

**3** After section twenty-one of the Principal Act the following section is inserted:—

Water mains  
in building  
estates, &c.

“21A For the purpose of subsection (2) of section four hundred and sixty-seven of the *Local Government Act 1962*—

- (a) the corporation shall be deemed to be the owner of the waterworks; and
- (b) the by-laws of the Commission in respect of the waterworks shall be deemed to be the by-laws of the corporation.”

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## LENDING OF MONEY.

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### No. 45 of 1963.

AN ACT to amend the *Lending of Money Act 1915*.  
[20 September 1963.]

**BE** it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

Short title  
and citation.

**1**—(1) This Act may be cited as the *Lending of Money Act 1963*.

(2) The *Lending of Money Act 1915*, as subsequently amended, is in this Act referred to as the Principal Act.

Money-lender  
not to  
recover  
money lent,  
&c., unless  
registered.

**2** Section twelve of the Principal Act is amended by omitting from subsection (1) thereof the word “No” and substituting therefor the words “Subject to section thirteen A, no”.

Form of  
money-  
lenders’  
contracts.

**3** Section thirteen of the Principal Act is amended—

- (a) by omitting from subsection (1) thereof the word “No” and substituting therefor the words “Subject to section thirteen A, no”; and
- (b) by omitting from paragraph (b) of that subsection the words “a copy thereof is delivered to or sent” and substituting therefor the words “the money-lender sends or delivers a copy thereof, or causes a copy thereof to be sent or delivered, to the borrower”.

**4** After section thirteen of the Principal Act the following section is inserted:—

"13A—(1) The provisions of this section apply to any loan, contract, or transaction that, whatever its form may be, is substantially one of money-lending by a money-lender (whether made or entered into before or after the date of the commencement of this section), but do not apply to—

- (a) such a loan, contract, or transaction in respect of which proceedings in any court for the recovery or enforcement thereof have been taken or commenced before that date; or
- (b) any contract of guarantee entered into or given in respect of a loan to which the provisions of this section do not apply.

"(2) Notwithstanding any other provision of this Act, in any proceedings relating to a loan, contract, or transaction to which this section applies taken in any court wherein it is established that—

- (a) at the date of the making of the loan, or, as the case may be, of the entering into of the contract or transaction, the money-lender had neglected or failed to become registered as a money-lender under this Act; or
- (b) the money-lender neglected or failed to comply, or to ensure compliance by any other person, with the requirements of section thirteen,

the court, if it is satisfied that the money-lender, in the circumstances at the date of the making of the loan or of the entering into of the contract or transaction, or of the taking or giving of the security or guarantee in respect of the loan, contract, or transaction, was acting honestly and ought fairly to be excused for his neglect or failure, may, in giving judgment or making any order pertaining to those proceedings, impose such conditions and give such directions as it may consider just and equitable.

"(3) Without limiting the generality of its powers under subsection (2) of this section, the court may do all or any of the following things, namely:—

- (a) Exercise in relation to any loan, contract, or transaction to which this section applies the like powers as it may exercise under subsection (2) of section two in relation to loans to which that section applies;
- (b) Confirm or declare to be valid and enforceable in whole or in part as from the date specified in the judgment or order any contract for repayment of money lent or any security given in respect of any such contract or guarantee given with respect thereto and vary, alter, or amend any covenant, condition, or agreement contained in such a contract, security, or guarantee;
- (c) Relieve the borrower or guarantor from, or impose on the borrower or guarantor, the obligation to repay the whole or part of the amount of the

Certain unenforceable contracts, &c., to be enforceable.  
Cf. No. 67 of 1941 (N.S.W.), s. 30A.  
7 Geo. V No. 13 (Q'ld), s. 4c.

principal of the loan with interest at the rate specified in the judgment or order or without interest, and make such orders relating to the other obligations of the guarantor as the court deems fit;

- (d) Postpone for such period as it thinks fit the time for the repayment of the loan and the time before which the security or guarantee shall not be enforced, and order any such repayment to be made with interest at the rate specified in the judgment or order or without interest by such instalments, at such intervals, or in such amounts as the court may direct; and
- (e) Make any further order incidental or ancillary to any judgment or order of the court, or any conditions or directions it may impose or give in relation thereto.

“(4) In any proceedings referred to in subsection (2) of this section, the court may order that any guarantor or other person liable be joined as a party to the proceedings in such manner and upon such terms as the court may direct.

“(5) A court in which proceedings might be taken for the recovery of money lent has and may, on the application of the money-lender, exercise the like powers as could be exercised in proceedings referred to in subsection (2) of this section, and the court may, notwithstanding any provision or contract to the contrary, entertain any such application, notwithstanding that the time for the repayment of the loan or of any instalment thereof has not arrived.”.

## APPROPRIATION 1963-1964.

### No. 46 of 1963.

AN ACT to grant and apply out of the Consolidated Revenue a sum for the service of the year ending on the thirtieth day of June 1964, and to appropriate the supplies granted by Parliament for that year. [3 October 1963.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

Short title.

**1** This Act may be cited as the *Appropriation Act 1963-1964*.

Issue and  
application of  
£13,087,666.

**2** The Treasurer may issue out of the Consolidated Revenue, and apply towards making good the supply hereby granted to Her Majesty for the service of the year ending on the thirtieth day of June 1964 the sum of £13,087,666.