

No. 6324.

MONEY LENDERS ACT 1958.

An Act to consolidate the Law relating to Money
Lenders and Money-lending Transactions.

[30th September, 1958.]

BE it enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):—

1. This Act may be cited as the *Money Lenders Act 1958*, and shall come into operation on a day to be fixed by proclamation of the Governor in Council published in the *Government Gazette*, and is divided into Parts and Divisions as follows:—

Short title,
commence-
ment and
division.

Part I.—Licensing of Money Lenders ss. 4-21.

Part II.—Money-lending Transactions ss. 22-46.

Division 1—General ss. 22-35.

Division 2—Cash Orders ss. 36-46.

Part III.—Miscellaneous 47-51.

2. (1) The Acts mentioned in the First Schedule to the extent thereby expressed to be repealed are hereby repealed accordingly.

Repeal.
First
Schedule.

(2) Except as in this Act expressly or by necessary implication provided—

(a) all persons things and circumstances appointed or created by or under the repealed Acts or existing

or continuing under any of such Acts immediately before the commencement of this Act shall under and subject to this Act continue to have the same status operation and effect as they respectively would have had if such Acts had not been so repealed ;

- (b) in particular and without affecting the generality of the foregoing paragraph such repeal shall not disturb the continuity of status operation or effect of any regulation order appointment licence application loan cash order security cancellation suspension disqualification contract notice proceeding appeal liability or right made effected issued granted given passed fixed accrued incurred or acquired or existing or continuing by or under any of such Acts before the commencement of this Act.

Interpretation.
No. 4625 s. 3;
No. 4636 s. 2.

" Authorized
name."
" Authorized
address."

" Court of
petty
sessions."

" Firm."

" Interest."

" Licence."

" Licensed."
" Licensee."

" Loan."

3. (1) In this Act unless inconsistent with the context or subject-matter—

" 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.

" Court of petty sessions " means court of petty sessions consisting of a stipendiary 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 corporations, or two or more corporations, 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 Registrar of Titles, but save as aforesaid includes any amount (by whatsoever name called) in excess of the principal which amount has been or is to be paid or payable in consideration of or otherwise in respect of a loan.

" Licence " means a valid and unexpired money lender's licence or renewed licence issued under this Act and " licensed " and " licensee " have corresponding interpretations.

" Loan " includes advance, discount, money paid for 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 whatsoever, 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.

"Lend."
"Lender."

"Money lender" means 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 and who lends money at a rate of interest exceeding eight per centum per annum but does not include—

"Money lender."

- (a) any pawnbroker in respect of business carried on by him in accordance with the provisions of the *Pawnbrokers Act 1958*;
- (b) any society registered under the *Friendly Societies Act 1958* or under the *Building Societies Act 1958*;
- (c) any body corporate incorporated or empowered by a special Act of Parliament to lend money in accordance with such special Act;
- (d) any person *bona fide* carrying on the business of banking or insurance or *bona fide* carrying on the business of financing pastoral pursuits or the business of stock and station agents or *bona fide* carrying on any business not having for its primary object the lending of money in the course of which and for the purposes whereof he lends money; or
- (e) any person for the time being exempted from taking out a licence under this Act by Order of the Governor in Council published in the *Government Gazette* (and the Governor in Council is hereby authorized to make any such Order).

"Prescribed" means prescribed by this Act or the regulations. "Prescribed."

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

"Record" means the record required under this Act to be kept in the Treasury. "Record."

"Registrar" means registrar appointed under this Act. "Registrar."

"Regulations" means regulations made pursuant to this Act. "Regulations."

"Renewed
licence."

"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."

"Schedule" means Schedule to this Act.

"Treasurer."

"Treasurer" means the Treasurer of Victoria.

Calculation
of rate of
interest when
not expressed
in terms of
a rate.

(2) 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-six of this Act) shall be appropriated to principal and interest in the proportion that the total amount of 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 Second Schedule shall be deemed to be the rate of interest charged on the loan.

Second
Schedule.

Construction
of certain
references in
Part II.

(3) Save as otherwise expressly provided in this Act any reference—

(a) in Division one of Part II. of this Act, to money lent, transaction entered into or loan made shall be read and construed as a reference to money lent, transaction entered into or loan made (as the case may be) after the commencement of the *Money Lenders Act 1938*; but any reference in section twenty-nine of this Act to money lent or lending or offering to lend money shall be read and construed as a reference to money lent or lending or offering to lend money (as the case may be) after the commencement of the *Money Lenders Act 1941*;

(b) in sections thirty-eight and forty-three of this Act, to a cash order, and otherwise in Division two of Part II. of this Act, to any cash order issued or cash loan made, shall be read and construed as a reference to any cash order issued or cash loan made (as the case may be) after the commencement of the *Money Lenders (Cash Orders) Act 1946*.

