

Moneylenders (Amendment) Bill

Bill No. 28/2005.

Read the first time on 17th October 2005.

A BILL

i n t i t u l e d

An Act to amend the Moneylenders Act (Chapter 188 of the 1985 Revised Edition).

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

Short title and commencement

1. This Act may be cited as the Moneylenders (Amendment) Act 2005 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

5 Amendment of section 8

2. Section 8(1) of the Moneylenders Act is amended by deleting the words from the word “he” in the 15th line to “\$200,000:” in the 23rd line and substituting the following words:

“he shall be guilty of an offence and —

- 10 (i) in the case of a first offence, shall be liable on conviction to a fine of not less than \$20,000 and not more than \$200,000 or to imprisonment for a term not exceeding 2 years or to both;
- 15 (ii) in the case of a second or subsequent offence, shall be liable on conviction to a fine of not less than \$20,000 and not more than \$200,000 and shall also be punished with imprisonment for a term not exceeding 5 years; and
- 20 (iii) in the case of an offender being a company, shall be liable on conviction to a fine of not less than \$40,000 and not more than \$400,000:”.

Repeal and re-enactment of section 33

3. Section 33 of the Moneylenders Act is repealed and the following section substituted therefor:

“**Harassing debtor, besetting his residence, etc.**

- 25 **33.**—(1) Subject to subsection (3), where a person who does not hold a licence but who is presumed to be a moneylender under section 3 —
- (a) displays or uses any threatening, abusive or insulting words, behaviour, writing, sign or visible representation; or
- 30 (b) commits any act likely to cause alarm or annoyance to his debtor, any member of the debtor’s family or any other person,

in connection with the loan to the debtor (whether or not he does the act personally or by any person acting on his behalf), he shall be guilty of an offence and —

- 5 (i) in the case of a first offence, shall be liable on conviction to a fine of not less than \$4,000 and not more than \$40,000 or to imprisonment for a term not exceeding 3 years or to both;
- (ii) in the case of a second or subsequent offence, shall be liable on conviction to a fine of not less than \$4,000 and not more than \$40,000 and shall also be punished with imprisonment
10 for a term not exceeding 6 years; and
- (iii) in the case of an offender being a company, shall be liable on conviction to a fine of not less than \$8,000 and not more than \$80,000.

(2) Subject to subsection (3), any person who, acting on behalf of a
15 person who does not hold a licence but who is presumed to be a moneylender under section 3, commits or attempts to commit any of the acts specified in subsection (1) shall be guilty of an offence and —

- 20 (a) in the case of a first offence, shall be liable on conviction to a fine of not less than \$4,000 and not more than \$40,000 or to imprisonment for a term not exceeding 3 years or to both; and
- (b) in the case of a second or subsequent offence, shall be liable on conviction to a fine of not less than \$4,000 and not more
25 than \$40,000 and shall also be punished with imprisonment for a term not exceeding 6 years.

(3) Subject to section 231 of the Criminal Procedure Code (Cap. 68) —

- 30 (a) a person who is convicted for the first time of an offence under subsection (1) or (2) shall also be liable to be punished with caning —
 - (i) with not more than 4 strokes if it is proved to the satisfaction of the court that, while committing the offence, he had caused damage to any property;

(ii) with not more than 6 strokes if it is proved to the satisfaction of the court that, while committing the offence, he had caused hurt to another person; and

(iii) with not more than 9 strokes if it is proved to the satisfaction of the court that, while committing the offence, he had caused hurt to another person and damage to any property; and

(b) a person who is convicted of a second or subsequent offence under subsection (1) or (2) shall also be punished with caning —

(i) with not more than 6 strokes if it is proved to the satisfaction of the court that, while committing the offence, he had caused damage to any property;

(ii) with not less than 3 and not more than 12 strokes if it is proved to the satisfaction of the court that, while committing the offence, he had caused hurt to another person; and

(iii) with not less than 4 and not more than 18 strokes if it is proved to the satisfaction of the court that, while committing the offence, he had caused hurt to another person and damage to any property.

