

The Goa Money - Lenders Act, 2001

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The Goa Money-Lenders Act, 2001 (Goa Act 58 of 2001) [13-9-2001] published in the Official Gazette, Series I No. 24 (Extraordinary 3) dated 19-9-2001 and came into force at once.

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GOVERNMENT OF GOA
Department of Law and Judiciary
Legal Affairs Division

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Notification

7-59-2001-LA

The Goa Money-Lenders Act, 2001 (Goa Act 58 of 2001), which has been passed by the Legislative Assembly of Goa on 23-7-2001 and assented to by the Governor of Goa on 13-9-2001, is hereby published for the general information of the public.

S. G. Marathe, Under Secretary (Drafting).

Panaji, 19th September, 2001.

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The Goa Money - Lenders Act, 2001

(Goa Act 58 of 2001) [13-9-2001]

AN

ACT

to make better provisions for the regulation and control of transaction of money-lending in the State of Goa.

BE it enacted by the Legislative Assembly of Goa, in the Fifty-second Year of the Republic of India as follows:—

1. Short title, extent and commencement.— (1) This Act may be called the Goa Money-Lenders Act, 2001.

(2) It extends to the whole of the State of Goa.

(3) It shall come into force at once.

2. Definitions.— In this Act, unless the context otherwise requires,-

(a) “bank” means a banking company as defined in the Banking Regulation Act, 1949 (Central Act 10 of 1949), and includes:—

(i) the Reserve Bank of India constituted under the Reserve Bank of India Act, 1934 (Central Act 2 of 1934);

(ii) the State Bank of India constituted under the State Bank of India Act, 1955 (Central Act 23 of 1955);

(iii) a subsidiary Bank as defined in the State Bank of India (subsidiary Banks) Act, 1959 (Central Act 38 of 1959);

(iv) a corresponding new bank constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (Central Act 5 of 1970); and

(v) any other banking institution notified by the Central Government under section 51 of the Banking Regulation Act, 1949 (Central Act 10 of 1949);

(vi) any co-operative society carrying on the business of banking;

(vii) any residuary non-banking institution duly permitted by the Reserve Bank of India,

(b) “business of money-lending” means the business of advancing loans whether in cash or kind and whether or not in connection with or in addition to any other business;

(c) “capital” means a sum of money which a money-lender invests in the business of money-lending;

(d) “company” means a company as defined in the Companies Act, 1956 (Central Act 1 of 1956);

(e) “co-operative society” means a society registered or deemed to have been registered under the Goa Co-operative Societies Act, in force in this State or the Co-operative Societies Act, 1912 (Central Act 2 of 1912), or any Act of any other legislature relating to Co-operative Societies;

(f) “Government” means the Government of Goa;

(g) “inspection fee” means the fee leviable under section 13 in respect of inspection of books of account of a money-lender;

(h) “interest” includes any sum, by whatsoever name called, in excess of the principal paid or payable to a money-lender in consideration of or otherwise in respect of a loan, but does not include any sum lawfully charged by a money-lender for or on account of costs, charges or expenses in accordance with the provisions of this Act, or any other law for the time being in force;

(i) “license” means a licence granted under this Act;

(j) “licence fee” means a fee payable in respect of a licence;

(k) “loan” means an advance at interest, whether of money or in kind, but does not include—

(i) a deposit of money or other property in a Government post office bank or in any other bank or in a company or with a Co-operative Society;

(ii) a loan to, or by, or a deposit with any society or association registered under the Societies Registration Act, 1860 (Central Act 21 of 1860), or any other enactment relating to a public, religious or charitable object;

(iii) a loan advanced by the Government or by any local authority authorised by the Government;

(iv) a loan advanced to a Government servant from a fund, established for the welfare or assistance of Government servants, and which is sanctioned by the Government;

(v) a loan advanced by a Co-operative Society;

(vi) an advance made to a subscriber to, or a depositor, in a provident fund, from the amount standing to his credit in the fund in accordance with the rules of the fund;

(vii) a loan to or by an insurance company as defined in the Insurance Act, 1938 (Central Act 4 of 1938);

(viii) a loan advanced to, or by a bank;

(ix) a loan to, or by, or deposit with, anybody (being a body not falling under any of the other provisions of this clause), incorporated by any law for the time being in force in the State of Goa;

(x) an advance of any sum exceeding rupees three thousand made on the basis of a Negotiable Instrument as defined in the Negotiable Instruments Act, 1881 (Central Act 26 of 1881), other than a promissory note;

(xi) an advance of any sum exceeding rupees three thousand made on the basis of a hundi (written in English or any other Indian language);

(xii) an advance made bonafide by any person carrying on any business, not having for its primary object the lending of money, if such advance is made in the regular course of his business;

(xiii) except for the purposes of sections 29 and 31,—

(A) a loan, by a landlord to his tenant for financing of crops or seasonal finance, of not more than Rs. 5 per acre of land held by the tenant;

(B) a loan advanced to an agricultural labourer by his employer.

