



1939.

ANNO TERTIO ET QUARTO
GEORGII VI. REGIS.

No. 44.

ANALYSIS.

<p>1. Short title. 2. Amendment of 6 Geo. V. No. 14. Headings to Parts I. and II. Sections 7 and 8. New Part III. Interpretation. Duties of money-lenders.</p>	<p>Money-lender not to recover money lent, &c., unless registered. Form of money-lenders' contracts. Name of borrower not to be published. Regulations.</p>
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AN ACT to amend the *Lending of Money Act* 1915. [21 December, 1939.] A.D. 1939.

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:—

1 This Act may be cited as the *Lending of Money Act* 1939. Short title.

6d.]

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2 The Principal Act is hereby amended—

I. By inserting—

- (a) Before section one the heading “Part I.—
Money-Lending Transactions.”: and
(b) Before section four the heading “Part II.—
Limitation of Interest Rates.”:

II. By deleting the word “Act” in sections seven and eight and substituting therefor the word “Part”: and

III. By adding after section nine the following new Part III.—

“PART III.—MONEY-LENDERS.

“**10** In this Part, unless the contrary intention appears, the expression ‘money-lender’ includes every person whose business is that of money-lending, or who advertises or announces himself or holds himself out in any way as carrying on that business; but does not include—

- I. Any pawnbroker in respect of business carried on by him in accordance with the provisions of the *Pawnbrokers Act 1857*:
- II. Any registered society within the meaning of the *Friendly Societies Act 1887*, or any society registered or having rules certified under that Act or under the *Building Societies Act 1876*:
- III. Any person carrying on in good faith—
 - (a) The business of banking or insurance: or
 - (b) 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
- IV. Any incorporated company performing and discharging the acts and duties of an executor, administrator, trustee, attorney, or agent under power and authority in that behalf conferred upon it by statute.

“**11**—(1) Every money-lender shall—

- I. Be registered as a money-lender in accordance with this Act, under his own or usual trade name (if any) and in no other name, and with the address, or all the addresses, if more than one, at which he carries on his business of money-lender; and no money-lender shall carry on business without being so registered:

Amendment
of 6 Geo. V.
No. 14.
Headings to
Parts I. and
II.

Sections 7
and 8.

New Part III.

Interpretation.
63 & 64 Vict.,
c. 51, s. 6.

21 Vict. No.
23.

51 Vict. No.
16; 40 Vict.
No. 5.

Duties of
money-
lenders.

63 & 64 Vict.,
c. 51, ss. 2,
3 (2); 17 &
18 Geo. V.,
c. 21, s. 1.

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- II. Carry on the money-lending business in his registered name and in no other name and under no other description, and at his registered address or addresses and at no other address: A.D. 1939.
- III. On reasonable request, furnish a borrower, or any surety for a borrower, or other person liable for the repayment of a loan, with full particulars as to the payments made by or on behalf of the borrower in respect of any loan, and the amount remaining owing in respect thereof, and with a copy of any document relating to a loan or any security therefor:
- IV. When selling, assigning, transferring, or assuring any debt, promissory note, bill of exchange, chose in action, or security taken or received by him in his business as a money-lender, give to the purchaser, assignee, or transferee full particulars in writing of the transaction in connection with the same.

Penalty: One hundred pounds.

(2) No person shall be registered as a money-lender under any name including the word 'bank' or under any name implying that he carries on banking business.

(3) Every money-lender shall be registered, as prescribed, by the Commissioner of Police, within one month after the commencement of this Act, in the case of a money-lender carrying on business before the commencement of this Act, and in any other case a money-lender shall be so registered before commencing business as a money-lender.

(4) The Commissioner of Police shall refuse to register a money-lender, or cancel the registration of a money-lender, on any of the following grounds:—

- I. That satisfactory evidence has not been produced of the good character of the applicant for registration, or, in the case of an application on behalf of a corporation, of the persons responsible for the management thereof:
- II. That the applicant for registration, 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:

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III. That the applicant for registration, or any person responsible or proposed to be responsible for the management or conduct of the money-lending business, has contravened the provisions of this Act.

(5) The regulations shall provide for a right of appeal to a police magistrate in any case where the registration of a money-lender is refused or cancelled.

(6) If a money-lender is convicted in any court of any crime, or if in any proceeding before a court to which a money-lender is a party, the court is satisfied that such money-lender has been guilty of fraud and that he ought to be disqualified from carrying on the business of a money-lender, the court may order—

- I. That such money-lender shall deliver up any certificate of registration held by him to the court:
- II. That his registration as a money-lender be cancelled as prescribed: and
- III. That such money-lender be disqualified either permanently or for such period as the court specifies from being registered under this Act.

“**12**—(1) 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 as such money-lender, unless he satisfies the court that at the date of the loan, or the making of the agreement, or taking of the security, as the case may be, he was registered as a money-lender under this Act.

(2) If a money-lender to whom a request has been made under paragraph III. of subsection (1) of section eleven fails, without reasonable excuse to comply therewith within one month after the request 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 such 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 daily penalty of five pounds.

“**13**—(1) No contract for the repayment by a borrower of money lent to him, or to any agent on his behalf, by a money-lender after the commencement of this section, or for the payment of

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

Vic. No. 4625,
s. 22.

Form of
money-lenders'
contracts.

17 & 18 Geo.
V., c. 21, s. 6.

Vict. s. 23.

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interest on money so lent, and no security given by the borrower or any such agent to any money-lender in respect of any such contract or loan, shall be enforceable unless—

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- I. A note or memorandum in writing of the contract is made and signed personally by the borrower: and
- II. 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 no such contract or security shall be enforceable if it is proved that the note or memorandum required by this section 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 shall contain all the terms of the contract, and, in particular, shall show—

- I. The date of the making of the loan:
- II. The amount of the principal of the loan: and
- III. The interest charged on the loan expressed in terms of a rate per centum per annum.

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

“ **14** No person shall publish in any newspaper the name, address, or occupation of any borrower in respect of a loan to whom any proceedings under this Act are heard in any court.

Name of borrower not to be published.

“ **15** The Governor may make regulations for the purposes of this Act, and, in particular, for—

Regulations.

- I. The registration of money-lenders, including the conditions of registration and the cancellation thereof, the form of register of money-lenders and the inspection thereof, and the fees to be paid on registration and renewal thereof:

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- II. The method of calculating the rate per centum per annum in cases where the interest charged in respect of any loan by a money-lender is not expressed in terms of a rate per centum:
- III. The cases in which an examination or inspection of the transactions, or any specified transaction, of any money-lender may be directed by the Attorney-General and the method by which such examination or inspection shall be conducted.”.