

CHAPTER M3 - MONEY LENDERS LAW

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MONEYLENDERS LAW

A Law relating to moneylending.

[NN 1963, Cap. 74. No. 4 of 2006.]

[Date of commencement: *1st January, 1939*]

1. Short title

This Law may be cited as the Moneylenders Law.

2. Interpretation

Definitions—

"**authorised name**" and "**authorised address**" means respectively the name under which and the address at which a moneylender is authorised by a certificate granted under this Law to carry on business as a moneylender;

"**business name**" means the name or style under which any business is carried on, whether in partnership or otherwise;

"**company**" means anybody corporate being a moneylender;

"**firm**" means an unincorporate body carrying on business for profit;

[No. 4 of 2006.]

"**moneylender**" includes every person whose business is that of moneylending or who carries on or advertises or announces himself or

holds himself out in any way as carrying on that business, whether or not he also possesses or owns property or money derived from sources other than the lending of money and whether or not he carries on the business as a principal or as an agent; but shall not include—

(a) any society registered under the Co-operative Societies Law;
or

[Cap. C19]

(b) any body corporate, incorporated or empowered by special Act or Law to lend money in accordance with such Act or Law; or

(c) any person *bona fide* carrying on the business of banking or insurance or *bona fide* carrying on any business, not having for its primary object the lending of money, in the course of which and for the purposes whereof he lends money; or

(d) any person or body corporate exempted from the provisions of this Law by order of the Governor; or

(e) any pawnbroker licensed under the Pawnbrokers Law where the loan is made in accordance with the provisions of the Pawnbrokers Law and does not exceed the sum of forty naira; or

[Cap. P2.]

"**principal**" means in relation to a loan the amount actually lent to the borrower;

"**State**" means the Kwara State of Nigeria.

3. Certain persons presumed to be moneylenders

Save as excepted in paragraphs (a), (b), (c), (d) and (e) of the definition

of "**moneylender**" in section 2 any person who lends money at interest or who lends a sum of money in consideration of a larger sum being repaid shall be presumed to be a moneylender until the contrary be proved.

4. Licences to be taken out by moneylenders

(1) Every moneylender, whether carrying on business alone or as a partner in a firm, shall take out annually in respect of every address at which he carries on his business as such, a licence (in this Law referred to as a "moneylender's licence"), which shall expire on the 31st day of December next after it is granted, and there shall be charged for every moneylender's licence a fee of ten thousand naira.

[No. 4 of 2006.]

(2) Subject to the provisions of this Law, moneylender's licences shall be in such form as the Governor may prescribe and shall be granted, on payment of the appropriate duty, by any officer authorised by the Governor to grant them.

Provided that a moneylender's licence shall be taken out by a moneylender in his true name, and shall be void if it be taken out in any other name, and every moneylender's licence shall also show the moneylender's authorised name and authorised address.

5. Penalty for breaches of section 4

If any person—

- (a) takes out a moneylender's licence in any name other than his true name; or
- (b) carries on business as a moneylender without being in possession of a valid moneylender's licence authorising him so to do; or
- (c) being licensed as a moneylender, carries on business as

such in any name, other than his authorised name, or at any other place than his authorised address or addresses; or

- (d) enters into any agreement in the course of his business as a moneylender with respect to the advance or repayment of money or takes any security for money in the course of his business as a moneylender, otherwise than in his authorised name,

he shall for each offence be liable on summary conviction—

- (i) to a fine of two thousand naira and in the event of a second or subsequent conviction to imprisonment for three months or a fine of two thousand naira or both; and
- (ii) in the case of a body corporate, to a fine of five thousand naira and in the event of a second or subsequent conviction to a fine of ten thousand naira.

[No. 4 of 2006.]

6. Certificate required for grant of moneylender's licence

(1) A moneylender's licence shall not be granted except to a person who holds a certificate granted in accordance with the provisions of this section authorising the grant of the licence to that person, and a separate certificate shall be required in respect of every separate licence. Any moneylender's licence granted in contravention of this section shall be void.

(2) Application for a certificate under this section (in this Law referred to as a certificate) shall be made to the magistrate of the district in which the moneylender's business is to be carried on and may be granted or refused by such magistrate in accordance with the provisions of this Law.

(3) Every certificate granted to a moneylender shall show his true name and the name under which, and the address at which, he is authorised by the certificate to carry on business as such, and a certificate shall not

authorise a moneylender to carry on business at more than one address, or under more than one name, or under any name which includes the word "bank" or otherwise implies that he carries on banking business, and no certificate shall authorise a moneylender to carry on business under any name except—

- (a) his true name; or
- (b) the name of a firm in which he is a partner, not being a firm required by the Companies and Allied Matters Act, to be registered; or
- (c) a business name, whether of an individual or of a firm in which he is a partner, under which he or the firm has, at the commencement of this Law, been registered for not less than three years both as a moneylender under the Moneylenders Law and Companies and Allied Matters Act.

[No. 4 of 2006.]

