

MONEY-LENDERS AND INFANTS LOANS ACT.

Act No. 67, 1941.

An Act to consolidate and amend the law relating to money-lenders and infants loans; to ^{George VI.} ~~No. 67, 1941.~~ repeal the Money-lenders and Infants Loans Act, 1905; to amend the Conveyancing Act, 1919, and certain other Acts; and for purposes connected therewith. [Assented to, 25th November, 1941.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Money-lenders and Infants Loans Act, 1941."

Short title and commencement and division into Parts.

(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

(3) This Act is divided into Parts as follows:—

PART I.—PRELIMINARY.

PART II.—LICENSING OF MONEY-LENDERS.

PART III.—MONEY-LENDING TRANSACTIONS.

PART IV.—MISCELLANEOUS.

SCHEDULE.

2.

No. 67, 1941. **2.** The Money-lenders and Infants Loans Act, 1905, is repealed.

Repeal of
Act No. 24.
1905.

Interpretation.
cf. S.A. Act No.
59, 1940, s. 5;

Vic. Act No.
4625, 1938,
s. 3; Imperial
Acts 63 & 64
Vic., c. 51,
s. 6; and 17
& 18 Geo. V,
c. 21, s. 1A

3. (1) In this Act unless the context or subject matter otherwise indicates or requires—

“Authorized name” and “authorized address” mean respectively the name under which and the address at which a money-lender is authorized by a licence to carry on business as a money-lender; and “authorized address” includes a substituted authorized address endorsed pursuant to this Act upon a licence.

“Company” includes any body corporate.

“Court of petty sessions” means a court of petty sessions holden before a stipendiary magistrate or police magistrate sitting alone without any other justice or justices.

“Firm” means an unincorporate body of two or more individuals, or one or more individuals and one or more companies, or two or more companies, who have entered into partnership with one another with a view to carrying on business for profit.

“Interest” does not include any sum lawfully agreed to be paid in accordance with the provisions of this Act on account of stamp duty, or on account of fees payable to the Registrar-General, or on account of legal costs, but save as aforesaid includes any amount (by whatsoever name called) in excess of the principal which has been or is to be paid or payable in consideration of or otherwise in respect of a loan.

“Legal costs” means costs and fees payable to a solicitor for or in connection with the preparation and completion of any security over real property or leasehold property in relation to a loan of an amount exceeding two hundred pounds.

“Licence” means a valid and unexpired money-lender’s licence or renewed licence issued under this Act, and “licensed” has a corresponding interpretation.

“Loan”

“Loan” includes advance, discount, money paid for **No. 67, 1941.**
or on account of or on behalf of or at the request
of any person, or the forbearance to require
payment of money owing on any account what-
soever, and includes every contract (whatever
its terms or form may be) which is in substance
or effect a loan of money, and also a contract
to secure the repayment of any such loan, and
“lend” and “lender” have corresponding
interpretations.

“Money-lender” includes every person whose **cf. W.A.**
business (whether or not he carries on any other **Acts No. 65,**
1912, s. 3;
business) is that of money-lending, or who **No. 19, 1913,**
advertises or announces himself or holds **s. 2; A.C.T.**
himself out in any way as carrying on that **Ordinance**
business, or who from time to time lends money **No. 13, 1936,**
s. 4.
at a rate of interest exceeding ten pounds per
centum per annum whether or not he also lends
money from time to time at a lesser rate of
interest but does not include—

- (a) any pawnbroker in respect of business carried on by him in accordance with the laws for the time being in force in relation to pawnbrokers; or
- (b) any society registered under the Friendly Societies Act, 1912, as amended by subsequent Acts, or under the Co-operation Act, 1923-1941, or any Act amending that Act; or
- (c) any company empowered by a special Act of Parliament to lend money in accordance with the special Act; or
- (d) any person bona fide carrying on the business of banking or insurance; or
- (e) any person bona fide carrying on any business not having for any of its principal objects the lending of money, in the course of which and for the purposes whereof he lends money at a rate of interest not exceeding ten pounds per centum per annum; or

(f)

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(f) any person or body of persons (corporate or unincorporate) for the time being exempted from licensing under this Act by the Governor in pursuance of subsection two of this section.

“Prescribed” means prescribed by this Act or by the regulations.

“Principal” means in relation to a loan the amount actually lent.

“Regulations” means regulations made under this Act.

“Renewed licence” means licence for a further year in respect of any address issued under this Act to the holder of a licence in respect of that address.

“Schedule” means Schedule to this Act.

(2) (a) The Governor may from time to time by proclamation published in the Gazette exempt any person or body of persons (corporate or unincorporate) from licensing under this Act and exempt any person licensed under this Act from the effect or operation of any section or sections of the Act.

(b) The Governor may, by proclamation published in the Gazette, revoke any proclamation made or issued under paragraph (a) of this subsection.

(3) For the purposes of this Act, where by a contract for the loan of money the interest charged on the loan is not expressed in terms of a rate, any amount paid or payable to the lender under the contract (other than simple interest charged in accordance with the proviso to section twenty-eight of this Act) shall be appropriated to principal and interest in the proportion that the total amount of the principal bears to the total amount of the interest and the rate per centum per annum represented by the interest charged as calculated in accordance with the provisions of the Schedule shall be deemed to be the rate of interest charged on the loan.

*cf. Imp.
Act 17 &
18 Geo. V,
c. 21, s. 15
(2);
Viet. Act
No. 4625,
1938, s. 3
(2).*

PART II.

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LICENSING OF MONEY-LENDERS.

4. (1) Every money-lender (whether carrying on business alone or as a partner in a firm) shall as hereinafter in this Act provided take out annually a licence in the prescribed form in respect of every address at which he carries on business as a money-lender or has an agency in connection with his money-lending business.

For the purposes of this Act any address at which a money-lender has such an agency shall be deemed to be an address at which he carries on business as a money-lender.

(2) Any licence required by this Act to be taken out by a company shall be taken out on behalf of the company by some person appointed in writing by the company.

(3) Notwithstanding anything in this Act, where in respect of any period licences are taken out by more than two money-lenders in respect of any address at which they carry on business as partners in a firm, no fee shall be payable under this Act in respect of the issue of more than two of such licences:

Provided that where one or more companies are partners in any such firm at least one of such companies shall in respect of the issue to it of a licence pay the fee prescribed therefor by this Act.

(4) The registration of any money-lender under the Money-lenders and Infants Loans Act, 1905, in force at the commencement of this Act shall notwithstanding the repeal of that Act be deemed to be a licence under this Act and subject to this Act shall continue in force until the thirty-first day of March next after the commencement of this Act:

Provided that no such registration shall entitle a money-lender to proceed to take out a renewed licence under this Act.

(5) Where any such registration of a money-lender would, if this Act had not been passed, have continued in force beyond the said thirty-first day of March there shall be refunded to the money-lender from moneys provided by Parliament for the purpose such sum as bears to the amount of the fee paid on the registration the same

No. 67, 1941. same proportion as the period for which the registration would have continued in force as aforesaid after the said thirty-first day of March bears to the period for which the registration was granted.

Applications
for licences.
cf. S.A. Act
No. 59, 1940,
s. 7; Vict.
Act No. 4625,
1938, s. 5;
Imp. Act 17 &
18 Geo. V,
c. 21, s. 2.

5. (1) Every person who desires to obtain a licence shall lodge an application in triplicate in the prescribed form with the clerk of the court of petty sessions nearest to the address in respect of which such licence is required: Provided that where such address is within a radius of twenty miles of the General Post Office, Sydney, the application may, at the option of the applicant, be lodged either with the clerk of the aforesaid court or with the clerk of the court of petty sessions holden at the Central Police Office in Sydney.

(2) Every such application shall—

- (a) contain such particulars as are prescribed;
- (b) be accompanied by a statement containing true and correct particulars regarding the names and addresses of the partners (if any) of the applicant and in the case of an application on behalf of a company the name and address of each of the persons responsible for the management thereof;
- (c) if made on behalf of a company be accompanied by a statement showing the names of all the directors and officers of the company, and in the case of a company which consists of less than fifty members, the names of all the shareholders in the company; and
- (d) be lodged with the clerk of the court of petty sessions at least fourteen days before the day mentioned in the application as the day on which the application will be made.

(3) Any person making any such application who fails to supply any such particulars or statement or supplies any such particulars or statement which are or is false or incorrect shall be guilty of an offence against this Act and shall be liable to a penalty not exceeding fifty pounds.

(4) The court of petty sessions—

- (a) shall consider the application and any objection thereto made as hereinafter in this Act provided; and
- (b)

(b) may, if satisfied that the applicant is a fit No. 67, 1941. person to be the holder of a licence, order a licence to be issued to the applicant.

(5) The licence shall be issued by the clerk of the court of petty sessions but shall not be issued unless the prescribed fee is paid within fourteen days after the court has ordered the issue of the licence.

