

The U.P. Regulation Of Money-Lending Act, 1976

UTTAR PRADESH

India

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Act 29 of 1976

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The U.P. Regulation Of Money-Lending Act, 1976(U.P. Act No. 29 of 1976)UP88Statement Of Objects And Reasons - There are complaints that many money lenders have been indulging in malpractices in their dealings with economically weaker-sections of the public and that they have been exploiting them. In order to put an end to such malpractices and exploitation it is necessary to regulate the business of money-lending and to provide for registration of money-lenders.The Uttar Pradesh Regulation of Money-Lending Bill, 1976, is accordingly introduced. It is hereby enacted in the Twenty-seventh Year of Republic of India, as follows :-Received the assent of the President on July 17, 1976 and published in the U.P. Gazette, Extraordinary, dated July 20,1976.An Act to provide, in the interest of the general public, for the regulation of money lending transactions and for the registration of money-lenders, and for matters connected therewith, or incidental thereto

Chapter I Preliminary

1. Short title, extent and commencement. -

(1)This Act may be called the Uttar Pradesh Regulation of Money Lending Act, 1976.(2)It extends to the whole of Uttar Pradesh.(3)It shall come into force on such date as the State Government may, by notification appoint in this behalf.

2. Savings. -

(1)Nothing in this Act shall apply to or in respect of -(a)[any loan or advance by or any deposit with any bank or a cooperative society:] [Substituted by U.P. Act No. 1 of 1979 and shall be deemed always to have been substituted.](b)any loan or advance to or by or deposit with the Government or any local authority, the Life Insurance Corporation of India or any other statutory corporation or a public company (as defined in the Companies Act, 1956), or the Government Post Office Savings

Bank;(c)the purchase or sale or other transfer of any securities (not including mortgage of immovable property) in which a trustee may, under any law for the time being in force, invest trust-money;(d)any loan to a subscriber to, or a depositor in a provident fund to which the Provident Funds Act, 1925 applies, or any recognised provident fund as defined in clause (38) of Section 2 of the Income Tax Act, 1961 or the public provident fund established under the Public Provident Fund Act, 1968, from the amount standing to his credit in the fund in accordance with the rule of such fund;(e)any agreement referred to in Section 3 of the Uttar Pradesh Public Moneys (Recovery of Dues) Act, 1972;(f)any loan, advance or deposit against a hundi or other bill of exchange (as defined in the Negotiable Instruments Act, 1881),or a document of title to goods (as defined in the Indian Sale of Goods Act, 1930);(g)any loan or advance to, or by, or a deposit with any society or association registered under the Societies Registration Act, 1860, or any other enactment relating to a public, religious or charitable object;(h)any loan advanced to a Government servant from a fund established for the welfare or assistance of such servants and which is sanctioned by the Government;(2)Nothing in Section 12 shall apply in respect of any loan of a sum exceeding rupees five thousand advance to a registered money-lender or to a contractor or any other person carrying on any profession, trade or industry.

3. Definitions. -

In this Act -(1)'bank' means -(a)a banking company as defined in the Banking Regulation Act, 1949;(b)the State Bank of India constituted under the State Bank of India Act, 1955;(c)a subsidiary bank as defined in the State Bank of India (Subsidiary Bank) Act, 1959;(d)a "corresponding new bank" constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970;(e)a regional rural bank established under sub-section (1) of Section 3 of the Regional Rural Banks Act, 1976;(f)any banking institution notified by the Central Government under Section 51 of the Banking Regulation Act, 1949; or(g)any other banking or financial institution notified by the State Government as a bank for the purposes of this Act;(2)'business of money-lending' means the business of advancing loans, whether or not in connection with or in addition to any other business;(3)'Co-operative society' means a co-operative society as defined in the Uttar Pradesh Co-operative Societies Act, 1965;(4)'interest' in relation to a loan, includes any sum, by whatever name called in excess of the principal paid or payable to a money-lender in consideration of or otherwise in respect of the loan, but does not include any sum lawfully charged by a money-lender for or on account of costs, charges or expenses in accordance with the provision of this Act or any other law for the time being in force;(5)'loan' means an advance at interest whether of money or in kind and includes any transaction which is in substance a loan, but does not include sale of any goods by a dealer in such goods whether on credit or on hire-purchase;(6)'money-lender' means a person who carries on the business of money-lending;(7)'principal' in relation to a loan, means the amount actually advanced to the debtor;(8)'registration' means registration under this Act, and registered shall be constructed accordingly.(9)["Year of account" means a period of twelve months commencing on the first day of April of a Calendar year.] [Inserted by Section 2 of U.P. Act No. 27 of 2006.]

