



The Andhra Pradesh Pawn Brokers Act, 2002

Act 6 of 2002

Keyword(s):

Appellate Company, Co-Operative Society, Interest, Licence, Licensing Loan, Members of Weaker Sections, Pawn Broker, Pawner, Principal

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ANDHRA PRADESH ACTS, ORDINANCES AND REGULATIONS Etc.

The following Act of the Andhra Pradesh Legislative Assembly which was reserved by the Governor on the 14th October, 2000 for the consideration and assent of the President received the assent of the President on the 4th March, 2002 and the said assent is hereby first published on the 13th March, 2002 in the Andhra Pradesh Gazette for general information:-

ACT No. 6 OF 2002

AN ACT TO CONSOLIDATE THE LAWS RELATING
TO PAWN BROKING IN THE STATE OF ANDHRA
PRADESH AND FOR MATTERS CONNECTED
THEREWITH OR INCIDENTAL THERE TO.

Whereas, it is expedient to provide for the regulation and control of the business of Pawn Broking in the State of Andhra Pradesh.

Be it enacted by the Legislative Assembly of the State of Andhra Pradesh in the Fifty-third Year of the Republic of India as follows :-

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| 1. (1) This Act may be called the Andhra Pradesh Pawn Brokers Act, 2002. | Short title extent and commence- ment. |
| (2) It extends to the whole of the State of Andhra Pradesh. | |

(3) It shall come into force on such date and in such areas as the Government may by notification, appoint and they may appoint different dates for different areas.

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| 2. In this Act, unless the context otherwise requires,— | Definitions. |
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(1) "Appellate authority" means any officer or authority appointed by the Government to exercise the powers of an appellate authority under this Act ;

(2) "Company" means a body corporate and includes a firm, association of persons or body of individuals whether incorporated or not.

Act 7 of 1964.
Act 30 of
1995.

(3) "Co-operative Society" means a society registered or deemed to have been registered under the Andhra Pradesh Co-operative Societies Act, 1964 or the Andhra Pradesh Mutually Aided Co-operative Societies Act, 1955.

(4) "Government" means the State Government of Andhra Pradesh.

(5) "Interest" does not include any sum lawfully charged in accordance with the provisions of this Act by a Pawn Broker for or on account of costs, charges or expenses, but saved as aforesaid, includes any amount by whatsoever name called, in excess of the principal, paid or payable to a Pawn Broker in consideration of or otherwise in respect of a loan.

(6) "Licence" means a Pawn Broker's licence granted under section 4.

(7) "Licensing Authority" means an officer or authority appointed by the Government to perform the functions of a licensing authority under this Act.

(8) "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,—

Central Act 1
of 1956.

(a) a deposit of money or other property in a Government Post Office Savings Bank or in a Bank or in a Company as defined in the Companies Act, 1956 or with a Co-operative Society ;

(b) an advance made to any loan floated by the Government of India or the Government of any State ;

Central Act 19
of 1925.

(c) 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 applies ;

(d) an advance made by the Government or by any person authorised by the Government to make advances on their behalf, or by any local authority :

(e) an advance made by any authorities specified by the Government by notification :

(f) an advance made by a trader bonafied carrying on any business, other than Pawn-Broking, if such loan is advanced in the regular course of such business ;

(g) an advance made to its members by any Nidhi or Permanent Fund registered under any Chit Fund scheme or Chit ;

(9) "Members of Weaker Sections" means any individual whose total income from all sources put together does not exceed rupees eleven thousands per annum.

(10) "Notification" means a notification published in the Andhra Pradesh Gazette, and the word "notified" shall be construed accordingly.

(11) "Pawn Broker" means a person who carries on the business of taking goods and chattels in pawn for a loan;

Explanation:- Every person who keeps a shop for the purpose of sale of goods or chattels and who purchase goods or chattels and pays or advances thereon any sum of money, with or under an agreement or understanding expressed or implied that the goods or chattels may be afterwards repurchased on any term is a Pawn Broker within the meaning of this clause.

(12) "Pawner" means a person delivering an article for pawn to a Pawn Broker.

(13) "Pawn" means an article pawned with a Pawn Broker

(14) "Prescribed" means prescribed by rules made under this Act.

(15) "Principal" in relation to a loan means the amount actually lent to the pawner, and

(16) "Year" means the financial year.