Explanation:— The expression “tenant” shall have the meaning assigned to it in the Goa, Daman and Diu Agricultural Tenancy Act, 1964 (Act 7 of 1964), or any other relevant tenancy law in force relating to tenancy or agricultural lands;

(l) “money-lender” means,—

(i) an individual; or

(ii) an undivided Hindu Family; or

(iii) a company; or

(iv) an unincorporated body of individuals, who or which—

(a) carries on business of money-lending in the State; or does any activity of lending of any finance;

(b) has his or its principal place of such business in the State, and includes a pawnbroker but does not include—

(i) Government,

(ii) a local authority,

(iii) a bank,

(iv) the Agricultural Refinance Corporation constituted under the Agricultural Refinance (AND Development) Corporation Act, 1963 (Central Act 10 of 1963); or

(v) any other banking, financial or any institution which the Government may, by notification in the Official Gazette, specify in this behalf;

(m) “pawn-broker” means a money-lender who in the ordinary course of his business advances a loan and takes goods or property in pawn as security for payment of such loan;

(n) “prescribed” means prescribed by rules made under this Act;

(o) “principal” means in relation to a loan, the amount actually advanced to the debtor;

(p) “Provident Fund” means a Provident Fund as defined in the Provident Funds Act, 1925 (Central Act 19 of 1925), and includes a Government Provident Fund and a Railway Provident Fund as defined in the said Act;

(q) “State” means the State of Goa;

(r) “recognised language” means in Konkani, Marathi, Hindi, English;

(s) “register” means the register of money-lenders maintained under section 4;

(t) “rules” means the rules made under this Act;

(u) “suit to which this Act applies” means any suit or proceeding-

(a) for the recovery of a loan made before or after the day on which this Act comes into force;

(b) for the enforcement of any security taken or any agreement, made after the date on which this Act comes into force in respect of any loan made either before or after the said date; or

(c) for the redemption of any security given after the date on which this Act comes into force in respect of any loan made either before or after the said date;

(v) “trader” means a person who in the regular course of business buys and sells goods or other property, whether movable or immovable, and includes-

(i) a wholesale or retail merchant,

- (ii) a commission agent,
- (iii) a broker,
- (iv) a manufacturer,
- (v) a contractor,
- (vi) a factory owner,

but does not include an artisan or a person who sells his agricultural produce or cattle or buys agricultural produce or cattle for his use.

Explanation:— For the purposes of this clause, an “artisan” means a person who does not employ more than 10 workers in a manufacturing process on any one day of the twelve months immediately preceding.

3. Appointment of Registrars and Assistant Registrars.— The Government may, by notification in the Official Gazette, appoint such persons, whether public officers or not, as it thinks proper, to be Registrars and Assistant Registrars of money-lenders, for the purposes of this Act and may define the areas within which each such officer shall exercise his powers and perform his duties.

4. Register of money-lenders.— Every Assistant Registrar shall maintain for the area in his jurisdiction a register of money-lenders as prescribed by the Government.

5. Money-lender not to carry on business of money-lending except for area under licence and except in accordance with terms of licence.— On and from the commencement of this Act, no money-lender shall carry or continue to carry on the business of money-lending except in the area for which he has been granted a licence and except in accordance with the terms and conditions of such licence.

6. Application for licence.— (1) Every money-lender shall annually, before such date as may be prescribed, make an application in the prescribed form for the grant of licence to the Assistant Registrar of the area within the limits of whose Jurisdiction the place where he carries on or intends to carry on the business of money-lending is situated. When he carries on or intends to carry on such business at more than one place, a separate application in respect of each such place shall be made to such Assistant Registrar. Such application shall contain the following particulars, namely:-

- (i) the true name/s of the place/places in which such money-lender intends to carry on business and the true name/s of the person/s proposed to be responsible for the management of the business;
- (ii) if the application is by or on behalf of —
 - (a) an individual, the true name and address of such individual,
 - (b) an undivided Hindu family, the true name and address of the manager and the adult coparceners of such family;

(c) a company, the true names and the addresses of the directors, manager or principal officer managing it;

(d) an unincorporated body of individuals, the true names and addresses of such individuals;

(iii) the area and the place or principal place of the business of money-lending in the State;

(iv) the name of any other place in the State where the business of money-lending is carried on or intended to be carried on;

(v) whether the person signing the application has himself or any of the adult coparcener of an undivided Hindu family, or any director, manager or principal officer of the company or any member of the unincorporated body on behalf of which such application has been made, as the case may be, has carried on the business of money-lending in the State in the year ending on the 31st day of March immediately preceding the date of the application either individually, or in partnership, or jointly with any other coparcener or any other person and whether in the same or any other name;

(vi) the total amount of the capital which such person intends to invest in the business of money-lending in the year for which the application has been made;

(vii) if the places at which the business of money-lending is to be carried on are more than one, the true names of persons who shall be in the management of the business at each such place.

