



REPUBLIC OF SINGAPORE

GOVERNMENT GAZETTE

BILLS SUPPLEMENT

Published by Authority

NO. 33]

TUESDAY, OCTOBER 21

[2008

First published in the *Government Gazette*, Electronic Edition, on 20th October 2008 at 5:00 pm.

Notification No. B 33 — The Moneylenders Bill is hereby published for general information. It was introduced in Parliament on the 20th day of October 2008.

Moneylenders Bill

Bill No. 33/2008.

Read the first time on 20th October 2008.

MONEYLENDERS ACT 2008

(No. of 2008)

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short title and commencement
2. Interpretation
3. Persons presumed to be moneylenders
4. Appointment of Registrar, etc.

PART II

LICENSING OF MONEYLENDERS

5. No moneylending except under licence, etc.
6. Renewal of licences
7. Other grounds for refusing to issue or renew licence, etc.
8. Licence fee
9. Revocation or suspension of licence
10. Approval of places of business
11. Forfeiture of security deposit
12. Approval and notification of change of profile
13. Publication of lists
14. Unlicensed moneylending
15. Other offences under this Part

PART III

REGULATION OF BUSINESS OF MONEYLENDING, ENFORCEMENT AND PROCEEDINGS

16. Regulation of advertising and marketing, etc.
17. Prohibition of unsolicited loans

Section

18. Signage at place of business
19. Licensees to inform borrowers of terms of loan
20. Note of moneylender's contract to be given to borrower
21. Provision of statements of account, loan documents and receipts
22. Charges other than permitted fees unenforceable
23. Re-opening of certain transactions
24. Accounts to be kept and submissions to Registrar
25. Power to inspect, and require information or documents
26. General power to issue directions
27. False statements or representations to induce borrowing an offence
28. Harassing borrower, besetting his residence, etc.
29. Special provisions relating to non-resident principal
30. Powers of police officer

PART IV

MISCELLANEOUS

31. Certain offences seizable and non-bailable
 32. Jurisdiction of court
 33. Offences by bodies corporate, etc.
 34. Composition of offences
 35. Exemption on application
 36. Class exemption
 37. Rules
 38. Consequential amendments to other written laws
 39. Repeal, transitional and savings provisions
-

A BILL

i n t i t u l e d

An Act to repeal and re-enact with amendments the Moneylenders Act (Chapter 188 of the 1985 Revised Edition) for the regulation of moneylending and for matters connected therewith, and to make consequential amendments to the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Chapter 65A of the 2000 Revised Edition) and the Registration of Criminals Act (Chapter 268 of the 1985 Revised Edition).

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

PART I

PRELIMINARY

Short title and commencement

- 5 **1.** This Act may be cited as the Moneylenders Act 2008 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

Interpretation

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

10 “Authority” means the Monetary Authority of Singapore established under section 3 of the Monetary Authority of Singapore Act (Cap. 186);

“body corporate” includes a limited liability partnership;

15 “business name”, in relation to a moneylender, means the name under which the moneylender is authorised by a licence to carry on the business of moneylending;

“business trust” has the same meaning as in section 2 of the Business Trusts Act (Cap. 31A);

“company” has the same meaning as in section 4(1) of the Companies Act (Cap. 50);

20 “corporation” has the same meaning as in section 4(1) of the Companies Act;

“director” has the same meaning as in section 4(1) of the Companies Act;

“excluded moneylender” means —

25 (a) any body corporate, incorporated or empowered by an Act of Parliament to lend money in accordance with that Act;

30 (b) any person licensed, approved, registered or otherwise regulated by the Authority under any other written law, to the extent that such person is permitted or authorised to lend money or is not prohibited from lending money under that other written law;

(c) any society registered as a credit society under the Co-operative Societies Act (Cap. 62);

(d) any pawnbroker licensed under the Pawnbrokers Act (Cap. 222);

5 (e) any person who —

(i) lends money solely to his employees as a benefit of employment;

10 (ii) lends money solely to accredited investors within the meaning of section 4A of the Securities and Futures Act (Cap. 289);

(iii) lends money solely to —

(A) corporations;

(B) limited liability partnerships;

15 (C) trustees or trustee-managers, as the case may be, of business trusts for the purposes of the business trusts;

(D) trustees of real estate investment trusts for the purposes of the real estate investment trusts,

20 or who carries on any combination of such activities or services; or

(f) any person 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;

25 “exempt moneylender” means any moneylender who has been granted an exemption under section 35 or 36 from holding a licence;

30 “firm” means an unincorporated body of 2 or more individuals, or one or more individuals and one or more corporations, or 2 or more corporations, who have entered into partnership with one another with a view to carrying on business for profit and that is registered under the Business Registration Act (Cap. 32);

“interest”, in relation to a loan, means any amount by whatsoever name called in excess of the principal paid or payable to a moneylender in consideration of or otherwise in respect of the loan,

but does not include any permitted fee, stamp duty or other fee payable under this Act or any other written law;

“licence” means a moneylender’s licence issued or renewed under this Act, and “licensee” shall be construed accordingly;

5 “limited liability partnership” has the same meaning as in the Limited Liability Partnerships Act (Cap. 163A);

“moneylender” means a person who, whether as principal or agent, carries on or holds himself out in any way as carrying on the business of moneylending, whether or not he carries on any other
10 business, but does not include any excluded moneylender;

“permitted fee”, in relation to a loan, means the costs, charges or expenses prescribed under section 22(1) that may be imposed on the borrower under the contract for the loan;

15 “principal”, in relation to a loan, means the amount actually lent by a moneylender under the contract for the loan;

“real estate investment trust” means a collective investment scheme that is —

(a) authorised under section 286 or recognised under section 287 of the Securities and Futures Act (Cap. 289); and

20 (b) a trust that invests primarily in real estate and real estate-related assets specified by the Authority in the Code on Collective Investment Schemes and all or any of the units of which are listed for quotation on a securities exchange within the meaning of that Act;

25 “Registrar” means the Registrar of Moneylenders appointed under section 4 and includes a Deputy Registrar of Moneylenders and an Assistant Registrar of Moneylenders appointed under that section;

“substantial shareholder” and “substantial shareholding” have the same meanings as in Division 4 of Part IV of the Companies Act
30 (Cap. 50);

“unlicensed moneylender” means a person —

(a) who is presumed to be a moneylender under section 3; and

(b) who is not a licensee or an exempt moneylender.

Persons presumed to be moneylenders

3. Any person, other than an excluded moneylender, who lends a sum of money in consideration of a larger sum being repaid shall be presumed, until the contrary is proved, to be a moneylender.