(4) Every certificate granted to a moneylender shall, in addition to the requirements of subsection (3), specify the name of the Bank and the address of the branch thereof at which the person to whom such certificate relates is maintaining a current account for the purposes of section 12A.

[No. 4 of 2006.]

(5) A certificate shall come into force on the date specified therein and shall expire on the 31st day of December next following.

[No. 4 of 2006.]

7. Procedure on application for a certificate

A person intending to apply for a certificate under this Law shall, fourteen days at least before the application, give notice of his intention by registered letters sent by post to the District Judge having jurisdiction over, and to the officer in charge of the police at, the place at which he proposes to

carry on business, and shall in the notice set forth his name and address and the address at which he proposes to carry on his business.

8. Refusal to grant a certificate

(1) A certificate shall not be refused except on one or more of the following grounds—

- (a) that satisfactory evidence has not been produced of the good character of the applicant, and in the case of a company of the persons responsible for the management thereof;
- (b) that satisfactory evidence has been produced that the applicant, or any person responsible or proposed to be responsible, for the management of his business as a moneylender, is not a fit and proper person to hold a certificate;
- (c) that the applicant, or any person responsible or proposed to be responsible for the management of his business as a moneylender, is by order of a court disqualified for holding a certificate;
- (d) that the applicant is disqualified under section 11 or under subsection (3) of section 12A for the grant of a moneylender's licence;
- (e) that the applicant is not maintaining a current account with a licensed bank for the purposes of the provisions of section 12A;
- (f) that the applicant has not complied with the provisions of any regulation made with respect to applications for certificates.

[No. 4 of 2006.]

(2) Any person aggrieved by the refusal of a magistrate to grant a certificate may appeal to the High Court as if the refusal were an order of a magistrate court.

[Cap. H2.]

9. Transfer of business to other premises

(1) A moneylender shall not transfer his business to premises other than those specified in his licence, until he has notified the magistrate of the district of the proposed transfer.

(2) Any moneylender contravening the provisions of this section shall, on conviction, be liable to a penalty not exceeding twenty thousand naira.

[No. 4 of 2006.]

10. Suspension and forfeiture of moneylender's certificates

(1) Where any person, being the holder of a certificate, is convicted of any offence under this Law the court—

(a) may order that any certificates held by that person, and in the case of a partner in a firm by any other partner in the firm, shall either be suspended for such time as the court thinks fit, or shall be forfeited, and may also, if the court thinks fit, declare any such person, or any person responsible for the management of the moneylending business carried on by the person convicted, to be disqualified from obtaining a certificate for such time as the court thinks fit; and

(b) shall cause particulars of the conviction and of any order made by the court under this subsection to be endorsed on every certificate held by the person convicted or by any other person affected by the order, and shall cause copies of those particulars to be sent to

the authority by whom any certificate so endorsed was granted, and to the Commissioner of Police.

Provided that, where by order of a court a certificate held by any person is suspended or forfeited, or any person is disqualified from obtaining a certificate, he may, whether or not he is the person convicted, appeal against the order in the same manner as any person convicted may appeal against his conviction, and the court may, if it thinks fit, pending the appeal, defer the operation of the order.

(2) Any certificate required by a court for endorsement in accordance with the foregoing provisions of this section shall be produced, in such manner and within such time as may be directed by the court, by the person by whom it is held, and any person who, without reasonable cause, makes default in producing any certificate so required shall, in respect of each offence, be liable on summary conviction of a penalty not exceeding five thousand naira for each day during which the default continues.

[No. 4 of 2006.]

(3) Where a certificate held by any person is ordered to be suspended or to be forfeited under the foregoing provisions of this section, any moneylender's licences granted to that person, whether in pursuance of that or any other certificate, shall be suspended during the period for which the certificate is ordered to be suspended or become void, as the case may be.

11. Disqualification for making use of forged certificate

A licence granted in pursuance of a forged certificate shall be void; and if any person makes use of a forged certificate, knowing it to be forged, he shall be disqualified for the grant of a moneylender's licence at any time thereafter.

12. Form of moneylender's contract

(1) No contract by a borrower or his agent for the repayment or

securing of money lent to the borrower or to any agent on his behalf by a moneylender or for the payment by the borrower or by any agent on his behalf of interest on money so lent and no security given by the borrower or by any such agent as aforesaid in respect of any such contract shall be enforceable, unless a memorandum in writing of the contract be made and signed by the parties to the contract or their respective agents, or in the case of a loan to a firm, by a partner in or agent of the firm, and unless a copy of such memorandum be delivered or sent by post to the borrower or his agent within seven days of its having been so signed and certified; and no such contract or security shall be enforceable if it is proved that the memorandum aforesaid was not signed by the borrower before the money was lent or before the security was given, as the case may be.

Provided always that, where a security is given to secure an immediate loan and subsequent loans, the security shall be enforceable in respect of any subsequent loan thereby secured if the note of memorandum in respect of such subsequent loan be signed and delivered to the borrower before the money shall be lent.

(2) In this section the expression "**borrower**" includes a surety.