(2) The application shall be in writing and shall be signed as follows and accompanied by a fee of Rs. 500/- towards processing charges.-

(a) (i) if the application is made by an individual, by the individual;

(ii) if the application is made on behalf of an undivided Hindu family, by the manager of such family;

(iii) if the application is made by a company or unincorporated body, by the managing director or any other person having control of its principal place of business in the territory of India or of its place of business in the area in which it intends to carry on the business; or

(b) by an agent authorised in this behalf by a power of attorney by the individual money-lender himself, or the family, or the company or the unincorporated body, as the case may be.

(3) The application shall also contain such other particulars as may be prescribed.

(4) Every application shall be accompanied by a licence fee of ten thousand rupees:

Provided that, where an application is made after the expiry of the period prescribed, it shall be accompanied by a licence fee of twenty thousand rupees.

(5) The fee payable under this section shall be paid in the manner prescribed and shall not be refunded, notwithstanding the fact that the application is withdrawn.

7. Grant of licence and entry in register.— On the receipt of an application under section 6, the Assistant Registrar shall forward the application, together with his report, to the Registrar. Subject to the provisions of this Act, the Registrar may after making such further inquiry, if any, as he deems fit, grant the applicant a licence in such form and subject to such conditions as may be prescribed, and direct the Assistant Registrar to enter the name of such applicant in the register maintained by him under section 4.

8. Licence fee.— Upon the grant of a licence, the licensee shall be required to pay a sum of Rs. 10,000/- towards licence fee or such other higher sum as may be notified by the Government.

9. Refusal of issue of licence.— (1) The grant of a licence shall not be refused except on any of the following grounds:-

(a) that the applicant, or any person responsible or proposed to be responsible for the management of his business as a money-lender is disqualified from holding a licence;

(b) that the applicant has not complied with the provisions of this Act or the rules in respect of an application for the grant of licence;

(c) that the applicant has made wilful default complying with or knowingly acted in contravention of any requirement of this Act;

(d) that satisfactory evidence has been produced that the applicant or any person responsible or proposed to be responsible for the management of his business of money-lending has—

(i) knowingly participated in or connived at any fraud or dishonesty in the conduct of or in connection with the business of money-lending; or

(ii) been found guilty of an offence under Chapter XVII or sections 465, 477 or 477-A of Chapter XVIII of the Indian Penal Code, 1860 (Central Act 45 of 1860);

(iii) In the opinion of the Registrar, used money from the source which is questionable and doubtful.

(2) The Registrar shall, before refusing a licence under sub-section (1), give to the applicant a reasonable opportunity of producing evidence, if any, in support of the application and of showing cause why the licence should not be refused; and record the evidence adduced before him and his reasons for such refusal.

(3) An appeal shall lie from an order of the Registrar refusing a licence under sub-section (1) to the Government, whose decision thereon shall be final.

10. Registrar's power to cancel licences.— (1) The Registrar may, during the term of any licence, cancel the same by an order in writing on the ground that the person to whom it was granted has been guilty of any act or conduct for which he might under section 9

have refused him the grant of the licence and which act or conduct was not brought to his notice at the time of the grant.

(2) Before cancelling a licence under sub-section (1), the Registrar shall give notice in writing to the licensee and may hold such inquiry as may be necessary.

(3) An appeal shall lie from an order of the Registrar cancelling a licence under sub-section (1) to the Government whose decision thereon shall be final.

11. Term of licence.— A licence shall be valid from the date on which it is granted up to the 31st day of July following:

Provided that when an application for renewal of a licence has been received by an Assistant Registrar within the prescribed period, the licence shall, until the application is finally disposed of, be deemed to be valid.

12. Fees for renewal of licence.— The fees for renewal of licence shall be Rs. 5,000/- per annum.

13. Levy of inspection fee.— (1) An inspection fee shall, in addition to the licence fee leviable under section 8, be levied and collected from money-lender applying for a renewal of licence at the rate of one per cent of the maximum capital utilised by him during the period of the licence sought to be renewed, or rupees five hundred, whichever is less.

(2) In default of payment of an inspection fee leviable under sub-section (1), it shall be recoverable from the defaulter in the same manner as an arrears of land revenue.

Explanation:— For the purpose of this section, “maximum capital” means the highest total amount of the capital sum which may remain invested in the money-lending business on any day during the period of a licence.

14. Stay of suits by money-lender not holding licence.— (1) No court shall pass a decree in favour of a money-lender in any suit to which this Act applies, unless the court is satisfied that at the time when the loan or any part thereof, to which the suit relates was advanced, the money-lender held a valid licence, and if the court is satisfied that the money-lender did not hold a valid licence, it shall dismiss the suit.

(2) Nothing in this section shall affect —

(a) suits in respect of loans advanced by a money-lender before the date on which this Act comes into force; provided such money-lender has, within 15 days of the date of coming into force of this Act, registered himself;

(b) the powers of a Court of Wards, or an Official Assignee, a receiver, an administrator or a Court under the provisions of the Presidency-Towns Insolvency Act, 1909 (Central Act 3 of 1909), or the Provincial Insolvency Act, 1920 (Central Act 5 of 1920) or any other law in force corresponding to that Act, or of a liquidator under the Companies Act, 1956, to realise the property of a money-lender.