5 Appointment of Registrar, etc.

4. The Minister may appoint any public officer to be the Registrar of Moneylenders and such number of public officers as he thinks fit to be Deputy Registrars of Moneylenders and Assistant Registrars of Moneylenders under this Act.

10

PART II

LICENSING OF MONEYLENDERS

No moneylending except under licence, etc.

5.—(1) No person shall carry on or hold himself out in any way as carrying on the business of moneylending in Singapore, whether as principal or as agent, unless —

15

- (a) he is authorised to do so by a licence;
- (b) he is an excluded moneylender; or
- (c) he is an exempt moneylender.

20

(2) The Minister may prescribe different classes or descriptions of licences for the purposes of this Act.

(3) An application for the issue of a licence shall be —

25

- (a) made in such form and manner as may be determined by the Registrar; and
- (b) accompanied by the payment of a non-refundable application fee of a prescribed amount, which shall be paid in such manner as may be specified by the Registrar.

(4) The Registrar may issue a licence with or without conditions, or he may refuse to issue a licence.

30

(5) Without prejudice to section 7, the Registrar shall not issue a licence —

- (a) where any information or statement furnished by the applicant that is material to his application for the issue of a licence under this section is incomplete, false or misleading;
- 5 (b) where the applicant does not satisfy the requirements of the class or description of the licence applied for; or
- 10 (c) where the applicant does not place with the Accountant-General as security for the proper conduct of his business of moneylending in Singapore, in such form as the Registrar may determine, a deposit of \$20,000 for each place of business in respect of which he is to be licensed.

(6) Every licence shall come into operation on the date specified therein, and shall be valid for a period of 12 months or such other prescribed period as may be specified in the licence.

15 (7) The Registrar may at any time, by notice in writing to the licensee, vary or revoke any of the existing conditions of the licence or impose new conditions.

(8) Where a licence is issued to a firm, every partner of the firm actively conducting the business of moneylending of that firm in Singapore shall be subject to this Act as if he holds the licence.

20 **Renewal of licences**

6.—(1) An application for the renewal of a licence shall be made not later than one month before the expiry of the licence, in such form and manner as may be determined by the Registrar.

25 (2) For the purpose of subsection (1), every licensee must notify the Registrar at least one month before the expiry of his licence if he does not wish to renew his licence.

(3) The Registrar may renew a licence with or without conditions, or he may refuse to renew a licence.

30 (4) Without prejudice to section 7, the Registrar shall not renew a licence —

- (a) where any information or statement furnished by the licensee that is material to his application for the renewal of his licence under this section is incomplete, false or misleading;

- (b) where the licensee ceases to satisfy the requirements of the class or description of the licence to be renewed; or
 - (c) where the licensee does not place or maintain with the Accountant-General as security for the proper conduct of his business of moneylending in Singapore, in such form as the Registrar may determine, a deposit of \$20,000 for each place of business in respect of which his licence is to be renewed.
- (5) Upon the renewal of a licence, the licence shall continue to be valid for a further period of 12 months or such other prescribed period as may be specified in the licence from the date immediately following that on which, but for its renewal, the licence would have expired.

Other grounds for refusing to issue or renew licence, etc.

7.—(1) For the purposes of sections 5 and 6, the Registrar may refuse to issue or renew a licence on any of the following grounds:

- (a) if —
 - (i) the applicant is not —
 - (A) an individual who is ordinarily resident in Singapore; or
 - (B) a company, firm or limited liability partnership; or
 - (ii) any person who is or will be responsible for the management of the applicant's business of moneylending is not ordinarily resident in Singapore;
- (b) if the applicant, any director or partner of the applicant, or any person who is or will be responsible for the management of the applicant's business of moneylending is below 21 years of age;
- (c) if the Registrar is not satisfied that the applicant has any place of business in respect of which the licence is to be issued or renewed that is suitable for a business of moneylending, or the Registrar is of the view that it is not in the public interest for a business of moneylending to be conducted in such a place;
- (d) if the applicant, any director, partner or substantial shareholder of the applicant, or any person who is or will be responsible for the management of the applicant's business of moneylending —

- (i) has been convicted of any offence involving dishonesty or moral turpitude;
 - (ii) has been convicted of any offence under sections 43 to 48 of the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Cap. 65A), the Terrorism (Suppression of Financing) Act (Cap. 325) or any regulation made under the United Nations Act (Cap. 339);
 - (iii) is contravening or has contravened any provision of this Act;
 - (iv) has been convicted of any offence under this Act; or
 - (v) is carrying on or has carried on any business of moneylending, in Singapore or elsewhere, in such a manner as renders him unfit to hold a licence;
 - (e) if the Registrar is not satisfied as to the qualification or experience of the applicant, or any person who is or will be responsible for the management of the applicant's business of moneylending;
 - (f) if the Registrar is not satisfied as to the good character of the applicant, any director, partner or substantial shareholder of the applicant, or any person who is or will be responsible for the management of the applicant's business of moneylending;
 - (g) if the Registrar is not satisfied that the applicant, any director, partner or substantial shareholder of the applicant, or any person who is or will be responsible for the management of the applicant's business of moneylending is a fit and proper person to carry on or manage a business of moneylending.
- (2) For the purposes of sections 5 and 6 and without prejudice to subsection (1), where an application is made by any person for the issue or renewal of a licence to carry on the business of moneylending as an agent for a principal, the licence shall not be issued or renewed where —
- (a) any of the grounds for the refusal of a licence under subsection (1) applies to the agent, any director, partner or substantial shareholder of the agent, or any person who is or will be responsible for the management of the agent's business of moneylending;

- (b) the Registrar is not satisfied as to the good character of the principal, any director, partner or substantial shareholder of the principal, or any person who is or will be responsible for the management of the principal's business of moneylending;
- 5 (c) the Registrar is not satisfied that the principal, any director, partner or substantial shareholder of the principal, or any person who is or will be responsible for the management of the principal's business of moneylending is a fit and proper person to carry on or manage a business of moneylending; or
- 10 (d) the principal, or any present or former agent of the principal, has been disqualified by an order of a court from carrying on a business of moneylending or holding a licence to carry on such business.

(3) Any person who is aggrieved by the refusal of the Registrar to issue
15 or renew a licence may, within 14 days of being so informed, appeal in writing to the Minister whose decision shall be final.

Licence fee

8.—(1) Every licensee shall pay such licence fee as may be prescribed for the issue or renewal of the licence by the Registrar.

