

**MONEY-LENDERS AND INFANTS LOANS
(AMENDMENT) ACT.**

New South Wales



ANNO VICESIMO SECUNDO

ELIZABETHÆ II REGINÆ

Act No. 85, 1973.

An Act to make further provisions with respect to the licensing of persons as money-lenders under the Money-lenders and Infants Loans Act, 1941, and the regulation of money-lending advertisements; for this and other purposes to amend that Act; and for purposes connected therewith. [Assented to, 20th December, 1973.]

BE

Money-lenders and Infants Loans (Amendment).

No. 85, 1973 **BE** it enacted by the Queen'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:—

Short title. **1.** This Act may be cited as the "Money-lenders and Infants Loans (Amendment) Act, 1973".

Amendment of Act No. 67, 1941. **2.** The Money-lenders and Infants Loans Act, 1941, is amended—

Sec. 3. (Interpretation.) (a) (i) by omitting from the definition of "Money-lender" in section 3 (1) the words "includes every person whose business (whether or not he carries on any other business) is that of money-lending, or who advertises or announces himself or holds himself out in any way as carrying on that business, or who from time to time lends money at a rate of interest exceeding ten per centum per annum" and by inserting instead the words "means every person whose business (whether or not he carries on any other business) is that of money-lending at a rate of interest exceeding twelve per centum per annum, or who advertises or announces himself or holds himself out in any way as carrying on that business,";

(ii) by omitting paragraph (ei) of the same definition;

Sec. 3B. (Application of Parts II and III excluded in certain circumstances.) (b) (i) by omitting from section 3B (1) the word "twenty-one" and by inserting instead the matter "26 (2)";

(ii)

Money-lenders and Infants Loans (Amendment).

- (ii) by omitting from section 3B (1) (d) the word "Australia" and by inserting instead the following words and new paragraph :—

Australia; or

- (e) a loan made by a corporation that, by virtue of section 38 (7) (c) (i) of the Companies Act, 1961, is a prescribed corporation as defined in section 38 (7) of that Act.

- (iii) by inserting after section 3B (1) the following subsection :—

(1A) Notwithstanding any other provision of this Act, a person is not, by reason only of his making any loan of a class referred to in subsection (1) or executing any contract, security or guarantee in relation thereto (not being a loan of a class specified in an order made under subsection (2) or a contract, security or guarantee in relation to a loan of a class so specified), required to be the holder of a licence.

3. The Money-lenders and Infants Loans Act, 1941, is further amended—

Further amendment of Act No. 67, 1941.

- (a) (i) by omitting from the definitions of "Authorized name" and "authorized address" in section 3 (1) the words "the address" and by inserting instead the words "any address";
- (ii) by inserting in the same definitions after the word "substituted" the words "or additional new";

(b)

*Money-lenders and Infants Loans (Amendment).***No. 85, 1973**

Sec. 5.
(Applications for licences.)

- (b) by omitting from section 5 (1) the words "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 Central Court of Petty Sessions, Sydney" and by inserting instead the words "place of business, or the proposed place of business, of the applicant or, where the applicant carries on or proposes to carry on business at more than one place, the principal place of business, or proposed principal place of business, of the applicant";

Sec. 7.
(Form and duration of licences.)

- (c) (i) by inserting in section 7 (1) (e) after the word "address" the words "or addresses";
- (ii) by omitting section 7 (2) (b) (iv);
- (iii) by omitting from section 7 (4) (b) the words "his authorized address" and by inserting instead the words "an authorized address shown in his licence";

Sec. 8.
(Transfer, etc., of licence.)

- (d) (i) by omitting from section 8 (1) the words "authorized address or (as the case requires) proposed new authorized address" and by inserting instead the words "place of business, or proposed place of business, of the applicant or, where the applicant carries on or proposes to carry on business at more than one place, the principal place of business, or proposed principal place of business, of the applicant";
- (ii) by omitting from section 8 (1) (b) the words "the authorized" and by inserting instead the words "any authorized";

(iii)

Money-lenders and Infants Loans (Amendment).

(iii) by inserting after section 8 (1) (b) the No. 85, 1973 following paragraph :—

(b1) for the addition of a new authorized address to the authorized address or addresses shown in his licence—order the endorsement of a new authorized address on the licence;

(iv) by omitting from section 8 (3) the words “substitution of a new authorized address,” and by inserting instead the words “substitution or addition of a new authorized address or the substitution of”;

(e) (i) by omitting from section 9 (1) (a) the words “nearest to the authorized address of the deceased money-lender” wherever occurring and by inserting instead the words “which ordered the issue of the licence or the last renewal thereof, as the case may be, or, if that court has been abolished, to the court of petty sessions to which the records of the court which ordered the issue of the licence or the last renewal thereof have been transferred”;

Sec. 9.
(Power to executors, trustees, etc., to carry on business in case of death, etc., of licensee.)

(ii) by omitting from section 9 (1) (b) the words “nearest to the authorized address of the money-lender” and by inserting instead the words “which ordered the issue of the licence or the last renewal thereof, as the case may be, or, if that court has been abolished, to the court of petty sessions to which the records of the court which ordered the issue of the licence or the last renewal thereof have been transferred”;

(f) (i) by omitting from section 10 the words “the authorized address” and by inserting instead the words “an authorized address”;

Sec. 10.
(Notice of applications to be given by clerk of court.)

