

*Amended by Schedule to Ord. 31 of 1908*

## CHAPTER 68.

### MONEY-LENDERS.

[No. XVI of 1907.]

[31st July, 1907.]

- Short title.      **1.** This Ordinance may be cited as the Money-lenders Ordinance.
- Interpretation.      **2.** In this Ordinance "money-lender" includes every person whose business is that of money-lending, or who advertises or announces himself or holds himself out in any way as carrying on that business; but does not include—
- Chapter 69.              (a) any pawnbroker in respect of business carried on by him in accordance with the provisions of the Pawnbrokers Ordinance; or
- Chapter 214.            (b) any registered society within the meaning of the Friendly Societies Ordinance; or
- (c) any body corporate, incorporated or empowered by a special Ordinance to lend money in accordance with that special Ordinance; or
- (d) anyone 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 body corporate for the time being exempted from registration under this Ordinance by order of the Governor in Council published in the Gazette.
- Re-opening of transactions of money-lender.      **3.**—(1) Where any proceedings are taken in any court by a money-lender for the recovery of any money lent after the commencement of this Ordinance, or the enforcement of any agreement or security made or taken after the commencement of this Ordinance, in respect of money lent either 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 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 or unconscionable, the court may re-open the transaction and take an account between the money-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 fairly due in respect of the principal, interest and charges, which the court, having regard to the risk and all the circumstances, adjudges to be reasonable; and if that 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 money-lender, and, if the money-lender has parted with the security, may order him to indemnify the borrower or other person sued.

(2) Any court in which proceedings may be taken for the recovery of money lent by a money-lender shall have, and, at the instance of the borrower or surety or person liable, may 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 has not arrived.

(3) On any application relating to the admission or amount of a proof by a money-lender 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.

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

(5) Nothing in the foregoing provisions of this section shall affect the right of any assignee or holder for value in good faith without notice.

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

Obligation  
of money-  
lenders as to  
registration  
and carrying  
on business.

4.—(1) A money-lender, as defined by this Ordinance,—

- Registration of  
Duties*
- Sec. 68. 31/9/37*
- (a) shall register himself as a money-lender in accordance with regulations under this Ordinance, at the office of the ~~Chief~~ *Chief* ~~Commissionary~~, under his own or usual trade name, and in no other name, and with the address, or all the addresses, if more than one, at which he carries on his business of money-lender; and
- (b) shall carry on the money-lending business in his registered name and in no other name, and under no other description, and at his registered address or addresses and at no other address; and
- (c) shall not enter into any agreement in the course of his business as a money-lender with respect to the advance and repayment of money, or take any security for money in the course of his business as a money-lender, otherwise than in his registered name; and
- (d) shall, on reasonable request and on tender of a reasonable sum for expenses, furnish the borrower with a copy of any document relating to the loan or any security therefor.

Penalty for  
non-  
observance :

(2) If a money-lender fails to register himself as required by this Ordinance, or carries on business otherwise than in his registered name, or in more than one name, or elsewhere than at his registered address, or fails to comply with any requirement of this section, he shall be liable on conviction under the Summary Jurisdiction Ordinances, to a fine not exceeding five hundred dollars, and in the case of a second or subsequent conviction to imprisonment, with or without hard labour, for a term not exceeding three months, or to a fine not exceeding five hundred dollars, or to both :

Proviso.

Provided that if the offender is a body corporate, that body corporate shall be liable on a second or subsequent conviction to a fine not exceeding two thousand dollars.

(3) A prosecution under sub-section (1) (a) of this section shall not be instituted except with the consent of the Attorney General.

Regulations  
as to regis-  
tration.

5.—(1) The Governor in Council may make regulations respecting the registration of money-lenders, whether individuals, firms, societies, or companies, the form of the register, and the particulars to be entered therein, and the

fees to be paid on registration and renewal of registration (not exceeding five dollars for each registration or renewal), and respecting the inspection of the register and the fees payable therefor.

(2) The registration shall cease to have effect at the expiration of three years from the date thereof, but may be renewed from time to time, and, if renewed, shall have effect for three years from the date of the renewal.

6. If any money-lender, or manager, agent, or clerk, of a money-lender, or of any person being a director, manager, or other officer of any corporation carrying on the business of money-lending, by any false, misleading, or deceptive statement, representation, or promise, or by any dishonest concealment of material facts, fraudulently induces or attempts to induce any person to borrow money or to agree to the terms on which money is or is to be borrowed, shall be guilty of a misdemeanour, and shall be liable on indictment to imprisonment, with or without hard labour, for a term not exceeding two years, or to a fine not exceeding two thousand dollars, or to both.

False statements and representations.

Penalties.