20 (2) The Minister may prescribe different licence fees in respect of different classes or descriptions of licences.

(3) Where a licensee has more than one place of business, the licensee shall pay such additional licence fee as may be prescribed for each additional place of business according to the class or description of
25 licence which the licensee holds.

(4) The licence fees shall be paid in such manner as may be specified by the Registrar.

(5) Subject to subsection (6), there shall be no refund of any licence fee paid to the Registrar in the event that a licence is revoked or suspended or
30 when the licensee ceases to carry on the business of moneylending at any time before the expiry of the licence.

(6) The Registrar may, where he considers it appropriate, refund or remit the whole or part of any licence fee paid or payable under this Act.

Revocation or suspension of licence

9.—(1) The Registrar may revoke a licence, or suspend it for such period as he considers appropriate, if he is satisfied —

(a) that the licensee —

- 5 (i) has ceased to carry on the business of moneylending, or is wound up or otherwise dissolved;
- (ii) had, in connection with an application for the issue or renewal of the licence —
 - 10 (A) knowingly or recklessly furnished any information or statement to the Registrar which was false or misleading in a material particular;
 - (B) wilfully omitted to state any matter without which the application was misleading in a material particular; or
 - 15 (C) produced to the Registrar any book, record or other document which he knew or had reason to believe contained information which was false or misleading in a material particular;
- (iii) has contravened any condition of his licence;
- 20 (iv) is conducting or has conducted his business of moneylending in an improper or unsatisfactory manner; or
- (v) has carried on a business of moneylending at any place which the Registrar has not approved under section 10, or has contravened any condition of approval for a place of business imposed under that section; or
- 25 (b) that there exists a ground on which the Registrar may refuse to issue or renew a licence under section 7, whether in relation to the licensee or his principal.

(2) The Registrar shall, before revoking or suspending any licence under subsection (1), give the licensee notice in writing of his intention to do so, specifying a date, not less than 21 days after the date of the notice, upon
30 which the revocation or suspension shall take effect unless the licensee shows cause to the Registrar as to why the licence should not be revoked or suspended.

(3) Where, after the licensee has shown cause under subsection (2), the Registrar decides to revoke or suspend a licence, he shall notify the licensee of his decision in writing and specify a date, not less than 14 days after the date of the notice, upon which the revocation or suspension shall take effect.

(4) The licensee may, within 14 days after the date of the notice under subsection (3), appeal in writing against the revocation or suspension to the Minister whose decision shall be final.

(5) If the licensee appeals to the Minister under subsection (4), the decision appealed against shall not take effect unless it is confirmed by the Minister, or the appeal is for any reason dismissed by the Minister or is withdrawn.

(6) Any decision of the Registrar to revoke or suspend a licence made under this section shall not affect any moneylending transaction entered into before the date the decision is made.

Approval of places of business

10.—(1) An applicant for the issue of a licence or a licensee who intends to commence the business of moneylending at any new place or places of business shall, before commencing the business of moneylending at such place or places, apply in writing to the Registrar to approve such place or places of business for moneylending.

(2) The Registrar may approve any place of business for moneylending with or without conditions, or he may refuse to grant his approval.

(3) The Registrar shall not approve any place of business for moneylending —

- (a) unless the applicant is a licensee or his application for a licence is approved;
- (b) where any information or statement furnished by the applicant that is material to his application for approval under this section is incomplete, false or misleading;
- (c) where the applicant, being a licensee, does not place with the Accountant-General as security for the proper conduct of his business of moneylending in Singapore, in such form as the Registrar may determine, a deposit of \$20,000 for each additional place of business; or

(d) where the Registrar is not satisfied that the place of business is suitable for a business of moneylending, or the Registrar is of the view that it is not in the public interest for a business of moneylending to be conducted in such a place.

5 (4) The Registrar may at any time, by notice in writing to the licensee, vary or revoke any of the existing conditions of his approval of a place of business for moneylending or impose new conditions.

(5) Where the approval of the Registrar under this section is granted to a firm, the approval shall be deemed to be granted to every partner of the
10 firm actively conducting the business of moneylending of that firm in Singapore.

(6) The Registrar may revoke his approval under this section, or suspend his approval for such period as he considers appropriate, if he is satisfied —

15 (a) that the licensee has contravened any condition of approval imposed under this section; or

(b) that there exists a ground on which the Registrar may refuse to approve the place of business for moneylending under subsection (3).

20 (7) The Registrar shall, before revoking or suspending his approval under subsection (6), give the licensee notice in writing of his intention to do so, specifying a date, not less than 21 days after the date of the notice, upon which the revocation or suspension shall take effect unless the licensee shows cause to the Registrar as to why the approval should not be
25 revoked or suspended.

(8) If, after the licensee has shown cause under subsection (7), the Registrar decides to proceed to revoke or suspend his approval, he shall notify the licensee of his decision in writing and specify a date, not less than 14 days after the date of the notice, upon which the revocation or
30 suspension shall take effect.

(9) The licensee may, within 14 days after the date of the notice under subsection (8), appeal in writing against the revocation or suspension to the Minister whose decision shall be final.

35 (10) If the licensee appeals to the Minister under subsection (9), the decision appealed against shall not take effect unless it is confirmed by the

Minister, or the appeal is for any reason dismissed by the Minister or is withdrawn.

(11) Any decision of the Registrar to revoke or suspend his approval under this section shall not affect any moneylending transaction entered into before the date the decision is made.

(12) The approval of any place of business for moneylending —

(a) shall be suspended for the duration of any suspension of the relevant licence; and

(b) shall terminate as at the date of the expiry or revocation of the relevant licence.

(13) Any licensee who —

(a) commences the business of moneylending at a place of business without the approval of the Registrar; or

(b) continues to carry on the business of moneylending in a place of business in respect of which the approval of the Registrar has been revoked or is suspended,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000.

(14) Any licensee who contravenes any condition of approval imposed under this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000.

Forfeiture of security deposit

11.—(1) The Registrar may, without prejudice to the exercise of any other power under this Act, forfeit the whole or such part of any security deposit placed with the Accountant-General under section 5(5)(c), 6(4)(c) or 10(3)(c) as the Registrar thinks fit if he is satisfied that there exists a ground for the revocation or suspension of the licence under section 9(1).

(2) The Registrar shall, before forfeiting the security deposit or such part thereof under subsection (1), give the licensee notice in writing of his intention to do so specifying a date, not less than 14 days after the date of the notice, upon which the forfeiture shall be made unless the licensee shows cause to the Registrar as to why the security deposit or such part thereof should not be forfeited.

