

Arunachal Pradesh Money Lending (Regulation) Act, 2018

ARUNACHAL PRADESH

India

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Act 9 of 2018

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Arunachal Pradesh Money Lending (Regulation) Act, 2018(Act No. 9 of 2018)Last Updated 25th February, 2020(Received the assent of the Governor on 1st May, 2018)An Act Whereas, Harassment at the hands of money lenders had been increasing in the State of Arunachal Pradesh at an alarming rate;And Whereas, under the circumstances, it became absolutely necessary for the State Government to take appropriate and stringent social and legal measure to effectively prevent the harassment to the farmers, debtors at the hands of unscrupulous money lenders;And Whereas, it is felt expedient to make a law having better and stringent provisions for the regulation and control of transactions of money lending in the State of Arunachal Pradesh ;Now, Therefore, Be it enacted by the Legislative Assembly of Arunachal Pradesh in the Sixty-ninth Year of the Republic of India as follows,-

1. Short title, extent and Commencement.

(1)This Act may be called the Arunachal Pradesh Money Lending (Regulation) Act, 2018.(2)It shall extend to the whole of the State of Arunachal Pradesh.(3)It shall come into force on such date as the State Government, by notification in the Official Gazette appoint.

2. Definition.

- In this Act. unless the context otherwise requires,-(1)"Bank" means a banking company or a co-operative bank to which the Banking Regulation Act, 1949 applies and includes,-(a)the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955);(b)a subsidiary bank as defined in the State Bank of India (Subsidiary Banks Act, 1959 (38 of 1959));(c)a corresponding new bank constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970), or, as the case. may be, under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980); and(d)any other banking institution referred to in

section 51 of the Banking. Regulation Act, 1949 (10 of 1949);(2)"banking company" shall have the same meaning as assigned to it by clause (c) of section 5 of the Banking Regulation Act, 1949 (10 of 1949);(3)"business of money-lending" means the business of advancing loans whether in cash or kind and whether or not in connection with, or in addition to any other business ;(4)"capital" means a sum of money which a money-lender invests in the business of money-lending ;(5)"company" means a company as defined in the Companies Act, 1956 (1 of 1956) or the Companies Act, 2013 (18 of 2013);(6)"Co-operative Bank", "co-operative society", multi-state co-operative Bank" and "primary credit society" shall have the same meanings as assigned to them by clause (c) section 56 of the Banking Regulation Act, 1949 (10 of 1949);(7)"debtor" means a person to whom a loan is advanced whether in cash or kind and includes his successor in interest or surety ;(8)"inspection fee" means the fee leviable under section 12 in respect of inspection of books of accounts of a money-lender;(9)"interest" includes any sum by whatsoever name called, in excess of the principal paid or payable to a money-lender in consideration of, or otherwise in respect of, a 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 provisions of this Act, or any other law for the time being in force ;(10)"investment in business" means total amount invested, from time to time, in business of money-lending by a money-lender;(11)"licence" means a licence granted under this Act;(12)"licence fee" means the fee payable in respect of a licence ;(13)"loan" means an advance at interest whether of money or in kind but does not include, -(a)a deposit of money or other property in a Government Post Office bank or in any other bank or in a company or co-operative society;(b)a loan to, or by, or a deposit with any society or association registered under the Societies Registration Act, 1860 (21 of 1860) or any other enactment relating to a public, religious or charitable object;(c)a loan advanced by the Government or by any local authority authorized by the Government;(d)a loan advanced to a Government servant from a fund established for the welfare or assistance of Government servants, and which is sanctioned by the State Government;(e)a deposit of money with, or a loan advanced by, a co-operative society;(f)an advance made to a subscriber to, or a depositor, in a provident fund from the amount standing to his credit in the fund in accordance with the rules of the fund;(g)a loan to, or by, an insurance company as defined in the Insurance Act, 1938 (4 of 1938);(h)a loan to, or by, a bank ;(i)a loan to, or by, or deposit with, any corporation (being a body not falling under any of the other provisions of this clause), established by or under any law for the time being in force which grants any loan or advance in pursuance of that Act;(j)an advance of any sum exceeding rupees three lakh made on the basis of a negotiable instrument as defined in the Negotiable Instruments Act, 1881 (26 of 1881), other than a promissory note ;(k)an advance of any sum exceeding rupees three thousand made on the basis of a Hindi (written in English or any Indian language);(l)an advance made bonafide by any person carrying on any business, not having for its primary object the lending of money, if such advance is made in the regular course of his business ;(m)except for the purposes of sections 29 and 31, -(i)a loan, by a landlord to his tenant for financing of crops or seasonal finance, of not more than Rs. 1,000 per acre of land held by the tenant;(ii)a loan advanced to an agricultural labourer by his employer;(14)"money-lender" means,(i)an individual ; or(ii)an undivided Hindu family; or(iii)a company other than a non-banking financial company regulated under Chapter 11B of the Reserve Bank of India Act, 1934 (2 of 1934);(iv)an unincorporated body of individuals, who or which,-(a)carries on the business of money-lending in the State; or(b)has his or its principal place of such business in the State; and Includes a pawn-broker, but does not include,-(i)Government;(ii)a local authority;(iii)a Bank;(iv)a Co-operative Bank;(v)a multi-state