Chapter II

Appointment Of Officers

4. Registration Authorities. -

(1)The State Government may, by notification, appoint a Registrar General of Money-lending (hereinafter referred to as the Registrar General) who shall have jurisdiction throughout Uttar Pradesh and as many Registrars of Money-lending (hereinafter referred to as Registrars) or Deputy Registrars of money-lending (herein-after referred to as Deputy Registrars) and Assistant Registrars of Money-lending (hereinafter referred to as the Assistant Registrars as it thinks fit, each having jurisdiction over such area as may be specified.(2)The Registrar General shall have the superintendence, direction and control of and over Registrars, Deputy Registrars and Assistant Registrars in the performance of their functions under this Act.

5. Power to inspect account and other records. -

[The Registrar General, the Registrars, the Deputy Registrars and the Assistant Registrars shall be responsible for inspecting half yearly the accounts and other records of the business of money-lending carried on by any person and shall perform such other duties as may be prescribed.]
[Substituted by U.P. Act No. 13 of 2008.]

6. Register of money-lenders. -

Every Registrar shall maintain for the area within his jurisdiction, a register of money-lenders in such form and containing such particulars as may be prescribed.

Chapter III

Registration Of Money-Lenders

7. Certificate of Registration. -

(1)Any person carrying on the business of money-lending on the date of commencement of this Act wishing to carry on such business after such commencement [or any person wishing to commence such business after the said date] [Inserted by U.P. Act No. 1 of 1979 and shall be deemed always to have been inserted.] in any part of Uttar Pradesh may apply to the Registrar within the local limits of whose jurisdiction he has his principal place of such business, and where his principal place of business is situated outside Uttar Pradesh, to any Registrar within the local limits of whose jurisdiction he carries on or proposes to carry on his business, for registration as a money-lender under this Act:Provided that any person carrying on the said business from before the commencement of this Act may apply for registration under this Act within three months [from the date of commencement of the U.P. Regulation of Money-Lending (Amendment) Act, 1978]
[Substituted by U.P. Act No. 1 of 1979 and shall be deemed always to have been substituted.](2)The

application shall be in such form and shall contain such particulars and shall be accompanied by a deposit of such fee, which shall be paid in such manner as may be prescribed.(3)The Registrar shall after satisfying himself that the application is in conformity with the requirement of sub-section (2) and that the applicant is not a person against whom an order under Section 16 or sub-section (2) of Section 22 is for the time being in force, enter his name and other particulars in the register of money-lenders referred to in Section 6, and grant him a certificate of registration [in the prescribed form within 60 days from the date of receipt of the application] [Substituted by Section 3 of U.P. Act No. 27 of 2006.](3a)[Where the Registrar is not satisfied under sub-section (3) he may reject an application for the reasons to be recorded and shall inform the applicant within the period specified in the said sub-section along with the reasons on account of which the application has been rejected.] [Inserted by Section 3 of U.P. Act No. 27 of 2006.](4)Such certificates shall be valid throughout Uttar Pradesh and shall, unless cancelled or suspended earlier under this Act, remain in force for a period of [three years] [Substituted by U.P. Act No. 13 of 2008 for the words 'ten years'.] from the date to its commencement, and the moneylender shall, on payment of such fee as may be prescribed, be entitled to renewal his certificate, unless the Registrar, for sufficient cause, refuses to renew the certificate:Provided that no order refusing to renew a certificate shall be passed except after giving to the money-lender an opportunity of showing cause.