(6) The court of petty sessions shall not refuse to order the issue of a licence except on some 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 an application on behalf 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 or conduct of the money-lending business, is not a fit and proper person to manage or conduct such a business;
- (c) that satisfactory evidence has not been produced that the applicant is of the age of twenty-one years or upwards;
- (d) that the applicant, or any person responsible or proposed to be responsible for the management or conduct of the money-lending business, is by order of a court disqualified from holding a licence;
- (e) that the applicant has not complied with the provisions of this Act or the regulations with respect to applications for licences;
- (f) that the applicant, or any person responsible or proposed to be responsible for the management or conduct of the money-lending business, is not a natural born or naturalized subject of His Majesty;
- (g) that the applicant has not been continuously resident in Australia for the twelve months immediately prior to the making of the application or in case of an application on behalf of a company, that the company is not incorporated in Australia;

(h)

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- (h) that the applicant is a director or officer of a company which is licensed under this Act, or is a shareholder in a company which is licensed under this Act and which consists of less than fifty persons;
- (i) that the spouse of the applicant is a director or officer of a company which is licensed under this Act, or is a shareholder in a company which is licensed under this Act and which consists of less than fifty persons and the applicant has not satisfied the court that the applicant is living separate and apart from his or her spouse;
- (j) if the applicant is a company, that any director or officer of the company is licensed under this Act;
- (k) if the applicant is a company which consists of less than fifty persons, that any shareholder in the company is licensed under this Act;
- (l) that the spouse of the applicant is licensed under this Act (other than in respect of a money-lending business carried on as a partnership by the applicant and the spouse of the applicant) and the applicant has not satisfied the court that the applicant is living separate and apart from his or her spouse;
- (m) that the applicant has not satisfied the court that he has not any direct or indirect financial interest in any other money-lending business in respect of which a licence is issued under this Act otherwise than as a shareholder and in common with the shareholders in a company which is licensed under this Act and which consists of not less than fifty persons.

(7) Where the court of petty sessions refuses an application under this section the applicant may appeal against such refusal in accordance with rules of court to the District Court for the district in which the court of petty sessions is situated.

Every such appeal shall be in the nature of a rehearing.

6. Notwithstanding anything contained in section five **No. 67, 1941.** or section seven of this Act, if the holder of a licence applies for a renewed licence and the application is made not less than fourteen days before the day appointed for the holding of the court of petty sessions next prior to the thirty-first day of March upon which the licence expires, the following provisions shall apply:—

- (a) if no notice of objection is as hereinafter in this Act provided lodged by any person in respect of the application, the clerk of the court of petty sessions shall, if the prescribed fee is paid to him not later than the first day of April following the application, issue to the applicant a renewed licence;
- (b) if the application is not determined on or before the thirty-first day of March following the application, the licence shall be deemed to be extended until the application is disposed of by the court of petty sessions in accordance with this Act.

7. (1) Subject to this Act, every licence shall—

- (a) be in the prescribed form;
- (b) take effect from a day (not being earlier than the day of payment of the prescribed fee) to be stated therein;
- (c) expire on the thirty-first day of March next following;
- (d) be taken out in the true name of the money-lender and be void if taken out in any other name; and
- (e) show the name under which, and the address at which the money-lender is thereby authorized to carry on business as such.

(2) (a) No licence shall authorize a money-lender to carry on business under more than one name.

(b) No licence shall authorize a money-lender to carry on business—

- (i) under any name which includes the word "bank" or otherwise implies that he carries on banking business; or

(ii)

Issue of
renewed
licence on
unopposed
application.
cf. S.A. Act
No. 59, 1940,
s. 8; Vict.
Act No. 4625,
1938, s. 6.

Form and
duration of
licences.

cf. S.A. Act
No. 59, 1940,
s. 9; Vict.
Act No.
4625, 1938,
s. 7.

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- (ii) under any name which includes any of the following words, namely "Australian," "British," "Commonwealth," "State," "Trust," "Trustee"; or
- (iii) under any name which in the opinion of the court of petty sessions is likely or intended to be misleading; or
- (iv) at more than one address.

(3) No licence shall authorize a money-lender to carry on business under any name except—

- (a) his true name; or
- (b) where he is a partner in a firm which is registered pursuant to the Business Names Act, 1934, as amended by subsequent Acts, his true name with the addition of the words "carrying on business as (*here insert the name of the firm*)"; or
- (c) where at the commencement of this Act he or a firm in which he is a partner—
 - (i) was registered under a business name under the Business Names Act, 1934, as amended by subsequent Acts; and
 - (ii) was registered under that business name as a money-lender under the Money-lenders and Infants Loans Act, 1905,

his business name with the addition of his true name.

(4) If any person—

- (a) takes out a licence in any name other than the true name of the money-lender; or
- (b) carries on business as a money-lender without having in force a licence or, being licensed as a money-lender, carries on business as such in any name other than his authorized name or at any place other than his authorized address; or
- (c) lends money or takes any security for a loan in the course of his business as a money-lender otherwise than in his authorized name,

he

he shall be guilty of an offence against this Act and No. 67, 1941.
liable—

- (i) if a company—for a first offence to a penalty of not less than twenty pounds and not exceeding one hundred pounds and for a second or any subsequent offence to a penalty of not less than one hundred pounds and not exceeding five hundred pounds;
- (ii) if any other person—to a penalty of not less than ten pounds and not exceeding fifty pounds or to imprisonment for a term not exceeding three months or to both such penalty and imprisonment.

(5) Every licensed money-lender shall on demand at any premises upon which he carries on his business produce his licence to any member of the police force, and if without reasonable excuse he refuses or fails so to produce his licence he shall be guilty of an offence against this Act and liable to a penalty not exceeding twenty pounds.

8. (1) The court of petty sessions nearest to the authorized address or (as the case requires) proposed new authorized address of the applicant may upon application in the prescribed form—

- (a) for the transfer of a licence—
 - (i) by a licensed money-lender—order the transfer of the licence to any person approved by the court in that behalf and the endorsement of the transfer on the licence; or
 - (ii) by a person licensed on behalf of a company—order the transfer of the licence from that person to any other person approved by the court in that behalf to hold the same on behalf of the company and the endorsement of the transfer on the licence;
- (b) for the substitution of a new authorized address of the money-lender for the authorized address of the money-lender shown in his licence—order the substitution of the new authorized address and the endorsement of the substitution on the licence.

(2)

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(2) A licence issued to any person on his own behalf shall not be transferable to any person on behalf of a company and a licence issued to any person on behalf of a company shall not be transferable to any person on his own behalf.

(3) Every application for the transfer of a licence or for the substitution of a new authorized address as aforesaid shall be in the prescribed form and shall be lodged in triplicate with the clerk of the court of petty sessions at least fourteen days before the day mentioned in the application as the day on which the application will be made, and the application and any objection thereto made as hereinafter in this Act provided shall be heard and determined by the court of petty sessions.

(4) No transfer or substitution under the provisions of this section shall be of any force or effect until the licence is endorsed accordingly by the clerk of the court of petty sessions and the prescribed fee is paid.

9. (1) In the cases provided for in this section the business of a licensed money-lender may be carried on and a licence may be transferred as follows:—

(a) if a licensed money-lender dies—

(i) the widow or widower or any member of the family of the deceased licensed money-lender of the age of twenty-one years or upwards or any person on behalf of the family may apply to the court of petty sessions nearest to the authorized address of the deceased money-lender to have his or her name endorsed on the licence as agent pending the granting of probate of the deceased licensed money-lender's will or of letters of administration of the estate;

(ii) on the grant of probate or letters of administration the executor, administrator, or trustee shall forthwith apply to the court of petty sessions nearest to the authorized address of the deceased money-lender to have his name or the name of some nominee on his behalf endorsed on the licence;

(b)

Power to
executors,
trustees,
etc., to
carry on
business
in case of
death, etc.,
of licensee.
cf. S.A.
Act No. 59,
1940, s. 11;
Viet. Act
No. 4625,
1938, s. 9.

(b) on a licensed money-lender becoming an insane No. 67, 1941. person or patient or an incapable person within the meaning of the Lunacy Act of 1898, as amended by subsequent Acts, the wife or husband of the licensed money-lender or any member of the family of the licensed money-lender of the age of twenty-one years or upwards or any person on behalf of the family may apply to the court of petty sessions nearest to the authorized address of the money-lender to have his or her name or the name of a nominee endorsed on the licence.

(2) Every such application shall—

- (a) be in the prescribed form and contain such particulars as are prescribed; and
- (b) be lodged in triplicate with the clerk of the court of petty sessions at least fourteen days before the day mentioned in the application as the day on which the application will be made.

(3) The court of petty sessions shall consider the application and any objection thereto made as hereinafter in this Act provided and on being satisfied as to the fitness of the applicant or nominee may order the endorsement to be made by the clerk of the court of petty sessions on payment of the prescribed fee.