(3) Where, after the licensee has shown cause under subsection (2), the Registrar decides to forfeit the security deposit or any part thereof, he shall notify the licensee of his decision in writing and specify a date, not less than 14 days after the date of the notice, upon which the security deposit or such part thereof shall be forfeited.

(4) The licensee may, within 14 days after the date of the notice under subsection (3), appeal in writing against the forfeiture of his security deposit or such part thereof to the Minister whose decision shall be final.

(5) If the licensee appeals to the Minister under subsection (4), the Registrar shall not forfeit the security deposit or such part thereof unless his decision to do so is confirmed by the Minister, or the appeal is for any reason dismissed by the Minister or is withdrawn.

(6) Where the licensee lawfully continues to carry on the business of moneylending under this Act after his security deposit or any part thereof has been forfeited, he shall restore his security deposit to the full amount as required under this Act by placing with the Accountant-General an appropriate amount in such form and within such time as the Registrar may require.

Approval and notification of change of profile

12.—(1) Every licensee shall obtain the approval of the Registrar —

- (a) before changing his business name;
- (b) before the admission of any person who will be responsible for the management of the licensee's business of moneylending;
- (c) before any person becomes a director or partner of the licensee; or
- (d) as soon as practicable after —
 - (i) any person becomes a substantial shareholder of the licensee; or
 - (ii) any substantial shareholder of the licensee increases or reduces his substantial shareholding in the licensee.

(2) Every licensee shall notify the Registrar, in writing, when any person ceases to be a director, partner or substantial shareholder of the licensee, or ceases to be responsible for the management of the business of moneylending of the licensee, not later than 14 days after the cessation.

(3) Every licensee shall notify the Registrar, in writing, of the making of a bankruptcy order against the licensee, or any director, partner or substantial shareholder of the licensee, not later than 14 days after the bankruptcy order is made.

5 (4) No person shall become a substantial shareholder of a licensee without first obtaining the approval of the Registrar.

(5) Where any person becomes a substantial shareholder of a licensee in contravention of subsection (4), that person shall take such steps as are necessary to cease to be a substantial shareholder of the licensee within
10 such time as the Registrar may require.

(6) Any person who, without reasonable excuse, contravenes subsection (1), (2), (3), (4) or (5) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000.

Publication of lists

15 **13.** The Registrar may, from time to time, cause to be published in such manner as he may determine —

(a) a list of all licensees and such of their particulars as the Registrar may determine; and

(b) a list of such persons granted an exemption by the Minister under
20 section 35, and such of their particulars and the conditions of their exemption, as the Registrar may determine.

Unlicensed moneylending

14.—(1) Any person who contravenes, or who assists in the contravention of, section 5(1) shall be guilty of an offence and shall be
25 liable on conviction —

(a) in the case where the offender is a body corporate, to a fine of not less than \$40,000 and not more than \$400,000; and

(b) in any other case —

(i) to a fine of not less than \$20,000 and not more than
30 \$200,000 or to imprisonment for a term not exceeding 2 years or to both; and

(ii) in the case of a second or subsequent offence, 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.

(2) Where any contract for a loan has been granted by an unlicensed moneylender, or any guarantee or security has been given for such a loan —

- (a) the contract for the loan, and the guarantee or security, as the case may be, shall be unenforceable; and
- (b) any money paid by or on behalf of the unlicensed moneylender under the contract for the loan shall not be recoverable in any court of law.

(3) Subsections (1) and (2) shall not apply to a moneylender who —

- (a) is not ordinarily resident in Singapore;
- (b) is not a licensee; and
- (c) carries on the business of moneylending in Singapore through an agent who is a licensee or an exempt moneylender.

(4) For the purposes of subsection (1), where the bank account or automated teller machine card of any person, or a telecommunication service subscribed in the name of or purchased by any person, is proved to the satisfaction of the court to have been used to facilitate the carrying on of the business of moneylending by an unlicensed moneylender, that person shall be presumed, until the contrary is proved, to have assisted in the contravention of section 5(1).

(5) In this section, unless the context otherwise requires, “telecommunication service” has the same meaning as in the Telecommunications Act (Cap. 323).

Other offences under this Part

15.—(1) Any person who, in connection with an application for the issue or renewal of a licence or for the approval of any place of business for moneylending —

- (a) knowingly or recklessly furnishes any information or statement to the Registrar which is false or misleading in a material particular;
- (b) wilfully omits to state any matter without which the application is misleading in a material particular; or

- (c) produces to the Registrar any book, record or other document which he knows or has reason to believe contains information which is false or misleading in a material particular,

5 shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$40,000 or to imprisonment for a term not exceeding 12 months or to both.

(2) Any licensee who —

- (a) contravenes any condition of his licence; or
- 10 (b) carries on the business of moneylending under any name other than his business name,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000.

PART III

15 REGULATION OF BUSINESS OF MONEYLENDING, ENFORCEMENT AND PROCEEDINGS

Regulation of advertising and marketing, etc.

20 **16.**—(1) No licensee shall knowingly or recklessly issue or publish, or cause to be issued or published, any advertising or marketing material in any form, or any business letter, circular or other document, which contains any information which is false or misleading in a material particular.

25 (2) For the purpose of subsection (1), any advertising or marketing material or any business letter, circular or other document shall be presumed, unless the contrary is proved, to contain information which is false or misleading in a material particular if such material or document —

- (a) does not state the business name of the licensee;
- (b) states the business name of the licensee in an inconspicuous manner;
- 30 (c) states that the licensee offers loans at a specified percentage of interest without stating the rate of the interest, and the actual rate of interest charged is not per annum;

(d) states that the licensee offers loans at a specified rate of interest but the actual rate of interest charged is higher; or

(e) states that the licensee offers loans at a specified percentage rate of interest without stating that conditions apply, or without stating the conditions which apply, when the rate of interest offered is subject to conditions.

(3) Without prejudice to the generality of the power of the Registrar to issue directions under section 26(1), the Registrar may issue directions to any licensee with respect to the issue, publication or contents of advertising or marketing materials or the conduct of advertising or marketing activities.

(4) Any licensee who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 6 months or to both.

Prohibition of unsolicited loans

17.—(1) No licensee shall —

(a) grant a loan to any person;

(b) grant approval to any person to obtain a loan from the licensee; or

(c) send or deliver, directly or indirectly, any article or document to any person on an undertaking by the licensee that such article or document, when used or produced in a specified manner, enables a loan to be obtained from the licensee,

without the person having first applied to the licensee in writing for the loan.

(2) Any licensee who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 6 months or to both.

