

The Chhattisgarh Moneylenders Act, 1934

CHHATTISGARH

India

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Act 13 of 1934

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The Chhattisgarh Moneylenders Act, 1934 C.G. Act No. 13 of 1934 Last Updated 4th November, 2019 An Act to regulate the transactions of money lending in Chhattisgarh. Whereas, it is expedient to make better provision for the regulation and control of the transactions of money lending; And whereas, the previous sanction of the Governor-General, required under sub-section (3) of Section 80-A of the Government of India Act, has been obtained to the passing of this Act; It is hereby enacted as follows :-

1. Short title, extent and commencement.

(1) This Act may be called the Chhattisgarh Moneylenders Act, 1934. (2) [It extends to the whole of Chhattisgarh except referred Scheduled Areas] [Substituted by C.G. Act No. 2 of 2011, dated 31.12.2010.].

2. Definition.

- In this Act, unless there is anything repugnant in the subject or context-(i)"bank" means company carrying on the business of banking and registered under any of the enactments relating to companies for the time being in force in the United Kingdom or in any of the Colonies or Dependencies thereof, or in a Part A State or a Part C State or incorporated by an Act of Parliament of the United Kingdom or by Royal Charter or Letters Patent or by any Central Act;(ii)"company" means a company registered under any of the enactments relating to companies for the time being in force in the United Kingdom or any of the Colonies or Dependencies thereof, or in a Part A State or a Part C State, or incorporated by an Act of Parliament of the United Kingdom or by Royal Charter or Letters Patent and includes Life Assurance Companies to which the Indian Life Assurance Companies Act, 1912 (VI of 1912), applies;(iii)"co-operative society" means a society registered under the Co-operative Societies Act, 1912 (II of 1912);(iv)"Court" includes a Court acting in the exercise of insolvency jurisdiction;(v)"moneylender" means a person who, in the regular course of business, advances a loan as defined in this Act and shall include, subject to the provisions

of Section 3, the legal representatives and the successors-in-interest whether by inheritance, assignment or otherwise of the person who advanced the loan and money-lending shall be construed accordingly;(vi)"interest" includes the return to be made over and above what was actually lent whether the same is charged or sought to be recovered specifically by way of interest or otherwise, whether or not such interest is capitalized within twelve years from the date of the last transaction;(vii)"loan" means an actual advance made within twelve years from the date of the last transaction whether of money or in kind at interest and shall include any transaction, which the Court finds to be in substance a loan, but it shall not include -(a)a deposit of money or other property in a Government post office, bank or any other bank or in a company or with a co-operative society,(b)a loan to or by or a deposit with any society, or association registered under the Societies Registration Act, 1860 (XXI of 1860), or under any other enactment,(c)a loan advanced by any Government or by any local authority authorized by any Government,(d)a loan advanced by a bank, a co-operative society or a company whose accounts are subject to audit by a certified auditor under the Companies Act, 1913 (VII of 1913),(e)an advance made on the basis of a negotiable instrument, as defined in the Negotiable Instruments Act, 1881 (XXVI of 1881), other than a promissory note,(f)a transaction which is a charge created by operation of law on, or is in substance a sale of, immovable property,(g)a loan advanced to an agricultural labourer by his employer.(viii)"prescribed" means prescribed by rules made under this Act;(viii-a) "Sub-Divisional Officer" means the Sub-Divisional Officer within the meaning of Section 22 of the Chhattisgarh Land Revenue Code, 1959 (No. 20 of 1959);(ix)"Registering Authority" means in rural area, Zila Panchayat or Janpad Panchayat or Gram Panchayat constituted under the Chhattisgarh Panchayat Raj Adhiniyam, 1993 (1 of 1994) for their respective Panchayat Areas and in Urban areas, Municipal Corporation constituted under the Chhattisgarh Municipal Corporation Act, 1956 (No. 23 of 1956) or Municipal Council or Nagar Panchayat constituted under the Chhattisgarh Municipalities Act, 1961 (No. 37 of 1961) as the case may be, for their respective areas.

2A. Moneylender to deliver voucher to the debtor containing description of loan, etc.

