as any person convicted may appeal against his or her conviction, and the court may, if it thinks fit, pending the appeal, defer the operation of the order.

(3) Any certificate required by a court for endorsement in accordance with this section shall be produced in such manner and within such time as may be directed by the court, by the person by whom it is held, and any person who, without reasonable cause, makes default in producing any certificate so required commits an offence and, in respect of each offence, is liable on conviction by a magistrate to a penalty not exceeding one hundred shillings for each day during which the default continues.

(4) Where a certificate held by any person is ordered to be suspended or to be forfeited under this section, any moneylenders licences granted to that person, whether in pursuance of that or any other certificate, shall be suspended during the period for which the certificate is ordered to be suspended or become void, as the case may be.

## **5. Names to be stated on documents issued by moneylenders.**

(1) Without prejudice to section 20 of the Business Names Registration Act, a moneylender shall not, for the purposes of his or her business as such, issue or publish, or cause to be issued or published, any advertisement, circular, business letter or other similar document which does not show in such manner as to be not less conspicuous than any other name, the authorised name of the moneylender, and any moneylender who acts in contravention of this subsection commits an offence and is liable on conviction by a magistrate to a fine not exceeding four hundred shillings in respect of each offence.

(2) If a moneylender, for the purposes of his or her business as such,

issues or publishes, or causes to be issued or published, any advertisement, circular or document of any kind containing expressions which might reasonably be held to imply that he or she carries on banking business, he or she commits an offence and is liable on conviction by a magistrate to a fine not exceeding two thousand shillings, and on a second or subsequent conviction, in lieu of or in addition to that fine, to imprisonment for a term not exceeding three months, or, in the case of a second or subsequent conviction of an offender being a company, to a fine not exceeding ten thousand shillings.

#### **6. Form of moneylenders contracts.**

(1) No contract for the repayment by a borrower of money lent to him or her or to any agent on his or her behalf by a moneylender or for the payment by him or her of interest on money so lent, and no security given by the borrower or by any such agent as aforesaid in respect of any such contract shall be enforceable, unless a note or memorandum in writing of the contract is made and signed personally by the borrower, and unless a copy of the note or memorandum is delivered or sent to the borrower within seven days of the making of the contract; and no such contract or security shall be enforceable if it is proved that the note or memorandum aforesaid was not signed by the borrower before the money was lent or before the security was given, as the case may be.

(2) The note or memorandum aforesaid shall contain all the terms of the contract, and, in particular, shall show the date on which the loan is made, the amount of the principal of the loan, and either the interest charged on the loan expressed in terms of a rate percent per year, or the rate per cent per year represented by the interest charged as calculated in accordance with the provisions of the Schedule to this Act.

#### **7. Prohibition of compound interest and provision as to defaults.**

(1) Subject to subsection (2), any contract made after the commencement of this Act for the loan of money by a moneylender shall be illegal insofar as it provides directly or indirectly for the payment of compound interest or for the rate or amount of interest being increased by reason of any default in the payment of sums due under the contract.

(2) Provision may be made by any such contract that if default is made in the payment upon the due date of any sum payable to the

moneylender under the contract, whether in respect of principal or interest, the moneylender shall be entitled to charge simple interest on that sum from the date of the default until the sum is paid, at a rate not exceeding the rate payable in respect of the principal apart from any default, 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.

## **8. Obligation to supply information to borrower.**

(1) In respect of every contract for the repayment of 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 contract and on tender by the borrower of the sum of one shilling 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 or her agent showing—

- (a) the date on which the loan was made, the amount of the principal of the loan and the rate percent per year of interest charged;
- (b) the amount of any payment already received by the moneylender in respect of the loan and the date on which it was made;
- (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 a reasonable sum for expenses, supply a copy of any document relating to a loan made by him or her 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 with the demand within one month after the demand has been made, he or she shall not, so long as the default continues, be entitled to sue for or recover any sum due under the contract on account either of principal or interest, and interest shall not be chargeable in respect of the period of the default, and if the default is made or continued after the proceedings have ceased to lie in respect of the loan, the moneylender commits an offence and is liable on conviction by a



magistrate to a fine not exceeding one hundred shillings for every day on which the default continues.

## **9. Moneylenders to give receipts and keep records.**

(1) Every moneylender shall give a receipt for every payment made to him or her on account of a loan or of interest on the loan; every such receipt shall be given immediately after the payment is made.