(3) The memorandum aforesaid shall contain all the terms of the contract, and in particular shall show separately and distinctly—

- (a) the date on which the loan is made;
- (b) the amount of the principal of the loan;
- (c) the rate of interest *per centum per annum*, payable in respect of the loan or, where the interest is not expressed in terms of a rate *per centum per annum*, the amount of such interest; and
- (d) the name of the bank and the branch thereof on which the cheque, by means of which the money lent, was drawn and

the number of the cheque.

[No. 4 of 2006.]

(4) All dates and numbers shall be written in English numerals notwithstanding that they are also written in any other way.

12A. (1) Every moneylender shall maintain a current account with a licensed bank.

(2) No contract by a borrower or his agent for the repayment or securing of money lent to the borrower or to any agent on his behalf by a moneylender or for the repayment by the borrower or by any agent on his behalf of interest on money so lent and no security given by the borrower or by any such agent as aforesaid in respect of any such contract shall be enforceable unless the money lent was lent by means of a cheque drawn by the moneylender upon his current account at a licensed bank to the order of the borrower.

(3) Any moneylender who makes or attempts to make any arrangement whereby the borrower is prevented from obtaining the full amount of the cheque drawn in his or his agent's favour or any arrangement whereby the borrower or his agent is required directly to refund to the moneylender, otherwise than by repayment of the loan, any part of the said amount shall be guilty of an offence and liable to a penalty not exceeding ten thousand naira, and upon conviction of a moneylender for an offence under this subsection, his moneylender's licence shall be deemed to be revoked and he shall be disqualified for the grant of a moneylender's licence any time thereafter.

[No. 4 of 2006.]

13. (1) *Interest to be charged by moneylenders.*—The interest which may be charged on loans, whether by a moneylender or by any person other than a moneylender shall not exceed the respective rates specified hereunder—

- (a) on loans secured by a charge on any freehold property or Government bonds or insurance policy or the debentures or shares of any company or by a bill of sale in respect of any goods or by the assignment of any personal rights legally enforceable, or by the indemnity or personal guarantee of a third-party, simple interest at the rate of fifteen *per centum per annum* for the first one thousand naira or part thereof and at the rate of twelve and a half *per centum per annum* on any amount in excess of one thousand naira;
- (b) on loans secured by a second charge on any of the real or personal property or rights referred to in paragraph (a) of this subsection, simple interest at the rate of seventeen and a half *per centum per annum* for the first one thousand naira or part thereof and at the rate of fifteen *per centum per annum* on any amount in excess of one thousand naira;
- (c) on unsecured loans simple interest at the rate of twenty-five *per centum per annum*.

[No. 4 of 2006.]

(2) *Rate of interest where sums lent to same person at various times.*—If several sums are loaned to the same person, whether at the same or different times, the rate of interest on the aggregate sum loaned, or owing at the date the last sum is loaned, shall be that authorised as if the whole amount then owing had been loaned as one transaction.

(3) *Interest defined.*—The interest shall constitute a comprehensive charge to include all discounts, commissions, bonuses, fines, expenses, and any amount by whatsoever name called, in excess of the principal, paid or payable to the lender in consideration of or otherwise in respect of a loan, but shall not include charges, expenses or costs in respect of—

- (a) stamp duties;

- (b) registration of any document in accordance with the provisions of any law;
- (c) preparation of any document by a qualified legal practitioner;
- (d) investigation of title to any property;
- (e) insurance on property;
- (f) obtaining a copy of the record of the judgement of any court;
- (g) inspection of any property by the mortgagee prior to the mortgage; or
- (h) any costs specifically allowed by any court before which the matter may come for adjudication.

14. Penalty for charging unauthorised interest

Any person who loans money at a rate of interest higher than that authorised by this Law shall be liable on conviction to a penalty of two thousand naira in respect of each such loan.

[No. 4 of 2006.]

15. Prohibition of compound interest and provision as to details

(1) Subject as hereinafter provided any contract made after the commencement of this Law for the loan of money by a moneylender shall be illegal in so far as it provides directly or indirectly for the payment of interest in advance whether by deduction of any amount from the principal sum borrowed or otherwise or for the payment of compound interest on the loan or for the rate or amount of interest being increased by reason of any default in the payment of sums due under the contract.

Provided that provision may be made by any such contract that if default is made in the payment upon the due date of any sum payable to the moneylender under the contract, whether in respect of principal or interest, the moneylender shall be entitled to charge simple interest on that sum from the date of the default until the sum is paid, at a rate not exceeding the rate payable in respect of the principal apart from any default, and any interest so charged shall not be reckoned for the purposes of this section as part of the interest charged in respect of the loan.

(2) Any moneylender contravening the provisions of this section shall be liable to the penalties prescribed by section 14 of this Law.

16. (1) *Apportionment between principal and interest of amounts paid by borrower.*— Where by a contract for the loan of money by a moneylender the interest charged on the loan is not expressed in terms of a rate, any amount paid or payable to the moneylender under the contract (other than simple interest charged in accordance with section 13 of this Law) shall be appropriated to principal and interest in the proportion that the principal bears to the total amount of the interest.

