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LEGISLATURE,
Public Buildings,
Georgetown, Demerara,
18th September, 1953,

The following Bill, which will be introduced in the House of Assembly, by the Minister of Labour, Industry and Commerce, is hereby published for general information.

I. CRUM EWING,
Clerk of the Legislature.

A BILL
INTITLED

AN ORDINANCE TO CONSOLIDATE AND AMEND THE LAW
RELATING TO MONEYLENDERS.

Enacted by the Legislature of British Guiana:—

1. This Ordinance may be cited as the Moneylenders Ordinance, 1953. Short title.

2. In this Ordinance—

“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 Ordinance to carry on business as a moneylender; Interpretation.

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

“company” means any body corporate being a moneylender;

“district commissioner” means the Commissioner appointed in charge of a district declared and established under the District Government Ordinance and includes the assistant district commissioner; Cap. 85

“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;

“moneylender” includes every person whose business is that of moneylending, or who advertises or announces himself or holds himself out in any way as carrying on that business; but does not include—

(a) any pawnbroker in respect of business carried on by him in accordance with the provisions of the Pawnbrokers Ordinance; or Cap. 69

(b) any registered society within the meaning of the Friendly Societies Ordinance; or Cap. 214

(c) any body corporate, incorporated or empowered by a special Ordinance to lend money in accordance with that special Ordinance; or

(d) any person in good faith carrying on the business of banking, or insurance, or in good faith, 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

(e) any person in good faith lending money by way of mortgage; or

(f) any person or body corporate exempted from registration under this Ordinance by order of the Governor in Council published in the Gazette;

“Minister” means the Minister of Labour, Industry and Commerce.

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

3. (1) Every moneylender, whether carrying on business alone or as a partner in a firm, shall take out annually in respect of every address at which he carries on his business as such, a licence (in this Ordinance referred to as “a moneylender’s licence”) which shall expire on the thirty-first day of December in every year, and, subject as hereinafter provided, there shall be charged on every moneylender’s licence such duty as may be payable under the provisions of the Tax Ordinance for the time being in force: Licences to be taken out by moneylenders.

Provided that where moneylender's licences are taken out by two or more moneylenders in respect of any address or addresses at which they carry on their business as partners in a firm, the district commissioner shall remit, or if the duty has been paid, repay, to the firm a sum equal to the aggregate of the duties charged on such number of licences taken out as exceeds the number of the addresses in respect of which they are taken out.

(2) A moneylender's licence shall be taken out by a moneylender in his true name, and shall be void if it be taken out in any other name, and every moneylender's licence shall also show the moneylender's authorised name and authorised address.

(3) If any person —

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

he shall be guilty of an offence and shall be liable, on summary conviction thereof, to a penalty not exceeding five hundred dollars:

Provided 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 to be imprisoned for a term not exceeding three months, and an offender being a company shall, on a second or subsequent conviction, be liable to a penalty not exceeding one thousand dollars.

Certificate
required
for grant of
moneylender's
licence.

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

(2) Certificates under this section (in this Ordinance referred to as "certificates") shall be granted by the magistrate of the district in which the moneylender's business is to be carried on.

(3) Every certificate granted to a moneylender shall show his true name and the name under which, and the address or addresses at which, he 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 carries on banking business, and no certificate shall authorise a moneylender to carry on business under any name except —

- (a) his true name; or
- (b) the name of a firm in which he is a partner, not being a firm required by the Business Names (Registration) Ordinance to be registered; or
- (c) a business name, whether of an individual or of a firm in which he is a partner, under which he or the firm has, at the commencement of this Ordinance, been registered for not less than three years, both as a moneylender under the Moneylenders Ordinance, and under the Business Names (Registration) Ordinance.

Cap. 58

Cap. 68

Cap. 58

(4) A certificate shall come into force on the date specified therein and shall expire on the next following thirty-first day of December.

Procedure
on applica-
tion for a
certificate.

5. (1) A person intending to apply for a certificate under this Ordinance shall, fourteen days at least before the application, give notice by registered letter sent by post of his intention so to do. Such notice shall set forth his name and address and the

address at which he intends to carry on his business and shall be sent to the magistrate of the district in which such latter address is situate and to the officer of Police in charge of the district in which such latter address is situate.

(2) The Minister may make rules with respect to the procedure to be followed in making applications for certificates, including the notices to be given of intention to make such an application, and certificates shall be in such form as may be prescribed by rules so made.