Co-operative Bank;(vi)a Non-Banking Financial Company;(vii)a primary credit society;(viii)a Regional Rural Bank;(ix)the Reserve Bank of India;(x)the Agricultural Refinance Corporation constituted under. the Agricultural Refinance Corporation Act, 1963 (10 of 1963); or(xi)any other banking or financial institution which the State Government may, by notification in the Official Gazette specify in this behalf;(15)"pawn-broker" means a money-lender who in ordinary course of his business advances a loan and takes goods in pawn as security for payment of such loan;(16)"prescribed" means prescribed by rules made under this. Act;(17)"principal", in relation to a loan, means the advance actually made to a debtor whether in cash or in kind;· (18)"Regional Rural Bank" means a bank established under section 3 of the Regional Rural Banks Act, 1976 (21 of 1976);(19)"register" means a register of money-lenders maintained under section 7;(20)"Registrar General" means the Registrar General of Money-Lending appointed under section 3;(21)"rules" means the rules made under this Act;(22)"State" means the State of Arunachal Pradesh;(23)"suit to which this Act applies" means any suit between a money-lender. and a debtor or his successor arising out of a loan advanced whether before or after the commencement of this Act;(24)"trader" means a person who in the regular course of business buys and sells goods or other property, whether movable or immovable, and includes, -(i)a wholesale or retail merchant,(ii)a commission agent,(iii)a broker,(iv)a manufacturer,(v)a contractor,(vi)a factory owner,but does not include an artisan or a person who sells his agricultural produce or cattle or buys agricultural produce or cattle for his use.Explanation. - For the purposes of this clause, an "artisan" means a person who does not employ more than ten workers in a manufacturing process on any one day of the twelve months immediately preceding.

3. Appointment of Registrar General and Other officers to assist him.

(1)The State Government may, by notification in the Official Gazette, appoint the Registrar General of Money-Lending and such number of Divisional Registrars, District Registrars and Assistant Registrars as it thinks proper.(2)The Registrar General shall have jurisdiction throughout the State. The Divisional Registrar shall have jurisdiction throughout his division, the District Registrar shall have jurisdiction, in such area of the District as the State Government may, by order, specify. The Divisional Registrar shall be subordinate to the Registrar General and the District Registrar shall be subordinate to the Divisional Registrar and the Assistant Registrar shall be subordinate to the District Registrar.

4. Money-lender not to carry on business of money-lending except for area under licence and except in accordance with terms and conditions of licence.

- No money-lender shall carry on the business of money-lending except in the area for which he has been granted a licence and except in accordance with the terms and conditions of such licence.

5. Application for licence.

(1)Every money-lender shall annually, before such date as may be prescribed, make an application in the prescribed form for the grant of licence to the Assistant Registrar of the area within the limits

of which, the place where he carries on or intends to carry on the business of money-lending is situated. When he carries on or intends to carry on such business at more than one place, a separate application in respect of each such place shall be made to such Assistant Registrar. Such application shall contain the following particulars, namely:-(a)the true name in which such money-lender intends to carry on business and the true name of the person propose to be responsible for the management of the same;(b)if the application is by or on behalf of, -(i)an individual, the true name and address of such individual;(ii)an undivided Hindu family, the true names and addresses of the manager and the adult coparcener of such family;(iii)a company, the true names and addresses of the Directors, Managers or principal officer managing it;(iv)an unincorporated body of individuals, the true names and addresses of such individuals;(c)the area and the place or principal place of the business of money lending in the State;(d)the name of any other place in the State where the business of money lending is intended to be carried on;(e)whether the person singing the application has himself or any of the adult coparcener of an undivided Hindu family, or any Director, Manager or Principal officer of the company or any member of the unincorporated body on behalf of which such application has been made, as the case may be, has carried on the business of money-lending in the State in the year ending on the 31st day of March immediately preceding the date of application either individually, or in partnership, or jointly with any other coparcener or any other person and whether in the same name or any other name;(f)the total amount which such person intends to invest in the business of money-lending in the year for which the application has been made;(g)if the places at which the business of money-lending is to be carried on are more than one the true names of persons who shall be in the management of business at each such place.(2)The application shall be in writing and shall be signed,-(a)(i)if the application is made by an individual, by the individual;(ii)if the application is made on behalf of an undivided Hindu family, by the manager of such family;(iii)if the application is made by a company or unincorporated body, by the managing director or any other person having control of its principal place of business;(b)by an agent authorized in this behalf by .a power of attorney by the individual money-lender himself, or the family or the company or the unincorporated body, as the case may be.(3)The application shall also contain such other particulars as may be prescribed.(4)Every application shall be accompanied by the prescribed licence fee.(5)The fee payable under this section shall be paid in the manner prescribed and shall not be refunded, notwithstanding the fact that the application is withdrawn or subsequently rejected.

6. Grant of licence and entry in register.

- On receipt of an application under section 5, the Assistant Registrar shall make necessary enquiry to satisfy himself about the bonafides and conduct of the applicant and shall forward the application together with his report, to the District Registrar. Subject to the provisions of this Act, the District Registrar may, after making such further inquiry, if any, as he deems fit, grant the applicant a licence in such form and subject to such conditions as may be prescribed, and direct the Assistant Registrar to enter the name of such application in the register maintained by him under section 7;Provided that, the District Registrar shall grant such licence in the Areas, after recommendation of the Gram Sabha and the Panchayat concerned, and where the area of licence extends to more than one Gram Sabha or Panchayat, then all the concerned Gram Sabhas or Panchayats within whose area of jurisdiction the moneylender carries or intends to carry on the business of

money-lending: Provided further that, the decision taken by majority of the Gram Sabhas concerned by passing a resolution in any of the above matters shall be binding on the concerned Gram Sabha or Panchayats. Explanation. - For the purposes of this section, - (i) the expressions "Gram Sabha", "Panchayat" and "Areas" shall have the meanings, respectively, assigned to them in the Arunachal Pradesh Panchayat Raj Act, 1997.