PART I.—LICENSING OF MONEY LENDERS.

Licences to be
taken out by
money
lenders.
No. 4625 s 4.

4. (1) Every money lender (whether carrying on business alone or as a partner in a firm) shall as hereinafter 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 connexion with his money-lending business (and 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 corporation shall be taken out on behalf of the corporation by some person appointed in writing by the corporation.

Provision
as to
corporations.

(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 :

Exemption of
certain
partners from
payment of
fees for
licences.

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

5. (1) Every person who desires to obtain a licence shall lodge with the clerk of the court of petty sessions nearest to the address in respect of which such licence is required an application in duplicate in the prescribed form.

Applications
for licences.
No. 4625 s. 5.

(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 corporation the name and address of each of the members of the governing body thereof ; and
- (c) be lodged with the clerk of the court 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 liable to a penalty of not more than Fifty pounds.

Penalty.

(4) The court—

- (a) shall consider the application and any objection thereto made as hereinafter provided ; and
- (b) may, if satisfied that the applicant is a fit person to be the holder of a licence, order a licence to be issued to the applicant.

Issue.

(5) The licence shall be issued by the clerk of the court 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 shall not refuse to order the issue of a licence except on some one or more of the following grounds :—

Grounds for
refusal of
licences.

- (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 corporation 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 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 ;
- (d) That the applicant has not complied with the provisions of this Act or the regulations with respect to applications for licences ;
- (e) 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 Her Majesty.

Issue of renewed licence on unopposed application.
No. 4625 s. 6.

6. Notwithstanding anything in the last preceding section where the holder of a licence applies not less than fourteen days before the latest day in the month of June appointed for the holding of the court of petty sessions to which the application is made for a renewed licence, unless notice of objection is as hereinafter provided lodged by any person in respect of such application the clerk of the court shall, if the prescribed fee is paid to him not later than the first day of July following the application, issue to the applicant a renewed licence.

Form and duration of licences.
No. 4625 s. 7;
No. 4872 s. 2.

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 thirtieth day of June 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) No licence shall authorize a money lender to carry on business at more than one address, or under more than one name, or under any name which includes the word "bank" or otherwise implies that he carries on banking business, or under any name except—

- (a) his true name ; or
- (b) the name of a firm in which he is a partner, not being a firm required by the *Business Names Act* 1958 to be registered thereunder; or
- (c) where at the passing of the *Money Lenders Act* 1938 he or a firm in which he is a partner—
 - (i) was registered under a business name under the *Business Names Act* 1928; and
 - (ii) was registered under such business name as a money lender under the *Money Lenders Act* 1928—

his true name with the addition of the words "carrying on business as [here insert such business name]".

(3) 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 or enters into or carries out any negotiation or transaction in connection with a loan or any security for a loan in any name other than his authorized name or at any place 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—

Penalty on
unlicensed
money lender
&c.

he shall be liable—

- (i) in the case of a corporation—for a first offence to a penalty of not less than Twenty pounds and not more than One hundred pounds and for a second or any subsequent offence to a penalty of not less than One hundred pounds and not more than Five hundred pounds ;
- (ii) in the case of any other person—to a penalty of not less than Ten pounds and not more than Fifty pounds or to imprisonment for a term of not more than three months or to both such penalty and imprisonment.

(4) Nothing in the last preceding sub-section shall render any person liable to a penalty or imprisonment by reason only of the fact that such person or any employé or agent of such person at any place other than the authorized address of such person carries out any preliminary transaction—

(a) in connexion with a loan with relation to a hire-purchase agreement ; or

(b) in connexion with a loan or any security for a loan in any case where according to usual commercial practice it is impracticable to carry out such transaction at the authorized address of such person.

Conviction
for offence
against this
section not to
make money-
lending
contract void
or voidable.

(5) No contract or agreement or transaction entered into by a licensed money lender with any person shall be void or voidable by reason only that the money lender has whether in connexion with such contract or agreement or transaction or not been at any time guilty of a contravention of any of the foregoing provisions of this section whether convicted thereof or not.

Production of
licence.

(6) Every licensed money lender shall on demand at any premises upon which he carries on his business produce his licence to the registrar or to any member of the police force, and if without reasonable excuse he refuses or fails so to produce his licence he shall be liable to a penalty of not more than Twenty pounds.