Signage at place of business

18.—(1) Every licensee shall affix, in a conspicuous position at or in each of his places of business, a sign bearing his business name and the words “Licensed Moneylender” in the English language such as to be visible to any person immediately outside the place of business.

(2) Any licensee who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000.

Licensees to inform borrowers of terms of loan

5 **19.**—(1) Every licensee shall, before granting any loan to a borrower, inform the borrower in writing as to such matters relating to the terms and conditions of the loan as may be prescribed.

10 (2) The licensee shall cause the written information provided to the borrower under subsection (1) to be signed by the borrower or his agent together with an acknowledgment in writing by the borrower or his agent, as the case may be, that he has been informed by the licensee of the terms and conditions of the loan.

(3) Where any loan has been granted in contravention of subsection (1) or (2), the licensee shall not be entitled to enforce —

15 (a) the payment of all sums of interest, late interest and permitted fees payable under the contract for the loan, whether by the borrower or any surety; or

(b) any guarantee or security given for the loan to recover any such sum.

20 (4) For the purposes of subsection (3), if any amount of interest, late interest or permitted fees has been paid, it shall be recoverable as a debt due to the borrower or surety, as the case may be, and if not recovered, shall be set-off against the outstanding amount of the loan.

25 (5) Any licensee who contravenes subsection (1) or (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 6 months or to both.

Note of moneylender's contract to be given to borrower

30 **20.**—(1) No contract for a loan granted by a licensee, and no guarantee or security given by or on behalf of a borrower for the loan, shall be enforceable and no money paid by or on behalf of the licensee pursuant to the contract for the loan shall be recoverable in any court of law unless —

(a) a note of the contract for the loan, in the prescribed form, is signed by the parties to the contract for the loan or their respective agents;

- (b) where the borrower or his agent does not understand the English language, the licensee or his agent explains the terms of the note of the contract for the loan to the borrower or his agent in a language the borrower or his agent, as the case may be, understands before he signs the note of the contract for the loan; and
 - (c) a copy of the note of the contract for the loan, duly signed by the licensee or his agent, is delivered to the borrower or his agent before or at the time the loan is paid to the borrower or any other person on the direction of the borrower.
- (2) Any licensee who makes or causes to be made any note of a contract for a loan in which the principal or rate of interest is, to the knowledge of the licensee, not stated or not truly stated shall be guilty of an offence and shall be liable on conviction —
- (a) to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 6 months or to both; and
 - (b) in the case of a second or subsequent offence, to a fine not exceeding \$40,000 or to imprisonment for a term not exceeding 12 months or to both.
- (3) This section shall not apply to any loan on revolving credit that may be drawn down and repaid by the borrower or his agent at any time and from time to time subject to a limit approved by the licensee.

Provision of statements of account, loan documents and receipts

- 21.**—(1) Every licensee shall, at least once every half year ending on 30th June or 31st December and not later than 21 days after that date, supply to every borrower, so long as a contract for a loan granted by the licensee to the borrower is subsisting, a statement of account in the English language containing such particulars as may be prescribed.
- (2) The statement of account under subsection (1) shall be —
- (a) supplied to the borrower without charge; and
 - (b) sent by pre-paid post to such address in Singapore, or by electronic communication to such email address, as specified by the borrower.
- (3) A licensee shall, on an application made in writing by a borrower or surety, or a former borrower or surety, and on the payment of a processing

fee of \$10 or such other amount as may be prescribed, supply to the applicant or any other person on the direction of the applicant not later than 21 days after the date the application is made —

5 (a) a statement of account in relation to the loan to which the applicant is or was a borrower or surety, containing the particulars prescribed under subsection (1), for any period of account, not exceeding the duration of the loan, as may be specified by the applicant which shall not in any case be earlier than 5 years before the date the statement is prepared; or

10 (b) a copy of any document relating to a contract for a loan granted, or any guarantee or security given for the loan, in relation to which the applicant is or was a borrower or surety.

(4) A licensee who receives any cash payment from or on behalf of a borrower under a contract for a loan shall immediately issue to the payer a receipt, which shall set out in the English language —

(a) the business name, the address of the place of business from which the loan was taken or the principal place of business, and the telephone number, of the licensee; and

(b) the amount paid and the date of the payment.

20 (5) A licensee who issues a receipt in accordance with subsection (4) shall —

(a) obtain, on the licensee's copy of the receipt, a signature of the payer acknowledging that he has received the receipt; and

(b) where the payer is other than the borrower —

25 (i) record, on the licensee's copy of the receipt, such particulars of the payer as may be prescribed; and

(ii) attach such documents as may be prescribed to the licensee's copy of the receipt.

30 (6) The Minister may prescribe such other information to be provided, in such form or manner and within such time as may be prescribed, by a licensee to a borrower in relation to any payment made by or on behalf of the borrower to the licensee.

35 (7) Any licensee who, without reasonable excuse, contravenes subsection (1), (2), (3), (4) or (5) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000.

(8) Where a licensee has contravened subsection (1), (2), (3), (4) or (5), or any requirement relating to the provision of information prescribed under subsection (6), the licensee shall not be entitled to enforce —

- 5 (a) the payment of all sums of interest, late interest and permitted fees payable under the contract for the loan, whether by the borrower or any surety; or
- (b) any guarantee or security given for the loan to recover any such sum.

10 (9) For the purposes of subsection (8), if any amount of interest, late interest or permitted fees has been paid, it shall be recoverable as a debt due to the borrower or surety, as the case may be, and if not recovered, shall be set-off against the outstanding amount of the loan.

Charges other than permitted fees unenforceable

15 **22.**—(1) The Minister may prescribe the types or amounts of costs, charges and expenses that a licensee may impose in respect of every loan granted by the licensee, including the fees or charges for or on account of legal costs.

20 (2) Where, under any contract for a loan between a licensee and a borrower, the borrower is required to pay to the licensee any sum (not being a sum for or on account of stamp duties or fees payable by or under this Act or any other written law) on account of costs, charges or expenses other than or in excess of the permitted fees, such sum —

- (a) shall not be recoverable from the borrower or any surety;
- 25 (b) if so paid, shall be recoverable as a debt due to the borrower or surety, as the case may be; and
- (c) if not recovered, shall be set-off against the outstanding amount of the loan, and all sums of interest, late interest and permitted fees payable under the contract for the loan.