(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 or she shall enter in connection with every loan made by him or her—

- (a) the date on which the loan was made;
- (b) the amount of the principal;
- (c) the rate of interest;
- (d) all sums received in respect of the loan or the interest on the loan, with the dates of payment of the sums,

and shall produce the book when required to do so by any court.

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

(4) Any moneylender who fails to comply with any of the requirements of this section shall not be entitled to enforce any claim in respect of any transaction in relation to which the default shall have been made, and commits an offence under this Act and is liable on conviction to a fine not exceeding two hundred shillings or in the case of a continuing offence to a fine not exceeding one hundred shillings for each day or part of a day during which the offence continues.

## **10. Powers of court.**

(1) Where proceedings are taken in any court by any person for the recovery of any money lent, or the enforcement of any agreement or security made or taken in respect of money lent, the plaintiff shall produce a statement of his or her account as prescribed in section 8.

(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 with such interest thereon, if any, as the court may allow up to the date of payment.

(3) Subsections (1) and (2) shall apply to any transaction which, whatever its form may be, is substantially one of moneylending.

(4) Nothing in subsections (1), (2) and (3) 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.

## **11. Reopening transactions of moneylenders.**

(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 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, and there is evidence 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, fines, bonus, premium, 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 the 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 or her to indemnify the borrower or other persons sued.

(2) Any court in which the 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, exercise the like powers as may be exercised under this section, where proceedings are taken for the recovery of the 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 installment of the loan, may not have arrived.

(3) Where a court reopens a transaction of a moneylender under subsection (1), the court may require the moneylender to produce any certificate granted to him or her in accordance with this Act, and may cause such particulars as the court thinks desirable to be endorsed on any such certificate, and a copy of the particulars to be sent to the authority by whom the certificate was granted.

(4) 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.

(5) Subsections (1) to (4) shall apply to any transaction which, whatever its form may be, is substantially one of moneylending by a moneylender.

(6) Nothing in subsections (1) to (5) 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.

## **12. Harsh and unconscionable interest rates.**

(1) Where, in any proceedings in respect of any money lent by a moneylender after the commencement of this Act or in respect of any 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, it is found that the interest charged exceeds the rate of 24 percent per year, or the corresponding rate in respect of any other period, the court shall presume for the purposes of section 11, that the interest charged is excessive and that the transaction is harsh and unconscionable, but this provision shall

be without prejudice to the powers of the court under that section where the court is satisfied that the interest charged, although not exceeding 24 percent per year, is excessive.

(2) The powers of a court under section 11(2) may, in the event of the bankruptcy of the borrower, be exercised at the instance of the trustee in bankruptcy, notwithstanding that he or she may not be a person liable in respect of the transaction.

(3) The powers of a court under section 11(2) may be exercised notwithstanding that the moneylender's right of action for the recovery of the money lent is barred.

### **13. Restrictions on moneylending advertisements.**

(1) No person shall knowingly send or deliver or cause to be sent or delivered to any person except in response to his or her written request any circular or other document advertising the name, address or telephone number of a moneylender, or containing an invitation—

- (a) to borrow money from a moneylender;
- (b) to enter into any transaction involving the borrowing of money from a moneylender;
- (c) to apply to any place with a view to obtaining information or advice as to borrowing any money from a moneylender.

(2) Except as provided in subsection (3), no person shall publish or cause to be published in any newspaper or other printed paper issued periodically for public circulation, or by means of any poster or placard, an advertisement advertising any such particulars, or containing any such invitation, as referred to in subsection (1).

(3) An advertisement in conformity with the requirements of this Act relating to the use of names on moneylenders documents may be published by or on behalf of a moneylender in any newspaper or in any such paper as provided in subsection (2) or by means of a poster or placard exhibited at any authorised address of the moneylender, if it contains no addition to the particulars necessary to comply with the requirements, except any of the following particulars, that is to say, any authorised address at which he or she carries on business as a moneylender, and the telegraphic address and telephone number of the business, any address at which he or she formerly carried on business, a statement that he or she lends money with or without

security, and of the highest and lowest sums that he or she is prepared to lend, and a statement of the date on which the business carried on by him or her was first established.

(4) No moneylender or any person on his or her behalf shall employ any agent or canvasser for the purpose of inviting any person to borrow money or to enter into any transaction involving the borrowing of money from a moneylender, and no person shall act as such agent or canvasser, or demand or receive, directly or indirectly, any sum or other valuable consideration by way of commission or otherwise for introducing or undertaking to introduce to a moneylender any person desiring to borrow money.