(2) *Method of calculating rate of interest when not expressed in terms of a rate.*— Where the interest charged on a loan of money is not expressed in terms of a rate *per centum per annum* the rate of interest *per centum per annum* charged on the loan shall be calculated in accordance with the provisions of Schedule A hereto or, where the contract provides for the payment of equal instalments of principal and interest at equal intervals of time, in accordance with the formula given in Schedule B hereto.

[Schedules A and B.]

17. Prohibition of charge for expenses on loans by moneylender

Any agreement between a moneylender and a borrower or intending borrower for the payment by the borrower or intending borrower to the moneylender of any sum on account of costs, charges or expenses incidental to

or relating to the negotiations for or the granting of the loan or proposed loan shall be illegal, and if any sum is paid to such moneylender by a borrower or intending borrower for or on account of any such costs, charges or expenses that sum shall be recoverable as a debt due to the borrower or intending borrower, or, in the event of the loan being completed, shall, if not so recovered, be set-off against the amount actually lent and that amount shall be deemed to be reduced accordingly.

Provided that the provisions of this section shall not apply to the charges, expenses and costs specified in section 13 (3) as charges, expenses and costs excluded from those constituting interest.

18. Employment of agents or canvassers by moneylender prohibited

(1) No moneylender or any person acting on behalf of a moneylender shall employ any agent or canvasser for the purpose of inviting any person to borrow money or to enter into any transaction involving the borrowing of money from such moneylender, and no person shall act as such agent or canvasser, or demand or receive directly or indirectly any sum or other valuable consideration by way of commission or otherwise for introducing or undertaking to introduce to a moneylender any person desiring to borrow money.

(2) Any contract by the borrower to pay to an agent or canvasser of a moneylender a commission for obtaining a loan shall be null and void, and if any sum has been paid by way of commission or otherwise for such service, the agent or canvasser shall be liable on conviction to a penalty not exceeding five thousand naira or imprisonment for a term not exceeding six months.

[No. 4 of 2006.]

19. Moneylenders to give receipts and keep records of transactions

(1) Every moneylender shall give a receipt for every payment made to him on account of a loan or of interest thereon. Every such receipt shall be given immediately the payment is made.

(2) Every moneylender shall keep a book (which shall be securely bound and paged so that leaves cannot be removed or inserted without apparent damage) in which he shall enter in connection with every loan made by him—

- (a) the date on which the loan was made;
- (b) the amount of the principal;
- (c) the rate of interest;
- (d) the sums received in respect of the loan or the interest thereon, with the dates of payment thereof,

and shall produce such book when required to do so by any court.

(3) The entries in the said book shall be made forthwith on the making of the loan or the receipt of sums paid in respect thereof, as the case may be.

(4) Any moneylender who fails to comply with any of the requirements of this section shall not be entitled to enforce any claim in respect of any transaction in relation to which the default shall have been made. He shall also be guilty of an offence under this Law and shall be liable on conviction to a fine of twenty thousand naira or imprisonment for a term not exceeding one year or in the case of a continuing offence to a fine of ten thousand naira for each day or part of a day during which such offence continues.

[No. 4 of 2006.]

20. Obligation of moneylender to supply information as to state of loan and copies of documents relating thereto

(1) In respect of every contract for the repayment of money lent by a moneylender (whether made before or after the commencement of this Law) the moneylender shall, on any reasonable demand in writing being made by

the borrower at any time during the continuance of the contract and on tender by the borrower of the sum agreed to for expenses, supply to the borrower, or, if the borrower so requires, to any person specified in that behalf in the demand, a statement signed by the moneylender or his agent showing—

- (a) the date on which the loan was made, the amount of the principal of the loan and the rate *per centum per annum* of interest charged; and
- (b) the amount of any payment already received by the moneylender in respect of the loan or the interest thereon and the date on which it was made; and
- (c) the amount of every sum due to the moneylender, but unpaid, and the date upon which it became due, and the amount of interest accrued due and unpaid in respect of every such sum; and
- (d) the amount of every sum not yet due which remains outstanding, and the date upon which it will become due.

A statement of account as in the form of Schedule C to this Law shall be deemed to comply with the requirements of this subsection.

[Schedule C]

[No. 4 of 2006.]

(2) A moneylender shall, on any reasonable demand in writing by the borrower, and on tender of a reasonable sum for expenses, supply a copy of any document relating to a loan made by him or any security therefor, to the borrower, or if the borrower so requires, to any person specified in that behalf in the demand.

(3) If a moneylender to whom a demand has been made under this section fails without reasonable excuse to comply therewith within one month after the demand has been made, he shall not, so long as the default continues,

be entitled to sue for or recover any sum due under the contract on account either of principal or interest, and interest shall not be chargeable in respect of the period of the default, and if such default is made or continued after proceedings have ceased to lie in respect of the loan, the moneylender shall be liable on summary conviction to a fine not exceeding two thousand naira for every day on which the default continues.