6. (1) A certificate shall not be refused except on some 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 thereof;
- (b) 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 hold a certificate;
- (c) 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 holding a certificate;
- (d) that the applicant is not domiciled or is not ordinarily resident in this Colony;
- (e) that the applicant has not complied with the provisions of any rules made under subsection (2) of section five of this Ordinance with respect to applications for certificates.

Refusal to grant a certificate.

(2) Any person aggrieved by the refusal of a magistrate to grant a certificate may appeal to the Full Court in the manner provided by the Summary Jurisdiction on (Appeals) Ordinance.

Cap. 15

7. Any licence and any certificate issued or granted otherwise than in accordance with sections four, five and six of this Ordinance shall be void.

Licences and certificates void unless granted in accordance with the Ordinance.

8. (1) Where any person, being the holder of a certificate, is convicted of any offence under this Ordinance, the court —

- (a) may order that the certificate held by that person, and, in the case of a partner in a firm, by any other partner in the firm, be suspended for such time as the court thinks fit or be cancelled;
- (b) may declare such person or any other person responsible for the management of the money-lending business carried on by the person convicted to be disqualified for obtaining a certificate for such period as the Court may think fit; and
- (c) shall cause particulars of the conviction and of any order made under this subsection 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 district commissioner.

Suspension and cancellation of certificates.

(2) Any person aggrieved by an order made under this section may appeal to the Full Court in the manner provided by the Summary Jurisdiction (Appeals) Ordinance.

Cap. 15.

(3) Any person who fails to produce his certificate to the court when required for any of the purposes of this section within such time as may be specified by the court shall be guilty of an offence and shall be liable to a penalty not exceeding five dollars for each day during which he continues to make default.

9. (1) A moneylender shall not transfer his business to premises other than those specified in his licence, except with the consent of the magistrate of the district in which the address to which he proposes to transfer his business is situate. Such consent shall not be given until the officer of police in charge of such district has been notified of the proposed transfer and has had an opportunity of objecting to the same.

Transfer of business to other premises.

(2) Any moneylender contravening the provisions of this section shall be liable, on summary conviction, to a fine not exceeding forty-eight dollars.

Forgery of certificate.

10. (1) If any person forges a certificate or tenders a certificate knowing it to be forged for the purpose of obtaining a licence for himself or for any other person, he shall be liable on summary conviction to a fine not exceeding five hundred dollars or to imprisonment for six months.

(2) A licence granted in pursuance of a forged certificate shall be void, and if any person makes use of a forged certificate, knowing it to be forged, he shall be disqualified from obtaining at any time thereafter a moneylender's licence.

Form of moneylenders' contracts.

11. (1) No contract for the repayment by a borrower of money lent to him or to any agent on his behalf by a moneylender after the commencement of this Ordinance, or for the payment by him 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 be made and signed personally by the borrower, and unless a copy thereof be delivered or sent to the borrower within seven days of the making of the contract; and every such contract or security shall be wholly void unless it is proved that the note or memorandum aforesaid was 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 per centum per annum, or the rate per centum per annum represented by the interest charged as calculated in accordance with the provisions of the First Schedule to this Ordinance.

First Schedule

Interest to be charged.

12. (1) The interest which may be charged on loans by a money-lender shall not exceed—

- (a) in the case of secured loans, simple interest at the rate of twelve per centum per annum; and
- (b) in the case of unsecured loans, simple interest at the rate of twenty-four per centum per annum.

(2) The expression "secured loans" in this section shall include mortgages and loans made on all forms of collateral security.

(3) The interest shall constitute a comprehensive charge to include all discounts, commissions, bonuses, fines, expenses, and any amount by whatsoever name called, in excess of the principal, paid or payable to the money-lender in consideration of or otherwise in respect of a loan, but shall not include such charges, expenses and costs as are specifically allowed by this Ordinance or by the court adjudicating on the matter.

(4) Any person who loans money at a rate of interest higher than that authorised by this Ordinance shall be liable on summary conviction to a fine not exceeding two hundred and fifty dollars in respect of each loan, and no action shall be brought by the lender or any other person (whether or not a bona fide assignee or holder for value of any instrument relating to such loan) for the recovery of any sum of money lent in contravention of the provisions of this section, and any security given in connection therewith shall be wholly void.

Prohibition of compound interest.

13. (1) Subject as hereinafter provided, any contract made after the commencement of this Ordinance for the loan of money by a moneylender shall be illegal in so far as it provides directly or indirectly for the payment of interest in advance whether by deduction of any amount from the principal sum borrowed or otherwise or 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:

Provided that 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 Ordinance as part of the interest charged in respect of the loan.