15. Regarding past transactions of money-lending.— Every person who has advanced a sum of money or is otherwise covered by the provisions of this Act shall register all such past transactions of money-lending with the Registrar within 15 days of the coming into force of this Act under an intimation thereof.

16. Application for cancellation of licence.— (1) Any person may, during the currency of a licence, file an application to the Registrar for the cancellation of the licence issued to a money-lender on the ground that such money-lender has been guilty of any act or conduct for which the Registrar may under section 9 refuse him the grant of a licence. At the time of filing his application the said person shall deposit such amount not exceeding Rs.500/- as the Registrar may deem fit.

(2) On the receipt of such application and deposit or of a report to that effect from an officer acting under section 18 the Government shall hold an inquiry and if it is satisfied that the money-lender has been guilty of such act or conduct it may direct the Registrar to cancel the licence of the money-lender and may also direct the return of the deposit made under sub-section (1).

(3) If, in the opinion of the Registrar, an application made under sub-section (1) is frivolous or vexatious, he may, out of the deposit made under sub-section (1), direct to be paid to the money-lender such amount as he deems fit as compensation.

17. Registrar and Assistant Registrar to have powers of Civil Court.— For the purposes of sections 7 and 18, the Registrar, Assistant Registrar, and, as the case may be, the officer authorised under section 18 and for the purposes of section 16, the Registrar shall have and may exercise the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (Central Act 5 of 1908), in respect of the following matters:—

- (a) enforcing the attendance of any person and examining him on oath;
- (b) compelling the production of documents and materials/objects;
- (c) issuing commissions for the examination of witnesses; and
- (d) proof of facts by affidavits.

18. Power of authorised officer to require production of records or documents.— For the purpose of verifying whether the business of money-lending is carried on in accordance with the provisions of this Act, the Registrar, Assistant Registrar or any other officer authorised by the Government in this behalf may require any money-lender or any person in respect of whom the Registrar, Assistant Registrar or the officer so authorised has reason to believe that he is carrying on the business of money-lending in the State, to produce any record or documents in his possession which in his opinion is relevant for the purpose and thereupon such money-lender or person shall produce such record or document. The Registrar, Assistant Registrar or officer so authorised may, after reasonable notice, at any reasonable time, enter and search without warrant any premises where he believes such record or document to be and inspect such record or document and may ask any question necessary for interpreting or verifying such record and shall forward a report in that regard to the Government.

19. Disposal of property pledged with money-lender carrying on business of money-lending without valid licence.— (1) If, upon the inspection of records and documents made under section 18, the inspecting officer is satisfied that the money-lender is in possession of property pledged to him by a debtor as security for the loan advanced by the money-lender in the course of his business of money-lending without a valid licence or in violation of sections 14 and 15 of this Act, the inspecting officer shall require the money-lender to deliver forthwith the possession of such property to him.

(2) Upon the property being delivered to him, the inspecting officer, if he is not the Registrar, shall entrust it to the Registrar and the Registrar when he is also the inspecting officer shall keep it in his custody for being disposed of as hereinafter provided.

(3) On delivery of the property under sub-section (1) or sub-section (2), the Registrar shall, after due verification and identity thereof, return it to the debtor who had pledged it or, where the debtor is dead, to his known heirs.

(4) If the debtor or his known heirs cannot be traced, the Registrar shall, within ninety days from the date of taking possession of the property, publish a notice in the prescribed manner inviting claims thereto. If, before the expiry of the said period, a claim is received, whether in answer to the notice or otherwise, he shall adjudicate upon and decide such claim. If the Registrar is satisfied that any claim is valid, he shall deliver the possession of the property to the person claiming it on his giving a receipt therefor; and such delivery of the property to the person claiming it shall discharge the Registrar of his liability in respect of such property against any other person. If the claim is refused, the property shall stand forfeited to the Government.

(5) Where the possession of the property pledged by a debtor cannot, for any reason including identity thereof be delivered to him, then the money-lender to whom it was pledged shall be required to pay to the debtor or if he is dead, to his known heir, the value of such property if such debtor or, as the case may be, the heir claims the property. If the money-lender fails to pay the value, it may be recoverable from him as an arrear of land revenue; and on recovery of the value, it shall be delivered to the debtor by whom such property was pledged or, as the case may be, to the heir.

(6) If there is difference of opinion between the money-lender and the debtor or, as the case may be, his heir, on the question of value of the property or its identity, the question shall be referred to the Registrar for decision and his decision on the question shall be final.

(7) The value of the property may be determined with the assistance of the services of an expert appointed by the Government in that behalf. The expert may be paid such honoraria as the Government or any officer not below the rank of a Mamlatdar appointed by it may by an order in writing from time to time in relation to any area or areas determine.

20. Court's power to cancel or suspend a licence.— (1) (i) A Court passing an order of conviction against a money-lender for an offence under this Act; or

(ii) a Court trying a suit to which this Act applies; if satisfied that such money-lender has committed contravention of the provisions of this Act or the rules as would, in its opinion, make him unfit to carry on the business of money-lending.—

(a) shall order that all the licences held by such money-lender in the State be cancelled or suspended for such time as it may think fit; and

(b) shall, if it thinks fit, declare any such money-lender, or if any money-lender is an undivided Hindu family, a company or an unincorporated body, such family, company or body and also any person responsible for the management of the business of money-lending carried on by such family, company or body, to be disqualified from holding any licence in the State for such time as the court may think fit.