Re-opening of certain transactions

30 **23.**—(1) When proceedings are brought in any court by a licensee for the recovery of a loan or the enforcement of a contract for a loan or any guarantee or security given for a loan, and the court is satisfied that the interest or late interest charged in respect of the loan is excessive and that the transaction is unconscionable or substantially unfair, the court shall

re-open the transaction and take an account between the licensee and the person sued.

(2) In taking an account under subsection (1), the court may re-open any account already taken between the parties to the proceedings and relieve
 5 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, interest and late interest as the court, having regard to the risk and all the facts and circumstances of the case (including facts and circumstances arising or coming to the knowledge of any party after the date of the transaction),
 10 may determine to be reasonable.

(3) In relieving the person sued under subsection (2), the court may, without prejudice to its power to grant any further or other equitable relief —

- (a) order the licensee to repay any excess paid to him;
- 15 (b) set aside either wholly or in part, or revise or alter, any guarantee or security given or the contract for the loan; and
- (c) if the licensee has disposed of the security, order the licensee to indemnify the borrower or other person sued for the loss of the security.

20 (4) Any court shall have and may exercise the powers referred to in subsections (1), (2) and (3) in relation to proceedings for relief brought by a borrower, a surety or other person liable to repay a loan to a licensee, notwithstanding —

- (a) any provision or agreement to the contrary;
- 25 (b) that the time for repayment of the loan or any instalment thereof may not have arrived; and
- (c) that the licensee's right of action for the recovery of the loan is barred.

30 (5) Where a licensee has filed, in the bankruptcy of a borrower or surety, a proof of debt arising from a loan granted by him, the Official Assignee may exercise such powers as may be exercised by a court under this section when assessing whether the debt or liability is proved and its value.

35 (6) Where in any proceedings in court referred to in subsection (1) or where proof of debt has been filed as referred to in subsection (5), it is

found that the interest or late interest charged on any loan exceeds such maximum rate of interest or late interest as may be prescribed for the loan, the court or the Official Assignee, as the case may be, shall presume for the purposes of this section, unless the contrary is proved, that the interest or late interest charged in respect of the loan is excessive and that the transaction is unconscionable or substantially unfair.

(7) Subsection (6) shall be without prejudice to the powers of a court under this section where the court is satisfied that the interest or late interest charged under the circumstances, although not exceeding such maximum rate of interest or late interest as may be prescribed for the loan, is excessive or that the transaction is unconscionable or substantially unfair.

(8) For the purposes of subsections (6) and (7) —

- (a) the court shall, when determining whether the interest or late interest charged in respect of any loan exceeds such maximum rate of interest or late interest as may be prescribed for the loan, take no account of the permitted fees as agreed between the licensee and the borrower; and
- (b) the Minister may prescribe different maximum rates of interest to apply to different classes or descriptions of borrowers or loans.

(9) Nothing in this section shall be construed as derogating from —

- (a) the jurisdiction or powers of any court; or
- (b) the powers of the Official Assignee.

Accounts to be kept and submissions to Registrar

24.—(1) Every licensee shall keep or cause to be kept, for a period of not less than 5 years from the prescribed time —

- (a) such accounts relating to his business of moneylending as are prescribed so as to exhibit and explain the financial position in his business, including entries from day to day in sufficient detail of all sums of money received and paid;
- (b) such notes of the contracts for the loans in which he is or has been concerned; and
- (c) such other documents as may be prescribed.

(2) Notwithstanding subsection (1), a licensee shall keep any accounts, note of a contract for a loan or other document referred to in that subsection, which has been specified or described by the Registrar in relation to a specific transaction or borrower or as belonging to a class of documents, for such longer time as may be required in connection with an investigation into an offence under this Act.

(3) Every licensee shall submit to the Registrar the following statements, in such form and manner as the Registrar may require, not later than 14 days after the end of each quarter of each year commencing from the first day of January, April, July or October of the year:

(a) a statement containing every moneylending transaction entered into by the licensee during that quarter; and

(b) a statement showing his cash and loan position for that quarter.

(4) Every licensee shall, when so required by the Registrar, account for or explain any item or particulars appearing in any statement submitted to the Registrar under subsection (3).

(5) Any licensee who contravenes subsection (1) or (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$30,000 or to imprisonment for a term not exceeding 12 months or to both.

(6) Any person who —

(a) fails to submit to the Registrar any statement under subsection (3); or

(b) fails to comply with any requisition made by the Registrar under subsection (4),

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000.

(7) Any licensee who knowingly or recklessly furnishes to the Registrar any information —

(a) in a statement under subsection (3); or

(b) in an account or explanation to the Registrar under subsection (4),

which is false or misleading in a material particular shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$30,000 or to imprisonment for a term not exceeding 12 months or to both.

(8) Where a licensee submits a statement after the time for submission prescribed under subsection (3), the Registrar may impose a late submission fee not exceeding \$100 for every day or part thereof that the submission is late, subject to a maximum of \$2,000.

10 **Power to inspect, and require information or documents**

25.—(1) For the purpose of determining whether this Act has been complied with, the Registrar or an officer duly authorised by him (referred to in this section as an authorised officer) may at any time —

- 15 (a) inspect any premises where a moneylender is or is believed to be carrying on business and the books, records and other documents kept there;
- (b) require the moneylender or any other person to furnish any information, book, record or other document;
- 20 (c) make or cause to be made a copy of any book, record or other document inspected or produced;
- (d) take photographs or video recording of the premises inspected or any part thereof; and
- 25 (e) seize and remove from the premises any book, record or other document, or any machine or equipment containing any book, record or other document.

(2) Any person who, without reasonable excuse, fails or refuses —

- (a) to grant to the Registrar or an authorised officer access to the premises or any part thereof, or to any book, record or other document, under subsection (1)(a);
- 30 (b) to furnish the Registrar or an authorised officer with any information, book, record or other document required under subsection (1)(b);

- (c) to permit the Registrar or an authorised officer to make or cause to be made a copy of any book, record or other document under subsection (1)(c);
- 5 (d) to permit the Registrar or an authorised officer to take any photograph or video recording of the premises or any part thereof under subsection (1)(d); or
- (e) to permit the Registrar or an authorised officer to seize or remove from the premises any book, record or other document, or any machine or equipment containing any book, record or
10 other document under subsection (1)(e),

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 6 months or to both.

- 15 (3) Any person who obstructs or prevents the Registrar or an authorised officer from exercising his powers under subsection (1) in any manner other than as described in subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$30,000 or to imprisonment for a term not exceeding 12 months or to both.