(2) Any moneylender who contravenes the provisions of this section shall be liable, on summary conviction, to a fine not exceeding two hundred and fifty dollars.

14. 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 the simple interest charged in accordance with section twelve of this Ordinance) shall be appropriated to principal and interest in the proportion that the principal bears to the total amount of the interest, and the rate per centum represented by the interest charged as calculated in accordance with the provisions of the First Schedule hereto shall be deemed to be the rate of interest charged on the loan.

Method of calculating interest when not expressed in terms of a rate.

First Schedule.

15. 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 such 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:

Prohibition of charge for expenses on loans by moneylenders.

Provided that the provisions of this section shall not apply to such charges, expenses and costs as are specifically allowed by this Ordinance or by the court adjudicating on the matter.

16. (1) No moneylender or any person on his 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 an 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.

Employment of agents or canvassers by moneylender prohibited.

(2) Any contract by the borrower to pay to an agent or canvasser of a moneylender a commission for securing a loan shall be wholly void.

(3) Any moneylender or any other person who contravenes the provisions of subsection (1) of this section shall be liable on summary conviction to a penalty not exceeding ninety-six dollars.

17. (1) Every moneylender shall give 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.

Moneylenders to give receipts, endorse date and amount of payment on borrower's note or memorandum, and keep record of transactions.

(2) Every moneylender shall keep as books of account, a cash book and a ledger, the pages of which shall be as set out in Form I and Form II respectively, in the Second Schedule to this Ordinance.

Second Schedule

(3) The entries in the said books 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) Every moneylender shall, at the request of a borrower and on production by the borrower of the copy of the note or memorandum issued by the moneylender under subsection (1) of section eleven of this Ordinance to the borrower, endorse thereon the date and amount of every payment made by the borrower on account of such loan or of interest thereon and shall authenticate the endorsement by appending his signature thereto.

(5) Any moneylender who fails to comply with any of the provisions of this section shall for each offence be liable, on summary conviction, to a fine not exceeding forty-eight dollars.

18. (1) In respect of every contract for the repayment of money lent by a moneylender (whether made before or after the commencement of this Ordinance) such moneylender shall, upon demand in writing being made by the borrower at any time during the subsistence of the contract and on tender by the borrower of the sum of twenty-four cents 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 —

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

(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 interest charged; and

(b) the amount of any payment already received by the moneylender in respect of the loan and the date on which it was made; and

- (c) the amount of 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 became due.

(2) A moneylender shall, on 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 as security therefor, to the borrower, or if the borrower so requires, to any person specified in that behalf in the demand.

(3) If a moneylender to whom a demand has been made under this section fails without reasonable excuse to comply therewith within one month after the demand has been made, he shall not, as 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 such default is made or continued after proceedings have ceased to lie in respect of the loan, the moneylender shall be liable to a fine of five dollars for every day on which the default continues.

Limitation
of time for
proceedings
in respect
of money
lent by
moneylenders.

19. No proceedings shall lie for the recovery by a moneylender of any money lent by him after the commencement of this Ordinance or of any interest in respect thereof, or for the enforcement of any agreement made or security taken after the commencement of this Ordinance in respect of any loan made by him, unless the proceedings are commenced before the expiration of twelve months from the date on which the cause of action accrued:

Provided that —

- (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 proviso 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 after the date of the acknowledgement 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 of unsound mind, 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 of unsound mind 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 this Colony, the time limited by the foregoing provisions of this section for the commencement of proceedings shall not begin to run until he returns to this Colony.

(2) Without prejudice to the powers of a court under section twenty-three of this Ordinance, 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 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 thereon, if any, as the court may allow up to the date of payment.

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

Restrictions on money-lending advertisements.

- (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) Subject as hereinafter provided, 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 aforesaid;

Provided that an advertisement in conformity with the requirements of this Ordinance 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 aforesaid 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 said requirements, except any of the following particulars, that is to say any authorised address at which he carries on business as a moneylender and the telegraphic address and telephone number thereof, any address at which he formerly carried on business, a statement that he lends money with or without security, and of the highest and lowest sums that he is prepared to lend, and a statement of the date, on which the business carried on by him was first established.

(3) Where any document issued or published by or on behalf of a moneylender purports to indicate the terms of interest upon which he is willing to make loans or any particular loan, the document shall either express the interest proposed to be charged in terms of a rate per centum per annum or show the rate per centum per annum represented by the interest proposed to be charged as calculated in accordance with the provisions of the First Schedule to this Ordinance.

First Schedule.

(4) Any person acting in contravention of any of the provisions of this section shall be guilty of an offence and shall, on summary conviction thereof, be liable to a fine not exceeding twenty-four dollars.