(4) Every person whose name is so endorsed on any such licence (other than a person whose name is endorsed pursuant to subparagraph (ii) of paragraph (a) of subsection one of this section)—

- (a) may carry on the business under the licence until probate of the will or letters of administration of the estate of the deceased licensed money-lender are granted or until the money-lender ceases to be an insane person or patient or an incapable person, or until the licence is transferred or a new licence is granted in respect of the same place of business in the name of some other person (as the case may be); and
- (b) shall be subject to the same duties, liabilities, obligations, disqualifications and penalties as if he were the licensed money-lender.

(5)

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(5) No person shall otherwise than as provided in this section carry on any such business for a longer period than twenty-eight days after the death of the money-lender or his becoming an insane person or patient or an incapable person.

Any person who contravenes or fails to comply with the provisions of this subsection shall be guilty of an offence against this Act and shall be liable to a penalty of not less than ten pounds and not exceeding fifty pounds or to imprisonment for a term not exceeding three months or to both such penalty and imprisonment.

(6) Subject to this section, every licence shall confer on the executors or administrators of a deceased licensed money-lender the same rights and privileges and (if the executors or administrators avail themselves of those privileges) shall impose on them the same duties, liabilities, obligations, disqualifications and penalties as if the licence had been issued to them originally.

Notice of applications to be given by clerk of court.
cf. S.A. Act No. 59, 1940, s. 12; Vict. Act No. 4625, 1938, s. 10.

10. Forthwith after the receipt by the clerk of a court of petty sessions of any application for a licence or for the transfer of a licence or for the substitution of a new authorized address for the authorized address shown in a licence, or for an endorsement on the licence of a money-lender who has died or become an insane person or patient or an incapable person, the clerk shall—

- (a) send a copy of the application to the officer in charge of police at the nearest police station;
- (b) cause a copy thereof, or a notice thereof in the prescribed form, to be posted in a conspicuous place outside the building in which the court of petty sessions for considering the same is to be held and keep the same posted as aforesaid until the day appointed for the hearing of the application.

Objections to applications.
cf. S.A. Act No. 59, 1940, s. 13; Vict. Act No. 4625, 1938, s. 11.

11. (1) Any member of the police force or any other person may at least three days before the day appointed for the hearing of an application for the issue of a licence or for the transfer of a licence or for the substitution of a new authorized address for the authorized address shown in a licence, or for any endorsement on the licence of a money-lender who has died or become an insane person

person or patient or an incapable person, lodge with the No. 67, 1941. clerk of the court of petty sessions a notice in the prescribed form of his objection and of the grounds thereof.

(2) The person lodging any such notice of objection shall cause a copy of the notice to be served personally or by post upon the applicant at least three days before the day appointed for the hearing of the application.

(3) If any objection of which due notice has not been lodged and a copy thereof served upon the applicant as aforesaid is brought before the court of petty sessions at the hearing of the application, the court, if it thinks that the objection is one that should be considered, may adjourn the hearing to such day as it thinks fit.

(4) If under this section any objection to the application has been lodged or brought before the court, the court may determine what costs (if any) shall be paid by the applicant or the objector, and may order that such costs be paid; but an order for costs shall not be made against the objector unless the court is satisfied that the objection is frivolous or vexatious.

12. (1) Any licensed money-lender may, on the information of any member of the police force, be summoned before a court of petty sessions to show cause why an order should not be made directing any or all of the following things, namely—

- (a) that the licence be cancelled or suspended;
- (b) that the holder of the licence be disqualified, either temporarily or permanently, from holding a licence.

(2) An order under this section may be made upon any of the following grounds, namely—

- (a) that the licence was improperly obtained contrary to the provisions of this Act; or
- (b) that the licensed money-lender or any person responsible for the conduct or management of the money-lending business is not a fit and proper person to continue any longer to conduct or manage such a business; or
- (c) that the licensed money-lender or any person responsible for the conduct or management of the money-lending business has been guilty of such

Cancellation
of licences.
cf. S.A.
Act No. 59,
1940, s. 14;
Vict. Act
No. 4625,
1938, s. 12.

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such conduct as renders him unfit to continue any longer to conduct or manage such a business; or

- (d) that the licensed money-lender has lent money at an excessive rate of interest having regard to the risk, the value of any security, the time of repayment, the amount lent, and any other relevant circumstances; or
- (e) that the licensed money-lender has published an advertisement containing a statement of the terms of interest on which he is prepared to make loans or any particular class of loans and has without proper cause made any such loan or (as the case may be) any loan of any such class on terms of interest less favourable to the borrower than those so advertised.

(3) Upon being satisfied of the existence of any of the grounds aforesaid the court of petty sessions may make any order referred to in subsections one and two of this section.

(4) Where a court of petty sessions makes any order referred to in subsections one and two of this section, the money-lender in respect of whom the order was made may appeal against such order in accordance with rules of court to the District Court for the district in which such court of petty sessions is situated.

Every such appeal shall be in the nature of a rehearing.

Rules of court may prescribe the manner in which and the time within which notice of any such appeal shall be given by the applicant, the persons to whom such notice shall be given, and the circumstances in which and the conditions under which any such notice of appeal shall operate as a stay on the order of the court of petty sessions against which the appeal is made.

(5) In any proceedings under this section the court of petty sessions may determine what costs (if any) shall be paid by the defendant or the informant, and may order that such costs be paid; but an order for costs shall not be made against the informant unless the court is satisfied that the information is frivolous or vexatious.

(6) Where a licensed money-lender is a party to an action in the Supreme Court or a district court or a court

court of petty sessions, and the court is satisfied, on No. 67, 1941.
the evidence before it in the action, that a proper case exists for making any such order as is referred to in subsections one and two of this section, the court may, of its own motion, make any such order.

13. Where any person is by any court convicted of any offence against this Act the court—

(a) may order that any licence held by or on behalf of that person, and in the case of a partner in a firm, by or on behalf of any other partner in the firm, shall either be suspended for such time as the court thinks fit or be cancelled, and may also, if the court thinks fit, declare any person so convicted or any person by whom or on whose behalf any such licence is held or any person responsible for the management or conduct of the money-lending business, to be disqualified from obtaining a licence or managing or conducting a money-lender's business for such time as the court thinks fit; and

Effect of convictions on licences.
cf. S.A. Act
No. 59,
1940, s. 15;
Vict. Act
No. 4625,
1938, s. 13;
Imperial Act
17 & 18
Geo. V,
c. 21, s. 3.

(b) shall cause particulars of the conviction and of any order made by the court under this section to be endorsed on every licence held by or on behalf of the person convicted or by any other person affected by the order, and shall cause copies of those particulars to be sent forthwith to the clerk of the court of petty sessions by which any such licence was issued and to the Commissioner of Police.

14. While his disqualification continues a person disqualified under this Act shall not be capable of becoming or continuing a director, manager, or officer of any company licensed under this Act.

Disqualified money-lender becoming director, etc.
cf. S.A. Act
No. 59, 1940,
s. 16; Vict.
Act No. 4625,
1938, s. 14.

15. Any licence required by a court under this Act for endorsement or cancellation shall be produced in such manner and within such time as the court directs by the person by whom it is held, and any person who without reasonable cause makes default in producing any licence so required shall be guilty of an offence against this Act and shall be liable to a penalty not exceeding five pounds for each day during which the default continues.

Production of licence for endorsement, etc.
cf. S.A. Act
No. 59,
1940, s. 17;
Vict. Act
No. 4625,
1938, s. 15.

No. 67, 1941.Duplicate
licences.

cf. S.A. Act No.

59, 1940, s. 18;

Vict. Act No.

4625, 1938,

s. 17.

Record of
licences, etc.

cf. S.A. Act

No. 59, 1940,

s. 19; Vict. Act

No. 4625,

1938, s. 18.

16. In any case where satisfactory proof is given of the loss or destruction of a licence the court of petty sessions which ordered the issue thereof may order the issue of a duplicate licence on payment of the prescribed fee.

17. (1) A record of licences issued and of transfers, suspensions and cancellations of licences and of substitutions of new authorized addresses and of endorsements on licences and of such other matters and things as are prescribed shall be kept by the Commissioner of Police.

(2) The Commissioner of Police shall as early as practicable in each month cause to be published in the Gazette prescribed particulars of all licences issued, renewed, transferred, cancelled and suspended and of all substitutions of new authorized addresses and of all endorsements on licences of money-lenders who have died or become insane persons or patients or incapable persons and of all other prescribed matters and things aforesaid done during the last preceding month.

(3) The Gazette containing any such particulars published as aforesaid shall be prima facie evidence of the facts therein contained.

Transmis-
sion of
records to
Commis-
sioner of
Police.cf. S.A. Act
No. 59, 1940,
s. 20; Vict.

Act No.

4625, 1938,

s. 20.

18. (1) The clerk of each court of petty sessions shall at the times and in the manner prescribed forward to the Commissioner of Police returns of licences issued, renewed, transferred, cancelled or suspended and of substitutions of new authorized addresses and of endorsements on licences.

(2) In every case where a licence is cancelled and delivered up to a court under this Act it shall be transmitted forthwith by the clerk or other proper officer of the court to the Commissioner of Police.

Fees.
cf. S.A. Act
No. 59, 1940,
s. 21; Vict.
Act No.
4625, 1938,
s. 21.