(1)Every moneylender shall, on advancing a loan to a debtor forthwith deliver to the debtor a voucher under his signature evidencing the transaction of loan.(2)Such voucher shall contain,-(a)amount or, as the case may be, the quantity of loan advanced;(b)sufficient description of movable or immovable property pledged or mortgaged, as the case may be, so as to enable identification of property;(c)the rate of interest chargeable on the loan advanced;(d)where movable property is being pledged, acknowledgement of the delivery of such movable property by the debtor and receipt thereof by the money-lender; and(e)such other particulars as may be prescribed.(3)The moneylender shall also forward a copy of the voucher delivered to the debtor under sub-section (1) to the Sub-Divisional Officer concerned within such time as may be prescribed.

3. Maintenance of accounts by moneylender and supply of statements thereof to debtors.

(1)Every moneylender shall-(a)regularly maintain an account for each debtor separately of all

transactions in respect of any loan advanced to that debtor;(b)furnish such debtor every year with a legible statement of accounts signed by the moneylender or his agent or any balance of amount that may be outstanding against such debtor on such date and in such areas as may be prescribed. Such statement of accounts shall include all transactions in respect of the loan entered into during the year to which the statement relates and shall be furnished, in the Court language of the district in which the debtor resides, and in such manner, in such form, containing such details and on such date as may be prescribed;(c)furnish to the Sub-Divisional Officer concerned a copy of every statement of account furnished to a debtor under clause (b).(2)The account required under clause (a) of sub-section (1) shall be so maintained that items due by way of interest shall be shown as separate and distinct from the principal sum and separate totals of principal and interest shall be shown. The moneylender shall not, in the absence of agreement, include the interest or any portion of it in the principal sum, and the principal and interest shall be separately shown in the opening balance of each new annual account:Provided that-(i)if the loan has, since it was originally advanced, passed by inheritance or assignment to a widow or a minor, such widow or minor shall not be bound to maintain and furnish the account under sub-section (1) for a period of two years from the date of such passing;(ii)nothing in this section shall be deemed to lay upon any person the duty of maintaining and furnishing the account under sub-section (1) in the case of a loan wherein the title to recover is subjudice between two or more persons claiming as moneylenders adversely to each other unless and until the title has been finally decided by a Court of competent jurisdiction.

4. Evidential value of copies of accounts.

- Copies of entries in the account required to be maintained under clause (a) of sub-section (1) of Section 3, when certified in such manner as may be prescribed, shall be admissible in evidence for any purpose in the same manner and to the same extent as the original entries.

5. Debtors not bound to admit correctness of accounts supplied.

- A debtor to whom a statement of accounts has been furnished under clause (b) of sub-section (1) of Section 3 shall not be bound to acknowledge or deny its correctness and his failure to protest shall not by itself be deemed to be an admission of the correctness of the account.

6. Receipt for repayment of loan.

- Every moneylender, who receives repayment from his debtor on account of any loan advanced to him, shall forthwith give a receipt therefor.

7. Procedure of Court in suits regarding loans.

- Notwithstanding anything contained in any other enactment for the time being in force, in any suit or proceeding relating to a loan-(a)the Court shall, before deciding the claim on the merits, frame and decide the issue whether the moneylender has complied with the provisions of clauses (a) and (b) of sub-section (1) of Section 3;(b)if the Court finds that the provisions of clause (a) of sub-section

(1) of Section 3 or of Section 6 have not been complied with by the moneylender, it shall, if the plaintiff's claim is established in whole or in part, disallow the whole or any portion of the interest found due, as may seem reasonable to it in the circumstances of the case, and may disallow costs; and (c) if the Court finds that the provisions of clause (b) of sub-section (1) of Section 3 have not been complied with by the moneylender, it shall, in computing the amount of interest due upon the loan, exclude every period for which the moneylender omitted duly to furnish the account as required by that clause : Provided that if the moneylender has, after the time prescribed in that clause, furnished the account and the plaintiff satisfies the Court that he had sufficient cause for not furnishing it earlier, the Court may, notwithstanding such omission, include any such period or periods for the purpose of computing the interest. Explanation. - A moneylender who has maintained his account and furnished his annual statement of accounts in the prescribed form and manner shall be held to have complied with the provisions of clauses (a) and (b) of sub-section (1) of Section 3 in spite of any errors and omissions, if the Court finds that such errors and omissions are accidental and not material and that the accounts have been kept in good-faith with the intention of complying with the provisions of those clauses.