(5) Where any document issued or published by or on behalf of a moneylender purports to indicate the terms of interest upon which he or she is willing to make loans or any particular loan, the document shall express the interest proposed to be charged in terms of a rate percent per year or show the rate percent per year represented by the interest proposed to be charged as calculated in accordance with the Schedule to this Act.

(6) Any person acting in contravention of any of the provisions of this section commits an offence and in respect of each offence is liable on conviction to imprisonment for a term not exceeding three months or a fine not exceeding two thousand shillings or to both such imprisonment and fine.

(7) Where it is shown that a moneylending transaction was brought about by a contravention of any of the provisions of this section, the transaction shall notwithstanding that the moneylender was duly licensed under this Act, be illegal, unless the moneylender proves that the contravention occurred without his or her consent or connivance.

#### **14. Penalties for false statements and representations.**

If any moneylender, or any manager, agent or clerk of a moneylender, or if any person being 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, he or she commits an offence and is liable on conviction to imprisonment for a term not exceeding two years or to a fine not exceeding

ten thousand shillings or to both such imprisonment and fine.

#### **15. Notice and information on assignment of moneylenders debts.**

(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 agreement made or security taken in respect of any such debt or interest is assigned to any assignee, the assignor, whether he or she 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, agreement or security is affected by the operation of this Act; and
- (b) supply to the assignee all information necessary to enable him or her to comply with the provisions of this Act relating to the obligation to supply information as to the state of loans and copies of documents relating to the loans,

and any person acting in contravention of any of the provisions of this section is liable to indemnify any other person who is prejudiced by the contravention, and commits an offence, and in respect of each offence is liable on conviction to imprisonment for a term not exceeding two years or to a fine not exceeding ten thousand shillings or to both such imprisonment and fine.

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

#### **16. Application in respect of assignees.**

(1) Subject as hereafter provided, the provisions of this Act shall continue to apply in respect of any debt to a moneylender in respect of money lent by him or her after the commencement of this Act or in respect of interest on money so lent or of the benefit of any agreement made or security taken in respect of any such debt or interest, notwithstanding that the debt or the benefit of the 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.

(2) Notwithstanding anything in this Act—

- (a) any agreement with, or security taken by, a moneylender in respect of money lent by him or her 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 or her;
- (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 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 agreement or security had been valid; and
- (c) the provisions of this Act limiting the time for proceedings in respect of money lent shall not apply to any proceedings in respect of any such agreement or security commenced by a bona fide assignee or holder for value without notice that the agreement or security was affected by the operation of this Act, or by any person deriving title under him or her,

but in every such case the moneylender is 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 an agreement or security in favour of, or apply to proceedings commenced by, an assignee or holder for value who is himself or herself a moneylender.

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

#### **17. Provisions as to bankruptcy proceedings for moneylenders loans.**

(1) Where a debt due to a moneylender in respect of a loan made by him or her after the commencement of this Act includes interest, that interest shall, for the purposes of the provisions of the Bankruptcy Act 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 5 percent per year, 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 or she may be entitled.

(2) Subsection (1) shall, in relation to such a debt as aforesaid, have effect in substitution for section 68(1) of the Bankruptcy Act.

(3) No proof of a debt due to a moneylender in respect of a loan made by him or her shall be admitted for any of the purposes of the Bankruptcy Act, unless the affidavit verifying the debt is accompanied by a statement showing in detail—

- (a) the amount of the sums actually lent to the debtor and the dates on which they were lent, and the amount of every payment already received by the moneylender in respect of the loan and the date on which every such payment was made;
- (b) the amount of the balance which remains unpaid, distinguishing the amount of the principal from the amount of interest included therein, the appropriation between principal and interest being made in accordance with the provisions of this Act where the interest is not expressed by the contract for the loan in terms of a rate; and
- (c) where the amount of interest included in the unpaid balance represents a rate percent per year exceeding 5 percent, the amount of interest which would be so included if it were calculated at the rate of 5 percent per year.

(4) General rules may be made under section 119 of the Bankruptcy Act for the purpose of carrying into effect the objects of this section.

### **18. Prohibition of charge for expenses on loans.**

Any 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 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, 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.

### **19. Limitation of time for proceedings.**

(1) No proceedings shall lie for the recovery by a moneylender of any money lent by him or her after the commencement of this Act or of any interest in respect of that money, or for the enforcement of any agreement



made or security taken after the commencement of this Act in respect of any loan made by the moneylender, unless the proceedings are commenced before the expiration of twelve months from the date on which the cause of action accrued.