(5) 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 Ordinance, be illegal, unless the moneylender proves that the contravention occurred without his knowledge or consent.

21. (1) Where any debt in respect of money lent by a moneylender, whether before or after the commencement of this Ordinance, 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 is a moneylender by whom the money was lent or any person to whom the debt has been previously assigned) shall, before the assignment is made —

Notice and information to be given on assignment of moneylenders' debts.

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

and any person acting in contravention of any of the provisions of this section shall be liable to indemnify any other person who is prejudiced by the contravention, and shall also in respect of each offence be liable on summary conviction to a fine not exceeding five hundred dollars or to imprisonment for a period not exceeding six months.

(2) In this section the expression "assigned" means assigned by any assignment *inter vivos* other than an assignment by operation of law, and the expressions "assignor" and "assignee" shall be construed accordingly.

Application
of Ordin-
ance as re-
spect as-
signees,

22. (1) Subject as hereinafter provided, the provisions of this Ordinance shall continue to apply as respects any debt to a moneylender in respect of money lent by him after the commencement of this Ordinance 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 Ordinance to a moneylender shall accordingly be construed as including any such assignee as aforesaid:

Provided that except as otherwise provided in this Ordinance —

- (i) any agreement with, or security taken by, a moneylender in respect of money lent by him after the commencement of this Ordinance 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 Ordinance and of any person deriving title under him; and
- (ii) 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
- (iii) the provisions of this Ordinance 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 Ordinance, or by any person deriving title under him;

but in every such case the moneylender shall be liable to indemnify the borrower or any other person who is prejudiced by virtue of this section, and nothing in this proviso 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 a moneylender.

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

Re-opening
of money-
lending
transac-
tions.

23. (1) Where proceedings are taken in any court by any person for the recovery of any money lent before or after the commencement of this Ordinance, or for the enforcement of any agreement or security made or taken in respect of money lent before or after the commencement of this Ordinance, and there is evidence which satisfies the court that the interest charged in respect of the sum actually lent exceeds the rates authorised by this Ordinance, the court may re-open the transaction, and take an account between the lender 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, re-open 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 due in respect of such principal and interest, and for such costs and charges as the court 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, and if the lender has parted with the security may order him to indemnify the borrower or other person sued.

Proceed-
ings by
borrower
against
moneylen-
der.

(2) Any court in which proceedings might be taken for the recovery of money lent by any person shall have power to 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 money lent, and the court shall have power, notwithstanding any provision or agreement to the contrary, to entertain any application under this Ordinance 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 claim by a person who has lent money in any insolvency proceedings, the court may exercise the like powers as may be exercised under this section when proceedings are taken for the recovery of money.

Insolvency

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

Application to all moneylending transactions.

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

Bona fide assignee.

24. Any person who 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 liable, on summary conviction, to a fine not exceeding five hundred dollars or to imprisonment for a period not exceeding six months.

Inducing by false borrowing statements.

25. (1) In any civil proceedings in which a borrower pleads any of the provisions of this Ordinance (whether in any plaint, defence, or other pleading, or in any affidavit or application for the purpose of obtaining leave to defend any action), if the court is satisfied that such plea was not made in good faith, but was made for the purpose of delaying or harassing the moneylender, the court may order such borrower to pay for the benefit of the moneylender a sum not exceeding twenty-four dollars by way of compensation and the costs incurred by the moneylender in the proceeding to such an amount as shall be determined by the court, and every such sum so ordered to be paid shall be added to the amount of the judgment recoverable by the moneylender.

Protection of lenders against frivolous and vexatious actions.

(2) In any criminal proceeding instituted against a moneylender for a breach of any provision of this Ordinance if the court is satisfied that charge was made maliciously, frivolously, or vexatiously, it may direct that a sum not exceeding twenty-four dollars by way of compensation and the costs of the accused to such an amount as shall be determined by the court shall be payable by the informed or complainant, and any amount so ordered to be paid shall be recoverable for the benefit of the accused in the same manner as a fine imposed by the court.

26. (1) Every moneylender shall each year have the books required to be kept by him under the provisions of section seventeen of this Ordinance audited by an auditor approved in that behalf by the Minister.

Audit of moneylenders' books

(2) The auditor shall certify whether or not the provisions of this Ordinance in respect of the aforesaid books have been complied with during the previous year.

(3) Every moneylender shall on or before the thirty-first day of March in each year transmit to the district commissioner the auditor's certificate required by subsection (2) of this section in respect of the previous year.