(4) For the purposes of subsection (3), a person is deemed to have caused damage to any property if he does any of the following acts:

(a) defacing the property by means of any pen, marker or any other delible or indelible substance;

(b) defacing the property by affixing, posting up or displaying on such property any poster, placard, bill, notice, paper or other document;

(c) defacing the property through the use of paint, coffee, soya sauce or any other delible or indelible substance;

(d) destroying or damaging the property through the use of fire or any other substance;

(e) doing any other act of mischief which causes a change in any property or which diminishes its value or utility.”.

Repeal and re-enactment of section 35A and new sections 35B and 35C

4. Section 35A of the Moneylenders Act is repealed and the following sections substituted therefor:

5 **“Jurisdiction of court**

35A. Notwithstanding any provision to the contrary in the Criminal Procedure Code (Cap. 68), a District Court shall have jurisdiction to try any offence under this Act and shall have power to impose the full penalty or punishment in respect of the offence.

10 **Offences by bodies corporate, etc.**

35B.—(1) Where an offence under this Act committed by a body corporate is proved —

 (a) to have been committed with the consent or connivance of an officer; or

15 (b) to be attributable to any neglect on his part,

the officer as well as the body corporate shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

 (2) Where the affairs of a body corporate are managed by its members, subsection (1) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

20 (3) Where an offence under this Act committed by a partnership is proved —

 (a) to have been committed with the consent or connivance of a partner; or

25 (b) to be attributable to any neglect on his part,

the partner as well as the partnership shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

 (4) Where an offence under this Act committed by an unincorporated association (other than a partnership) is proved —

30 (a) to have been committed with the consent or connivance of an officer of the unincorporated association or a member of its governing body; or

(b) to be attributable to any neglect on the part of such an officer or member,

the officer or member as well as the unincorporated association shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(5) In this section —

“body corporate” includes a limited liability partnership;

“officer” —

(a) in relation to a body corporate, means any director, partner, member of the committee of management, chief executive, manager, secretary or other similar officer of the body corporate and includes any person purporting to act in any such capacity; or

(b) in relation to an unincorporated association (other than a partnership), means the president, the secretary, or any member of the committee of the unincorporated association, or any person holding a position analogous to that of president, secretary or member of a committee and includes any person purporting to act in any such capacity;

“partner” includes a person purporting to act as a partner.

(6) The Minister may make rules to provide for the application of any provision of this section, with such modifications as the Minister considers appropriate, to any body corporate or unincorporated association formed or recognised under the law of a territory outside Singapore.

Presumption

35C.—(1) Where the bank account or automated teller machine card of any person is proved to the satisfaction of the court to have been used in the collection of debts by an unlicensed moneylender, that person shall be presumed, until the contrary is proved, to have assisted in the carrying on of the business of an unlicensed moneylender in contravention of section 8(1)(b).

- (2) In this section, “unlicensed moneylender” means any person —
- (a) who is presumed to be a moneylender under section 3; and
 - (b) who does not hold a licence.”.

EXPLANATORY STATEMENT

This Bill seeks to amend the Moneylenders Act (Cap. 188).

Clause 2 amends section 8(1) to enhance the penalties for the offence of illegal moneylending.

Clause 3 repeals and re-enacts section 33 —

- (a) to make it an offence for any unlicensed moneylender or any person assisting such an unlicensed moneylender to harass a debtor or to beset his residence, etc.; and
- (b) to enhance the penalties for such an offence (including the imposition of caning in certain circumstances).

Clause 4 repeals and re-enacts section 35A to provide for the District Court to have jurisdiction to try offences under the Act and to impose the full penalty or punishment under the Act in respect of the offence notwithstanding the provisions of the Criminal Procedure Code (Cap. 68).

The clause also inserts 2 new sections, namely, sections 35B and 35C.

The new section 35B relates to the liability of officers and partners for any offence under the Act committed by a body corporate, an association or a firm.

The new section 35C creates a presumption whereby a person whose bank account or automated teller machine card was proved to have been used in the collection of debts by an unlicensed moneylender will be presumed, until the contrary is proved, to have knowingly assisted in the carrying on of the business of an unlicensed moneylender in contravention of section 8(1)(b).

EXPENDITURE OF PUBLIC MONEY

This Bill will not involve the Government in any extra financial expenditure.