(2) Where a Court convicts a money-lender of an offence under this Act, or, makes an order or declaration under clause (a) or (b) of sub-section (1), it shall cause the particulars of the conviction, order or declaration, as the case may be, to be endorsed on all the licences which were granted for the purpose and also cause such particulars to be entered in the registers:

Provided that where any licence held by any money-lender is suspended or cancelled or any money-lender is disqualified from holding any licence he may appeal from the decision of the Court passing the order; and the Court of appeal may, if it thinks fit, pending the appeal, stay the operation of the order under this section.

(3) Any licence required by a Court for endorsement in accordance with sub-section (2), shall be produced by the person by whom it is held in such manner and within such time as may be directed by the Court and any person who, without reasonable cause, makes default in producing the licence so required shall be liable, on conviction, to a fine not exceeding Rs. 500 for each day for the period during which the default continues.

(4) Powers conferred on a Court under this section may be exercised by any Court in appeal or in revision.

21. No compensation for suspension or cancellation of licence.— Where any licence is suspended or cancelled under this Act, no person shall be entitled to any compensation or the refund of any licence fee or inspection fee.

22. Persons debarred from doing business during period of suspension or cancellation of licence.— A person whose licence has been suspended or cancelled in accordance with the provisions of this Act shall, during the period of suspension or cancellation, as the case may be, be disqualified from holding any licence in the State.

23. Person whose licence is suspended or cancelled not to apply without giving particulars of endorsement or of disqualification.— No person whose licence has been endorsed under section 20 or who has been disqualified from holding a licence shall apply for, or be eligible to hold, a licence, without giving particulars of such endorsement or disqualification.

24. Duty of money-lender to keep accounts, and furnish copies.— (1) Every money-lender shall keep and maintain a cash book and a ledger, and shall have such accounts audited by an authorised auditor.

(2) Every money-lender shall-

(a) deliver or cause to be delivered-

(i) to the debtor within 30 days from the date on which a loan is made, a statement in any recognised language, showing in clear and distinct terms the amount and date of the loan and of its maturity, the nature of the security, if any, for the loan, the name and address of the debtor and of the money-lender and the rate of interest charged:

Provided that no such statement shall be required to be delivered to a debtor if he is supplied by the money-lender with a pass book which shall be in the prescribed form and shall contain an up-to-date account of the transactions with the debtor;

(ii) to the Assistant Registrar, within the said period, a statement containing the particulars referred to in clause (a) (i);

(b) upon repayment of a loan in full, mark indelibly every paper signed by the debtor with words indicating payment or cancellation, and discharge every mortgage, restore every pledge, return every note and cancel or reassign every assignment given by the debtor as security for the loan.

(3) Notwithstanding anything contained in clause (a) (ii) of sub-section (2), the Government may, by order in writing, permit such class of money-lenders as may be specified in the order to deliver or cause to be delivered to the Assistant Registrar a statement containing the particulars referred to in clause (a) (i) of sub-section (2) in respect of all loans made during every such period as may be specified in the order. And upon the issue of such order, a money-lender electing to deliver a periodical statement as provided in this sub-section shall deliver or cause to be delivered the same within a period of 30 days from the date of expiry of every such period.

(4) No money-lender shall receive any payment from a debtor on account of any loan without giving him a plain and complete receipt for the payment.

(5) No money-lender shall accept from a debtor any article as a pawn, pledge or security for a loan without giving him a plain signed receipt for the same with its description, estimated value, the amount of loan advanced against it and such other particulars as may be prescribed. Such money-lender shall maintain the duplicates of such receipts in a separate register.

25. Delivery of statement of accounts and copies thereof by money-lender.— (1) Every money-lender shall deliver or cause to be delivered every year to each of his debtors a legible statement of such debtor's accounts signed by the money-lender or his agent of any amount that may be outstanding against such debtor. The statement shall show—

- (i) the amount of principal, the amount of interest, separately, due to the money-lender at the beginning of the year;
- (ii) the total amount of loans advanced during the year;
- (iii) the total amount of repayments received during the year; and
- (iv) the amounts of principal and interest due at the end of the year.

The Statement shall be signed by the money-lender, or his agent, and shall be in any recognised language. It shall be in such form and shall be supplied to the debtor on or before such date as may be prescribed:

Provided that no such statement shall be required to be delivered to a debtor if he is supplied by the money-lender with a pass book which shall be in the prescribed form and shall contain an up-to-date account of the transactions with the debtor.

The money-lender shall, on or before the aforesaid date, deliver or cause to be delivered a statement containing the particulars specified in clauses (i) to (iv) to the Assistant Registrar.