8. Cancellation and suspension of certificate of registration. -

(1)The Registrar may, at any time, for sufficient cause, cancel or suspend a certificate of registration granted under Section 7:Provided that no order cancelling a certificate shall be passed except after giving to the money-lender an opportunity of showing cause.(2)Where any certificate of registration is suspended or cancelled under sub-section (1), no person shall be entitled to any compensation or to refund of any registration fee.

9. Appeal. -

Any person aggrieved by an order of the Registrar refusing to grant a certificate under Section 7 or cancelling or suspending it under Section 8, may within thirty days from the date of such order prefer an appeal against the order to the Registrar General, who may thereupon pass such orders as he thinks fit.

Chapter IV

Duties And Obligation Of Money-Lenders

10. Restriction on business of money-lending. -

(1)No person shall carry on the business of money-lending, unless he holds a valid certificate of registration:Provided that a person referred to in the proviso to sub-section (1) of Section 7 may, subject to other provisions of this Act, continue to carry on such business for the period mentioned in that proviso and thereafter until his application for registration is refused.(2)Every registered money-lender shall display his certificate of registration in such manner as may be prescribed.

11. Maintenance of liquid assets. -

(1) Every registered money lender raising money by deposits from the public, shall maintain by way of liquid assets an amount which shall not, at the close of the business on any day, be less than twenty-five per cent of his outstanding liabilities in respect of such deposits. (2) No money-lender, referred to in sub-section (1) shall, at any time have invested in an unsecured loan which shall, at the close of the business on any day, be more than fifty per cent of the deposits held by him or double the amount of liquid assets maintained by him, whichever is greater. Explanation. - For the purposes of this section, the expression 'liquid assets' in relation to a money-lender, means -(a) balance of cash with the money-lender; or (b) any amount held by him in a current or any other deposit account with a scheduled bank; or (c) investment by him in unencumbered securities (not including mortgage of immovable property) in which trustee may, under any law for the time being in force, invest trust money.

12. Maximum rate of interest. -

(1) Notwithstanding anything contained in any decree, order, custom, contract or other instrument or any other law for the time being in force, no money-lender shall in respect of any loan, whether advanced before or after the commencement of this Act, be entitled to interest exceeding such rates as may be notified under sub-section (2). (2) The State Government may from time to time after considering the rate of interest normally charged by scheduled banks for commercial loans, notify the maximum rates of interest that may be charged by money lenders: Provided that different rates may be notified for secured and unsecured loans. (3) Any alteration in the rate of interest notified under sub-section (2) shall not affect the validity of any claim for interest made in respect of a loan granted before such alteration.

13. Duties of a money-lender. -

(1) Every money-lender shall -(a) mention or cause to be mentioned in every document evidencing a loan advanced by him in the course of his money-lending business -(i) the true principal amount; and (ii) his registration number; (b) maintain such accounts, forms and registers as may be prescribed and furnish to Registrar such periodical returns as may be prescribed; (c) issue to the debtor or his agent a receipt attested by at least one witness for every payment made by him; and (d) on payment of the prescribed charges, furnish to the debtor such documents or yearly statements of accounts as may be prescribed. (e) [give one month notice to the debtor for the recovery of loan and a copy of such notice shall be sent to the Registrar.] [Inserted by U.P. Act No. 13 of 2008] (1A) [Where any information regarding loan is sought by the debtor from the money-lender, the money-lender shall be bound to give such information to the debtor.] [Inserted by U.P. Act No. 13 of 2008] (2) A debtor to whom a document or statement of account has been furnished under clause (d), sub-section (1), shall not be bound to acknowledge or deny its correctness, and his failure to do so shall not, by itself, be deemed to be an admission of the correctness thereof. [13A. Duties of debtor. - In case the debtor fails to repay the loan in the stipulated period, the money lender may make an application to the Registrar who may issue necessary directions to the debtor to repay the loan.] [Inserted by U.P Act No. 13 of 2008]

14. Certain loans to be made only by cheques. -

(1) Every loan advanced, after the commencement of this Act, by a money-lender [shall be evidenced by an account payee cheque, if the amount of such loan is two thousand five hundred rupees or more] [Substituted by U.P. Section 4 of U.P. Act No. 27 of 2006.] [Provided that nothing in this sub-section shall apply to a transaction where a fresh bond or promissory note is executed in lieu of a bond or promissory note which remains wholly or partly unpaid.] [Inserted by U.P. Act No. 1 of 1979 and shall be deemed always to have been inserted.] (2) Every transaction of money-lending in relation to a loan advanced in contravention of sub-section (1) shall be void.