7. Registrar of Money Lenders.

- Every Assistant Registrar shall maintain for the area of his jurisdiction a register of money-lenders in such form as may be prescribed.

8. Refusal of issue of licence.

(1) The grant of a licence shall not be refused except on any of the following grounds: - (a) that the applicant, or any person responsible or proposed to be responsible for the management of his business as a money-lender is disqualified from holding a licence; (b) 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 a licence; · (c) that the applicant has made willful default in complying with or knowingly acted in contravention of any requirement of this Act; (d) that satisfactory evidence has been produced before the District Registrar that the applicant or any person responsible or proposed to be responsible for the management of the business of money-lending has; (e) that the applicant is not a Arunachal Pradesh Scheduled Tribal; (f) knowingly participated in or connived at any fraud or dishonesty in the conduct of or in connection with the business of money-lending ; or (g) been found guilty of an offence under Chapter XVII or sections 465, 477 or 477-A of Chapter XVIII of the Indian Penal Code. (2) The District Registrar shall, before refusing a licence under sub-section (1), give to the applicant a reasonable opportunity of producing evidence, if any, in support of the application and of showing cause why the licence should not be refused; and record the evidence adduced before him and his reasons for such refusal. (3) An appeal shall lie from the decision of the District Registrar refusing a licence under sub-section (1), to the Divisional Registrar, whose decision thereon shall be final. (4) An appeal against the decision of the District Registrar under sub-section (1) may be filed within three months from the date of the decision; Provided that, the Divisional Registrar may, for reasons to be recorded in writing, entertain the appeal after the expiry of a period of three months from the date of decision of the District Registrar under sub-section (1), if he is satisfied that the appellant was prevented, for the reasons beyond his control, from filing the appeal within a period of three months.

9. Revisionary power of Registrar General.

- The Registrar General may, suo motu or on an application, call for and examine the record of any enquiry or proceedings of any matter where the order has been passed or decision has been given by an officer subordinate to him, and no appeal lies against such decision or order for the purpose of satisfying himself as to the legality and propriety of the decision or order and as to the regularity of the proceedings. If during the course of such inquiry, the Registrar General is satisfied that the decision or order so called for, should be modified, annulled or reversed, he may, after giving a

person likely to be affected thereby an opportunity of being heard, pass such order thereon as he may seem just.

10. Term of licence.

- A licence shall be valid from the date on which it is granted to the 31st day of March of the following year; Provided that, where an application for renewal of licence has been received by the Assistant Registrar within the prescribed period, the licence shall, until the application is finally disposed of, be deemed to be valid.

11. District Registrar's power to cancel licence.

(1) The District Registrar may, during the term of any licence, cancel the same by an order in writing on the ground that the person to whom it was granted has been guilty of any act or conduct for which he might, under section 8, have refused him the grant of the licence and which act or conduct was not brought to his notice at the time of the grant. ~ (2) Before cancelling a licence under sub-section (1) the District Registrar shall give notice in writing to the licences and may hold such inquiry as may be necessary. (3) An appeal shall lie from an order of the District Registrar cancelling a licence under sub-section (1), to the Divisional Registrar whose decision thereon shall be final. (4) An appeal against the order of the District Registrar under sub-section (1) may be filed within three months from the date of the order; Provided that, the Divisional Registrar may, for reasons to be recorded in writing, entertain the appeal after the expiry of a period of three months from the date of the order of the District Registrar under sub-section (1), if he is satisfied that the appellant was prohibited, for the reasons beyond his control, from filing the appeal within a period of three months.

12. Levy of inspection fee.

(1) An inspection fee shall, in addition to the licence fee leviable under section 5, be levied on a money-lender applying for a renewal of a licence at the rate of one per cent of the maximum capital utilized by him during the period of licence sought to be renewed or rupees five lakh whichever is less. (2) An application for renewal of a licence shall not be allowed unless the inspection fee under sub-section (1) is paid. Explanation. - For the purposes of this section, "maximum capital" means the highest total amount of the capital sum which may remain invested in the money lending business on any day during the period of licence.

13. Suits by money-lenders not holding licence.

(1) No court shall pass a decree in favour of a money-lender in any suit unless the court is satisfied that at the time when the loan or any part thereof, to which the suit relates was lent, the money-lender held a valid licence, and if the court is satisfied that the money-lender did not hold a valid licence, it shall dismiss the suit. (2) Nothing in this section shall affect the powers of a liquidator under the Companies Act, 1956 (1 of 1956) or the Companies Act, 2013 (18 of 2013) to realise the

property of a money-lender.