(2) In respect of any particular loan, whether advanced before or after the date on which this Act comes into force, the money-lender shall, on demand in writing being made by the debtor at anytime during the period when the loan or any part thereof has not been repaid, and on payment of the prescribed fee, supply to the debtor, or if the debtor so requires, to any person specified in that behalf in the demand, a statement, in any recognised language, signed by the money-lender or his agent, and containing the relevant particulars specified in sub-section (1).

(3) A money-lender shall, on a demand in writing by the debtor, on tender of the prescribed sum of expenses, supply a copy of any document relating to a loan made by him or any security thereof to the debtor, or if the debtor so requires, to any person specified in that behalf in the demand.

(4) For the purposes of this section, "year" means the year for which the accounts of the money-lender are ordinarily in his own books.

26. Debtor not bound to admit correctness of accounts.— A debtor to whom a statement of accounts or a pass book has been furnished under section 25 shall not be bound to acknowledge or deny its correctness and failure to do so shall not, by itself, be deemed to be an admission of correctness of the accounts.

27. Procedure of Court in suit regarding loans.— Notwithstanding anything contained in any law for the time being in force, in any suit to which this Act applies-

- (a) a Court shall, before deciding the claim on merits, frame and decide the issues whether the money-lender has complied with the provisions of sections 24 and 25;
- (b) if the Court finds that the provisions of section 24 or section 25 have not been complied with by the money-lender, it may, if the plaintiff's claim is established, in the

whole or in part, disallow the whole or any portion of the interest found due, as may seem reasonable to it in the circumstances of the case and may disallow costs.

Explanation:— A money-lender who has given the receipt or furnished statement of accounts or a pass book in the prescribed form and manner, shall be held to have complied with the provisions of section 24 or section 25, as the case may be, in spite of any errors or omissions, if the Court finds that such errors and omissions are not material or not made fraudulently.

28. Provisions of certain sections not to apply to loans made by company or unincorporated body exempted by Government.— Nothing in sections 24 to 27 shall apply to loans advanced by any company or unincorporated body which the Government may, by notification in the Official Gazette, exempt from operation of those sections for reasons to be recorded in writing.

29. Power of Court to limit interest recoverable in certain cases.— Notwithstanding anything contained in any agreement contract, instrument, usage, custom or any law for the time being in force, no Court shall in respect of any loan, whether advanced before or after the date on which this Act comes into force, decree on account of interest, a sum greater than principal of the loan due on the date of decree.

30. Power of Court to direct payment of decretal amount by instalment.— Notwithstanding anything contained in the Code of Civil Procedure, 1908, the Court may, at any time, on application of a judgement – debtor, after notice to the decree - holder, direct that the amount of any decree passed against him, whether before or after the date on which this Act comes into force, in respect of a loan, shall be paid in such number of instalments and subject to such conditions, and payable on such dates, as having regard to the circumstances of the Judgement-debtor and the amount of the decree, it considers fit.

31. Limitation on rates of interest.— (1) The Government may, from time to time, by a notification in the Official Gazette, fix the maximum rate of interest for any local area or class of business of money-lending in respect of secure and un-secured loans and until such rates are fixed, the maximum interest charged shall not exceed 24% per annum.

(2) No money-lender shall receive from a debtor or intending debtor any sum by way of compound interest on a loan advanced or intended to be advanced or any sum by way of interest at a rate higher than the rate fixed under sub-section (1) for any default committed by the debtor in payment of the sums on due date in accordance with the terms on which the loan is granted:

Provided that the money-lender, in case of such default, may charge simple interest at a rate not exceeding the rate payable in respect of the principal on the sums due in respect of the period commencing on the date on which they become due for payment and ending on the date on which they are actually paid.

(3) Notwithstanding anything contained in any law for the time being in force, no agreement between a money-lender and a debtor for payment of interest at the rates exceeding the maximum rates fixed by the Government under sub-section (1) and no agreement in contravention of the provisions of sub-section (2) shall be valid.

(4) If any money-lender or a person advancing a loan specified in sub-clause XIII of clause (k) of section 2 makes an oral or written demand or charges or receives from a debtor interest at rate exceeding the maximum rate fixed by the Government under sub-section (1), he shall, for the purposes of section 43, be deemed to have contravened the provisions of this Act.

32. Provision of charge for expenses on loans by money-lender.— (1) No money-lender shall receive from a debtor or intending debtor any sum other than reasonable costs of investigating title to the property, costs of stamp, registration of documents and other usual out-of-pocket expenses in cases where an agreement between the parties includes a stipulation that property is to be given as security or by way of mortgage and where both parties have agreed to such costs and reimbursement thereof or where such costs, charges or expenses are leviable under the provisions of the Transfer of Property Act, 1882, or any other law for the time being in force.

(2) Any sum received by a money-lender in contravention of sub-section (1) from a debtor or intending debtor on account of costs, charges, or expenses referred to in that sub-section shall be recoverable from the money-lender as debt due from him to the debtor or, as the case may be, intending debtor, or shall be liable to be set off against the loan actually lent to the debtor or intending debtor.