Pawn Broker
to obtain
licence.

3. (1) No person, shall commence or carry on or continue business as a Pawn Broker at any place to which this Act applies without a licence obtained under this Act or in contravention of the terms thereof:

Act XXIII of
1943.
Act 5 of
1349 F.

Provided that nothing in this section shall be deemed to prohibit a licensee under the Andhra Pradesh (Andhra Area) Pawn Broker Act, 1943 or the Andhra Pradesh (Telangana Area) Money Lenders Act, 1349F who has applied for a licence within three months from the commencement of this Act to carry on or to continue business as a Pawn Broker pending orders on his application.

(2) Where a Pawn Broker 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 Pawn Broker is a registered firm, the licence shall be obtained in the firm's name.

(b) Where a Pawn Broker is an undivided joint family, the licence shall be obtained in the name of the manager or the Kartha, as the case may be, described as such in the licence.

Central Act I
of 1956.

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

Central Act 9
of 1932.

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

4. (1) Every application ~~For~~ a Pawn Broker's licence shall be in writing and shall be made to the licensing authority in such manner and accompanied by such licence fee as may be prescribed.

Granting and
refusal of
licence.

(2) Every licence shall be granted in such form and subject to such conditions as may be prescribed.

(3) The Licensing Authority may by order in writing refuse to grant a licence, if such 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 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 Pawn Broking ; or

(ii) is found guilty of an offence punishable under this Act or any other law for the time being in force in respect of or in connection with the business of Pawn Broking ; or

(d) that the application is made within six months of the cancellation of the previous licence of the applicant.

(4) Every order of the Licensing Authority under Sub-section (3) shall be communicated to the applicant in such manner as may be prescribed.

(5) The Licensisng Authority may, if it is satisfied that an applicant coming under the purview of the proviso to Sub-section (1) of section 3 could not aply for a licence under this Act, within the period referred to therein for reasons beyond his control, condone the delay upto a

maximum period of ninety days subject to payment of a penalty equal to the prescribed licence fee.

(6) Every licence granted under this Act shall, subject to the provisions of sub-section (8), be for a period of three years.

(7) A licence granted under Sub-section (2) may be renewed on an application which shall be made atleast two months before the expiry of the period of licence and the provisions of Sub-sections (1) to (6) shall apply in relation to the renewal of licence as they apply in relation to the grant of a licence.

(8) If orders refusing to renew a licence are not communicated to a Pawn Broker by the Licensing Authority before the expiry of his current licence, the Pawn Broker shall, notwithstanding such expiry, be deemed to have a valid licence till the orders are received by him on his application for renewal.

(9) Nothing in this section shall be deemed to disentitle a Pawn Broker 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.

Pawn brokers
to exhibit their
names.

5. Every Pawn Broker shall always exhibit over his shop or place of business his name with the word "Pawn Broker" and its equivalent in the regional language.

Change of
place of
business by
pawnbroker.

6. No Pawn Broker 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.

Interest
chargeable by
pawn broker.

7. (1) No Pawn Broker shall charge interest on any loan at a rate exceeding by more than two per cent the rate charged by commercial banks on similar loans granted by them.

(2) No Pawn Broker shall demand or take any gifts, articles, commission, charges or amount under any name whatsoever from the pawner while advancing a loan in terms

of this Act, other than the interest.

(3) The total interest payable on a loan shall not exceed the quantum of the principal.

8. Every Pawn Broker shall on taking a pledge in pawn, give to the pawner, a pawn-ticket in the prescribed form, and shall not take a pledge in pawn unless the pawner takes the pawn-ticket.

Pawn ticket to be given to pawner.

9. (1) Subject to the provisions of this Act, every Pawn Broker shall on payment of the principal and interest, deliver the pledge to the pawner.

Pawn entitled to redeem pledge.

(2) Except as otherwise expressly provided in this Act, a Pawn Broker shall not be bound to deliver back a pledge unless the pawn-ticket, is delivered to him.

10. (1) (a) A Pawner alleging that the pawn ticket has been lost, mislaid, destroyed or stolen or fraudulently obtained from him, may apply to the pawn Broker for the prescribed declaration form which the Pawn Broker shall deliver to him.

Protection of pawners not having pawn tickets.