8. Savings.

- The provisions of Sections 3, 4, 5, 6 and 7 shall not apply to any loan made before this Act comes into force : Provided that, if any fresh transaction in respect of a loan made before this Act comes into force is made after this Act comes into force, such transaction shall be subject to the provisions of those sections.

9. Power of Court to limit interest recoverable in certain cases.

- Notwithstanding anything contained in any other enactment for the time being in force, no Court original or appellate shall decree, in respect of any loan made before this Act comes into force, on account of arrears of interest, a sum greater than the principal of such loan [x x x]

10. Power of Court to limit interest to the extent of principal of loan.

- No Court shall, in respect of any loan made after this Act comes into force, decree on account of arrears of interest a sum greater than the principal of the loan.

11. Power to direct payment of decretal amount by instalments.

- The Court may, at any time on the application of a judgment-debtor, after notice to the decree holder, direct that the amount of any decree passed against him, whether before or after this Act comes into force, in respect of a loan shall be paid in such number of instalments and subject to such conditions on the dates fixed by it as, having regard to the circumstances of the judgment-debtor and the amount of the decree, it considers fit. During the pendency of an inquiry under this section, the Court may order the stay of execution of the decree, subject to such conditions as it may impose. Such order shall be deemed to have been passed under Section 47 of the Code of Civil Procedure,

1908 (V of 1908).

11A. Register of moneylenders.

(1) Every Registering Authority shall maintain a register of moneylenders in such form as may be prescribed. (2) Such register shall be deemed to be a public document within the meaning of the Indian Evidence Act, 1872 (I of 1872), [x x x].

11B. Registration of moneylenders and registration certificate.

(1) Every person who carries on or intends to carry on the business of money lending shall get himself registered by an application made to the Registering Authority of that area in which he carries on or intends to carry on such business and, on such registration, the Registering Authority shall grant a registration certificate to him in such form as may be prescribed : Provided that no person being a firm or partner of a firm of moneylenders shall be so registered except upon production before the Registering Authority of a certified copy of an entry showing such person as the firm or partners, as the case may be, made in the register of firms under Section 59 of the Indian Partnership Act, 1932 (No. 9 of 1932) : Provided further that no registration certificate shall be granted to carry on the business of money lending in the Scheduled Areas referred to in clause (1) of Article 244 of the Constitution. (2) The application made under sub-section (1) shall be in writing and shall specify the area in which the applicant carries on or intends to carry' on the business of money lending and such other particulars as may be prescribed.]

11BB. Transfer of old records by Tahsildar to Registering Authority.

- All the records held by the Tahsildar prior to the commencement of the Chhattisgarh Money-lenders (Amendment) Act, 2000 shall stand transferred to the Zila Panchayat.

11C. Registration fee.

(1) The person who makes an application under Section 11-B shall pay in the prescribed manner a registration fee at the rate of [1000 rupees] [Substituted '50 Rupees' by C.G. Act No. 7 of 2006 (w.e.f. 25.1.2006).] per annum [x x x] : Provided that the State Government may, by notification, exempt any class of persons from the payment of the registration fee either generally or for any specified area. (2) A registration certificate may, at the request of the applicant therefor, be granted for a period of [five years] [Substituted 'one year or two' by C.G. Act No. 7 of 2006 (w.e.f. 25.1.2006).].

11D. Area in which business is to be carried on.

- The registration certificate granted under Section 11-B shall not entitle the holder thereof to carry on the business of money lending in any area other than that area for which such certificate has been granted.

11E.

Omitted.

11F. Bar to carry on business without registration certificate.

(1) No person shall carry on the business of money lending in any area unless he holds a valid registration certificate in respect of that area : Provided that the person who holds a valid registration certificate shall not carry on the business of money lending in the area of a Gram Panchayat or shall not lend money to a member of a Gram Sabha if a resolution to that effect is duly passed by the Gram Sabha of such Gram Panchayat. (2) Whoever contravenes the provisions of sub-section (1), in any area other than the Scheduled Area, shall be punishable with fine which may extend to two thousand rupees or, if he has previously been convicted of an offence under that sub-section, with fine which may extend to five thousand rupees. (3) Whoever contravenes the provisions of sub-section (1), in any Scheduled Area, shall be punishable with imprisonment which may extend to two years or with fine which may extend to ten thousand rupees or with both.