Chapter V

Procedure In Suits

15. Special provisions applicable to claims by money-lender. -

(1) The provisions of this section shall apply to every suit, whether heard ex parte or otherwise -(a) by a money-lender for the recovery of a loan advanced after the commencement of this Act; (b) by a money-lender for the enforcement of any security taken or any agreement, whether by way of settlement of account or otherwise, made after the commencement of this Act in respect of any loan advanced either before or after such commencement; (c) against a money-lender for the redemption of any security given to him after the commencement of this Act in respect of any loan advanced either before or after such commencement. (2) In any such suit, if the Court finds that the money-lender's claim is untrue, wholly or in part, and that the money-lender has omitted to comply with any of the requirements of sub-section (1) of Section 13, the Court may disallow his costs and may also disallow the whole or any part of the interest due to him, and where the omission relates to the requirement of giving a receipt to the debtor for any payment made by him towards the loan or where the principal amount was untruly stated by the money-lender, may also disallow any part of the principal.

16. Cancellation or suspension of certificate by Court deciding suit etc. -

(1) In any suit referred to in sub-section (1) of Section 15, the court may, if it is of opinion, that the money-lender has wilfully committed a breach of any of the provisions of this Act cancel his certificate of registration or suspend it for such period as may be specified. (2) Any Court of appeal or revision to which an appeal or revision has been preferred from the decision in any such suit may, for reasons to be recorded, stay the operation of any order under sub-section (1) on such terms, if any, as it thinks fit, and may modify or annul such order.

17. General provisions relating to orders under Sections 16 and 22. -

(1) The Court making an order under Section 16 or sub-section (1) of Section 22 shall send a copy of its order to the Registrar by whom such certificate was issued, and the Registrar shall take necessary

action accordingly.(2)Each of the provisions of sub-section (2) of Section 15, Section 16 and Section 22 are in addition to and not in derogation of any other of the said provisions.[18. Bar on certain suits by money-lenders. - No suit on the basis of any loan, agreement or security referred to in sub-section (1) of Section 15 shall be instituted by a money-lender, unless at the time of advancing such loan or making such agreement or taking such security -(a)such money-lender held a valid certificate of registration; or(b)such money-lender had applied for such certificate and the same had not been refused; or(c)the period specified in the proviso to sub-section (1) of Section 7 had not expired.]

19. Place of institution of suits. -

Notwithstanding anything contained in any contract or any law for the time being in force, an suit by a moneylender for the recovery of any loan advanced to a person actually or voluntarily residing or carrying on business or personally working for gain in Uttar Pradesh or interest due in respect thereof may, after the commencement of this Act, be instituted only in a Court within the local limits of whose jurisdiction the debtor resides or carries on business or works for gain, and not in any other Court.

Chapter VI

Deposit Of Amount By Debtor

20. Deposit in Court of money due to money-lenders. -

(1)A debtor may, at any time, tender to, a money-lender any sum of money payable by him to the money-lender in respect of a loan by way of principal, interest or both , whether the sum has become due or not.(2)If the money-lender refuses to accept any sum so tendered, the debtor may deposit the sum in Court of Munsif having territorial jurisdiction, to the account of the money lender.(3)The Court shall thereupon cause written notice of the deposit to be served on the money-lender, and he may, on presenting a petition stating the sum then due in respect of the loan, and his willingness to accept the said sum, receive and appropriate it first towards the interest and the residue, if any, towards, the principal.

21. Deposit to operate as payment to the creditor. -

Where the debtor had deposited in Court any amount under Section 20, the sum shall be deemed to have been paid to the money-lender, and interest on the principal or on part thereof as the case may be, shall cease from the date of such deposit.