(4) Any person who, knowingly or recklessly —

- 20 (a) gives to the Registrar or an authorised officer any information under subsection (1) that is false or misleading in a material particular; or
- (b) produces to the Registrar or an authorised officer, or grants him access to, any book, record or other document under
25 subsection (1) which contains a statement or omits any matter which renders it false or misleading in a material particular,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$30,000 or to imprisonment for a term not exceeding 12 months or to both.

30 **General power to issue directions**

26.—(1) The Registrar may issue directions, either of a general or specific nature, to any licensee or exempt moneylender for or in respect of every purpose which the Registrar considers necessary for carrying out the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the Registrar may by such directions —

- 5 (a) require any licensee or exempt moneylender to display or exhibit such cautionary statements as the Registrar thinks fit in a conspicuous position at or in every place of business for moneylending;
- (b) require any licensee or exempt moneylender to provide cautionary statements in writing to borrowers; or
- 10 (c) set out the manner in which any licensee or exempt moneylender shall conduct the business of moneylending.

(3) Any licensee or exempt moneylender who fails or refuses to comply with any direction issued under subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000.

15 (4) For the avoidance of doubt, any written direction issued under subsection (1) shall be deemed not to be subsidiary legislation.

False statements or representations to induce borrowing an offence

27. If any moneylender, any director, partner, agent or employee of the moneylender, or any person who is responsible for the management of the business of moneylending of the moneylender —

- 20 (a) by any false, misleading or deceptive statement, representation or promise; or
 - (b) by any dishonest concealment of material facts,
- fraudulently 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
- 25 guilty of an offence and shall be liable on conviction to a fine not exceeding \$40,000 or to imprisonment for a term not exceeding 2 years or to both.

Harassing borrower, besetting his residence, etc.

28.—(1) Subject to subsection (3), where an unlicensed moneylender —

- 30 (a) displays or uses any threatening, abusive or insulting words, behaviour, writing, sign or visible representation; or

- (b) commits any act likely to cause alarm or annoyance to his borrower or surety, any member of the family of the borrower or surety, or any other person,

5 in connection with the loan to the borrower, whether or not the unlicensed moneylender does the act personally or by any person acting on his behalf, the unlicensed moneylender shall be guilty of an offence and shall be liable on conviction —

- (i) in the case where the offender is a body corporate, to a fine of not less than \$8,000 and not more than \$80,000; and
- 10 (ii) in any other case —
- (A) 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, to a fine of
- 15 not less than \$4,000 and not more than \$40,000 and shall also be punished with imprisonment for a term not exceeding 6 years.

(2) Subject to subsection (3), any person who, acting on behalf of an unlicensed moneylender, commits or attempts to commit any of the acts

20 specified in subsection (1) shall be guilty of an offence and —

- (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
- 25 conviction to a fine of not less than \$4,000 and not more 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) —

- (a) a person who is convicted for the first time of an offence under
- 30 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, in the course of committing the offence, damage was caused to any property;

- (ii) with not more than 6 strokes if it is proved to the satisfaction of the court that, in the course of committing the offence, hurt was caused to another person; and
 - 5
 (iii) with not more than 9 strokes if it is proved to the satisfaction of the court that, in the course of committing the offence, hurt was caused to another person and damage was caused to any property; and
- 10
 (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, in the course of committing the offence, damage was caused 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, in the course of committing the offence, hurt was caused to another person;
 15
 and
 - (iii) with not less than 4 and not more than 18 strokes if it is proved to the satisfaction of the court that, in the course of committing the offence, hurt was caused to another person and damage was caused to any property.
 20
- (4) For the purposes of subsection (2), any person who does any of the acts specified in subsection (1) in connection with a demand for the repayment of a loan to an unlicensed moneylender shall be presumed, until the contrary is proved, to act on behalf of such unlicensed
 25
 moneylender.
- (5) 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;
 - 30
 (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.

5 **Special provisions relating to non-resident principal**

29.—(1) When any fine is imposed on an agent who is or has been licensed to carry on a business of moneylending in Singapore on behalf of a principal not resident in Singapore in respect of an offence under this Act committed by the agent in the course of carrying on the business, the
10 fine shall, unless the court imposing the fine otherwise directs, be recoverable out of the property belonging to the principal or the agent, or to both, and situated within Singapore.

(2) Any property of the principal referred to in subsection (1) may be taken in execution and sold under any warrant issued against the agent for
15 the levy of the amount of the fine.

(3) When it is made to appear to any court by any person entitled to make an application under section 23 that any transaction entered into with a moneylender not resident in Singapore prima facie ought to be re-opened, the court may —

- 20 (a) issue an order of attachment attaching any property of the moneylender situated within Singapore until such time as the moneylender submits to the jurisdiction of the court and gives security to the satisfaction of the court that any order made against him for repayment of any sum or for an indemnity will be
25 duly satisfied; and
- (b) authorise the service out of the jurisdiction of any summons or other process applying for the re-opening of the transaction under section 23.

Powers of police officer

30 **30.** Any police officer not below the rank of sergeant who is authorised in writing by the Registrar, or by a police officer not below the rank of Assistant Superintendent of Police, may at all times enter the premises of any licensee, or any person who is suspected of carrying on the business of moneylending, to inspect or seize any book, record or other document

relating to any moneylending transaction without a warrant being issued by a Magistrate for that purpose.

PART IV

MISCELLANEOUS

5 **Certain offences seizable and non-bailable**

31. Every offence under section 14 or 28 shall be deemed to be a seizable and non-bailable offence within the meaning of the Criminal Procedure Code (Cap. 68).

Jurisdiction of court

10 **32.** Notwithstanding any provision to the contrary in the Criminal Procedure Code, 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.

Offences by bodies corporate, etc.

15 **33.—**(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

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

20 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
25 the body corporate.

(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

(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 —

(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 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 —

“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.

Composition of offences

34.—(1) The Registrar, or the Commissioner of Police or any police officer authorised in writing by the Commissioner of Police, may, in his discretion, compound any offence under this Act which is prescribed as an offence which may be compounded by the Registrar, the Commissioner of Police or such police officer by collecting from a person reasonably suspected of having committed the offence a sum not exceeding —

(a) one half of the amount of the maximum fine that is prescribed for the offence; or

(b) \$5,000,

whichever is the lower.

(2) On payment of such sum of money, no further proceedings shall be taken against that person in respect of the offence.

(3) The Minister may make rules to prescribe the offences which may be compounded under this section and the conditions subject to which, and the manner in which, such offences may be compounded.

Exemption on application

35.—(1) The Minister may, upon the application of any person and the payment of such fees as may be prescribed, issue a certificate to exempt, with or without conditions, any person from all or any of the provisions of this Act.