Transfer of
licence.
No. 4625 s. 3.

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 such transfer on the licence; or

(ii) by a person licensed on behalf of a corporation—order the transfer of the licence from such person to any other person approved by the court in that behalf to hold the same on behalf of the corporation and the endorsement of such transfer on the licence;

Substitution
of new
authorized
address.

(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 such new authorized address and the endorsement of such substitution on the licence:

Provided that a licence issued to any person on his own behalf shall not be transferable to any person on behalf of a corporation and a licence issued to any person on behalf of a corporation shall not be transferable to any person on his own behalf.

(2) 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 duplicate with the clerk of the court 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 provided shall be heard and determined by the court.

Procedure for transfer of licence &c.

(3) 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 and the prescribed fee is paid.

Transfer or substitution, when to have effect.

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

Power to executors trustees &c. to carry on business in case of death lunacy &c. of licensee.

No. 4625 s. 9;
No. 4654 s. 3.

(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) On a licensed money lender becoming a lunatic patient within the meaning of the *Mental Hygiene Act 1958* 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 the Public Trustee may apply to the court of petty sessions nearest to the authorized address of such money lender to have his or her name or the name of a nominee endorsed on the licence.

Contents and
time of
lodging
applications.

(2) Every such application shall—

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

Endorsement
by court.

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

Powers and
duties of
nominee &c.

(4) Every person whose name is so endorsed on any such licence—

- (a) may carry on the business under such 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 a lunatic patient 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.

Carrying on
business
without
endorsement.

(5) (a) 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 a lunatic patient.

Penalty.

(b) Any person who contravenes or fails to comply with the provisions of this sub-section shall be liable to a penalty of not less than Ten pounds and not more than Fifty pounds or to imprisonment for a term of not more than three months or to both such penalty and imprisonment.

Renewal to
nominee &c.

(6) Subject to this section a renewed licence may in accordance with this Act be issued to any person as agent or nominee or to any person shown to be entitled to such renewed licence or to any nominee of the Public Trustee.

Rights and
duties of
executors or
administrators.

(7) 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 such executors or administrators avail themselves of such privileges) shall impose on them the same duties liabilities obligations disqualifications and penalties as if such licence had been issued to them originally.

10. Forthwith after the receipt by a clerk 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 a lunatic patient such clerk shall—

Notice of applications to be given by clerk of court.
No. 4625 s. 10.

- (a) send a copy of such application to the registrar; and
- (b) cause a notice thereof in the prescribed form to be posted in a conspicuous place inside and also 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.

11. (1) The registrar or any member of the police force—

Objections to applications.
No. 4625 s. 11.

- (a) 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 a lunatic patient lodge with the clerk of petty sessions a notice in the prescribed form of his objection and of the grounds thereof; and
- (b) shall cause a copy of such 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.

(2) 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 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.

Adjournment.

(3) 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 to the objector and may order that such costs be paid; but an order for costs shall not be made against the objector.

Costs.

12. (1) Any licensed money lender may on the information of the registrar or any member of the police force be summoned before a court of petty sessions to show cause why any licence held by him or on his behalf should not be cancelled and why he should not be disqualified either permanently or temporarily from holding a licence on the ground—

Cancellation of licences.
No. 4625 s. 12.

- (a) that such 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 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 favorable to the borrower than those so advertised.

Delivery up
of licence.
Disqualifi-
cation of
money lender.

(2) Upon being satisfied of the truth of any of the grounds aforesaid the court may if it thinks fit order that such licence be delivered up forthwith and cancelled and that any such person be disqualified either permanently or for such period as the court specifies from obtaining or holding a licence or from conducting or managing a money lender's business.

Costs.

(3) In any proceedings under this section the court may determine what costs (if any) shall be paid by the defendant to the informant and may order that such costs be paid; but an order for costs shall not be made against the informant.

Effect of
convictions
on licences.
No. 4625 s. 13;
No. 4636 s. 2.

13. Where any person is by any court convicted of any offence against the provisions of 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

- (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 any court of petty sessions by which any such licence was issued.

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 corporation licensed under this Act.

As to disqualified money lender becoming director &c. of corporation.
No. 4625 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 liable to a penalty of not more than Five pounds for each day during which the default continues.

Production of licence for endorsement &c.
No. 4625 s. 15.

16. Any person who feels aggrieved by any order of a court of petty sessions—

Appeals.
No. 4625 s. 16.