[No. 4 of 2006.]

21. Restrictions on moneylending advertisements

(1) No person shall knowingly send or deliver or cause to be sent or delivered to any person except in response to his written request any circular or other document advertising the name, address or telephone number of a moneylender, or containing an invitation—

- (a) to borrow money from a moneylender;
- (b) to enter into any transaction involving the borrowing of money from a moneylender;
- (c) to apply to any place with a view to obtaining information or advice as to borrowing any money from a moneylender.

(2) Subject as hereinafter provided, no person shall publish or cause to be published in any newspaper or other printed paper issued periodically for public circulation, or by means of any poster or placard, an advertisement advertising any such particulars, or containing any such invitation, as aforesaid:

Provided that an advertisement by a moneylender licensed under this Law may be published by or on behalf of a moneylender in any newspaper or other printed paper issued periodically for public circulation or by means of any poster or placard exhibited at an authorised address of the moneylender if it contains no particulars other than the following—

- (a) the name under which the moneylender is authorised by

the certificate granted under section 6 to carry on business;
and

- (b) any authorised address at which the moneylender carries on business and the telegraphic address and telephone number thereof; and
- (c) any address at which he formerly carried on business; and
- (d) a statement that he lends money with or without security; and
- (e) a statement of the highest and lowest sums that he is prepared to lend; and
- (f) a statement of the date on which the business carried on by him was first established.

(3) Where any document issued or published by or on behalf of a moneylender purports to indicate the terms of interest upon which he is willing to make loans or any particular loan, the document shall either express the interest proposed to be charged in terms of a rate *per centum per annum* or show the rate *per centum per annum* represented by the interest proposed to be charged as calculated in accordance with the provisions of Schedule A or B.

[Schedules A and B.]

(4) Any person acting in contravention of any of the provisions of this section shall be liable on summary conviction to imprisonment for one year or to a fine of ten thousand naira or to both such imprisonment and fine.

[No. 4 of 2006.]

(5) Where it is shown that a moneylending transaction was brought about by a contravention of any of the provisions of this section, the transaction shall be illegal, unless the moneylender proves that the

contravention occurred without his consent or connivance.

22. (1) *Notice and information to be given on assignment of moneylender's debts.*— Where any debt in respect of money lent by a moneylender, whether before or after the commencement of this Law, or in respect of interest on any such debt or the benefit of any agreement made or security taken in respect of any such debt or interest is assigned to any assignee, the assignor (whether he is the moneylender 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 to the assignee notice in writing that the debt, agreement or security is affected by the operation of this Law; and
- (b) supply to the assignee all information necessary to enable him to comply with the provisions of this Law relating to the obligation to supply information as to the state of loans and copies of documents relating thereto,

and any person acting in contravention to any of the provisions of this section shall be liable to indemnify any other person who is prejudiced by the contravention, and shall also in respect of each offence be liable on conviction to imprisonment for one year or to a fine of twenty thousand naira.

[No. 4 of 2006.]

(2) "***assigned***".—In this section the expression "**assigned**" means assigned by any assignment *inter vivos* other than an assignment by operation of law, and the expressions "**assignor**" and "**assignee**" have corresponding meanings.

23. Application of Law as respects assignees

(1) Subject as hereinafter provided, the provisions of this Law shall continue to apply to any debt to a moneylender in respect of money lent by him after the commencement of this Law or in respect 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, notwithstanding that the debt or the benefit of the agreement or security may have been assigned to any assignee, and, except where the context otherwise requires, references in this Law to a moneylender shall accordingly be construed as including any such assignee as aforesaid.

Provided that notwithstanding anything in this Law—

- (a) any agreement with, or security taken by, a moneylender in respect of money lent by him after the commencement of this Law shall be valid in favour of any *bona fide* assignee or holder for value without notice of any defect due to the operation of this Law and of any person deriving title under him; and
- (b) any payment or transfer of money or property made *bona fide* by any person, whether acting in a fiduciary capacity or otherwise, on the faith of the validity of any such agreement or security, without notice of any such defect shall, in favour of that person, be as valid as it would have been if the agreement or security had been valid; and
- (c) the provision of this Law limiting the time for proceedings in respect of money lent shall not apply to any proceedings in respect of any such agreement or security commenced by a *bona fide* assignee or holder for value without notice that the agreement or security was affected by the operation of this Law or by any person deriving title under him,

but in every such case the moneylender shall be liable to indemnify the borrower or any other person who is prejudiced by virtue of this section and nothing in this proviso shall render valid an agreement or security in favour of, or apply to proceedings commenced by, an assignee or holder for value who is himself a moneylender.

- (2) Nothing in this section shall render valid for any purpose any

agreement, security, or other transaction which would, apart from the provisions of this Law, have been valid or unenforceable.

24. (1) *Moneylender to produce statement of account in proceedings.*—Where proceedings are taken in any court by any person for the recovery of any money lent, or the enforcement of any agreement or security made or taken in respect of money lent, the plaintiff shall produce a statement of his account as prescribed in section 20.