(b) If the Pawner delivers back to the Pawn Broker the declaration duly made before any Magistrate or Notary by the pawner and by a person identifying him, the pawner shall have, as between himself and the Pawn Broker, all the same rights and remedies as if he had produced the pawn-ticket:

Provided that such a declaration shall not be effectual for that purpose, unless the declaration is duly made and delivered back to the Pawn Broker within such period after the delivery of the form to the applicant, as may be prescribed.

(2) A pawner making a declaration under Sub-section (1), knowing the same to be false in any material particular, shall be punished with imprisonment for a term which may

extend to one year or with fine which may extend to rupees five thousand or with both.

(3) A person falsely identifying the pawner under Sub-section (1) knowing that he is not the real pawner making such declaration shall be punished with imprisonment for a term which may extend to one year or with fine which may extend to rupees five thousand or with both.

Pawnbroker to
keep books,
give receipts
etc.

11. (1) Every Pawn Broker shall, --

(a) regularly record and maintain or cause to be recorded and maintained, in a pledge book in the prescribed form, an account showing for each debtor separately,--

- (i) the name and address of the pawner;
- (ii) a full and detailed description of the article or each of the articles taken in pawn;
- (iii) the date of the loan, the amount of the principal of the loan and the rate of interest charged on the loan;
- (iv) the time agreed upon for the redemption of the pawn; and
- (v) the amount of every payment received by the Pawn Broker in respect of the loan, and the date of such payment;

(b) keep and use in his business, the following documents and books as may be prescribed and enter therein from time to time, as occasion requires, in a fair and legible manner such particulars and in accordance with such directions, as may be prescribed,--

- (i) Pawn - ticket;
- (ii) sale book of pledge;
- (iii) declaration of pawn-ticket lost; and
- (iv) receipt on redemption of pledge;
- (c) give to the pawner or his agent a receipt for every sum paid by him, duly signed and, if necessary, stamped at the time of such payment; and

(d) on a requisition in writing made by the pawner, furnish to him or to any person mentioned by him, 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 may charge such sum as the State Government may prescribe as fee therefor.

(2) All records or entries made in the books, accounts and documents referred to in sub-section (1) shall be either in English or in such language of the locality as may be prescribed; and all such books, accounts and documents and all pledges taken by the Pawn Broker shall be open to inspection by the Licensing Authority or an Inspector appointed under section 16 or any Police Officer not below the rank of Sub-Inspector or by any Revenue Officer not below the rank of a Mandal Revenue Officer.

(3) Notwithstanding anything contained in the Indian Evidence Act, 1872, a copy of the account referred to in clause (a) of sub-section (1), certified in such manner as may be prescribed, shall be admissible in evidence in the same manner and to the same extent as the original account.

Central Act 1
of 1872.

(4) A pawner to whom a statement of account has been furnished under clause (d) 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.

(5) In the pawn-ticket furnished to the pawner under section 8, in the receipt given under clause (c) of sub-section (1) and in the statement of account furnished under clause (d) of that sub-section the figures shall be entered only in Arabic numerals.

(6) If any Pawn Broker fails to give to the pawner or his agent a receipt under clause (c) or a statement under clause (d) of sub-section (1) he shall be liable to a fine not exceeding rupees five thousand.

Redemption
of pledge.

12. Every pledge shall be redeemable within two years from the day of pawning, exclusive of that day.

Explanation:- where the contract between the parties provides a longer period for redemption than two years, the provisions of this section shall be read and construed as if the references to such longer period had been substituted for the references to the period of two years therein.

Sale of pledge
and inspection
of sale books.

13. (1) A pledge may be disposed of by the Pawn Broker by public auction and not otherwise, and the sale shall be conducted in such manner as may be prescribed.

(2) A Pawn Broker shall not bid for and purchase at a sale by public auction conducted under sub-section (1), a pledge pawned with him.

(3) Where in a public auction, the pledge has been sold for more than the amount of the loan and interest thereon and charges due at the time of sale, the Pawn Broker shall pay to the Pawner or his agent, the surplus amount within one month from the date of sale after deducting there from the necessary costs and charges of the sale and the Pawner or his agent may inspect the entry relating to the sale either in the Pawn Broker's book or in such catalogue of the auction, as may be prescribed, at any time within one month from such payment.

(4) where the surplus amount is not paid to the pawner within one month of the sale under sub-section (3), the same shall be deposited with the licensing authority, within seven days thereafter.