- (a) refusing the issue of a licence;
- (b) suspending or cancelling a licence; or
- (c) disqualifying, whether permanently or temporarily, any person from holding or obtaining a licence or from managing or conducting a money lender's business—

may appeal against the order to a court of general sessions in the manner provided by Division one of Part V. of the *Justices Act* 1958 as if the order were an order imposing a penalty exceeding the sum of Five pounds, and the court of petty sessions may, if it thinks fit, defer the operation of the order pending the appeal.

17. 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.

Duplicate licence.
No. 4625 s. 17.

18. (1) A record in the prescribed form 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 as prescribed in the Treasury.

Record of licences &c.
No. 4625 s. 18.

(2) The Treasurer shall as early as practicable in each month cause to be published in the *Government Gazette* prescribed particulars of all licences issued renewed transferred and cancelled

Gazetted of particulars.

and of all substitutions of new authorized addresses and of all endorsements on licences of money lenders who have died or become lunatic patients and of all other prescribed matters and things aforesaid done during the last preceding months.

Gazetted
particulars
as evidence.

(3) Any copy of such particulars published as aforesaid shall be *prima facie* evidence of the facts therein contained.

Exercise of
powers by
Treasurer.

(4) In the exercise and performance of his powers and duties under this Act the Treasurer shall act on such evidence as in each case appears to him sufficient.

Registrar.
No. 4625 s. 19.

19. Subject to the *Public Service Act* 1958 the Governor in Council may appoint a registrar who shall be charged with the custody of the record and shall exercise such powers and perform such duties as are prescribed.

Clerk of petty
sessions to
forward
particulars of
licences &c. to
Treasurer.
No. 4625 s. 20.

20. (1) Every clerk of petty sessions shall at the times and in the manner prescribed forward to the Treasurer returns in the prescribed form of licences issued renewed transferred cancelled or suspended and of substitutions of new authorized addresses and of endorsements of licences.

Licence
delivered up
to court to be
sent to
Treasurer.

(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 Treasurer.

Fees.
No. 4625 s. 21.

21. The following fees shall be payable under this Act:—

- (a) For each licence issued to any person (otherwise than on behalf of a corporation) whether carrying on business alone or as a member of a firm: Twenty-five pounds;
- (b) For each licence issued to any person on behalf of a corporation whether carrying on business alone or as a member of a firm: Fifty pounds;
- (c) For each transfer of a licence: Five pounds;
- (d) For each substitution of a new authorized address for the authorized address shown in a licence: One pound;
- (e) For each endorsement authorized by a court of petty sessions with respect to the licence of a money lender who has died or become a lunatic patient: One pound;
- (f) For each duplicate licence: One pound;
- (g) On searching any book or record of money lenders kept by a clerk of a court of petty sessions or by the registrar (for every name inspected): Two shillings and sixpence;
- (h) On certified copies of or extracts from entries in any such book or record: Five shillings for each certified copy or extract not exceeding five folios

of seventy-two words to the folio and Ninepence for each additional folio (or part thereof) of seventy-two words after the first five folios:

Provided that where the duration of a licence referred to in paragraph (a) or paragraph (b) of this section is for not more than six months of a year the fee for such licence shall be one-half of the sum otherwise payable.

PART II.—MONEY-LENDING TRANSACTIONS.

DIVISION 1.—GENERAL.

22. 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 agreement 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 agreement or the taking of the security (as the case may be) he was the holder of a licence under this Act.

Money lender not to recover money lent or interest unless he proves he was licensed.
No. 4625 s. 22;
No. 4636 s. 2.

23. (1) No contract for the repayment of money lent by a money lender 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—

Form of money lenders' contracts.
No. 4625 s. 23.

- (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 prepaid 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 no such contract or security shall be enforceable if it is proved that the note or memorandum aforesaid was not 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—

Contents of such contracts.

- (a) the date of the making of the loan;
- (b) the amount of the principal of the loan; and
- (c) either—
 - (i) the interest charged on the loan expressed in terms of a rate per centum per annum; or

Second
Schedule.

- (ii) the rate per centum per annum represented by the interest charged as calculated in accordance with the provisions of the Second Schedule.

(3) For the purposes of the last preceding sub-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 transaction known as a cash order 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.

Accidental
misdescription
&c., not to
invalidate note
memorandum
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 judge or justice before which or whom 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.

Use of
authorized
name by
money
lenders.
No. 4625 s. 24.

24. (1) (a) A money lender—

(i) 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

(ii) shall outside the premises occupied by him at each 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 such premises in connexion with his business as a money lender.

Penalty.