(4) If a moneylender fails without reasonable excuse to comply with the provisions of subsection (1) of this section, he shall be liable to a fine of five dollars for every day on which the default continues.

27. All penalties, fines, forfeitures, costs and expenses incurred under this Ordinance may be imposed, sued for, prosecuted, realised and recovered in the manner provided by the Summary Jurisdiction Ordinances.

Recovery of penalties.

28. The Moneylenders Ordinance is hereby repealed.

Repeal. Cap. 68.

29. This Ordinance shall come into operation on such day as the Governor shall by Proclamation published in the *Gazette* appoint.

Commencement.

OBJECTS AND REASONS.

This Bill seeks to consolidate and amend the provisions of the Moneylenders Ordinance, Chapter 68, and to give effect to the recommendations of a Select Committee of the Legislative Council appointed by His Excellency the Officer Administering the Government on the 7th July, 1949, to consider and examine *inter alia* the aforesaid Ordinance.

2. Clause 3 seeks to make provision for the taking out by every moneylender of an annual moneylender's licence in respect of every address at which he carries on his business as such.

3. Clause 4 seeks to provide that a moneylender's licence shall not be granted except to a person who holds a certificate granted by the Magistrate of the District in which the moneylender's business is to be carried on.

4. Clause 5 seeks to make provision with respect to the procedure to be followed by applicants for the grant of certificates, and also seeks to empower the Minister to make rules with respect to the procedure to be followed in making applications for certificates, including the notices to be given of intention to make such an application, and the form of such certificate.

5. Clause 6 seeks to prescribe the grounds on which the grant of a certificate may be refused and to make provision for the right of appeal to the Full Court by a person aggrieved by the refusal of a magistrate to grant a certificate.

6. Clause 8 seeks to empower a court on the conviction of the holder of a certificate of any offence under this Ordinance to order the suspension or forfeiture of any certificate held by such person or the disqualification for obtaining a certificate for such time as the court thinks fit, and to order that particulars of the conviction and any order made by the court under subsection (1) of this section be endorsed on every certificate held by the person convicted or by any other person affected by the order.

7. Clause 9 seeks to prohibit the transfer by a moneylender of his business to premises other than those specified in his licence except with the consent of the Magistrate of the district in which the address to which he proposes to transfer his business is situate.

8. Clause 11 seeks to provide that no contract for the repayment by a borrower of money lent by a moneylender or for the payment by him of interest thereon and no security given by the borrower 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 a copy thereof be delivered or sent to the borrower within 7 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 was not signed by the borrower before the money was lent or before the security was given as the case may be. Sub clause (2) of this clause seeks to make provision as to the contents of the note or memorandum.

9. Clause 12 seeks to provide that the rate of interest to be charged by a moneylender shall not exceed the rate of 12 per centum per annum in the case of secured loans or 24 per centum in the case of unsecured loans.

10. Clause 13 seeks to prohibit the charge of compound interest by a moneylender in any contract for the loan of money.

11. Clause 15 seeks to prohibit the charge for expenses on loans by moneylenders.

12. Clause 16 seeks to prohibit the employment of canvassers by moneylenders.

13. Clause 17 seeks to provide that moneylenders shall give receipts for every payment made on account of a loan or of interest thereon, every such receipt to be given immediately the payment is made, and that moneylenders shall keep a cash book and a ledger the pages of which shall be in the forms prescribed in the Second Schedule to the Bill, the entries in the said books to be made forthwith on the making of the loan or the receipt of the sums paid in respect thereof, as the case may be.

14. Clause 18 seeks to provide for the supply by moneylenders of information to borrowers in respect of loans and of copies of documents relating to loans made by them or as security therefor.

15. Clause 19 seeks to limit the time for taking proceedings for the recovery by a moneylender of any money lent by him or of any interest in respect thereof, or for the enforcement of any

agreement made or security taken in respect of any loan made by him to twelve months after the cause of action accrued.

16. Clause 20 seeks to impose certain restrictions on money-lending advertisements.

17. Clause 21 seeks to provide for notice and information to be given on assignment of moneylenders' debts.

18. Clause 23 seeks to make provision for the re-opening of moneylending transactions where proceedings are taken in any court in connection therewith.

19. Clause 25 seeks to provide for the protection of moneylenders against frivolous and vexatious actions.

20. Clause 26 seeks to provide for the auditing of books of account of moneylenders.

21. Clauses 27 to 29 are self-explanatory.

ASHTON CHASE,
Minister of Labour,
Industry and Commerce.

3rd September, 1953.

(M.P. IC. 121/27/3).