19. (1) The following fees shall be payable under this Act:—

(a) for each licence issued to any person (otherwise than on behalf of a company) whether carrying on business alone or as a member of a firm—twenty-five pounds;

(b) for each licensee issued to any person on behalf of a company whether carrying on business alone or as a member of a firm—twenty-five pounds;

(c)

- (c) for each renewed licence issued to any person No. 67, 1941.
(otherwise than on behalf of a company) whether carrying on business alone or as a member of a firm—ten pounds;
- (d) for each renewed licence issued to any person on behalf of a company whether carrying on business alone or as a member of a firm—ten pounds;
- (e) for each transfer of a licence—five pounds;
- (f) for each substitution of a new authorized address for the authorized address shown in a licence—one pound;
- (g) for each endorsement authorized by a court of petty sessions with respect to the licence of a money-lender who has died or become an insane person or patient or an incapable person—one pound;
- (h) for each duplicate licence—one pound;
- (i) on searching any book or record of money-lenders kept by a clerk of a court of petty sessions or by the Commissioner of Police (for every name inspected)—two shillings and sixpence;
- (j) on certified copies of or extracts from entries in any such book or record—five shillings for each certified copy or extract.

(2) Where the duration of a licence referred to in paragraph (a) and paragraph (b) of subsection one of this subsection is for not more than six months the fee for the licence shall be one-half of the sum otherwise payable.

PART III.

MONEY-LENDING TRANSACTIONS.

20. (1) No proceedings relating to a money-lending transaction shall be brought or taken in any court of petty sessions other than a court of petty sessions holden before a stipendiary magistrate or police magistrate sitting alone without any other justice or justices. Jurisdiction of court of petty sessions in money-lending transactions.

(2) A court of petty sessions holden before a stipendiary magistrate or police magistrate sitting alone, without

No. 67, 1941. without any other justice or justices, shall, in addition to the jurisdiction which might be exercised by it if this section had not been enacted, have jurisdiction in respect of proceedings relating to a money-lending transaction in all cases in which the amount originally lent did not exceed two hundred and fifty pounds.

(3) In this section the expression "proceedings relating to a money-lending transaction" means proceedings brought or taken or proposed to be brought or taken by a money-lender or by the assignee or transferee or holder of a debt or security in respect of a loan by a money-lender, for the recovery of money lent either before or after the commencement of this Act or the enforcement of any contract or security made or taken either before or after the commencement of this Act in respect of money lent either before or after such commencement.

Restriction
on recovery
of loan by
unlicensed
money-
lender.

cf. S.A. Act
No. 59,
1940, s. 22;
Viet. Act
No. 4625,
1938, s. 22.

Form of
money-
lenders' con-
tracts.

cf. Viet. Act
No. 4625,
1938, s. 23;
Imp. Act 17
& 18 Geo. V,
c. 21, s. 6.

21. No money-lender shall be entitled to recover in any court any money lent by him or any interest in respect thereof, or to enforce any contract made or security taken in respect of any loan made by him unless he satisfies the court by the production of his licence or otherwise that at the date of the loan or the making of the contract or the taking of the security (as the case may be) he was the holder of a licence under this Act or was registered as a money-lender under the Money-lenders and Infants Loans Act, 1905.

22. (1) No contract for the repayment of money lent by a money-lender after the commencement of this Act or for the payment of interest on money so lent and no security given to any money-lender in respect of any such contract or loan shall be enforceable unless—

- (a) a note or memorandum in writing of the contract is made and signed personally by the borrower;
- (b) a copy thereof is delivered to or sent by pre-paid registered letter through the post addressed to the borrower within seven days of the making of the contract; and
- (c) together with such copy there is delivered or sent to the borrower as aforesaid a summary in writing in the prescribed form of the provisions of this Part which afford protection to borrowers,

and

and no such contract or security shall be enforceable **No. 67, 1941.** unless it is proved that the note or memorandum aforesaid was signed by the borrower before the money was lent or before the security was given (as the case may be).

(2) The note or memorandum aforesaid shall contain all the terms of the contract, and in particular shall show—

- (a) the date of the making of the loan;
- (b) the amount of the principal of the loan;
- (c) either—
 - (i) the interest charged on the loan expressed in terms of a rate per centum per annum; or
 - (ii) the rate per centum per annum represented by the interest charged as calculated in accordance with the provisions of the Schedule;
- (d) the total amount of the interest to be paid;
- (e) an itemized statement of any amounts paid or payable by the borrower on account of stamp duty, or on account of fees payable to the Registrar-General or on account of legal costs; and
- (f) the terms of repayment, including a separate and distinct statement of the amount of the final payment to be made pursuant to the contract.

(3) For the purposes of subsection two of this section—

- (a) the date of the making of the loan shall be deemed to be the date on which under the loan any money is first paid or is first at call (whichever is the earlier) and in the case of a cash order transaction such date shall be deemed to be the date of the issue of the cash order; and
- (b) the amount of the principal of the loan shall be deemed to be the full amount agreed to be lent whether in fact all of such amount is lent or not.

In this subsection “cash order transaction” means a transaction for a loan whereby the borrower is authorized by the lender to obtain goods or services from any other person and such other person agrees either expressly or impliedly to receive payment for such goods or services from the lender or from some other person on behalf of the lender.

No. 67, 1941.

Accidental
misdescription,
etc., not to
invalidate
note, memoran-
dum or copy.

(4) No such note or memorandum or copy thereof shall be deemed insufficient by reason only that in such note, memorandum or copy there is an omission or an incorrect or insufficient description or a misdescription in respect of the particulars required to be contained in such note, memorandum or copy if the court before which the enforceability of any such contract or security comes in question is satisfied that such omission, incorrect or insufficient description or misdescription was accidental or due to inadvertence and was not of such a nature as to be liable to mislead or deceive any person to his prejudice or disadvantage.

Regulation
of loans to
and guaran-
tees by
married per-
sons.
cf. S.A. Act
No. 59, 1940,
s. 24.

23. (1) No contract for the repayment of money lent by a money-lender, after the commencement of this Act, to a borrower who is married, or for the payment of interest on money so lent, and no security given to any money-lender in respect of any such contract or loan shall be enforceable unless—

- (a) (i) the note or memorandum of such contract required to be made in pursuance of section twenty-two of this Act contains a statement in writing signed in his or her own handwriting by the spouse of the borrower in the presence of an authorized witness, signifying the consent of such spouse to the loan; and
- (ii) such statement is so signed by the spouse before the money was lent or the security was given (as the case may be); or
- (b) the borrower, before the money was lent or the security was given (as the case may be) has produced and delivered to the money-lender a statutory declaration made by the borrower to the effect that the spouse of the borrower was under such a legal incapacity as to render him or her unable to sign such statement as aforesaid:

Provided that this subsection shall not apply if the money-lender had reasonable grounds for believing and did in fact believe, at the time the money was lent or the security was given, as the case may be, that—

- (i) the borrower was living separate and apart from the spouse of the borrower; or
- (ii)

(ii) the spouse of the borrower was outside New No. 67, 1941.
South Wales:

Provided further that this subsection shall not apply if, before the money was lent or the security was given (as the case may be), the borrower has produced and delivered to the money-lender a statutory declaration made by the borrower stating that the borrower was not married at the time of the delivery of such statutory declaration to the money-lender, unless the money-lender had reasonable grounds for believing that such statement was false.

(2) No guarantee given after the commencement of this Act by a person who is married, guaranteeing the repayment to any money-lender of any money lent by him, and no security given in respect of such guarantee shall be enforceable unless—

- (a) a statement in writing signed in his or her own handwriting by the spouse of the guarantor in the presence of an authorized witness, signifying the consent of such spouse to the making of the guarantee, is delivered to the money-lender before the giving of the guarantee; or
- (b) the guarantor, before the giving of the guarantee, has produced and delivered to the money-lender a statutory declaration made by the guarantor to the effect that the spouse of the guarantor was under such a legal incapacity as to render him or her unable to sign such statement as aforesaid:

Provided that this subsection shall not apply if the money-lender had reasonable grounds for believing and did in fact believe at the time of the giving of the guarantee that—

(i) the guarantor was living separate and apart from the spouse of the guarantor; or

(ii) the spouse of the guarantor was outside New South Wales:

Provided further that this subsection shall not apply if, before the giving of the guarantee, the guarantor has produced and delivered to the money-lender a statutory declaration made by the guarantor, stating that the guarantor was not married at the time of the delivery of such

Money-lenders and Infants Loans Act.

No. 67, 1941. such statutory declaration unless the money-lender had reasonable grounds for believing that such statement was false.

(3) The regulations may prescribe the persons or classes of persons who shall be authorized witnesses for the purposes of this section.

(4) If any money-lender to whom any such statutory declaration as is referred to in this section has been delivered fails to preserve the same until the expiration of twelve months after the transaction in respect of which it was given is finally closed, he shall be guilty of an offence against this Act, and shall be liable—

- (a) if a company—to a penalty of not less than twenty pounds and not exceeding two hundred pounds;
- (b) if any other person—to a penalty of not less than ten pounds and not exceeding one hundred pounds, or to imprisonment for a term not exceeding two months, or to both such penalty and imprisonment.