14. Application for cancellation of licence.

(1) Any person may, during the validity of a licence, file an application to the District Registrar for the cancellation of the licence issued to a moneylender on the ground that such money-lender has been guilty of any act or conduct for which the District Registrar may under section 8, refuse him the grant of a licence. At the time of filing his application, the said person shall deposit such amount not exceeding rupees five hundred as the District Registrar may deem fit. (2) On the receipt of such application and deposit or of a report to that effect from an officer acting under section 16, the District Registrar shall hold an inquiry and if he is satisfied that the money-lender has been guilty of such act or conduct, he may cancel the licence of the moneylender and may also direct the return of the deposit made under sub-section (1). (3) If in opinion of the District Registrar an application made under sub-section (1) is frivolous or vexatious, he may, out of the deposit made under subsection (1), direct to be paid to the money-lender such amount as he deems fit as compensation.

15. Registrar General and his subordinates to have powers of Civil Court.

- For the purposes of sections 6 and 16, the Registrar General, Divisional Registrar, District Registrar, Assistant Registrar and the officer authorized under section 16; and for the purposes of section 14 and 18 the District Registrar shall have and may exercise the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908), in respect of the following matters, namely:-(a) enforcing the attendance of any person and examining him on oath; (b) compelling the production of documents and material objects; (c) issuing commissions for the examination of witnesses; and (d) proof of facts by affidavits.

16. Power of authorized office to require production of records or documents.

- For the purpose of verifying, whether the business of money-lending is carried on in accordance with the provisions of this Act, the Registrar General, Divisional Registrar, District Registrar and Assistant Registrar or any other officer authorized by the State Government in this behalf may require any money-lender or any person in respect of whom the Registrar General, Divisional Registrar, District Registrar and Assistant Registrar or the officer authorized by him, has reason to believe that he is carrying on the business of money-lending in the State, to produce any record or documents in his possession which in his opinion is relevant for the purpose and thereupon such money-lender or person shall produce such record or documents. The Registrar General, Divisional Registrar, District Registrar and Assistant Registrar or officer so authorized may, after reasonable notice, at any reasonable time enter and search without warrant any premises where he believes such record or documents to be kept and inspect such record or documents and may ask any question necessary for interpreting or verifying such record.

17. Disposal of property pledged with money-lender carrying on business of money-lending without valid licence.

(1) If upon the inspection of record and documents made under section 16, the inspecting officer is satisfied that the money-lender is in possession of property pledged to him by a debtor as security for the loan advanced by money-lender in the course of his business of money-lending without a valid licence, the inspecting officer shall require the money-lender to deliver forthwith the possession of such property to him. (2) Upon the property being delivered to him, the inspecting officer, if he is not the District Registrar, shall entrust it to the District Registrar and the District Registrar (when he is also the inspecting officer) shall keep it in his custody for being disposed of as hereinafter provided. (3) On delivery of the property under sub-section (1) or sub-section (2), the District Registrar shall, after due verification and identity thereof, return it to the debtor who has pledged it or, where the debtor is dead, to his known heirs. (4) If the debtor or his known heirs cannot be traced, the District Registrar shall, within ninety days from the date of taking possession of the property, publish a notice in the prescribed manner inviting claims thereto. If, before the expiry of the said period, a claim is received, whether in answer to the notice or otherwise, he shall adjudicate upon and decide such claim. If the District Registrar is satisfied that any claim is valid, he shall deliver the possession of the property to the person claiming it on his giving a receipts therefor; and such delivery of the property to the person claiming it shall discharge the District Registrar of his liability in respect of such property against any other person. If the claim is refused, the property shall stand forfeited to the State Government. (5) Whenever the possession of the property pledged by a debtor cannot, for any reason (including identity thereof) be delivered to him, then the moneylender to whom it was pledged shall be required to pay to the debtor or if he is dead, to his known heir, the value of such property if such debtor or, as the case may be, the heir claims the property. If the money-lender fails to pay the value, it may be recoverable from him as an arrear of land revenue; and on recovery of the value, it shall be delivered to the debtor by whom such property was pledged or, as the case may be, to the heir. (6) If there is any difference of opinion between the money-lender and the debtor or, as the case may be, his heir on the question of value of the property or its identity, the question shall be referred to the Divisional Registrar for decision and his decision on the question shall be final. (7) The value of the property may be determined with the assistance of the services of an expert appointed by the State Government in that behalf. The expert may be paid such honoraria as the State Government or any officer not below the rank of Circle Officer appointed by it may, by an order in writing, from time to time, in relation to any area or areas, determined.

18. Return of immovable property acquired in course of money-lending.

(1) If, on the basis of facts disclosed, during verification under section 16 or inspection under section 17, or by an application from a debtor or otherwise, the District Registrar has reason to believe that any immovable property, which has come in possession of the money-lender by way of sale, mortgage, lease, exchange or otherwise, within a period of fifteen years from the date of verification or the inspection or the date of receipt of application from debtor, in the nature of the property offered by the debtor to the money-lender as a security for loan advanced by the money-lender in course of money-lending, the District Registrar may, himself or through an inquiry officer, to be appointed for the purpose, in the manner prescribed, hold further inquiry into the nature of the

transaction.(2)If upon holding the inquiry as per sub-section (1), the District Registrar is satisfied that the immovable property came in possession of the moneylender as a security for loan advanced by the money-lender during the course of money-lending, the District Registrar may, notwithstanding anything contained in any other law for the time being in force, after recording the reasons in writing, declare the instrument or conveyance as invalid and may order restoration of possession of the property to the debtor who has executed the instrument or conveyance as a security or to his heir or successor, as the case may be.(3)Before passing an order or giving decision as per sub-section (2), the District Registrar shall give an opportunity to the person concerned to state his objections, if any, within fifteen days from the date of receipt of notice by him and may also give personal hearing, if he so desires.(4)Any person aggrieved by the a order or decision of the District Registrar under sub-section (2) giving may, within one month from the date of order or decision, appeal to the Divisional Registrar;Provided that, the Divisional Registrar may admit the appeal after expiry of the period of one month, if the appellant satisfies him that he had sufficient cause for not preferring the appeal within the period.(5)The order passed by the Divisional Registrar in appeal preferred under subsection (4) shall be final.(6)Subject to the appeal provided under sub-section (4), the order passed or decisions given by the District Registrar under sub-section (2), shall be sufficient conveyance and it shall be the duty of every officer entrusted with the work relating to maintenance of land records under any law for the time being in force, to give effect to such order in his records.