Liability of
pawn-broker
in case of
fire.

14. (1) where a pledge is destroyed or damaged by or in consequence of fire, the Pawn Broker shall nevertheless be liable on application made within the period during which the pledge would have been redeemable, to pay the value of the pledge, after deducting the amount of the principal and interest.

Explanation:- For the purpose of this sub-section, the value of the pledge shall be its estimated value entered in the pledge book at the time of the pawn together with interest on the amount of the principal and shall in no case be less than the aggregate of the amount of the principal and interest and twentyfive per cent on the amount of principal.

(2) A Pawn Broker shall be entitled to insure to the extent of valued so estimated.

15. If a person entitled to redeem a pledge shows to the satisfaction of a Civil Court having jurisdiction to entertain a suit for such redemption that the pledge has become or has been rendered of less value than it was at the time of pawning thereof by or through the default, neglect or wilful misbehaviour of the Pawn Broker, the Court may if it thinks fit, award reasonable compensation to the owner of the pledge in respect of the damage, and the amount awarded shall be deducted from the amount payable to the Pawn Broker, or shall be paid by the Pawn Broker (as the case requires) in such manner as the Court directs.

Compensation
for deprecia-
tion of pledge.

16. (1) The Government or any authority or officer empowered by them in this behalf may, by notification, appoint one more persons possessing such qualificatgions as may be prescribed to be the Inspector's for the purpose of this Act and specify in such notification the local limits of their jurisdiction.

Appointment
of Inspectors
and take their
powers.

(2) Every Inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860.

Central Act 45
of 1860.

17. (1) Any Licensing Authority or appellate authority, may, for the purposes of this Act, by notice require any Pawn Broker,--

Powers to
order produc-
tion of
accounts and
powers of entry
and inspection.

(a) to produce or cause to be produce before him any accounts, registers, records or other documents; or

(b) to furnish or cause to be furnished any other information relating to his business within such time as may be specified in such notice and such Pawn Broker shall comply with such requisition.

(2) Any Inspector or Licensing Authority may, at any reasonable time, with or without the assistance of police officers or other Officers enter any place of business or office of the Pawn Broker and inspect any cash, accounts, registers, records, safes, vaults or other documents in such premises.

(3) If any officer referred to in this section, has reason to believe, that the Pawn Broker has violated any of the provisions of this Act or the rules made thereunder, he may, for reasons to be recorded in writing, enter and search the place of business of the Pawn Broker or any other place which includes any godown, building, vessels, vehicle, box or receptacle, where the Pawn Broker keeps or is reasonably believed to be keeping any accounts, registers, other records, documents or pledges relating to his business;

Provided that no residential building or premises shall be entered or searched unless such officer is specifically authorised in writing by an Officer not below the rank of Mandal Revenue Officer.

Central
Act 2 of 1974.

(4) All searches under this section shall, so far as may be, made in accordance with the provisions of the Code of Criminal Procedure, 1973.

(5) The Officer making the inspection or search may seize such accounts, registers, records or other documents as he considers necessary and on such seizure shall grant the Pawn Broker a receipt of the things so seized.

(6) The accounts, registers, records or other documents seized under sub-section (5) shall not be retained by the Officer seizing them, beyond a period of thirty days from the date of the seizure except with the permission of the

next higher authority, unless they are required for any prosecution under this Act.

(7) The power conferred by sub-sections (3) and (5) shall include,—

(a) the power to break open any box or receptacle, safe, vault or door of any premises in which any accounts, registers, records, or pledges of the Pawn Broker are kept or reasonably suspected to be kept:

Provided that the power to break open the door shall be exercised only after the owner or any other person in occupation of the premises fails or refuses to open the same on being called upon to do so.

(b) the power to seal any box, receptacle, room or building where any accounts, registers or other documents are kept or reasonably believed to be kept and if the owner or any other person in occupation leaves the premises or refuses to open the box, receptacle, room or building or is not available, then to break open such box, receptacle, room or building on authorisation in writing by the officer referred to in sub-section (3) of this section:

(c) the power to search any person who has got out of or is about to get into or is in any place referred to in sub-section (2) of this section, if the officer has reason to suspect that such person has secreted about his person, any accounts, registers, records or other documents.