33. Notice and information to be given on assignment of loans.— (1) Where a loan advanced, whether before or after the date on which this Act come into force, or any interest of such loans or the benefit of any agreement made or security taken in respect of such loan 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 the assignee notice in writing that the loan, interest, agreement or security is affected by the operation of this Act;

(b) supply to the assignee all information necessary to enable him to comply with the provisions of this Act; and

(c) give the debtor notice in writing of the assignment supplying the name and address of the assignee.

(2) Any person acting in contravention of the provisions of sub-section (1) shall be liable to indemnify any other person who is prejudiced by the contravention.

34. Application of Act as respects assignees.— (1) Save as hereinafter provided, where any debt due to a money-lender in respect of money lent by him, whether before or after the date on which this Act comes into force or 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, has been assigned, the assignee shall be deemed to be the money-lender and all the provisions of this Act shall apply to such assignee as if he were the money-lender.

(2) Notwithstanding anything contained in this Act or in any other law for the time being in force, where, for any reason, any such assignment is invalid and the debtor has made any payment of money or transfer of property on account of any loan which has

been so assigned, the assignee shall in respect of such payment or transfer be deemed to be the agent of the money-lender for all purposes of this Act.

35. Reopening of transactions.— Notwithstanding anything contained in any law for time being in force, the Court shall, in any suit to which this Act applies, whether heard ex-parte or otherwise—

(a) reopen any transaction, or any account already taken between the party;

(b) take an account between the parties;

(c) reduce the amount charged to the debtor in respect of any excessive interest;

(d) if on taking accounts it is found that the money-lender has received more than what is due to him, pass a decree in favour of the debtor in respect of such amount:

Provided that in exercise of these power, the Court shall not—

(i) reopen any adjustment or agreement purporting to close previous dealings and to create new obligations which have been entered into by the parties or any person through whom they claim at a date more than six years from the date of this suit;

(ii) do anything which affects any decree of Court.

Explanation:— For the purposes of this section, “excessive interest” means compounded interest or at a rate which contravenes any of the provisions of section 31.

36. Inquiry for taking accounts and declaring the amount due.— (1) Any debtor may make an application at anytime to the Court, whether the loan has or has not become payable, for taking accounts, and for declaring the amount due to the money-lender. Such application shall be in the form prescribed for Civil Suit under the Code of Civil Procedure, 1908 and accompanied by a fee of Rs. 500/-.

(2) On receipt of such application, the Court shall cause a notice of the application to be given to the money-lender.

(3) On the date fixed for the summary hearing of the application or on such date to which the hearing may be adjourned, the Court shall make an inquiry and shall, after taking an account of the transactions between the parties, pass an order declaring the amount, if any, still payable by the debtor to the money-lender, in respect of the principal and interest, if any. In taking accounts under this section, the Court shall follow the provisions of sections 24 to 35 provided that such applications shall be tried summarily and disposed off within 3 months from the date of filing.

37. Deposit in Court of money due to money-lender.— (1) At any time, a debtor may tender to a money-lender any sum of money due from him to the money-lender in respect of a loan by way of principal, interest or both.

(2) If the money-lender refuses to accept any sum so tendered, the debtor may deposit the said sum in Court to the account of the money-lender.

(3) The Court shall, thereupon, cause written notice of the deposit to be served on the money-lender, and he may, on presenting a petition stating the sum when due in respect of the loan and his willingness to accept the said sum, receive and appropriate first towards the interest and the residue, if any, towards the principal.

(4) When the money-lender does not accept the sum, the Court shall appropriate the said sum first towards the principal and interest proportionately.

38. When interest to be paid for entire month.— Notwithstanding any agreement between the parties or any law for the time being in force, when a statement is delivered or pass book is supplied to a debtor under section 25 or if accounts are taken under section 36 or a tender is made by a debtor to a money-lender in respect of a loan under section 37 before the sixteenth day of a calendar month, the interest due shall be calculated as payable for fifteen days of the said month, and if the statement is delivered or pass book is supplied or accounts are taken or tender is made on any subsequent day, than for the entire calendar month irrespective of the fact that such statement is delivered or pass book is supplied or such accounts are taken or such tender is made on any such day.

39. Entry of a wrong sum in bond, etc., to be an offence.— (1) No money-lender shall take any promissory note, acknowledgement, bond or other writing which does not state the actual amount of the loan, or which states such amount wrongly or execute any instrument in which blanks are left to be filled after execution.

(2) Whoever contravenes the provisions of sub-section (1), shall, on conviction, be punishable with fine which may extend to Rs. 50,000/- or with imprisonment of either description which may extend to three years or with both.

40. Penalty for making false statement.— Whoever, in any document required by, or for the purposes of, any of the provisions of this Act, wilfully makes a statement in any material particulars knowing it to be false, shall, on conviction, be punished with imprisonment for a term which may extend to three years or with fine which may extend to fifty thousand rupees or both.