19. Court's power to cancel or suspend licence.

(1)(i)A Court passing an order of conviction against a money-lender for an offence under this Act, or(ii)a Court trying a suit, if satisfied that such money-lender has committed such contravention of the provisions of this Act or the rules made thereunder as would, in its opinion, make him unfit to carry on the money-lending,-(a)may order that all the licences held by such money-lender in the State be cancelled or suspended for such time as it may think fit, and(b)may, if it thinks fit, declare any such money-lender, or if any moneylender is an undivided Hindu family, a company or an unincorporated body, such family, company or body and also any person responsible for the management of the money-lending carried on by such family, company or body, to be disqualified from holding any licence in the State, for such time as the Court may thinks fit;Provided that, where any licence held by any money-lender is suspended or cancelled or any money-lender is disqualified from holding any licence under this section, he may appeal against such order to the Court to which an appeal ordinarily lies from the decision of the Court passing the order, and the Court which passed the order or the Court of appeal may, if it thinks fit, pending the appeal, stay the operation of the order under this section.(2)Where a Court convicts a money-lender of an offence under this Act, or makes an order or declaration, under sub-clause (a) or (b) of clause (ii) of sub-section (1), it shall cause the particulars of the conviction, order or declaration, as the case may be, to be endorsed on all the licences held by the money-lender convicted or by any other person affected by the order or declaration and shall cause copies of its order or declaration to be sent to the District Registrar by whom the licences were granted for the purpose of entering such particulars in the registers.(3)Any licence required by a Court for endorsement in accordance with subsection (2) shall be produced by the person by whom it is held in such manner and within such time as may be directed by the Court and any person who, without reasonable cause, makes default in producing the licence so required

shall be liable, on conviction, to a fine not exceeding rupees one thousand for each day for the period during which the default continues.(4) Powers conferred on a Court under this section may be exercised by any Court in appeal or in revision.

20. No compensation suspension or cancellation of licence.

- Where any licence is suspended or cancelled under this Act, no person shall be for entitled to any compensation or the refund of any licence fee or inspection fee.

21. Persons debarred from doing money lending during period of suspension or cancellation of licence.

- A person whose licence has been suspended or cancelled in accordance with the provisions of this Act shall, during the period of suspension or cancellation, as the case may be, be disqualified for carrying on business of money-lending in the State.

22. Person whose licence is suspended or cancelled not to apply without giving particulars of endorsement or of disqualification.

- No person whose licence has been endorsed under section 19 or who has been disqualified from holding a licence shall apply for, or be eligible to hold, a licence, without giving particulars of such endorsement or disqualification.

23. Promissory note, Bond etc. to be factual.

- No money-lender shall take any promissory note, acknowledgement bond or other writing which does not state the actual amount of the loan and rate of interest or which states such amount wrongly or execute any instrument in which blanks are left to be filled in after execution, without mentioning the date and amount of loan.

24. Duty of money lender to keep accounts and furnish copies.

(1) Every money-lender shall keep and maintain a cashbook and a ledger in such form and in such manner as may be prescribed.(2) Every money-lender shall.(a) deliver or cause to be delivered,-(i) to the debtor within thirty days from the date on which a loan is made, a statement in any recognized language showing in clear and distinct terms the amount and date of the loan and of its maturity, the nature of the security, if any, for the loan, the name and address of the debtor and of the money-lender and the rate of interest charged. Provided that, no such statement shall be required to be delivered to a debtor, if he is supplied by the money-lender with a pass book which shall be in the prescribed form and shall contain an up to date account of the transactions with the debtor;(ii) to the Assistant Registrar within the said period a statement containing the particulars referred to in sub-clause (i);(b) upon repayment of the loan in full, mark indelibly every paper signed by the debtor with words indicating payment or cancellation, and discharge every mortgage, restore every pledge,

return every note and cancel or re-assign every assignment given by the debtor as security for the loan.(3)Notwithstanding anything contained in sub-clause (ii) of clause (a) of subsection (2), the State Government may, by an order in writing, permit such class of money-lenders as may be specified in the order to deliver or cause to be delivered to the Assistant Registrar a statement containing the particulars referred to in sub-clause (i) of clause (a) of sub-section (2) in respect of all loans made during every such period as may be specified in the order, and upon the issue of such order a money-lender electing to deliver a periodical statement as provided in this sub-section, shall deliver or cause to be delivered the same within a period of thirty days from the date of expiry of every such period.(4)No money-lender shall receive any payment from a debtor on account of any loan without giving him a plain and complete receipt for such payment.(5)No money-lender shall accept from a debtor any article as a pawn, pledge or security for a loan without giving him a plain signed receipt for the same with its description, estimated value, the amount of loan advanced against it and such other particulars as may be prescribed. The money-lender shall maintain the duplicates of such receipts in a separate register.