- (2) Notwithstanding subsection (1)—
  - (a) if during the period of twelve months aforesaid or at any time within any subsequent period during which proceedings may by virtue of this subsection be brought, the debtor acknowledges in writing the amount due and gives a written undertaking to the moneylender to pay that amount, proceedings for the recovery of the amount due may be brought at any time within a period of twelve months from the date of the acknowledgment and undertaking;
  - (b) the time limited by the foregoing provisions of this section for the commencement of proceedings shall not begin to run in respect of any payments from time to time becoming due to a moneylender under a contract for the loan of money until a cause of action accrues in respect of the last payment becoming due under the contract;
  - (c) if at the date on which the cause of action accrues or on which any such acknowledgment and undertaking as aforesaid is given by the debtor, the person entitled to take the proceedings is *non compos mentis*, the time limited by the foregoing provisions of this section for the commencement of proceedings shall not begin to run until that person ceases to be *non compos mentis* or dies, whichever first occurs; and
  - (d) if at the date on which the cause of action accrues or on which any such acknowledgment and undertaking as aforesaid is given by the debtor, the debtor is out of Uganda, the time limited by the foregoing provisions of this section for the commencement of proceedings shall not begin to run until he or she returns to Uganda.

(3) Without prejudice to the powers of a court under section 11, if at the time when proceedings are taken by a moneylender in respect of a default in the payment of any sum due to him or her under a contract for the loan of money, 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 moneylender with such interest on it, if any, as the court may allow up to the date of payment.

**20. Penalty for taking promissory note in which amount left blank or not truly stated.**

Any moneylender who takes, as security for any loan, a promissory note or other contract for the repayment of money lent in which the principal is to the knowledge of the lender not truly stated, or is left blank, commits an offence and is liable on conviction to a fine not exceeding one thousand shillings or, in the event of a second or subsequent offence, either to a fine not exceeding three thousand shillings or to imprisonment for a term not exceeding six months.

**21. Saving.**

- (1) This Act shall not apply—
  - (a) to any moneylending transaction where the security for repayment of the loan and interest on the loan is effected by execution of a chattels transfer in which the interest provided for is not in excess of 9 percent per year;
  - (b) to any transaction where a bill of exchange is discounted at a rate of interest not exceeding 9 percent per year;
  - (c) to any moneylending transaction where the security for repayment of the loan and interest on the loan is effected by execution of a legal or equitable mortgage upon immovable property or of a charge upon immovable property or of any bona fide transaction of moneylending upon such mortgage or charge.

(2) The exemption provided for in this section shall apply whether the transactions referred to are effected by a moneylender or not.

(3) Any person who lends money only by means of the type of transactions set out in subsection (1) and by means of no other type of transaction shall be deemed not to be a moneylender for the purpose of this Act.

**22. Rules.**

The Minister may by rule prescribe—

- (a) the form of a moneylenders licence;
- (b) the officers entitled to issue moneylenders licences;
- (c) the procedure to be followed and forms to be completed by

- applicants for moneylenders licences and for certificates under section 3;
- (d) any other matter necessary for the better carrying out of this Act.

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*Schedule.*

ss. 1, 6(2),  
and 13(4).

**Calculation of interest where the interest charged on a loan is not expressed in terms of a rate.**

1. The amount of principal outstanding at any time shall be taken to be the balance remaining after deducting from the principal the total of the portions of any payments appropriated to principal in accordance with this Act.
2. The several amounts taken to be outstanding by way of principal during the several periods ending on the dates on which payments are made shall be multiplied in each case by the number of calendar months during which those amounts are taken to be respectively outstanding, and there shall be ascertained the aggregate amount of the sum so produced.
3. The total amount of the interest shall be divided by one-twelfth part of the aggregate amount mentioned in paragraph 2 of this Schedule, and the quotient, multiplied by one hundred, shall be taken to be the rate of interest percent per year.
4. If having regard to the intervals between successive payments it is desired so to do, the calculation of interest may be made by reference to weeks instead of months, and in such a case this Schedule shall have effect as though in paragraph 2 of this Schedule the word “weeks” were substituted for the words “calendar months”, and in paragraph 3 thereof the words “one-fifty-second” were substituted for the words “one-twelfth”.
5. Where any interval between successive payments is not a number of complete weeks or complete months, this Schedule shall have effect as though one day were one-seventh part of a week or one-thirtieth part of a month, as the case may be.

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**History:** Cap. 264.

## **Cross References**

Bankruptcy Act, Cap. 67.

Business Names Registration Act, Cap. 109.

Cooperative Societies Act, Cap. 112.

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