18. (1) The licensing authority or the appellate authority shall for the purposes of this Act, have all the powers conferred on a Civil Court by the Code of Civil procedure, 1908, in respect of the following matters, namely:-

(a) summoning and enforcing the attendance of any person and examining him on oath or affirmation;

Power to
summon
witnesses and
cause produc-
tion of
documents.

Central Act 5
of 1908.

(b) compelling the production of any documents;

(c) impounding of any documents, accounts or other records produced for reasons to be recorded in writing; and

(d) any other matter as may be prescribed;

(2) The Officer who impounds the documents, accounts or registers of the Pawn Broker shall grant a receipt of the things so impounded to the person concerned.

Assistance of
Police officers.

19. Any Officer authorised to inspect or search under section 17 may seek the assistance of the officer incharge of the Police Station having jurisdiction over the area to be inspected or searched and thereupon, such officer of the police station shall render all assistance necessary to the officer for the conduct of such inspection or search.

Power to
cancel licence,
etc.,

20. (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;

(b) if, it is brought to the notice of the authority after the grant of the licence, that for any reason the licensing authority could have refused to grant the licence to the Pawn Broker under sub-section (3) of section 4; or

(c) if the licensee is convicted for an offence under section 11 or section 24; or

(d) if the licensee maintains false accounts.

(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 the proposed action within such time as may be specified in the notice.

(3) Every order of the Licensing Authority under this section shall be communicated to the licensee in such manner as may be prescribed.

21. Every order of cancellation of a licence under this Act, shall be notified in the district gazette and also affixed on the notice board of the office of the licensing authority.

Publication of order of cancellation.

22. A person whose licence is cancelled under section 20 shall not be entitled to the refund of any fee paid in respect of such licence or for any compensation for such cancellation.

No refund of licence fee.

23. (1) Any person, aggrieved by an order of the Licensing Authority under sub-section (3) of section 4 or sub-section (1) of section 20, may within thirty days from the date of communication of such order, appeal in such manner as may be prescribed to the appellate authority having jurisdiction over the area.

Appeals.

(2) The appellate authority may admit an appeal preferred after the period of thirty days aforesaid, if it is satisfied that the appellant had sufficient cause for not preferring an appeal within the said period.

(3) The appellate authority may, after giving the appellant an opportunity of being heard, pass such orders on the appeal as it may deem fit.

(4) Every order passed by the appellate authority shall be communicated to the appellant and to the Licensing Authority in such manner as may be prescribed.

24. (1) Any Pawn Broker, who actually advances an amount less than that shown in pawn-ticket or in his accounts or registers or who takes or receives interest or any other charge at a rate higher than that shown in the pawn-ticket or in his accounts or registers or allowed under this Act, shall be punished with imprisonment for a term which shall not be less than one year but which may extend to three years and with fine which may extend to rupees fifty thousand.

Pawnbroker advancing smaller amount or receiving higher interest than that specified in the accounts to be punishable.

(2) If a Pawn Broker is convicted of offence under sub-section (1) after having been previously convicted of such offence, the Court convicting him may order his licence as a Pawn Broker to be cancelled.

Certain other acts of pawn-brokers to be punishable.

25. A Pawn Broker who,--

(1) takes an article in pawn from any person appearing to be under the age of eighteen years, or to be intoxicated or of unsound mind shall be punished with imprisonment for a term which may extend to one year or fine which may extend to five thousand rupees or with both.

(2) (a) purchases or takes in pawn or exchanges a pawn-ticket issued by another pawn broker; or

(b) employs any person under the age of eighteen years to take pledges in pawn; or

(c) under any pretence purchases any pledge while in pawn with him; or

(d) suffers any pledge while in pawn with him to be redeemed with a view to his purchasing it; or

(e) makes any contract or agreement with any person pawning or offering to pawn any article, for the purchase, sale, or disposition thereof within the time of redemption; or

(f) sells or otherwise disposes of any pledge pawned with him except at such time and in such manner as is authorised by or under this Act, shall be punished with imprisonment for a term which shall not be less than one year but which may extend to three years and with fine which may extend to rupees fifty thousand.

Certain acts of pawners and others to be punishable.