25. Delivery of statements of accounts and copies thereof by money-lenders.

(1)Every money-lender shall deliver or cause to be delivered every year to each of his debtors a legible statement of such debtor's account signed by the money-lender or his agent of any account that may be outstanding against such debtor. The statement shall show-(i)the amount of principal, the amount of interest and the amount of fees referred to in section 26, separately, due to the money-lender at the beginning of the year;(ii)the total amount of loans advanced during the year;(iii)the total amount of repayments received during the year; and(iv)the amounts of principal and interest due at the end of the year.The statement shall be signed by the money-lender or his agent, and shall be in any recognized language. It shall be in such form and shall be supplied to the debtor on or before such date as may be prescribed:Provided that, no such statement shall be required to be delivered to a debtor if he is supplied by the money-lender with a pass book which shall be in the prescribed form and shall contain an up to date account of the transactions with the debtor.The money-lender shall on or before the aforesaid date deliver or cause to be delivered a statement containing the particulars specified in clauses (t) to (iv) to the Assistant Registrar.(2)In respect of any particular loan, the money-lender shall, on demand in writing being made by the debtor at any time during the period when the loan or any part thereof has not been repaid, and on payment of the prescribed fee supply to the debtor, or if the debtor so requires to any person specified in that behalf in the demand, a statement, in any recognized language, signed by the money-lender or his agent, and containing the relevant particulars specified in sub-section (1) within fifteen days from the date of application by the debtor.(3)A money-lender shall, on demand in writing by the debtor, and tender of the prescribed sum of expenses, supply a copy of any document relating to a loan made by him or any security therefor to the debtor, or if the debtor so requires to any person specified in that behalf in the demand.(4)For the purpose of this section, "year" means the year for which the accounts of the money-lender are ordinarily maintained in his own books.

26. Fees for certain statements supplied to debtors and Assistant Registrar.

(1) A money-lender may recover from a debtor fees for the pass book supplied to him under sub-section (2) of section 24 or in respect of copies of statements supplied to him under sub-section (3) of section 24 or statement of accounts supplied to him under sub-section (1) of section 25 and in respect of copies of such statements supplied to the Assistant Registrar under the said sub-section. (2) Such fees shall be recoverable at such rates and in such manner as may be prescribed, subject to the maximum of two hundred rupees per debtor, per year irrespective of the number of statements or copies thereof supplied to the debtor or the Assistant Registrar during the relevant year.

27. Debtor not bound to admit correctness of accounts.

- A debtor to whom a pass book has been furnished under section 24 or a statement of accounts has been furnished under section 25, shall not be bound to acknowledge or deny its correctness and his failure to do so shall not, by itself, be deemed to be admission of the correctness of the accounts.

28. Procedure of Court in suit regarding loans.

- Notwithstanding anything contained in any law for the time being in force, in any suit to which this Act applies, filed by a money-lender against a debtor, -(a) Court shall before deciding the claim on merits, frame and decide the issues whether the money-lender has complied with the provisions of sections 24 and 25; (b) if the Court finds, that the provisions of section 24 or section 25 have not been complied with by the money-lender, it may, 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. Explanation. - A money-lender who has given the receipt or furnished a statement of accounts or a pass book in the prescribed form and manner, shall be held to have complied with the provisions of section 24 or section 25, as the case may be, in spite of any errors and omissions, if the Court finds that such errors and omissions are not material or not made fraudulently.

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

- Notwithstanding anything contained in any agreement or any law for the time being in force, no Court shall, in respect of any loan whether advanced before or after the date on which this Act comes into force, decree, on account of interest, a sum greater than the principal of the loan due on the date of the decree.

30. Power of Court to direct payment of decretal amount by instalment.

- Notwithstanding anything contained in the Code of Civil Procedure, 1908 (5 of 1908) the Court may at any time, on 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 the date on which this Act

comes into force, in respect of a loan, shall be paid in such number of instalments and subject to such conditions, and payable on such dates, as, having regard to the circumstances of the judgement debtor and the amount of the decree, it considers fit.

31. Limitation on rates of interest.

(1)The State Government may, from time to time, by notification in the Official Gazette, fix the maximum rates of interest to be charged by a moneylender in respect of secured loan and unsecured loan.(2)No money-lender shall receive from a debtor or intending debtor any sum by way of compound interest on a loan advanced or intended to be advanced or any sum by way of interest at a rate higher than the rate fixed under sub-section (1).(3)Notwithstanding anything contained in any other law for the time being in force, a money-lender shall not charge or recover from any debtor, on account of interest, a sum greater than the amount of principal of loan whether advanced before or after commencement of this Act.(4)Notwithstanding anything contained in any other law for the time being in force! no agreement between a money-lender and a debtor for payment of interest at rates exceeding the maximum rates fixed by the State Government under sub-section (1) and no agreement in contravention of the provisions of sub-sections (2) and (3) shall be valid.