(5) This section shall not extend to or in respect of any money-lending transaction or to any contract, security or guarantee, made or given in relation to a money-lending transaction where the amount of the loan does not exceed ten pounds.

(6) This section shall be construed as being in addition to and not in derogation of section 12A of the Bills of Sale Act, 1898-1938.

**Provision where
money-
lender
enforces
security for
loan.**

**cf. S.A. Act
No. 59, 1940,
s. 25.**

24. (1) If any security is after the commencement of this Act made or taken to secure the payment of any money lent by a money-lender or any interest thereon, the money-lender shall not be entitled to institute any proceedings other than for the enforcement of the security, to recover any amount payable under the contract or payable pursuant to any guarantee for the repayment of the loan or any interest thereon.

(2) In this section “security” includes bill of sale, mortgage, lien, and charge of any real or personal property, and any assignment, conveyance, transfer or dealing with any real or personal property to secure the repayment of any loan.

(3)

(3) The provisions of this section shall have effect notwithstanding the provisions of the Real Property Act, 1900, the Bills of Sale Act, 1898, or any other Act or law to the contrary.

25. (1) A money-lender—

(a) shall not for the purposes of his business as such issue or publish or cause to be issued or published any advertisement, circular, business letter, or other similar document which does not show his authorized name in uniform lettering and in such manner as to be not less conspicuous than any other name; and

Use of
authorized
name by
money-
lenders.
cf. Imp. Act
17 & 18
Geo. V,
c. 21,
s. 4; Viet.
Act No.
4625, 1938,
s. 24; S.A.
Act No. 59,
1940, s. 26.

(b) shall outside the premises occupied by him at his authorized address display or cause to be displayed his authorized name in uniform lettering and in such manner as to be conspicuous and not less conspicuous than any other name displayed in the vicinity of the premises in connection with his business as a money-lender.

Any money-lender who contravenes the provisions of this subsection shall be guilty of an offence against this Act and liable to a penalty not exceeding twenty pounds.

(2) If a money-lender for the purposes of his business as such issues or publishes or causes to be issued or published any advertisement, circular, or document of any kind whatsoever containing expressions which might reasonably be held to imply that he carries on banking business, he shall be guilty of an offence against this Act and liable—

(a) if a corporation—to a penalty of not less than twenty pounds and not exceeding one hundred pounds;

(b) if any other person—to a penalty of not less than ten pounds and not exceeding fifty pounds or to imprisonment for a term not exceeding two months or to both such penalty and imprisonment.

No. 67, 1941.

Restrictions
on money-
lending
advertis-
ements.

*cf. S.A. Act
No. 59, 1940,
s. 28; Vict.
Act No.
4625, 1938,
s. 25; Imp.
Act 17 & 18
Geo. V,
c. 21, s. 5.*

26. (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 advertising particulars of the name, address, or telephone number of a money-lender or containing an invitation—

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

(2) No person shall publish or cause to be published in any newspaper, magazine, programme, handbill, or other printed paper issued for public circulation, or by wireless telegraphy, or by cinematograph, or by lantern slides, 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, in conformity with the requirements of section twenty-five of this Act, may be published by or on behalf of a money-lender in any newspaper, magazine, programme, or other printed paper aforesaid or by wireless telegraphy or by cinematograph or by lantern slide or by means of a poster or placard exhibited at any authorized address of the money-lender, if it contains no addition to the particulars necessary to comply with the said requirements, except any of the following particulars:—

- (a) any authorized address at which he carries on business as a money-lender and the telegraphic address and telephone number thereof;
- (b) any address at which he formerly carried on business as a money-lender;
- (c) a statement that he lends money with or without security, and of the highest and lowest sums that he is prepared to lend;
- (d) a statement showing in respect of any particular class of loans which he is prepared to make the amount of such loans, the amount of interest to be payable on such loans, the number of the instalments by which the loans and interest are repayable, the intervals between the successive payments of instalments and the class

class of security upon which he is prepared to No 67, 1941.
make such loans;

- (e) a statement of the date on which the business
carried on by him was first established.

(3) No money-lender or any person on his behalf
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
a money-lender, 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 money-lender any person desiring to
borrow money.

(4) No person shall issue or publish any document
which purports to indicate the terms of interest
upon which a money-lender is willing to make loans or
any particular loan unless the document either—

- (a) expresses the interest proposed to be charged
in terms of a rate per centum per annum; or
(b) shows the rate per centum per annum repre-
sented by the interest proposed to be charged as
calculated in accordance with the provisions of
the Schedule.

(5) Any person who contravenes or fails to
comply with any of the provisions of this section shall
be guilty of an offence against this Act and liable—

- (a) if a corporation—to a penalty of not less than
twenty pounds and not exceeding two hundred
pounds;
(b) if any other person—to a penalty of not less
than ten pounds and not exceeding fifty pounds
or to imprisonment for a term not exceeding
two months or to both such penalty and
imprisonment.

(6) Where it is shown that a money-lending
transaction entered into after the commencement of this
Act was brought about by a contravention of or failure
to comply with any of the provisions of this section
(whether the person offending has been convicted thereof
or not) the transaction shall, notwithstanding that the
money-lender was duly licensed, be illegal in so far
as it provides directly or indirectly for the payment of
any

No. 67, 1941. any interest, unless the money-lender proves that the contravention or failure occurred without his consent or connivance.

List of
share-
holders.

cf. S.A. Act
No. 59, 1940,
s. 27.

27. (1) Any money-lender being a company which consists of less than fifty persons shall cause to be displayed at all times in the main public office at the authorized address of the money-lender a statement showing the names of all the shareholders of the company, and the share holdings of all such shareholders.

(2) Any money-lender who contravenes the provisions of this section shall be guilty of an offence against this Act and shall be liable to a penalty not exceeding twenty pounds.

Prohibition
of compound
interest.

cf. Viet. Act
No. 4625,

1938, s. 26;

S.A. Act No.
59, 1940,
s. 29; Imp.
Act 17 & 18

Geo. V,
c. 21, s. 7.

28. Any contract made after the commencement of this Act for the loan of money by a money-lender shall be illegal in so far as it provides directly or indirectly for—

- (a) the payment of compound interest; or
- (b) any increase of interest by reason of any default in the payment of sums due under the contract, or by reason of any default in any other term or condition of 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 money-lender under the contract, whether in respect of principal or interest, the money-lender 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 Act as part of the interest charged in respect of the loan.

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

cf. Viet.

Act No.
4625, 1938,

s. 27; S.A.

Act No. 59,

1940, s. 31;

Imp. Act

17 & 18

Geo. V,

c. 21, s. 12.

29. (1) Any agreement entered into after the commencement of this Act between a money-lender and a borrower or intending borrower for the payment by the borrower or intending borrower to the money-lender of any sum for or on account of costs, charges, or expenses (other than stamp duties and fees payable to the Registrar-General and legal costs) incidental to or relating to the negotiations for or the granting of the loan or proposed loan or the guaranteeing or securing of the repayment thereof shall be illegal.

(2)

(2) It shall not be lawful for any money-lender No. 67, 1941. or his partner, employer, employee, principal, or agent or any person acting for or in collusion with any money-lender to charge, recover, or receive any sum as for or on account of any such costs, charges, or expenses (other than stamp duties and fees payable to the Registrar-General and legal costs) or any remuneration or reward whatsoever for or in connection with or preliminary to procuring, negotiating or obtaining any loan made after the commencement of this Act or guaranteeing or securing the repayment thereof.

(3) If any money or money's worth is directly or indirectly paid or allowed to or received by any person in contravention of this section, the amount or the value thereof to the extent of such contravention, and notwithstanding any contract to the contrary, may be recovered by the borrower from such person or if such person is the money-lender or a partner, employer, employee, principal, or agent of the money-lender or is in any way acting for or in collusion with him, may be set off against the amount actually lent (and that amount shall be deemed to be reduced accordingly) or may be recovered by the borrower from such person or from the money-lender.

30. (1) Where proceedings are taken in any court by a money-lender (or by the assignee or transferee or holder of a debt or security in respect of a loan by a money-lender) for the recovery of any money lent either before or after the commencement of this Act, or the enforcement of any contract or security made or taken either before or after the commencement of this Act in respect of money lent either before or after the commencement of this Act, and there is evidence which satisfies the court that—

- (a) the interest charged in respect of the sum actually lent is excessive; or
- (b) the amounts charged for expenses, inquiries, fines, bonus, premiums, renewals, or any other charges are excessive; or
- (c) the transaction is harsh and unconscionable; or
- (d) the transaction is otherwise such that a court of equity would give relief,

the

Reopening
of trans-
actions of
money-
lender.
cf. Act
No. 24,
1905, s. 1;
S.A. Act
No. 59,
1940, s. 32;
Vict. Act
No. 4625,
1938, s. 28.