Chapter VII

Offences And Penalties

22. Penalties. -

[(1) Whoever willfully contravenes any of the provisions of Section 10, Section 11 or Section 13 shall be punishable with imprisonment for a term which may extend to three years and with fine not less than five thousand rupees.] [Substituted by U.P. Act No. 13 of 2008.](2)Any Court convicting a person under sub-section (1) may also cancel his certificate of registration or suspend it for such period as may be specified, and any Court of appeal or revision may stay the operation of any such order on such terms, if any, as it thinks fit, and may modify or annul such order.(3)No Court shall take cognizance of an offence punishable under subsection (1) except with the previous sanction of the Registrar.

23. Penalty for molestation of debtors. -

(1)Whoever molests, or abets the molestation of, a debtor for the recovery of a debt due by him to a creditor shall, on conviction, be punishable with imprisonment [which may extend to three years and fine not less than five hundred rupees] [Substituted by U.P. Act No. 13 of 2008. Prior to substitution, it stood as under: 'of either description which may extend to three months or with fine which may extend to five hundred rupees or both'.]Explanation. - For the purposes of this sub-section a person who -(i)with intent to cause the debtor to abstain from doing any act which he has right to do, or to do any act which he has a right to abstain from doing, obstructs or uses violence to or intimidates such debtor, or(ii)being a money-lender or an agent or employee of money-lender, loiters on any pay day at or within fifty meters from the outer boundary or gate of the factory or office in which the debtor is employed,shall be deemed to molest such debtor.(2)Every offence punishable under sub-section (1) shall be cognizable.

24. Offences by companies. -

(1)If the person committing an offence under this Act is a company, the company as well as every person in charge of and responsible to the company for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.(2)Notwithstanding anything contained in sub-section (1), where any offence under this section has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to any neglect on the part of any managing agent, secretary, treasurer, director, manager or other officer of the company, such managing agent, secretary, treasurer, director, manager or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.Explanation. - For the purpose of this section -(a)"company" means any body corporate, and includes a firm or other association of individuals, and(b)"director" in relation to a firm, means a partner in the firm.

25. Compounding of offences. -

(1)The Registrar General, and subject to his control, any Registrar may, either before or after the institution of proceeding for an offence punishable under this Act, accept from any person charged with such offence, by way of composition of the offence a sum not exceeding one thousand rupees.(2)On payment of such sum, no further proceeding shall be taken against the accused person in respect of the same offence, and if in custody, he shall be discharged, and such composition shall have the effect of an acquittal of the accused with whom the offence has been compounded.

Chapter VIII

Miscellaneous

26. Particulars of debts and deposits to be furnished by every moneylender. -

(1)Every money-lender carrying on the business of money-lending from before the commencement of this Act, shall submit to the Registrar, a statement in the prescribed form within a period of three months from the date of such commencement:[Provided that the Registrar may on an application by such moneylender, for sufficient cause condone the delay and accept the statement submitted within three months from the date of the commencement of the Uttar Pradesh Regulation of Money-Lending (Amendment) Act, 1978.] [Inserted by U.P. Act No. 1 of 1979.](2)The statement referred to in sub-section (1) shall contain the particulars of debts due to each money-lender and of deposits made with him and such other particulars as may be prescribed.(3)Every such statement shall be counter-signed, dated and sealed by the Registrar and shall be kept and maintained in the manner prescribed.(4)Notwithstanding anything contained in any contract, decree or order or any other law for the time being in force, no money-lender shall be entitled to claim any amount from a debtor in respect of any loan advanced before the commencement of this Act, unless the name of such debtor and the amount due from him has been specified in the statement referred to in subsection (1).

27. Finality of orders. -

(1)No order made by any officer or authority in exercise of any power conferred by or under this Act shall be called in question in any Court.(2)No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or of any order made thereunder.

28. Power to make rules. -

The State Government may by notification make rules for carrying out the purposes of this Act.[29. Repeal. - The Usurious Loans Act, 1918, as amended in its application to Uttar Pradesh, is hereby repealed with effect from August 10, 1976 in relation to loans and advances to which the provisions of this Act apply] [Substituted by U.P. Act No. 1 of 1979.]