(b) Any money lender who contravenes the provisions of this sub-section shall be liable to a penalty of not more than 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 liable—

Prohibition of advertisements &c. as to carrying on banking business.

- (i) if a corporation—to a penalty of not less than Twenty pounds and not more than One hundred pounds;
- (ii) if any other person—to a penalty of not less than Ten pounds and not more than Fifty pounds or to imprisonment for a term of not more than two months or to both such penalty and imprisonment.

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

Restrictions on money-lending advertisements.
No. 4625 s. 25;
No. 4872 s. 3.
No. 5165 s. 13.

- (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 placard or other printed or written matter an advertisement advertising any such particulars or containing any such invitation as aforesaid:

As to advertisements in newspapers &c.

Provided that an advertisement, in conformity with the requirements of the last preceding section, may be published by or on behalf of a money lender in any newspaper magazine programme or other paper aforesaid or by wireless telegraphy or by cinematograph or by lantern slides 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 of the terms of interest on which he is prepared to make loans or any particulars class of loans;

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

As to
employment
of agents or
cavassers.

(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; and no person employed by a money lender in any capacity shall act as the agent or attorney of any other person for the purpose of obtaining on behalf of such other person a loan from any money lender or for the purpose of entering into or carrying out any negotiation or transaction in connexion with the borrowing of money from a money lender.

Employment
of certain
agents by
money lenders
prohibited.

As to
expressing
rate of interest
in documents
issued &c. by
money lender.

(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 represented by the interest proposed to be charged as calculated in accordance with the provisions of the Second Schedule.

Second
Schedule.

Penalties.

(5) Any person who contravenes or fails to comply with any of the provisions of this section shall be liable—

(a) if a corporation—to a penalty of not less than Twenty pounds and not more than Two hundred pounds;

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

Illegality of
transactions in
contravention
of this section.

(6) Where it is shown that a money-lending transaction entered into 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 interest, unless the money lender proves that the contravention or failure occurred without his consent or connivance.

26. Any contract made for the loan of money by a money lender shall be illegal in so far as it provides directly or indirectly for—

Prohibition of compound interest and provision as to defaults.
No. 4625 s. 26.

- (a) the payment of compound interest; or
- (b) the rate or amount of interest being increased by reason of any default in the payment of sums due under the contract:

Provided that provision may be made by any such contract that if default is made in the payment upon the due date of any sum payable to the 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.

27. (1) Any agreement entered into 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 or Registrar of Titles) 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.

Prohibition of charge for expenses on loans by money lenders.
No. 4625 s. 27.

(2) It shall not be lawful for any money lender or his partner employer employé 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 or Registrar of Titles) or any remuneration or reward whatsoever for or in connexion with or preliminary to procuring negotiating or obtaining any loan made or guaranteeing or securing the repayment thereof.

Lender or his agents not to receive moneys in connexion with negotiation of loan &c.

(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 employé 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.

Recovery back on contravention. receive moneys in connexion.

Re-opening of
transactions
of money
lender.
No. 4625 s. 28.

28. (1) Where—

- (a) proceedings are taken in any court by a money lender or 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 or the enforcement of any agreement or security in respect of money lent; and
- (b) there is evidence which satisfies the court that the interest charged in respect of the sum actually lent is excessive or that the transaction is harsh and unconscionable or is such that a court of equity would give relief—

the court may re-open the transaction and take an account between the money lender assignee transferee or holder aforesaid and the person sued and, notwithstanding any statement or settlement of account or any agreement purporting to close previous dealings and create a new obligation, re-open any account already taken between them and relieve the person sued from payment of any sum in excess of the sum adjudged by the court to be fairly due in respect of such principal and interest as the court having regard to the risk the value of any security the time of repayment the amount lent and all the other circumstances adjudges to be reasonable.

(2) If any such excess has been paid or allowed in account by the debtor the court may order the creditor or the money lender to repay it and may set aside either wholly or in part or revise or alter any security given or agreement made in respect of money lent by the money lender and if the money lender has parted with the security or assigned the debt may order him to indemnify the borrower or other person sued.

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

(4) No proceeding to re-open a transaction or account or to recover back interest or to obtain any relief under the provisions of this section shall be taken after twelve months from the time when the transaction in respect of or in connexion with which such proceeding is taken was finally closed, but the legal personal representative of any deceased person who had entered into such contract may take such proceeding at any time within two years thereafter.

Limitation of
time for
re-opening
transactions,
&c.