No. 67, 1921. the court may—

- (i) re-open the transaction and take an account between the money-lender, assignee, transferee or holder aforesaid and the person sued; and
- (ii) notwithstanding any statement or settlement of account or any contract purporting to close previous dealings and create a new obligation, re-open any account in connection with the transaction; and
- (iii) 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, the value of any security, the time of repayment, the amount of the loan, and all the other circumstances, may adjudge to be reasonable; and
- (iv) if any such excess has been paid or allowed in account by the debtor, order the creditor or the money-lender to repay it; and
- (v) set aside, either wholly or in part, or revise or alter, any security given or contract made in connection with the transaction; and
- (vi) if the security has been parted with or the debt has been assigned, order the money-lender to pay to the borrower or person sued such sum by way of indemnity as the court may determine; and
- (vii) determine what costs (if any) shall be paid by any party to the proceedings to any other party, and order that such costs shall be paid.

(2) Any court in which proceedings might be taken for the recovery of money lent shall have and may, on the application of the borrower or surety or other person liable (or where such borrower, surety or other person is bankrupt, on the application of the Official Receiver or Trustee in bankruptcy), 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, notwithstanding any provision or contract to the contrary, to entertain any such application, notwithstanding that the time for repayment of the loan or any instalment thereof has not arrived.

(3)

(3) Where it appears to the court that any person other than the money-lender has shared in the profits of or has any beneficial interest, prospectively or otherwise, in the transaction, the court may cite that person as a party to the proceedings, and may make such order in respect to the said person as it deems fit. No. 67, 1941.

(4) No proceedings to obtain any relief under this section shall be taken after twelve months from the time when the transaction in respect of or in connection with which relief is sought was finally closed, but the legal personal representative of any deceased person who had entered into the transaction may take such proceedings at any time within two years thereafter.

(5) For the purposes of effectually carrying out this section, all such orders may be made and directions given by the court as it deems necessary or proper.

(6) Where the court re-opens a transaction of a money-lender under this section, the court may cause such particulars as the court thinks desirable to be endorsed on any licence held by the money-lender and a copy of the particulars to be sent to the clerk of the court of petty sessions by which the licence was issued and to the Commissioner of Police.

(7) (a) Any court hearing any proceedings referred to in this section (including proceedings upon an application made under subsection two of this section) shall, if so requested at any stage of the proceedings by any party appearing (being the borrower, surety or other person liable in respect of the loan) direct that the proceedings shall be held in camera.

(b) Such a direction shall not preclude a barrister or solicitor from being present at the proceedings for the purpose of reporting the case for the New South Wales State Reports or Weekly Notes.

(c) No report of the proceedings heard in camera shall be published which discloses the names or identity of any of the parties to any such proceedings. Any publication in contravention of this paragraph shall be punishable as contempt of the Supreme Court.

(8) The provisions of this section shall apply to any transaction which, whatever its form may be, is substantially one of money-lending by a money-lender.

No. 67, 1941.

**Assignment
of money-
lender's
debts and
securities to
a money-
lender to be
void.**

31. (1) Any assignment—

- (a) of a debt in respect of money lent by a money-lender, or in respect of interest on money so lent; or
- (b) of the benefit of any agreement made or security taken in respect of money so lent, or interest thereon,

shall if the assignment is made to a money-lender be void.

(2) Subsection one of this section shall not extend to—

- (a) an assignment made by a money-lender bona fide for the purpose of transferring to the assignee the whole of the business carried on by the assignor as a money-lender at an authorized address;
- (b) an assignment by operation of law, or in consequence of the death of a money-lender;
- (c) an assignment made by a composition and deed of arrangement to which Part XI of the Bankruptcy Act, 1924 (Commonwealth of Australia), as amended by subsequent Acts applies; or an assignment made by a deed of arrangement to which Part XII of the said Act as so amended applies, or an assignment to a trustee under or in pursuance of a composition or scheme of arrangement approved under section seventy-one of the said Act as so amended.

**Obligation
of money-
lender to
supply in-
formation
as to state
of loan.
cf. Vict.
Act No.
4625, 1938,
s. 30; S.A.
Act No. 59,
1940, s. 33;
Imp. Act 17
& 18, Geo.
V, c. 21,
s. 8.**

32. (1) In respect of every contract, whether made before or after the commencement of this Act, for the repayment of money lent by a money-lender, the money-lender 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 of one shilling 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 money-lender 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;

(b)

- (b) the amount of any payment already received by the money-lender in respect of the loan and the date on which it was made;
- (c) the amount of every sum due to the money-lender, 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.

(2) A money-lender shall, on any reasonable demand in writing by the borrower, 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, and the borrower shall pay therefor the sum of two shillings.

(3) If a money-lender 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 money-lender shall be guilty of an offence against this Act and liable to a penalty not exceeding five pounds for every day on which the default continues.

33. (1) Where any debt in respect of money lent by a money-lender whether before or after the commencement of this Act or in respect of interest on any such debt or the benefit of any contract made or security taken in respect of any such debt 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—

Notice and information to be given on assignment of money-lender's debts.
cf. Vict.
Act No. 4625,
1938, s. 31;
S.A. Act No.
59, 1940,
s. 34; Imp.
Act 17 & 18,
Geo. V,
c. 21, s. 16.

- (a) give to the assignee notice in writing that the debt, contract, or security is affected by the operation of this Act; and

(b)

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(b) supply to the assignee all information necessary to enable him to comply with the provisions of this Act 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 of or failing to comply with any of the provisions of this section shall be liable to indemnify any other person who is prejudiced by the contravention, and shall also be guilty of an offence against this Act and liable—

- (i) if a company—to a penalty of not less than one hundred pounds and not exceeding three hundred pounds;
- (ii) if any other person—to a penalty of not less than fifty pounds and not exceeding two hundred pounds or to imprisonment for a term not exceeding twelve months or to both such penalty and imprisonment.

(2) In this section “assigned” means assigned by an assignment other than an assignment by operation of law or in consequence of death, and the expressions “assignor” and “assignee” have corresponding interpretations.

Application of Act as respects assignee.
cf. Vict. Act No. 4625, 1938, s. 32; S.A. Act No. 59, 1940, s. 35; Imp. Act 17 & 18, Geo. V, c. 21, s. 17.

34. (1) The provisions of this Act shall continue to apply as respects any debt to a money-lender in respect of money lent by him after the commencement of this Act or in respect of interest on money so lent or of the benefit of any contract made or security taken in respect of any such debt or interest, notwithstanding that the debt or the benefit of the contract or security is assigned to any assignee and, except where the context otherwise requires, any reference in this Act to a money-lender shall accordingly be construed as including a reference to any such assignee as aforesaid:

Provided that—

- (a) notwithstanding anything in this Act—

- (i) any contract with, or security taken by, a money-lender in respect of money lent by him after the commencement of this Act shall be valid in favour of any bona fide assignee or holder for value without

without notice of any defect due to the **No. 67, 1941.**
operation of this Act and of any person
deriving title under him; and

- (ii) 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 contract or security, without notice of any such defect shall, in favour of that person, be as valid as it would have been if the contract or security had been valid,

but in every such case the money-lender 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 a contract or security in favour of, or apply to proceedings commenced by, an assignee or holder for value who is himself a money-lender; and

- (b) for the purposes of this Act the provisions of section one hundred and sixty-four of the Conveyancing Act, 1919, as amended by subsequent Acts, shall apply as if the expression "purchaser" included a person making any such payment or transfer as aforesaid.

(2) Nothing in this section shall render valid for any purpose any contract, security, or other transaction which would, apart from the provisions of this Act, have been void or unenforceable.

(3) The Conveyancing Act, 1919, as amended by subsequent Acts, is amended by omitting section one hundred and sixty-six:

Provided that the said section shall continue in force as respects any agreement with or security taken by a money-lender before the commencement of this Act, or any payment or transfer of money or property made, whether before or after the commencement of this Act, on the faith of the validity of any such agreement or security.

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Persons
sending
infants
circulars
inviting to
borrow
money
guilty of a
misde-
meanour.
cf. Act No.
24, 1905,
s. 5.

35. (1) If anyone, for the purpose of earning interest, commission, reward, or other profit, sends or causes to be sent to a person who is an infant any circular, notice, advertisement, letter, telegram, or other document which invites, or may reasonably be implied to invite the person receiving it to borrow money, or to apply to any person or at any place with a view to obtaining information or advice as to borrowing money, he shall be guilty of a misdemeanour, and shall be liable, if convicted on indictment, to imprisonment, with or without hard labour, for a term not exceeding three months, or to a fine not exceeding one hundred pounds or to both imprisonment and fine, and if convicted on summary conviction, to imprisonment, with or without hard labour, for a term not exceeding one month, or to a fine not exceeding twenty pounds, or to both imprisonment and fine.