(2) *Re-opening of moneylending transactions.*—Where in any such proceedings there is evidence which satisfies the court that the interest charged in respect of the sum actually lent exceeds the rates legally chargeable, the court may re-open the transaction, and take an account between the lender and the person sued, and may, notwithstanding any statement or settlement of account or any agreement purporting to close previous dealings and create a new obligation, re-open any account already taken between them and relieve the person sued from payment of any sum in excess of the sum adjudged by the court to be fairly due in respect of such principal, interest and charges, as the court having regard to the risk and all the circumstances, may adjudge to be reasonable, and if any such excess has been paid or allowed in account by the debtor, may order the creditor to repay it; and may set aside, either wholly or in part or revise, or alter, any security given or agreement made in respect of money lent, and if the lender has parted with the security may order him to indemnify the borrower or any other person prejudiced thereby.

(3) *Power of court to determine contract.*—Where in any such proceedings there is evidence which satisfies the court that default in payment of any sum due to the plaintiff under a contract for the loan of money has been made by the borrower and it is proved that any further amount is outstanding under the contract but not yet due, the court may determine the contract and order the principal outstanding to be paid to the plaintiff with such interest thereon, if any, as the court may allow up to the date of payment.

(4) *Proceedings by borrowers against moneylender.*—(a) Any court in which proceedings might be taken for recovery of money lent by any person shall have and may, at the instance of the borrower or surety or other person liable, exercise the like powers as may be exercised under this section, where proceedings are taken for the recovery of money lent, and the court shall have power to entertain any application under this Law by the borrower or surety or other person liable, notwithstanding any provision or agreement to the contrary or that the time for repayment of the loan, or any instalment thereof, may not have arrived;

(b) the power of a court under this subsection may be exercised notwithstanding that the right of action for recovery of the money lent is barred.

(5) *Application to all moneylending transactions.*—The foregoing provisions of this section shall apply to any transaction which, whatever its form may be, is substantially one of moneylending.

(6) *Bona fide assignee.*—Nothing in the foregoing provisions of this section shall affect the rights of any bona fide assignee or holder for value without notice.

(7) *Existing powers of court.*—Nothing in this section shall be construed as derogating from the powers of jurisdiction of any court as provided in section 30 to inquire into and give relief in respect of any loan effected before the commencement of this Law:

Provided that the court shall not set aside, vary or affect any judgment obtained before the commencement of this Law.

[No. 4 of 2006.]

25. Inducing borrowing by false statements

If any moneylender, or any person being a manager, agent or clerk of a moneylender, or a director, manager or other officer of any corporation

carrying on the business of a moneylender by any false, misleading, or deceptive statement, representation, or promise, or by any dishonest concealment of material facts fraudulently induces or attempts to induce any person to borrow money or to agree to the terms on which money is or is to be borrowed, shall be liable, on conviction, to imprisonment for one year, or to a fine of twenty thousand naira,

[No. 4 of 2006.]

26. Penalty for taking promissory note in which amount left blank or not truly stated

(1) Any moneylender who shall take, as security for any loan, a promissory note or other contract for the repayment of money lent in which the principal is to the knowledge of the lender not truly stated, or is left blank shall be guilty of an offence, and shall be liable on conviction to a fine of five thousand naira or imprisonment for a term not exceeding six months or in the event of a second or subsequent conviction to imprisonment for six months or a fine of five thousand naira or both.

Provided that if the offender be a body corporate that body corporate shall be liable on summary conviction for a second or subsequent offence to a fine of twenty thousand naira.

[No. 4 of 2006.]

(2) Every such promissory note or other contract in respect of which an offence has been committed under this section shall subject to the provisions of section 23 be void and unenforceable.

27. Reward to informer

Where on the conviction of any person for an offence under this Law a fine is imposed the court may if it thinks fit order that a sum not exceeding one-half of the sum recovered in respect of such penalty shall be paid to the person, not being the borrower in the transaction which was the subject of the

proceedings, who informed the authorities that the offence had been committed.

28. Protection of lenders against frivolous and vexatious actions

(1) In any civil proceeding in which a borrower pleads any of the provisions of this Law (whether in any plaint, defence, or other pleading, or in any affidavit or application for the purpose of obtaining leave to defend any action) if the court is satisfied that such plea was not made in good faith, but was made for the purpose of delaying or harassing the moneylender, the court may, in addition to any penalties incurred under any other law, order such borrower to pay for the benefit of the moneylender a sum not exceeding one thousand naira by way of compensation and the costs incurred by the moneylender in the proceeding to such an amount as shall be determined by the court, and every such sum so ordered to be paid shall be added to the amount of the judgement recoverable by the moneylender.

(2) In any criminal proceeding instituted against a moneylender for a breach of any provision of this Law if the court is satisfied that the charge was made maliciously, frivolously, or vexatiously, it may direct that a sum not exceeding one thousand naira by way of compensation and the costs of the accused to such an amount as shall be determined by the court shall be paid by the informer or complainant, and any amount so ordered to be paid shall be recoverable from the accused in the same manner as a fine imposed by the court.