29. (1) No contract for the repayment of money lent by a money lender 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 in any case in which the rate of interest as expressed in the note or memorandum in writing of the contract or as calculated in accordance with the provisions of the Second Schedule exceeds forty-eight per centum per annum.

Contracts providing for interest in excess of 48 per cent. per annum unenforceable. No. 4625 s. 29; No. 4872 s. 4.

(2) Nothing in this section shall prejudice the powers of any court of petty sessions under section twelve of this Act or of any court under section twenty-eight of this Act where such court is satisfied that the interest charged although not exceeding the rate of forty-eight per centum per annum is excessive or that the transaction is harsh and unconscionable or is such that a court of equity would give relief.

(3) Any money lender who lends or offers to lend any money at any rate of interest exceeding forty-eight per centum per annum shall be guilty of an offence and shall be liable to a penalty of not more than Fifty pounds.

Penalty on money lender charging interest in excess of 48 per cent. per annum.

30. (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—

Obligation of money lender to supply information as to state of loan. No. 4625 s. 30.

- (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) 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 Ninepence for each folio (or part thereof) of seventy-two words.

Money lender to supply copies of documents relating thereto.

Effect of
default.

(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 liable to a penalty of not more than Five pounds for every day on which the default continues.

Penalty.

Notice and
information
to be given
on assignment
of money
lenders' debts.
No. 4625 s. 31.

31. (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 agreement 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—

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

if a corporation—to a penalty of not less than Fifty pounds and not more than Three hundred pounds;

if any other person—to a penalty of not less than Twenty-five pounds and not more than Two hundred pounds or to imprisonment for a term of not more than six months or to both such penalty and imprisonment.

"Assigned."
"Assignor."
"Assignee."

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

Application
of Act as
respects
assignees.
No. 4625 s. 32.

32. (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 or in respect of interest on money so lent or of the benefit of any agreement made or security taken in respect of any such debt or interest notwithstanding that the debt or the benefit of the agreement or security 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 agreement with or security taken by a money lender in respect of money lent by him shall be valid in favour of any *bona fide* assignee or holder for value without notice of any defect due to the operation of this 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 agreement or security without notice of any such defect shall in favour of that person be as valid as it would have been if the agreement or security had been valid; and

(b) for the purposes of this Act the provisions of section one hundred and ninety-nine of the *Property Law Act* 1958 shall apply as if the expression "purchaser" included a person making any such payment or transfer as aforesaid.

Restrictions
on
constructive
notice.

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

Section not
to validate
void &c.
transactions.

33. (1) No assignment to a money lender whether absolute or by way of security or otherwise howsoever made by any person (hereinafter 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 contingent 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 such last-mentioned person was before or after the making of such assignment or before or after the commencement of this Act, shall be of any force or validity unless the assignment is in writing and was executed by the grantor in the presence of a stipendiary magistrate or registrar of the county court or clerk of petty sessions or solicitor instructed and employed independently of the money lender and is certified by the stipendiary magistrate or registrar or clerk of petty sessions or solicitor as provided in sub-section (2) of this section.

Certain
assignments
to money
lenders to be
in writing and
executed
before a
stipendiary
magistrate
county court
registrar clerk
of petty
sessions or
independent
solicitor.
No: 4625 s. 33.

Explanation
to grantor.

(2) The stipendiary magistrate or registrar or clerk of petty sessions or solicitor shall read over and explain or cause to be read over and explained in his presence to the grantor the said assignment and shall examine the grantor touching his knowledge of the assignment and if he thinks fit may so examine him separately and apart from any other person and if he is satisfied that the grantor understands the true purport and effect thereof and freely and voluntarily executes the same he shall certify in writing upon the assignment that such 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.

Interpretation.

(3) In this section—

“ Assignment—
ment.”

“ 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.”

“ 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.

Non-
application
of section.

(4) 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 as a person entitled thereto as part of the estate of a deceased person, or to any assignment made by any person to whom such property as aforesaid has been actually conveyed assigned or transferred.

As to
impeachment
of assignments.

(5) No assignment executed in pursuance of this section shall be impeached upon any ground whatsoever except in the case of fraud or any kind of imposition.

Penalties for
false
statements
and repre-
sentations.
No. 4625 s. 34.

34. If any money lender or any manager agent or clerk of a money lender or any person being a director manager or other officer of any corporation 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 to imprisonment for a term of not more than two years or to a penalty of not more than Five hundred pounds or to both such penalty and imprisonment.

35. (1) All loans made by a money lender purporting to be loans of money shall be made in current money bank notes or cheques on bankers and shall be made in full without any deduction for interest or otherwise, and 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.