(2) If any such document as above in this section mentioned sent to an infant purports to issue from any address named therein, or indicates any address as the place at which application is to be made as to the subject matter of the document, and at that place there is carried on any business connected with loans, whether making or procuring loans or otherwise, every person who attends at such place for the purpose of taking part in, or who takes part in or assists in the carrying on of such business shall be deemed to have sent or caused to be sent such document as aforesaid, unless he proves that he was not in any way a party to and was wholly ignorant of the sending of such document.

(3) Where in any proceedings under this section it is proved that the person to whom the document was sent was an infant, the person charged shall be deemed to have known that the person to whom the document was sent was an infant, unless he proves that he had reasonable ground for believing the infant to be of full age.

Soliciting
infant to
make
affidavit in
connection
with loan.
cf. *Ibid.*
s. 6

36. If anyone, except under the authority of any court, solicits an infant to make an affidavit or statutory declaration for the purpose of or in connection with any loan, he shall be liable, if convicted on summary conviction, to imprisonment with or without hard labour for a term not exceeding one month, or to a fine not exceeding twenty pounds, or to both imprisonment and fine, and if convicted

convicted on indictment, to imprisonment, with or without hard labour, for a term not exceeding three months, or to a fine not exceeding one hundred pounds, or to both imprisonment and fine.

37. If any infant, who has contracted a loan which is void or voidable in law, agrees after he comes of age to pay any money which in whole or in part represents or is agreed to be paid in respect of any such loan, and is not a new advance, such agreement and any instrument, negotiable or other, given in pursuance of or for carrying into effect such agreement or otherwise in relation to the payment of money representing or in respect of such loan shall, so far as it relates to money which represents or is payable in respect of such loan, and is not a new advance, be void absolutely as against all persons whomsoever.

38. (1) No assignment to a money-lender, whether absolute or by way of security or otherwise howsoever, made by any person (hereinafter in this section called the grantor) of or in respect of all or any part of his right, title, or interest whether actual or expectant, in possession, remainder, reversion, or contingency, or of any nature whatsoever, in or under any will, codicil, or deed or in, under, or to the estate of any deceased person, whether the decease of the last-mentioned person was before or after the making of the assignment or before or after the commencement of this Act, shall be of any force or validity unless the assignment is in writing and is executed by the grantor in the presence of a chamber magistrate, clerk of petty sessions, or a solicitor instructed and employed independently of the money-lender and is certified by such magistrate, clerk of petty sessions or solicitor as provided in subsection two of this section.

(2) The magistrate, clerk of petty sessions or solicitor—

- (a) shall read over and explain, or cause to be read over and explained in his presence, to the grantor the assignment; and
- (b) shall examine the grantor touching his knowledge of the assignment; and
- (c) if he thinks fit may so examine him separately and apart from any other person; and
- (d)

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(d) if he is satisfied that the grantor understands the true purport and effect thereof and freely and voluntarily executes the same, shall certify in writing upon the assignment that the assignment has been so read over and explained, and that he has examined the grantor and is satisfied as hereinbefore required, and that the grantor has executed the assignment in his presence.

(3) This section shall not apply to any assignment made only for the purpose of vesting property in the person entitled thereto under or by virtue of the provisions of a will, codicil, or deed, or in a person entitled thereto as part of the estate of a deceased person, or to any assignment made by any person to whom any such property as aforesaid has been actually conveyed, assigned, or transferred.

(4) In this section—

“assignment” means any assignment, assurance, sale, mortgage, lien, charge, conveyance, transfer, or declaration of trust, and any contract, agreement, or arrangement for assignment, assurance, sale, mortgage, lien, charge, conveyance, transfer, or declaration of trust, and any power of attorney, appointment of agency, licence, or power to receive, or other authority of a like nature;

“deed” means any instrument (other than a will or codicil) whether under seal or not, whereby any property is settled, appointed, given, or declared to be held in trust, or is agreed to be settled, appointed, given or held in trust.

39. (1) Where a bill of sale has been given to a money-lender, either before or after the commencement of this Act, by way of security for the repayment of money lent by him either before or after the commencement of this Act, or for the payment of interest on money so lent, the grantee or holder of such bill of sale shall not, except upon leave granted by a court of petty sessions pursuant to this section, seize or otherwise take possession of or sell any personal chattels which are comprised in or made subject to the bill of sale and which consist of household furniture or effects, tools of trade, wearing apparel, boots or shoes.

(2)

*Limitation
on right of
money-lender
to seize and
sell certain
chattels
under a bill
of sale.*

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(2) Application for leave of the court of petty sessions to seize or take possession of or sell any such personal chattels may be made on summons which shall be served on all persons affected by the application at least seven clear days before the day appointed for the hearing of the application.

(3) In dealing with any such application the court of petty sessions may in its absolute discretion—

- (a) grant leave to the applicant, upon such terms and conditions (if any) as the court thinks fit, to seize and/or sell the personal chattels in respect of which the leave is sought, or such portion thereof as the court may specify; or

- (b) refuse the application:

Provided that the court of petty sessions shall not grant any such leave unless it is satisfied that, having regard to the nature of the money-lending transaction in respect of which the bill of sale was given and all circumstances relevant to that transaction, including the conduct of the money-lender and of the borrower and of the person by whom the bill of sale was made or given, it would be unjust and inequitable to refuse such leave.

(4) Where leave to sell personal chattels is granted by a court of petty sessions under this section, the following provisions shall apply:—

- (a) the applicant to whom the leave was granted shall cause the personal chattels to be sold by public auction;
- (b) the commission payable to the auctioneer shall in no case exceed an amount calculated at the rate of ten pounds per centum of the sum realised by the sale of the personal chattels;
- (c) the person who made or gave the bill of sale in which the personal chattels are comprised may give written directions to the auctioneer as to the order in which the articles to be sold shall be offered for sale, and the auctioneer shall comply with such directions;
- (d) the auctioneer shall, within three days after the sale, deliver, or cause to be delivered, to the person who made or gave the bill of sale in which the personal chattels are comprised,

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a full and true account in writing of the sale. Such account shall be in or to the effect of the form prescribed and shall be signed by the auctioneer;

- (e) an auctioneer shall not conduct any such sale if he holds any interest in the business of a money-lender or if a money-lender holds any interest in the business of the auctioneer otherwise than as a shareholder and in common with the shareholders of a company which is licensed as an auctioneer and which consists of not less than fifty persons;
- (f) the auctioneer and the person to whom leave to sell the personal chattels has been granted by the court of petty sessions shall comply with the terms and conditions (if any) imposed by such court in granting the leave, and shall comply with any regulations made under this Act in relation to any such sale and the disposal of the proceeds thereof.

(5) Without prejudice to the generality of subsection three of this section, a court of petty sessions may, in granting any leave to sell personal chattels under this section, impose any or all of the following conditions:—

- (a) that the sale shall be conducted by an auctioneer named by the court;
- (b) that the sale shall be held at such time and place as the court may direct;
- (c) that notice of the time and place at which such sale shall be held and of the articles to be offered for sale shall be given in such manner as the court may direct;
- (d) that the articles or any particular article specified by the court shall not be sold at a price lower than that fixed by the court in granting the leave;
- (e) that particulars of the sale, including an account in or to the effect of the prescribed form of the proceeds of the sale and of the disposal thereof shall be furnished to the court at such times as the court may direct.

(6)

(6) A court of petty sessions, in granting any leave to sell personal chattels under this section, may determine the amount which shall be payable by the person who made or gave the bill of sale in respect of the expenses involved in removing such personal chattels to the place at which they are to be sold.

(7) Any person who contravenes or fails to comply with any of the provisions of this section, or who, in the purported exercise of any leave granted by a court of petty sessions under this section, contravenes or fails to comply with any condition imposed by the court in granting such leave, shall be guilty of an offence against this Act, and shall be liable—

- (a) if a company—to a penalty of not less than twenty pounds and not exceeding two hundred pounds;
- (b) if any other person—to a penalty of not less than ten pounds and not exceeding one hundred pounds, or to imprisonment for a term not exceeding two months or to both such penalty and imprisonment.

(8) This section shall not apply to or in respect of personal chattels which are comprised in or made subject to a trader's bill of sale, and which are owned and used or intended to be used by the trader in or in connection with the business in which he is engaged or about to engage as a trader.

In this subsection the expressions "trader" and "trader's bill of sale" shall have the meanings respectively ascribed to those expressions in the Bills of Sale Act, 1898-1938.

(9) The provisions of section 4c of the Bills of Sale Act, 1898-1938, shall not apply to or in respect of any personal chattels to which this section applies.

40. (1) Unless specially authorized by a court of petty sessions which has, pursuant to section thirty-nine of this Act, granted leave to a money-lender to seize or take possession of personal chattels, a money-lender or a person acting on behalf of a money-lender shall not, for the purpose of seizing or taking possession of any personal chattels.

No. 67, 1941. personal chattels whatsoever comprised in or made subject to a bill of sale which was made or given to the money-lender either before or after the commencement of this Act by way of security for the repayment of money lent by him either before or after such commencement or of interest on money so lent, break open or forcibly enter any dwelling-house, or enter any premises between the hours of sunset and sunrise.