11FF. Penalty for contravention of provisions of Section 2-A and Section 3 (1) (c) of the Act.

- Whoever contravenes the provisions of Section 2-A or clause (c) of sub-section (1) of Section 3 shall be punishable with fine which may extend to two thousand rupees or if he has previously been convicted of an offence under Section 2-A or clause (c) of sub-section (1) of Section 3, as the case may be, with fine which may extend to five thousand rupees.

11G. Composition of offences.

(1) The Sub-Divisional Officer may accept from any person who has committed an offence against sub-section (1) of Section 11-F in any area other than the Scheduled Area and committed an offence against Section 11-FF in any area, a sum of money not exceeding five thousand rupees by way of compensation for such offence. (2) On payment of such sum of money, no further proceedings shall be taken against such person in respect of such offence, and if in custody he shall be discharged.

11H. Suit not to proceed without registration certificate, etc.

- No suit for the recovery of a loan advanced by a moneylender shall proceed in a Civil Court until the Court is satisfied that he holds a valid registration certificate or that he is not required to have a registration certificate by reason of the fact that he does not carry on the business of money-lending in any area of Chhattisgarh : Provided that this section shall not apply to a suit instituted before the 1st October, 1940.

11I. Continuance in force of registration certificate.

- Any registration certificate granted under this Act, prior to the commencement of the Chhattisgarh Moneylenders (Amendment) Act, 2000 shall continue to be in force for the period for which it was granted.

11J.

[x x x]

12. Power to make rules.

(1) All rules for which provision is made in this Act shall be made by the State Government and shall be consistent with this Act. (2) All rules shall be subject to the condition of previous publication. (3) In particular and without prejudice to the generality of the foregoing power, the State Government may make rules prescribing- (a) (i) the other particulars to be stated in the voucher under clause (e) of sub-section (2) of Section 2-A; (ii) the time within which a copy of the voucher shall be forwarded to the Sub-Divisional Officer under sub-section (3) of Section 2-A; (aa) the manner and form with numerals in which statement of accounts shall be furnished and the details to be given in such statement under clause (b) of sub-section (1) of Section 3; (b) the manner in which copies of entries in the account shall be certified under Section 4; (c) the form under Section 11-A; (d) the form of registration certificate under sub-section (1) of Section 11-B; (e) the particulars of an application under sub-section (2) of Section 11-B; (f) the manner in which the registration fee payable under Section 11-C shall be paid; (ff) the manner in which refund shall be made; and (g) the grant of copies of registration certificates.

13. Inapplicability of Act to proprietors.

- This Act shall not apply to a proprietor who advances grain or money exclusively to any of his tenants for seed, land improvement or agricultural operations. Explanation. - For the purpose of this section the word "improvement" shall have the meaning assigned to it in the Land Improvement Loans Act, 1883 (IX of 1883). [x x x]

14. Inapplicability of Act to certain Corporations.

- This Act shall not apply to- (i) the Industrial Development Bank of India constituted under the Industrial Development Bank of India Act, 1964 (No. 18 of 1964); (ii) the Industrial Credit and Investment Corporation of India registered under the Companies Act, 1956 (No. 1 of 1956); (iii) the Life Insurance Corporation of India constituted under the Life Insurance Corporation Act, 1956 (No. 31 of 1956); (iv) the Unit Trust of India constituted under the Unit Trust of India Act, 1963 (No. 52 of 1963); (v) the Industrial Finance Corporation of India constituted under the Industrial Finance Corporation Act, 1948 (No. 15 of 1948); (v-A) the International Finance Corporation Washington established under the agreement as defined in clause (a) of Section 2 of the International Finance

Corporation (Status, Immunities and Privileges) Act, 1958 (No. 42 of 1958); and (vi) such other financing institution in the public sector which is :- (i) established by or under the Central or State Law for the time being in force; and (ii) controlled or managed by the Central Government or the State Government, as the State Government may, by notification, specify.