32. Prohibition of charge for expenses on loans by money-lenders.

(1)No money-lender shall receive from a debtor or intending debtor any sum other than reasonable costs of investigating title to the property, costs of stamp, registration of documents, and other usual cost out of pocket expenses in cases where an agreement between the parties includes a stipulation that property is to be given as security or by way of mortgage and where both parties have agreed in writing to such costs and reimbursement thereof or where such cost, charges or expenses are leviable under the provisions of the Transfer of Property Act, 1882 (4 of 1882), or any other law for the time being in force.(2)Any sum received by a money-lender in contravention of sub-section (1) from a debtor or intending debtor on account of costs, charges or expenses referred to in that sub-section shall be recoverable from the money-lender as debt due from him to the debtor or, as the case may be, intending debtor, or shall be liable to be set off against the loan actually lent to the debtor or intending debtor.

33. Assignment of loans.

(1)Whether a loan advanced, whether before or after the date on which this Act comes into force, or any interest of such loan or the benefit of any agreement made or security taken in respect of such loan or interest is assigned to any assignee, the assignor (whether he is the money-lender by whom the money was lent or any person to whom the debt has been previously assigned) shall, before the assignment is made,-(a)give the assignee a notice in writing that the loan, interest, agreement or security is affected by the operation of this Act;(b)supply to the assignee all information necessary to enable him to comply with the provisions of this Act; and(c)give the debtor notice in writing of the assignment supplying the name and address of the assignee.(2)Any person acting in contravention of the provisions of sub-section (1), shall be liable to indemnify any other person who is prejudiced by such contravention.

34. Application of Act as to assignees.

(1) Save as hereinafter provided, where any debt due to a money-lender in respect of money lent by him, whether before or after the date on which this Act comes into force, or of interest on money-so lent or of the benefit of any agreement made or security taken in respect of any such debt or interest, has been assigned, the assignee shall be deemed to be the money-lender and all the provisions of this Act shall apply to such assignee as if he was the money-lender. (2) Notwithstanding anything contained in this Act or in any other law for the time being in force, where for any reason any such assignment is invalid and the debtor has made any payment of money or transfer of property on account of any loan which has been so assigned, the assignee shall in respect of such payment or transfer be deemed to be the agent of the money-lender for all the purposes of this Act.

35. Re-opening of transactions.

- Notwithstanding anything contained in any law for the time being in force, the Court shall, in any suit to which this Act applies, between the money-lender and the debtor, whether heard ex-parte or otherwise, (a) re-open any transaction, or any account already taken between the parties; (b) take an account between the parties; (c) reduce the amount charged to the debtor in respect of any excessive interest; (d) if on taking accounts it is found that the money-lender has received more than what is due to him, pass a decree in favour of the debtor in respect of such amount; Provided that, in the exercise of these powers, the Court shall not, - (i) re-open any adjustment or agreement purporting to close previous dealings and to create new obligations which have been entered into by the parties or any person through whom they claim at a date more than six years from the date of the suit to which this Act applies; (ii) do anything which affects any decree of a Court. Explanation. - For the purposes of this section, "excessive interest" means interest at a rate which contravenes any of the provisions of section 31.

36. Inquiry for taking accounts and declaring amount due.

(1) Any debtor may make an application at any time to the competent Court, whether the loan has or has not become payable, for taking accounts and for declaring the amount due to the money-lender. Such application shall be in the prescribed form and accompanied by the prescribed fee. (2) On receipt of such application, the Court shall cause a notice of the application to be given to the money-lender. (3) On the date fixed for the hearing of the application or on such date to which the hearing may be adjourned, from time to time, the Court shall make an inquiry and shall, after taking any account of the transactions between the parties, pass an order declaring the amount, if any, still payable by the debtor to the money-lender, in respect of the principal and interest, if any. In taking accounts under this section, the Court shall follow the provisions of sections 24 to 35 and section 38.

37. 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 due from him to the money-lender in respect of a loan by way of principal, interest or both. (2) If the money-lender

refuses to accept any sum so tendered, the debtor may deposit the said sum in Court 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.(4)When the money-lender does not accept the sum, the Court shall appropriate the said sum first towards the interest and the residue, if any, towards the principal.

38. Calculation of interest.

- Notwithstanding any agreement between the parties or any law for the time being in force, when pass book is supplied under section 24 or the statement is delivered to the debtor under section 25 or if the accounts are taken under section 36 or a tender is made by debtor to a money-lender in respect of a loan under section 37 on any day of the calendar month, the interest due shall be calculated as payable upto the actual date of repayment irrespective of the fact that such statement is delivered or pass book is supplied or such accounts are taken on any day of the calendar month.

39. Penalty for doing money lending without valid licence.

- Whoever carries on the business of money-lending without obtaining a valid licence, shall, on conviction, be punished with imprisonment of either description for a term which may extend to five years or with fine which may extend to five lakh rupees or with both.

40. Penalty for making false statement.

- Whoever in an application for grant of licence or renewal of licence, or in any document required by, or for the purpose of, any of the provisions of this Act will fully makes a statement in any material particulars knowing it to be false, shall, on conviction, be punished with imprisonment of either description for a term which may extend to five years or with fine which may extend to five lakh rupees or with both.

41. Obtaining licence under fictitious name, carrying on money-lending at a place not mentioned in licence, etc.

- Whoever - (a) obtains a licence in the name which is not his true name or carries on the business of money-lending under the licence so obtained; or(b)carries on the business of money-lending at any place not mentioned in the licence authorizing him to carry on such business; or(c)enters into any agreement in the course of business of money-lending without a valid licence, or under a licence obtained in the name which is not his true name, shall on conviction, be punished,-(i)for the first offence with imprisonment of either description which may extend to five years or with fine which may extend to rupees five lakh or with both, and(ii)for the second subsequent offence, in addition to or in lieu of, the penalty specified in clause (i), with imprisonment of either description which shall not be less than five years, where such person is not a company, and with fine which shall not be less

than rupees five lakh, where such person is a company.