(ii)

Money-lenders and Infants Loans (Amendment).

- No. 85, 1973** (ii) by inserting in section 10 after the word "licence" where thirdly occurring the words "or for the addition of a new authorized address to the authorized address or addresses shown in a licence";
- Sec. 11.**
(Objections to applications.) (g) (i) by omitting from section 11 (1) the words "the authorized address" and by inserting instead the words "an authorized address";
(ii) by inserting in section 11 (1) after the word "licence" where thirdly occurring the words "or for the addition of a new authorized address to the authorized address or addresses shown in a licence";
- Sec. 17.**
(Record of licences, etc.) (h) (i) by inserting in section 17 (1) after the word "substitutions" the words "or additions";
(ii) by inserting in section 17 (1) after the matter "(b)" the matter "(b1)";
- Sec. 18.**
(Transmission of records to Commissioner of Police.) (i) (i) by inserting in section 18 (1) after the word "substitutions" the words "or additions";
(ii) by inserting in section 18 (1) after the matter "(b)" the matter "(b1)";
- Sec. 19.**
(Fees.) (j) (i) by inserting after section 19 (1) (f) the following paragraph :—
(f1) for each addition of a new authorized address to the authorized address or addresses shown in a licence—\$50;
(ii) by inserting at the end of section 19 the following subsection :—
(3) Where a licence referred to in subsection (1) (a), (b), (c) or (d) authorizes the carrying on of business at more than one authorized address—
(a) except as provided in paragraph (b), an additional fee of \$50; or
(b)

Money-lenders and Infants Loans (Amendment).

(b) if the licence is a renewal of a licence, No. 85, 1973
an additional fee of \$20,

shall be payable in respect of every authorized
address in excess of one.

(k) by omitting from section 25 (1) (b) the words "his authorized address" and by inserting instead the words "each authorized address shown in his licence";

Sec. 25.
(Use of
authorized
name by
money-
lenders.)

(l) by omitting from section 27 (1) the words "the authorized address" and by inserting instead the words "each authorized address".

Sec. 27.
(List of
share-
holders.)

4. The Money-lenders and Infants Loans Act, 1941, is further amended—

Further
amendment
of Act No.
67, 1941.

(a) by omitting from section 26 (1) the words "from a money-lender" wherever occurring;

Sec. 26.
(Restrictions
on money-
lending
advertisements.)

(b) by inserting after section 26 (1) the following subsection :—

(1A) Nothing in subsection (1) applies to or in respect of a circular containing an invitation—

(a) to borrow money;

(b) to enter into any transaction involving borrowing of money; or

(c) to apply to any place with a view to obtaining information or advice as to borrowing any money,

from a person referred to in paragraph (a), (b), (b1), (b2), (b3), (c), (d), (e) or (f) of the definition of "Money-lender" in section 3 (1).

(c)

Money-lenders and Infants Loans (Amendment).

No. 85, 1973

- (c) by omitting from section 26 (2) the words “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” and by inserting instead the words “an advertisement showing the authorized name of a money-lender or the name of a person making any such invitation in uniform lettering and in such manner as to be not less conspicuous than any other name in that advertisement may be published”;
- (d) by omitting from section 26 (2) the words “any authorized address of the money-lender, if it contains no addition to the particulars necessary to comply with the said requirements” and by inserting instead the words “any place of business of the money-lender or person making the invitation if it contains no addition”;
- (e) by omitting from section 26 (2) (a) the word “authorized”;
- (f) by omitting from section 26 (2) (a) and (b) the words “as a money-lender” wherever occurring;
- (g) by omitting section 26 (2) (c) and by inserting instead the following paragraph :—
- (c) a statement of the highest and lowest loans which he is prepared to make or arrange and whether or not security for the loans may be required;
- (h) by inserting in section 26 (2) (d) after the word “make” wherever occurring the words “or arrange”.

Money-lenders and Infants Loans (Amendment).

5. The Money-lenders and Infants Loans Act, 1941, is **No. 85, 1973** further amended—

Further
amendment
of Act No.
67, 1941.

- (a) by omitting from section 7 (4) (c) the word **Sec. 7.** “name,” and by inserting instead the following words and paragraph :— (Form and duration of licences.)

name; or

- (d) being a company, fails within three months after the death of the person licensed on its behalf or after the person licensed on its behalf becomes a mentally ill person, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, to procure the transfer of the licence held on its behalf to another person,”;

- (b) by inserting after section 9 the following section :— **Sec. 9A.**

9A. A company shall not, by reason only of— **Effect of death or incapacity of licensee on behalf of company.**

- (a) the death of the person holding the licence on its behalf; or

- (b) the person holding the licence on its behalf becoming a mentally ill person, a protected person or an incapable person within the meaning of the Mental Health Act, 1958,

cease to be the holder of a licence unless it fails to comply with section 7 (4) (d).

6.

Money-lenders and Infants Loans (Amendment).

No. 85, 1973 6. Every proclamation made under section 3 (2) of the
Revocation of proclama- Money-lenders and Infants Loans Act, 1941, before the
tions under section 3 (2) commencement of this Act is hereby revoked.
of Money-lenders and
Infants Loans
Act, 1941.