41. Penalty for obtaining licence under fictitious name, carrying on money-lending business without valid licence and entering into agreement in the course of money-lending business carried on under fictitious name;

whoever,—

(a) obtains a licence in the name which is not his true name or carries on the business of money-lending under licence so obtained, or

(b) carries on business of money-lending at any place without holding a valid licence authorizing him to carry on such business at such place, or

(c) enters into any agreement in the course of business of money-lending without a valid licence or under a licence obtained in the name which is not his true name shall, on conviction, be punished,—

(i) for the first offence, with imprisonment of either description which may extend to one year or with fine which may extend to rupees fifty thousand and five hundred or with both, and

(ii) for the second or subsequent offence, in addition to, or in lieu of, the penalty of Rs. one lakh, with imprisonment which shall not be less than two years, where such person is not a company, and with fine which shall not be less than rupees one lakh, where such person is a company.

42. Penalty for molestation.— (1) Whoever molests, assaults or abets the molestation, assault of a debtor for the recovery of a debt due by him to a money-lender shall, on conviction, be punishable with imprisonment of either description which may extend to three months or with fine which may extend to rupees fifty thousand or with both.

Explanation:— For the purposes of this section, a person who, with intent to cause another person to abstain from doing any act which he has a right to do or to do any act which he has a right to abstain from doing—

(a) obstructs or uses violence to or intimidates such other person; or

(b) persistently follows such other persons from place to place or interferes with any property owned, or used by him or deprives him of, or hinders him in, use thereof; or

(c) loiters near a house or other place where such other person resides or works or carries on business, or happens to be, or does any act calculated to annoy or intimidate such other person, molest shall be deemed to molest such other person:

Provided that a person who goes to search out for the place in order merely to obtain or communicate information shall not be deemed to molest.

43. General provision regarding penalties.— Whoever fails to comply with or acts in contravention of any provision of this Act, shall, if no specific penalty has been provided for in this Act, be punishable —

(a) for the first offence with simple imprisonment which may extend to one year or with fine which may extend to rupees fifty thousand or with both, and

(b) for the second or subsequent offence, with imprisonment of either description which may extend to two years or with fine which may extend to rupees 1,00,000/- or with both.

44. Offences by corporations, etc.— If the person contravening any of the provisions of this Act is an undivided Hindu family or a company or an unincorporated body, the person responsible for the management of the business of such family, company or body shall be deemed to be guilty of such contravention.

45. Certain offences to be cognizable.— Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), offences punishable,—

(a) under section 43 for contravening the provisions of section 5; and

(b) under section 42, shall be cognizable.

46. Cognizance of certain offences.— Every Court of Sessions, Judicial Magistrate First Class, shall take cognizance of any offence punishable under section 43 for

contravening the provisions of section 24 or section 25, on a complaint made before it by any person.

47. Arrest and imprisonment in execution of decree for money, against agricultural debtors, abolished.— Notwithstanding any law for the time being in force, no debtor who cultivates land personally and whose debts do not exceed Rs. 1,00,000/- shall be arrested or imprisoned in execution of a decree for money passed in favour of money-lender, whether before or after the date on which this Act come into force.

Explanation:— “to cultivate personally” has the meaning assigned to it in clause (7) of section 2 of the Goa, Daman and Diu Agricultural Tenancy Act, 1964 (Act 7 of 1964).

48. Every officer to be public servant.— Every officer of the Government or officers, acting under the provisions of this Act, shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860 (Central Act 45 of 1860).

49. Power of the Government to delegate its powers.— The Government may delegate to any officer any of the powers conferred on it by or under this Act.

50. Power to make rules.— (1) The Government may make rules for carrying out the purposes of this Act, and issue directions to the officers, or generally from time to time for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing provisions, such rules may provide for all or any of the following matters:—

(a) the form of register under section 4;

(b) the form of the application for a licence, the further particulars to be included therein and the manner of payment of licence fee under section 6;

(c) the form and conditions of the licence, and the manner of payment of licence fee under section 7;

(d) the manner of publishing a notice under sub-section (4) of section 19 for inviting claims to property pledged with a money-lender;

(e) the form of cash book and ledger and the manner in which they should be maintained and other particulars to be prescribed under section 24;

(f) the form of the statement of accounts and pass book to be furnished or delivered and the date before which it is to be furnished or delivered under sub-section (1), the fee to be paid under sub-section (2) and the sum of expenses to be paid under sub-section (3), of section 25;

(g) the form of application under sub-section (1) of section 36;

(h) any other matter which is or may be prescribed under this Act or any matter for which there is no provision or insufficient provision in this Act and for which provision is, in the opinion of the Government, necessary for giving effect to the provisions of this Act.

(3) The rules made under this section shall, subject to the condition of previous publication, be published in the Official Gazette.

(4) All rules made under this section shall be laid as soon as may be after they are made before the State Legislature, and shall be subject to such modifications as the Legislature may make during the session in which they are so laid, or the session immediately following.

51. Repeal and saving.— (1) The Goa, Daman and Diu Money-Lenders Act, 1977 (Act 7 of 1977), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Act shall be deemed to have been done or taken under the corresponding provisions of this Act.

Secretariat - Annexe,
Panaji.
Dated: 19-9-2001.

V. P. SHETYE,
Secretary to the Government of Goa,
Law Department (Legal Affairs).