[No. 4 of 2006.]

29. Common informers compounding informations

If any person lays a complaint for an offence alleged to have been committed against this Law by which he was not personally aggrieved, and afterwards directly or indirectly receives, without the permission of a court, any sum of money or other reward for compounding, delaying, or withdrawing the complaint, he shall for such offence be liable, on conviction,

to a penalty not exceeding ten thousand naira.

[No. 4 of 2006.]

30. Limitation of time for proceedings in respect of money lent by moneylender

No proceedings shall lie for the recovery by a moneylender of any money lent by him after the commencement of this Law or of any interest in respect thereof, or for the enforcement of any agreement made or security taken after the commencement of this Law in respect of any loan made by him, unless the proceedings are commenced before the expiration of twelve months from the date on which the cause of action accrued.

Provided that—

- (a) if during the period of twelve months aforesaid or at any time within any subsequent period during which proceedings may by virtue of this proviso be brought, the debtor acknowledges in writing the amount due and gives a written undertaking to the moneylender to pay that amount, proceedings for the recovery of the amount due may be brought at any time within a period of twelve months from the date of the acknowledgement and undertaking;
- (b) the time limited by the foregoing provisions of this section for the commencement of proceedings shall not begin to run in respect of any payments from time to time becoming due to a moneylender under a contract for the loan of money until a cause of action accrues in respect of the last payment becoming due under the contract;
- (c) if at the date on which the cause of action accrues or on which any such acknowledgment and undertaking as aforesaid is given

by the debtor, the person entitled to take the proceedings is *non compos mentis*, the time limited by the foregoing provisions of this section for the commencement of proceedings shall not begin to run until that person ceases to be *non compos mentis* or dies, whichever first occurs; and

- (d) if at the date on which the cause of action accrues or on which any such acknowledgment and undertaking as aforesaid is given by the debtor, the debtor is not within Nigeria, the time limited by the foregoing provisions of this section for the commencement of proceedings shall not begin to run until he returns to Nigeria.

31. Power to make regulations

The Governor may make regulations—

- (a) prescribing the procedure to be followed in making applications for certificates;
- (b) prescribing the form of notices to be given of intention to make application for certificates;
- (c) prescribing the form of the certificate;
- (d) prescribing the form of the licence;
- (e) regulating the issue of licences to moneylenders;
- (f) establishing a registry office for the registration of all licences issued under the Law;
- (g) appointing a registrar of moneylenders and such assistants to the registrar as may be necessary;
- (h) providing for the supply of information to the registrar of moneylenders relating to the issue, suspension and cancellation of licences and the disqualification of any

person from holding a licence;

- (i) providing for the supply to any person of an extract of any particulars registered in the registry and prescribing the fees to be paid therefor.

SCHEDULE A

[Sections 16 and 21.]

Calculation of Interest where the Interest Charged on a Loan is not Expressed in Terms of a Rate

1. The amount of principal outstanding at any time shall be taken to be the balance remaining after deducting from the principal the total of the portions of any payments appropriated to principal in accordance with the provisions of this Law.

2. The several amounts taken to be outstanding by way of principal during the several periods, ending on dates on which payments are made, shall be multiplied in each case by the number of calendar months during which those amounts are taken to be respectively outstanding, and there shall be ascertained the aggregate amount of the sum so produced.

3. The total amount of the interest shall be divided by one-twelfth part of the aggregate amount mentioned in paragraph 2 of this Schedule, and the quotient, multiplied by one hundred, shall be taken to be the rate of interest *per centum per annum*.

4. If having regard to the intervals between successive payments it is desired so to do, the calculation of interest may be made by reference to weeks instead of months, and in such case the foregoing paragraphs shall have effect as though in paragraph 2 the word "weeks" were substituted for the words "calendar months", and in paragraph 3 the words "one-fifty-second" were

substituted for the words "one-twelfth".

5. Whether any interval between successive payments is not a number of complete weeks or complete months, the foregoing paragraphs shall have effect as though one day were one-seventh part of a week or one-thirtieth part of a month, as the case may be.

SCHEDULE B

[Sections 16 and 21.]

Formula to be used to find the rate per centum per annum where no rate is stated and repayment is to be made by equal instalments at equal intervals of time.

$$100 \times I \times 24$$

$$(N+1) \times P \times L$$

Where I = Total interest repayable.

N = Number of instalments. P = Principal.

L = Number of calendar months in the intervals between instalments.

SCHEDULE C

[Section 20.]

Table 1

Principal and Interest-Subsection (1) (a)

<i>Principal</i>	<i>Date lent</i>	<i>Rate per centum per annum or the amount of interest</i>
------------------	------------------	--

~~₦~~ K

Table 2

Repayment-Subsection (1) (b)

	<i>Amount repaid</i>		<i>Amount of interest paid</i>		<i>Date</i>
	₦	K	₦	K	
1.					
2.					
3.					
4.					
5.					
6.					