42. Penalty for wrong entry in promissory note, Bond etc.

- Whoever contravenes the provisions of section 23 shall, on conviction, be punished with fine which may extend to five lakh rupees or with imprisonment of either description which may extend to five years or with both.

43. Penalty for contravention of section 24 or 25.

- Whoever contravenes the provisions of section 24 or 25 shall, on conviction, be punished with fine which may extend to five lakh rupees.

44. Penalty for charging rate of interest in contravention of section 31.

- Whoever charges or recovers interest in contravention of Section 31 shall on conviction be punished with fine which may extend to five lakh rupees, if it is first offence and with fine up to five lakh rupees, for the second or subsequent offence.

45. Penalty for molestation.

- Whoever molests, or abets the molestation, of a debtor for the recovery of a debt due by him to money-lender shall, on conviction, be punished with imprisonment of either description which may extend to five years or with fine which may extend to five lakh rupees, or with both. Provided that a person who goes to such house or place in order merely to obtain or communicate information shall not be deemed to have molested for the purpose of this section. Explanation. - For the purposes of this section, a person who, with intent to cause another person to abstain from doing any act which he has a right to do or to do any act which he has a right to abstain from doing, - (a) obstructs or uses violence to or intimidates such other person, or (b) persistently follows such other person from place to place or interferes with any property owned, or used by him or deprives him of, or hinders him in, the use thereof, or (c) loiters near a house or other place where such other person resides or works or carries on business, or happens to be, or does any act calculated to annoy or intimidate such other person; shall be deemed to molest such other person.

46. General provisions regarding penalties.

- Whoever fails to comply with or acts in contravention of any provision of this Act, shall, if no specific penalty has been provided for in this Act, be punishable, - (a) for the first offence with imprisonment of either description which may extend to five years or with fine which may extend to five lakh rupees, or with both; and (b) for the second or subsequent offence, with imprisonment of either description which may extend to five years or with fine which may extend to five lakh rupees, or with both.

47. Offences by corporations etc.

- If the person contravening any of the provisions of this Act is an undivided Hindu family or a company or an unincorporated body, the person responsible for the management of the business of such family, company or body shall be deemed to be guilty of such contravention.

48. Certain offences to be cognizable.

- Notwithstanding anything contained in the Code of Criminal Procedure, 1973, (2 of 1974) offence punishable under, - (a) sections 39 and 41, for contravening provisions of section 4, and (b) section 42, for contravening provisions of section 23, and (c) section 45, for molestation, shall be cognizable.

49. No arrest and imprisonment in execution of decree for money against agricultural debtors.

- Notwithstanding anything contained in any other law for the time being in force, no debtor who cultivates land personally and whose debts does not exceed fifteen thousand rupees shall be arrested or imprisoned in execution of a decree for money passed in favour of a money-lender, whether before or after the date on which this Act comes into force.

50. Every officer to be public servant.

- Every officer of the Government acting under the provisions of this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (45 of 1860).

51. Protection of action taken in good faith.

- No suit, prosecution or other legal proceedings shall lie against the Registrar General, or any authority for anything done or purported to have been done in good faith in pursuance of the provisions of this Act or the rules made thereunder.

52. Power of State Government to delegate its powers.

- The State Government may, by notification in the Official Gazette, delegate to any officer any of the powers conferred on it by or under this Act.

53. Power to make Rules.

(1) The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act. (2) In particular and without prejudice to the generality of the foregoing provisions, such rules may provide for all or any of the following matters - (a) the form of the application for a licence, the further particulars to be included therein and the amount of and the manner for payment of licence fee under section 5; (b) the form and conditions of the licence under

section 6;(c)the form of the register under section 7;(d)the manner of publishing a notice under sub-section (4) of section 17 for inviting claims to property pledged with a money-lender;(e)the form of cash book and ledger and the manner in which they should be maintained under sub-section (1), the form of passbook to be furnished under sub-section (2) and the other particulars to be prescribed under sub-section (5) of section 24;(f)the form of the statement of accounts under sub-section (1), the sum of expenses to be paid under sub-section (3) of section 25;(g)the fees to be paid under sub-section (2) of section 26;(h)the form of application and the fee to be paid under sub-section (1) of section 36;(i)any other matter which is or may be prescribed under this Act or any matter for which there is no provision or insufficient provision in this Act and for which provision is, in the opinion of the State Government, necessary for giving effect to the provisions of this Act;(j)a provision that the contravention of any of the rules shall be an offence and shall be punishable with fine not exceeding such amount as may be prescribed.(3)Every rule made under this Act shall be laid, as soon as may be, after it is made, before the State Legislature while it is in session for a total period of thirty days, which may be comprised in one session or in two or more successive session, and if, before the expiry of the session in which it is so laid or the session immediately following, house agree in making any modification in the rule or house agree that the rule should not be made, and notify their decision to that effect in the Official Gazette, the rule shall, from the date of publication of such decision in the Official Gazette, have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

54. Power to remove difficulty.

(1)If any difficulty arises in giving effect to the provisions of this Act, the State Government may, as occasion arises, by an order published in the Official Gazette, do anything not inconsistent with the provisions of this Act, which appears to it to be necessary or expedient for the purpose of removing the difficulty.