26. Any person who,--

(a) offers to a Pawn Broker an articles by way of pawn, being unable or refusing to give a satisfactory account of the means by which he became possessed of the article; or

(b) willfully gives false information to a Pawn Broker as to whether an article offered by him in pawn to the Pawn Broker in his own property or not, or as to his name and address or as to the name and address of the owner of the article; or

(c) not being entitled to redeem, and not having any colour of title bylaw to redeem, a pledge, attempts or endeavours to redeem the same, shall be punished with imprisonment for a term which shall not be less than one year but which may extend to three years and with fine which may extend to rupees fifty thousand.

27. (1) In every case falling under section 26, and also in any case where, on an article being offered in pawn, for sale, or otherwise, to a Pawn Broker, he reasonably suspects that it has been stolen or otherwise illegally or clandestinely obtained, the Pawn Broker shall, in the absence of reasonable excuse, inquire into the name and address of the person concerned, and seize and detain such person and the article, if any, and forthwith communicate to the nearest police station the facts of the case and shall deliver the person and the article, if any, seized to the police.

Duties of the pawnbroker.

(2) A list of properties believed to have been stolen may be delivered by the police to any Pawn Broker licensed under this Act and thereupon it shall be the duty of such Pawn Broker,—

(a) if any article answering the description of any of the properties set forth in any such list is offered to him in pawn, for sale, or otherwise, to proceed in accordance with the provisions of sub-section (1); and

(b) if any such article is already in his possession, forthwith to communicate to the nearest police station the fact of the case (including full particulars as to the name and address of the person concerned in the delivery of the article to the Pawn Broker) and also, if so required by the police, to deliver the article to them.

General
penalty for
contravention
of Act, etc .

28. (1) whoever contravenes any of the provisions of this Act or of any rule made or of any term and conditions of a licence granted thereunder shall, if no other penalty is elsewhere provided in this Act for such contravention, be punished with imprisonment for a term which shall not be less than one year but which may extend to three years and with fine which may extend to rupees fifty thousand.

(2) Any Court convicting a Pawn Broker of a contravention of the provisions of clause (c) or clause (d) of sub-section (1) of section 11, may direct him to furnish a receipt or statement of account in accordance with the provisions of that clause, and if the Pawn Broker fails to comply with the direction, the Court may order his licence as a Pawn Broker to be cancelled.

Penalty for
carrying on
business
without licence
or in violation
of the
conditions of
the licence.

29. Whoever carries on the business of Pawn Broking without a licence or in violation of the conditions of the licence or otherwise than in conformity with the term and conditions of the licence shall be punished with imprisonment for a term which shall not be less than one year but which may extend to three years and with fine which may extend to rupees fifty thousand.

Liability of the
pawnbroker for
the acts
committed by
his agents or
employees.

30. Where any agent or employee of the Pawn Broker contravenes any of the provisions of this Act or of any rule made thereunder or of the term and conditions of a licence granted or deemed to be granted whether with or without the knowledge of the Pawn Broker, the Pawn Broker shall without prejudice to the liability of the agent or the employee, be liable for the penalty provided under this Act, as if the Pawn Broker himself has committed such contravention.

Transfer of
licence to
heirs.

31. (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 for 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.

32. Where a Pawn Broker is guilty of an offence other than an offence of carrying in business of Pawn Broking without a licence punishable under this Act, any contract made by him, in relation to his business of Pawn Broking, shall not be void by reason only of that offence, nor shall he by reason only of that offence, loose his lien on or right to the pledge or to the loan and the interest and other charges, if any, payable in respect thereof.

Contracts not to be void on account of offences but interest and costs not to be allowed in certain cases.

Provided that if a Pawn Broker fails to deliver to the Pawner a pawn-ticket as required by section 8 or fails to give to the pawner or his agent a receipt as required by clause (c) of sub-section (1) of section 11 or to furnish on a requisition made under clause (d) of that sub-section, a statement of account as required therein within one month after such requisition has been made, the Pawn Broker shall not be entitled to any interest for the period of his default;

.. Provided further that if in any suit or proceeding relating to a loan, the Court finds that a Pawn Broker has not maintained accounts as required by clause (a) or clause (b) of sub-section (1) of section 11, he shall not be allowed his costs.

33. (1) The Government may either suo-motu or on application, call for and examine the record of any order passed by an Inspector, Licensing Authority or Appellate

Power of revision by the Government.