How loan
to be made.
No. 4625 s. 35.

This sub-section 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 Registrar of Titles.

(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 utterly null and void.

Contracts
contravening
section void
to extent of
contravention.

DIVISION 2.—CASH ORDERS.

36. In this Division unless inconsistent with the context or subject-matter—

Interpretation.
No. 5165 s. 2.

“Cash loan” means a loan of money made, or to be made, by a cash order trader.

“Cash loan.”

“Cash order” includes any document which is issued for the purpose of enabling a person to receive goods services or other valuable consideration in exchange therefor and in consideration of or in association with an agreement by that person to pay to the person issuing the order the amount thereof at a fixed or determinable future time or by instalments, but does not include a bill of exchange.

“Cash
order.”

“Cash order trader” means a person who carries on the business of issuing cash orders, whether alone or in conjunction with any other business.

“Cash
order trader.”

37. A cash order trader shall not, without the consent in writing of the Treasurer of Victoria, make any agreement or arrangement for charging or receiving or charge or receive in respect of any cash order issued by him any sum greater than the amount of the cash order and an amount calculated at the rate of Ninepence for each One pound of the amount of the cash order.

Maximum
interest
chargeable on
cash orders.
No. 5165 s. 3.

38. A person who redeems a cash order shall pay to the person who presents the cash order for redemption the full amount thereof less an amount not exceeding ten per centum.

Discount on
redemption of
cash order.
No. 5165 s. 4.

Husbands not liable to repay cash orders and cash loans in certain cases.
No. 5165 s. 5.

39. The husband of a woman to whom a cash order is issued or a cash loan made shall not be liable to repay the whole or any part of the amount thereof unless his consent in writing to the issue of the cash order or the making of the cash loan was obtained before the issue or making thereof.

Cash orders in excess of £12 10s. not to be issued.
No. 5165 s. 6.

40. (1) A cash order trader shall not issue to any person any cash order for an amount exceeding Twelve pounds ten shillings.

(2) A cash order trader shall not issue a cash order to any person unless that person certifies in writing to the cash order trader—

(a) that a cash order has not at any time previously been issued to him or her or to his wife or her husband, as the case may be; or

(b) that the amount unpaid under all cash orders previously issued to him or her, together with the amount (if any) unpaid under any cash orders previously issued to his wife or to her husband, as the case may be, together with the amount of the cash order then issued does not exceed Twelve pounds ten shillings—

and the cash order trader has no reason to doubt the truth of the certificate.

(3) A person shall not make any false or misleading statement in any certificate given for the purposes of the last preceding sub-section.

Cash loans not to be made in certain cases.
No. 5165 s. 7.

41. A cash order trader shall not make a cash loan to any person where any amount remains unpaid under any cash order previously issued by that cash order trader to that person, or to his wife or her husband, as the case may be.

Cash orders to be repayable within 20 weeks.
No. 5165 s. 8.

42. A cash order trader shall not issue a cash order unless it is repayable in full within not more than twenty weeks after the date of issue thereof.

Amounts not expended to be credited or repaid to borrower.
No. 5165 s. 9.

43. Where portion of the amount of a cash order is not expended the cash order trader shall, on demand by the person to whom the cash order was issued, credit him (as against any amount then owing by him to the cash order trader) with the amount so unexpended or, as the case requires, repay to him the amount so unexpended to the extent to which it has not been credited to him as aforesaid.

Contracts &c. in contravention of Division unenforceable.
No. 5165 s. 10.

44. No contract agreement or arrangement for the payment or repayment of money made in contravention of this Division and no security given in respect thereof shall be enforceable; but

nothing in this section shall affect the right of any person who receives a cash order in exchange for goods services or other valuable consideration to obtain redemption of the cash order.

45. (1) Every cash order trader shall keep proper records setting out particulars of each cash order issued and cash loan made by him and of the amounts charged or received in respect thereof.

Records to be kept of cash order business.
No. 5165 s. 11.

(2) A person who redeems any cash orders shall keep proper records setting out—

(a) particulars of each cash order presented to him for redemption, including the date on which it is so presented;

(b) the date on which payment in respect of each cash order is made; and

(c) the amount paid in respect of each cash order.

(3) A person required to keep records under either of the last two preceding sub-sections shall preserve all records kept accordingly, together with all certificates given to him under sub-section (2) of section forty of this Act, for a period of at least twelve months after the completion of the transaction to which the records or certificates relate.