30. Amendment of U.P. Act 14 of 1940. -

In the Uttar Pradesh Regulation of Agricultural Credit Act, 1940 clauses (1), (3) to (5) and (7) to (13) of Section 2, Sections 3 to 7 and 10 to 35 shall be omitted.

31. Repeal of U.P. Act 44 of 1975. -

The Uttar Pradesh Prohibition of Bonded Labour Act, 1975 is hereby repealed. Notification [In exercise of the powers under sub-section (3) of Section 1 of the Uttar Pradesh Regulation of Money-Lending Act, 1976 (U.P. Act No. 29 of 1976), the Governor is pleased to appoint September 1, 1976, as the date on which the said Act shall come into force.] [Vide Notification No. 3-3(2)/70-1-5-(1), dated 10.08.1976.] Notifications [In exercise of the powers under sub-section (1) of Section 4 of the Uttar Pradesh Regulation of Money-Lending Act, 1976 (U.P. Act No. 29 of 1976), the Governor is pleased to appoint Member, Board of Revenue, incharge, Taxation Work as Registrar General of money-lending for the purpose of the said Act.] [Vide Notification No. 3-3(2)/70-1-5-(ii), dated 10.08.1976.] [In exercise of the powers under sub-section (1) of Section 4 of the Uttar Pradesh Regulation of Money-Lending Act, 1976 (U.P. Act No. 29 of 1976), the Governor is pleased to appoint the following officers as Registrar of Money-Lending in the entire district to which they are for the time being posted, and such officers shall exercise, perform and discharge the powers, functions and duties of the Registrar in addition to their own duties :-(a) Every Additional District Magistrate (Executive), in the district where there is such a Magistrate; (b) Every Additional District Magistrate (Ceiling), in the district where there is such a Magistrate, but there is no Additional District magistrate (Executive); (c) Every Finance and Revenue Officer in district where there is a neither any Additional District Magistrate (Executive) nor any Additional District Magistrate (Ceiling).] [In exercise of the powers under sub-section (1) of Section 4 of the Uttar Pradesh Regulation of Money-Lending Act, 1976 (U.P. Act No. 29 of 1976), the Governor is pleased to appoint Sub-Divisional Officers in the State as Deputy Registrars of Money-Lending for the purposes of the said Act. they shall exercise jurisdiction over their respective sub-divisions.] [Vide Notification No. 3-3(2)/70-1-5-(iv), dated 10.08.1976.] [In exercise of the powers under sub-section (1) of Section 4 of the Uttar Pradesh Regulation of Money-Lending Act, 1976 (U.P. Act No. 29 of 1976), the Governor is pleased to appoint in addition to their own duties all Tahsildars in the State as Assistant Registrars of Money-Lending for the purposes of the said Act. They shall exercise jurisdiction over their respective Tahsils.] [Vide Notification No. 3-3(2)/70-1-5-(v), dated. 10.08.1976.] Notification [In exercise of the powers under sub-section (2) of Section 12 of the Uttar Pradesh Regulation of Money-Lending Act, 1976 (U.P. Act No. 29 of 1976)] [Vide Notification No. 3-3(2)/70-1-5-(vi), dated 10.08.1976.], the Governor, after considering the rate of interest normally charged by scheduled banks, for commercials loans, is pleased to notify as under the maximum rate of [simple] [Inserted by Notification No. 3-9(6) 183-(119)-R-5, dated 16.01.1985.] interest that may be charged by the money-lender for secured and unsecured loans :-

Kind of Loan	Maximum rate of [simple] [Vide Notification No. 3-3(2)/70-1-5 (vi), dated 10.08.1976.] interest
(i) Secured loan 14% per

(ii) Unsecured loan ... annum
... 17% per annum
[Vide Notification No. 3-3(2)/70-1-5-(iii), dated 10.08.1976.][Substituted by U.P. Act. No. 1 of 1979 and shall be deemed always to have been substituted.]