Authority to satisfy themselves as to the legality, regularity or correctness of such order and in any case it appears to them, that such order should be modified, annulled or reversed or remitted for reconsideration, they may pass orders accordingly:

Provided that no order under this section adversely affecting a person shall be passed unless that person has had an opportunity of being heard.

(2) No licensee shall make an application under subsection (1) unless he has paid the penalty against which such revision is sought.

(3) No Licensee shall make an application under subsection (1) unless he has exhausted the appellate remedy available under this Act.

(4) No application seeking a revision of an appellate order under this section shall be made after expiry of a period of ninety days from the date of such order.

(5) No order of suo-motu revision shall be made by the Government under this section after the expiry of three years from the date of the order which is sought to be revised.

Bar of certain proceedings.

34. (1) No suit, prosecution or other proceedings shall lie against any officer or employee of the Government or any act done or purporting to be done under this Act, without the previous sanction of the Government.

(2) No suit, prosecution or other legal proceedings shall be instituted against any person for anything which is, in good faith, done or intended to be done under this Act or the rules made thereunder.

Power to make rules.

35. (1) The Government may, by notification, make rules for carrying out the purpose of this Act.

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

(a) the authority to whom an appeal shall lie against an order of the licensing authority;

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

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

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

(e) the procedure which should be followed and the powers which may be exercise by the authorities exercising functions, holding inquiries and hearing appeals under this Act;

(f) the charges and expenses which the Pawn Broker may demand from the pawner;

(g) any other matter which is required to be or may be prescribed.

(3) Every rule made under this Act, shall immediately after it is made, be laid before the Legislative Assembly of the State, if it is in session and if it is not in session, in the session immediately following for a total period of fourteen days, which may be comprised in one session or in two successive sessions, and if, before the expiration of the session in which it is so laid or the session immediately following the Legislative Assembly agrees in making any modification in the rule or in the annulment of the rule, the rule shall, from the date on which the modification or annulment is notified, have effect only in such modified form or shall stand annulled, 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.

Act not to effect or alter the law relating to relief of agricultural and other indebtedness.

36. The provisions of this Act, shall be in addition to and not, save as otherwise expressly provided in this Act, in derogation of any other law for the time being in force, in the State, relating to the relief of indebtedness including indebtedness amongst agriculturists, members of weaker sections and members of Scheduled Castes and Scheduled Tribes.

Repeal and savings.

37. The following enactments are hereby repealed, namely,—

Act XXIII of 1943.

(i) The Andhra Pradesh (Andhra Area) Pawn Brokers Act, 1943 ;

Act 5 of 1349F.

(ii) The provisions relating to Pawn Broking contained in the Andhra Pradesh (Telangana Area) Money Lenders Act, 1349, F :

Act 1 of 1891.

Provided that section 8 of the Andhra Pradesh General Clauses Act, 1891 shall be applicable in respect of the repeal of the said enactments and sections 8 and 18 of the said Act shall be applicable as if the said enactments had been repealed and reenacted by an Andhra Pradesh Act.

G. TRINATHA RAO,
Secretary to Government (i/c.),
Legislative Affairs & Justice,
Law Department.

STATEMENT OF OBJECTS AND REASONS

A Bill No. 35 of 1997 was introduced in the Legislative Assembly for amending certain provisions in the Andhra Pradesh (TElangana Area) Money Lenders, Act, 1349 F. on the lines of certain provisions contained in the Andhra Pradesh (Andhra Area) Pawn Brokers Act, 1943 so as to protect the interests of the Pawner and Pawn Broker and to maintain uniformity of law throughout the State. The Legislative Assembly of the State has referred the above Bill to a Select Committee. The Select Committee during its meetings felt that there should be two separate Acts on Money lending and Pawn Broking each being applicable to the entire State instead of the Andhra Pradesh (Andhra Area) Pawn Brokers Act, 1943 which is in force in Andhra Area only and the Andhra Pradesh (Telangana Area) Money Lenders Act, 1349 F. which is in force in TELangana Area only.

Whereas a Bill to consolidate the Laws relating to Pawn Broking in the State of Andhra Pradesh has been introduced in the Legislative Assembly of the State as L.A. Bill No. 15 of 1999 and the same has lapsed due to dissolution of the Tenth Legislative Assembly.

This Bill seeks to give effect to the above decision.

Y. RAMAKRISHNUDU,
*Minister for Finance and
 Legislative Affairs.*