(4) The provisions of sub-section (1) of section forty-seven of this Act shall with such adaptations as are necessary extend and apply to and with respect to any person any records and any certificates referred to in the last preceding sub-section and to any premises where such person carries on business and the provisions of sub-sections (2) and (3) of the said section forty-seven shall also extend and apply accordingly.

Application of s. 47.
Inspection of records.

46. Any person who contravenes or fails to comply with any of the foregoing provisions of this Division shall be liable to a penalty of not more than Fifty pounds.

Penalty.
No. 5165 s. 12.

PART III—MISCELLANEOUS.

47. (1) For the purpose of ascertaining whether the provisions of this Act are being or have been complied with by any money lender the registrar or any other person authorized in writing in that behalf by the Treasurer may enter any premises where the business of such money lender is being carried on and may demand the production of and inspect any books accounts documents or 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.

Power to registrar to inspect documents &c.
No. 4625 s. 36.

Penalty.

(2) Any person who—

- (a) wilfully delays or obstructs the registrar or any other person 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 or writings;
- (c) being the money lender or a director manager or other officer or employé of the money lender refuses or fails to answer any question relating to such books accounts documents or writings; or

(d) gives any untruthful answer to any such question—
shall be liable to a penalty of not less than Twenty pounds and not more than One hundred pounds.

Registrar &c.
divulging
information
ascertained
hereunder.

(3) If—

- (a) the registrar or any other person authorized as aforesaid divulges any matter or things ascertained by him during the exercise of his powers under this section except to the Treasurer or with the consent in writing of the Treasurer; or
- (b) the registrar or any other person authorized as aforesaid or any person to whom any such matter or thing is in accordance with this section communicated make use of his knowledge of any such matter or thing—

except for the purpose of carrying out the provisions of this Act or in answer to any question which he is legally compellable to answer in any proceedings (whether civil or criminal) in any court or before any person having by law or by consent of parties authority to hear receive and examine evidence, he shall be liable to a penalty of not more than Two hundred pounds or to imprisonment for a term of not more than six months or to both such penalty and imprisonment.

Applications
and notices in
the case of
corporations.
No. 4625 s. 37.

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

Liability of
directors
officers &c. of
corporations.

(2) Where a person who is guilty of an offence against this Act is a corporation any person being a chairman, member of the governing body, director, manager, secretary, or officer of the corporation or any person who is the holder of a licence on behalf of the corporation 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 corporation 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 corporation such corporation and any person being a chairman, member of the governing body, director, manager, secretary or officer of such corporation 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 offence by a corporation or (as the case requires) by a person other than a corporation accordingly, unless he proves that the act or omission constituting the offence took place without his knowledge or consent.

49. When proceedings in respect of any offence against this Act are brought in a court of petty sessions such court shall consist of a stipendiary magistrate sitting without any other justice or justices.

*Constitution
of courts of
petty sessions.
No. 4625 s. 38.*

50. When in any proceedings under this Act or the regulations against any person it is alleged that 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.

*Burden of
proof of
licence.
No. 4625 s. 39.*

51. (1) The Governor in Council may make regulations for or with respect to—

*Regulations.
No. 4625 s. 40*

- (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 registrar 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.

Publication.

(2) All regulations made under this Act shall be published in the *Government Gazette* and shall be laid before both Houses of Parliament within fourteen days after the making thereof if Parliament is then sitting and if Parliament is not then sitting then within fourteen days after the next meeting of Parliament, and a copy thereof shall be posted to all Members of Parliament.

SCHEDULES.

FIRST SCHEDULE.

Section 2.

Number of Act.	Title of Act.	Extent of Repeal.
4625 ..	<i>Money Lenders Act 1938</i>	The whole.
4636 ..	<i>Statute Law Revision Act 1939</i> ..	Item in Schedule referring to <i>Money Lenders Act 1938</i> .
4654 ..	<i>Public Trustee Act 1939</i>	Clause 17 of First Schedule.
4872 ..	<i>Money Lenders Act 1941</i>	The whole.
5165 ..	<i>Money Lenders (Cash Orders) Act 1946</i>	The whole.

SECOND SCHEDULE.

Sections 3, 23, 25.

CALCULATION OF INTEREST WHERE THE INTEREST CHARGED ON A LOAN IS NOT EXPRESSED IN TERMS OF A RATE.

1. The amount of principal outstanding at any time shall be taken to be the balance remaining after deducting from the principal the total of the portions of any payments appropriated to principal in accordance with the provisions of sub-section (2) 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 2 of this Schedule, and the quotient, multiplied by one hundred, shall be taken to be the rate of interest per centum per annum.

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

5. 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).