Table 3

Amount of Arrears-Subsection (1) (c)

	<i>Principal</i>		<i>Date due</i>	<i>Interest</i>		<i>Date due</i>
	₦	K		₦	K	
1.						
2.						
3.						
4.						
5.						
6.						

Table 4

Sums not yet Due-Subsection (1) (d)

<i>Principal</i>	<i>Date due</i>	<i>Interest</i>	<i>Date due</i>
------------------	-----------------	-----------------	-----------------

N	K	N	K
1.			
2.			
3.			
4.			
5.			
6.			

CHAPTER M3

MONEY LENDERS LAW

SUBSIDIARY LEGISLATION

List of Subsidiary Legislation

1. Moneylenders Regulations.
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MONEY LENDERS REGULATIONS

[Section 31.]

[Reg. 25 of 1939, NN LN 204 of 1963.]

[Date of commencement: 13th July, 1939]

1. These regulations may be cited as the Moneylenders Regulations.
2. Every application for a certificate under section 6 of the Law shall be in the Form A set out in the Schedule hereto.

[Form A.]

3. Applications for certificates by two or more partners in a firm shall be made on the same day unless the District Judge otherwise orders.

4. A certificate shall be in the Form B set out in the Schedule hereto.

[Form B.]

5. A moneylender's licence shall be in the Form C set out in the Schedule hereto and may be granted in accordance with the provisions of the Law by any District Judge or any administrative officer in charge of a division.

[Form C]

6. A registry office for the registration of moneylenders' licences is hereby established in the Ministry of Finance.

7. A Registrar of Moneylenders shall be appointed.

8. Every person to whom a moneylenders' licence is granted under the Law shall present his licence to the Registrar for registration within one month of its issue and shall supply any information relating to the licence which the Registrar may require.

9. Every District Judge and administrative officer who issues a moneylender's licence and every District Judge who orders the suspension or cancellation of a licence or the disqualification of any person from holding a licence shall forthwith inform the Registrar of such issue, suspension, cancellation or disqualification. The Registrar shall make due record of all such informations received by him.

10. The Registrar shall register each moneylender's licence which is presented to him for registration and shall cause the registered name and the places of business of moneylenders to whom the licence relates to be published in the *Gazette*.

11. The Registrar shall permit any person to inspect the register of moneylenders' licences and the records of information received under regulation 9 on payment of a fee of one hundred naira and shall, on demand, supply a certified copy of any registered licence or of any recorded information on payment of a fee of two hundred naira for each hundred

words or part thereof of such copy.

SCHEDULE

[Reg. 2.]

FORM A

Moneylenders Regulations

Application for a Certificate

1. True name of applicant (if applicant is a company the name of the company should be stated here).
2. Private address of the applicant or in the case of a company the registered address of the company.
3. Name under which it is desired to carry on business as a moneylender.
4. Address or address at which it is desired to carry on business.
5. True names and addresses of partners (if any).
6. Name of person or persons (other than owner or partners) responsible or proposed to be responsible for the management of the business. In the case of a company the names of the directors, treasurer and secretary should be given,
7. Date of issue of any previous certificate granted and the name and

address authorised by such certificate.

8. If previously registered as a moneylender under the Moneylenders Law or any repealed Ordinance, the date of such registered and the name and address under which registered.

9. If registered under the Registration of Business Names Act, 1961, date of registration and name and address under which registered.

10. Particulars of any convictions under any existing Law or repealed Ordinance relating to moneylending of the applicant, his partner, or any person responsible or proposed to be responsible for the management of the business.

11. Particulars of any order under section 10 of the Moneylenders Law suspending or forfeiting the certificate of, or disqualifying from obtaining a certificate, the applicant or his partner or any person responsible or proposed to be responsible for the management of the business.

12. Particulars of any refusal of a certificate to the applicant, or his partner or any person responsible or proposed to be responsible for the management of the business.

I do hereby declare that the above particulars are true.

Signed

.....
.....
Date

Address

FORM B

[Reg. 4.]

Moneylenders Regulations

Form of Certificate

In the Court of the District Judge for
the.....District.

Certificate granted under section 6 (2) of the Moneylenders Law.

I,the undersigned do hereby certify
that I do authorise

the grant toof
.....

in theProvince, of a moneylender's licence to carry on the
business of moneylender

under the style and title ofat
.....

This Certificate shall come into force on theday of
.....,

20, and shall expire on theday of
....., 20

Dated theday of,
20

Signed

District Judge

FORM C

[Reg. 5.]

Moneylenders Regulations

Form of Moneylender's Licence

Granted under section 4 (2) of the Moneylenders Law.

Licence is hereby granted to

.....

(here insert true name of licensee) to carry on the business of a moneylender under the style and

title of*(here insert the authorised name)*

at*(here insert the authorised address).*

This licence shall come into force on theday of,

20, and shall expire on the 31st day of December, 20

Dated theday of
,20

District Judge of theCourt.

Administrative Officer

*in charge of
the.....Divisi
on.*

Fee: ₦