(2) Any person who contravenes any of the provisions of this section shall be guilty of an offence, and shall be liable—

- (a) if a company—to a penalty of not less than twenty pounds and not exceeding two hundred pounds;
- (b) if any other person—to a penalty of not less than ten pounds and not exceeding one hundred pounds, or to imprisonment for a term not exceeding two months, or to both such penalty and imprisonment.

Attempt
to
defraud.

41. Every person who, by the disposal or sale of any personal chattels comprised in a bill-of-sale given to a money-lender by way of security for the repayment of money lent by him or for the payment of interest on money so lent, or by the removal of such personal chattels or any of them, or by any other means, defrauds or attempts to defraud the grantee or holder of the bill-of-sale, shall be guilty of an offence and shall be liable to a penalty not exceeding fifty pounds or to imprisonment for a term not exceeding three months.

Penalties
for false
statements
and repre-
sentations.
cf. Act No.
24, 1905,
s. 4; Viet.
Act No.
4625, 1938,
s. 34;
S.A. Act No.
59, 1940,
s. 38.

42. If any money-lender or any manager, agent, or clerk of a money-lender, or if any person being a director, manager, or other officer of any company carrying on the business of a money-lender, by any false, misleading, or deceptive statement, representation, or promise, or by any dishonest concealment of material facts, 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, he shall be guilty of a misdemeanour and shall be liable on indictment to imprisonment for a term not exceeding two years, or to a penalty not exceeding five hundred pounds, or to both such penalty and imprisonment.

43.

43. (1) All loans made by a money-lender purporting No. 67, 1941.
 to be loans of money shall be made in current money, Method of
 bank notes, or cheques on bankers and shall be made in making
 full without any deduction for interest or otherwise, and loan.
 no land, goods or articles of any kind whatever or things
 in action shall be given or supplied in or by way of barter
 or otherwise for or as part of any such loan.

This subsection shall not be construed so as to prevent
 a money-lender deducting from any loan of money any
 sum lawfully agreed to be paid in accordance with the
 provisions of this Act on account of stamp duty or on
 account of fees payable to the Registrar-General or on
 account of legal costs.

(2) Every contract made or transaction entered
 into or performed in breach of or with intent to evade
 or avoid this section in respect of a loan shall to the
 extent of such breach, evasion, or avoidance be and be
 deemed to be null and void.

PART IV.

MISCELLANEOUS.

44. (1) The provisions of this Act shall have effect Contracting
 notwithstanding any stipulation to the contrary whether out
 made before or after the commencement of this Act. prohibited.

(2) No contract or agreement made or entered
 into either before or after the commencement of this Act
 shall operate to annul or vary or exclude any of the pro-
 visions of this Act or to prevent any court from exercising
 any power under this Act.

45. (1) For the purpose of ascertaining whether the Inspection
 provisions of this Act are being or have been complied of docu-
 with by any money-lender, the Commissioner of Police ments, etc.
 or any member of the police force of or above the cf. Vict. Act
 rank of sergeant authorized in writing in that behalf No. 4625,
 by the Commissioner of Police, may enter any premises 1938, s. 36;
 where the business of the money-lender is being S.A. Act No.
 carried on and may demand the production of and 59, 1940,
 inspect any books, accounts, documents, securities, or s. 41.
 writings relating to any loan made by the money-lender
 or relating to his business as a money-lender, and may
 take notes, copies or extracts thereof or therefrom.

(2)

No. 67, 1941.

- (2) Any person who—
- (a) wilfully delays or obstructs the Commissioner of Police or any member of the police force authorized as aforesaid in the exercise of his powers under this section;
 - (b) refuses or fails to produce or conceals or attempts to conceal any such books, accounts, documents, securities, or writings;
 - (c) being the money-lender or a director, manager, or other officer or employee of the money-lender, refuses or fails to answer any question relating to such books, accounts, documents, securities, or writings, or gives any untruthful answer to any such question,

shall be guilty of an offence against this Act and liable to a penalty of not less than twenty pounds and not exceeding one hundred pounds.

Special provisions as to companies.
cf. Viet. Act No. 4625, 1938, s. 37; S. A. Act No. 59, 1940, s. 42.

46. (1) Where any notice or application is by or under this Act authorized or required to be given or made by any person in connection with a licence the same may, in the case of a company, be given or made by the company under its common seal or by the person appointed by the company to take out a licence on its behalf.

(2) Where a person who is guilty of an offence against this Act is a company, any person being a chairman, member of the governing body, director, manager, secretary, or officer of the company, or any person who is the holder of a licence on behalf of the company, shall be deemed to have committed the like offence and be liable to the pecuniary penalty or imprisonment or both provided by this Act in the case of such an offence by a person other than a company accordingly, unless he proves that the act or omission constituting the offence took place without his knowledge or consent.

(3) Where a person who is guilty of an offence against this Act is the holder of a licence on behalf of a company, the company and any person being a chairman, member of the governing body, director, manager, secretary, or officer of the company shall be deemed to have committed the like offence and be liable to the pecuniary penalty or imprisonment or both provided by this

this Act in the case of such offence by a company or (as No. 67, 1941.
the case requires) by a person other than a company
accordingly, unless he proves that the act or omission
constituting the offence took place without his knowledge
or consent.

47. Any person (whether a money-lender or not) who Advertise-
in any newspaper or other printed paper, issued period-
ically for public circulation, advertises that he is willing to loan.
enter into any transaction involving the lending of money cf. S.A. Act
shall be liable to a penalty not exceeding five pounds No. 59, 1940,
unless his true name in full and his address are included s. 43.
in the advertisement.

48. All proceedings for offences against this Act or Proceedings,
the regulations shall unless otherwise provided in this for offences.
Act be disposed of summarily before a court of petty cf. *Ibid.*
sessions. s. 44.

49. (1) A certificate purporting to be signed by the Evidence of
Commissioner of Police, and stating that, at the date men-
tioned therein, the person named therein was licensed as licence.
a money-lender shall in all courts and before all persons
be prima facie evidence that that person was, at the
date mentioned, a money-lender within the meaning of
this Act. cf. *Ibid.* s. 45.

(2) A certificate purporting to be signed by the
Commissioner of Police, and stating that, at the date
mentioned therein, the person named therein was not
licensed as a money-lender shall in all courts and before
all persons be prima facie evidence of the truth of that
statement.

(3) Where in any proceedings under this Act or cf. Viet. Act
the regulations against any person it is alleged that No. 4625,
such person is not the holder of a licence, it shall, in the
absence of proof to the contrary, be presumed that such
person is not the holder of a licence. 1938, s. 39.

50. (1) (a) Any order for the payment of money Enforce-
(including an order for the payment of costs) made under ment of
this Act by a court of petty sessions shall operate as orders
an order for the payment of money under the Small Debts for
Recovery Act, 1912, as amended by subsequent Acts, and payment
shall be enforceable as such under the provisions of that
Act. of money.

(b)

No. 67, 1941.

(b) The order may be entered in the records of such court exercising jurisdiction under that Act as is named in the order, or if no such court is so named, in the records of any court exercising such jurisdiction within the district in which the order was made.

(2) Any order for the payment of money (including an order for the payment of costs) made under this Act by a court other than a court of petty sessions shall operate as a judgment of that court and shall be enforceable accordingly.

Regulations. **51.** (1) The Governor may make regulations for or cf. Vict. Act with respect to—

No. 4625,
1938, s. 40;
S.A. Act No.
59, 1940,
s. 46.

- (a) the procedure to be followed in applications for licences and duplicate licences and in taking out licences and in applications for the transfer of licences and for substitutions of new authorized addresses and for endorsements of licences and the notices to be given of intention to make such applications;
- (b) the books or records to be kept by the Commissioner of Police and by clerks of petty sessions for the purposes of this Act and the entry therein of particulars with respect to licences and duplicate licences and the transfer of licences and the substitution of new authorized addresses and the endorsement of licences and the suspension and cancellation of licences and the disqualification of licensees, and any other matters or things relating to such books, records, and entries;
- (c) the inspection of such entries;
- (d) forms to be used under this Act (and such forms or forms to the like effect shall be sufficient in law);
- (e) prescribing penalties, not exceeding fifty pounds, for any contravention of or failure to comply with the regulations; and
- (f) generally, prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or expedient to be prescribed for carrying out or giving effect to this Act.

(2)

(2) Such regulations shall— **No 67, 1941.**

- (a) be published in the Gazette;
 - (b) take effect from the date of such publication or from a later date to be specified in the regulations; and
 - (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

SCHEDULE.

Calculation of Interest where the Interest charged on a Loan is not expressed in Terms of a Rate. Sects. 3 (3),
22, 26.

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 subsection three of section three of this Act.

2. The several amounts taken to be outstanding by way of principal during the several periods ending on the 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 two 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 a case the foregoing paragraphs shall have effect as though in paragraph two the word "weeks" were substituted for the words "calendar months," and in paragraph three the words "one fifty-second" were substituted for the word "one-twelfth."

5. Where 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).