(2) Every exemption under subsection (1) —

(a) may in the first instance be valid for a period of 3 years or less from the date of the granting thereof;

(b) may, upon payment of the prescribed fee, be extended thereafter, with or without additional conditions, for further periods not exceeding 3 years at a time; and

(c) need not be published in the *Gazette*.

(3) Any person who desires to apply for or extend an exemption shall submit an application to the Registrar in such form and manner, and shall furnish the Registrar with such information, as the Registrar may require.

(4) Any person who has been granted an exemption under this section and desires to apply to the Minister to vary or revoke any of the existing conditions of his exemption shall —

(a) submit an application to the Registrar in such form and manner, and furnish the Registrar with such information, as the Registrar may require; and

5 (b) pay such fee as may be prescribed for the making of the application.

(5) The Minister may prescribe different fees in respect of different classes or descriptions of persons for the purposes of this section.

(6) An application for the extension of an exemption shall be made not later than one month before the expiry of the exemption.

10 (7) Any moneylender who makes an application for the extension of an exemption after the time limited under subsection (6) shall pay a late extension fee not exceeding \$50 for every day or part thereof that the application for extension is late, subject to a maximum of \$1,500.

15 (8) The Minister may at any time revoke, whether wholly or in part, any exemption granted to a person under subsection (1) by giving the person a notice of revocation in writing.

(9) Without prejudice to the generality of subsection (8), the Minister may at any time revoke, whether wholly or in part, any exemption —

20 (a) for the contravention of any condition of the exemption or any provision of this Act; or

(b) if he is satisfied that it is in the public interest to do so.

25 (10) Any revocation, whether wholly or in part, of an exemption or a condition of exemption under this section, and any amendment of a condition of exemption under this section, shall not affect any moneylending transaction entered into before the date of the revocation or amendment, as the case may be.

Class exemption

30 **36.**—(1) The Minister may make rules to exempt any class of persons from any, but not all, of the provisions of this Act, subject to such terms or conditions as may be prescribed.

(2) Any revocation, whether wholly or in part, of an exemption or a condition of exemption under this section, and any amendment of a condition of exemption under this section, shall not affect any

moneylending transaction entered into before the date of the revocation or amendment, as the case may be.

Rules

5 **37.**—(1) The Minister may make rules for carrying out the purposes and provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the Minister may make rules —

- (a) to prescribe the maximum amount which may be lent to a borrower or any class or description of borrowers;
- 10 (b) to prescribe the class or description of borrowers to which a moneylender may grant a loan, or a loan above a specified amount, either generally or in specified circumstances;
- (c) to regulate the use of advertisements by or on behalf of any moneylender, or any solicitation or canvassing for business by or
- 15 on behalf of any moneylender;
- (d) to prescribe the types of activities and services that a moneylender may not engage in or provide;
- (e) to specify the places where a moneylender may conduct the business of moneylending;
- 20 (f) to require a moneylender to keep particular accounts or records relating to loans;
- (g) to prescribe the manner in which accounts and records are to be kept and the particulars to be entered therein;
- 25 (h) to regulate the conduct of the business of moneylending, or specific types of moneylending activities or services;
- (i) to provide for the detection and prevention of money laundering or the financing of terrorism, or for the reporting of transactions suspected of involving money laundering or terrorism financing;
- 30 (j) to discharge or facilitate the discharge of any obligation binding on Singapore by virtue of a decision of the Security Council of the United Nations;
- (k) to prescribe the forms for the purposes of this Act;

- (*l*) to prescribe the fees to be paid in respect of any matter required for the purposes of this Act and the refund and remission, whether wholly or in part, of such fees; and
 - (*m*) to prescribe all matters and things which by this Act are required or permitted to be prescribed or which are necessary or expedient to be prescribed to give effect to this Act.
- 5
- (3) Rules made under this section may —
- (*a*) relate to any moneylender, whether he is a licensee or he is exempted from any or all of the provisions of this Act;
 - 10 (*b*) relate to all or any class or description of moneylenders; and
 - (*c*) make different provisions for different classes or descriptions of moneylenders.
- (4) Rules made under this section may provide that a contravention of any specified provision thereof shall be an offence, and —
- 15 (*a*) in respect of the rules referred to in subsection (2)(*i*) or (*j*), may provide for penalties not exceeding a fine of \$100,000; and
 - (*b*) in respect of any other rules, may provide —
 - (*i*) in a case where the offender is an individual, for penalties not exceeding a fine of \$20,000 or imprisonment for a term not exceeding 12 months or both for each offence; or
 - 20 (*ii*) in any other case, for penalties not exceeding a fine of \$50,000 for each offence.

Consequential amendments to other written laws

25 **38.**—(1) Part II of the Second Schedule to the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Cap. 65A) is amended —

- (*a*) by deleting the words “Moneylenders Act (Cap. 188)” immediately above item 183 and substituting the words “Moneylenders Act 2008”; and

- (b) by deleting items 183 and 184 and substituting the following items:

“183.	Section 14	Unlicensed moneylending
184.	Section 28	Harassing borrower, besetting his residence, etc.”.

- (2) Part II of the First Schedule to the Registration of Criminals Act (Cap. 268) is amended by deleting the following words:

“Moneylenders Act Sections 8 and 32. Cap. 188.”

and substituting the following words:

“Moneylenders Act 2008 Sections 14 and 27.”.

Repeal, transitional and savings provisions

39.—(1) The Moneylenders Act (Cap. 188) is repealed.

(2) Notwithstanding the repeal of the Moneylenders Act, as from the date of commencement of this section —

- (a) every licence granted under the repealed Moneylenders Act and which continues to be valid immediately before that date shall be deemed to be a licence issued under this Act in respect of the activities authorised by the first-mentioned licence for the remaining period of the licence and shall subsist until its expiry, and may be renewed, revoked, suspended or otherwise dealt with in accordance with the provisions of this Act;
- (b) every exemption granted under the repealed Moneylenders Act and subsisting immediately before that date shall, except to the extent that the person exempted qualifies to be an excluded moneylender, be deemed to be an exemption granted under this Act and shall subsist until its expiry, and may be extended, revoked or otherwise dealt with in accordance with the provisions of this Act; and
- (c) every pending application for any licence, exemption, consent or approval under the repealed Moneylenders Act shall be deemed to be an application therefor under this Act, except that the fees payable for such an application or for the grant of the licence, exemption, consent or approval sought shall be those prescribed under the repealed Moneylenders Act.

(3) Where any person —

(a) is granted an exemption under the repealed Moneylenders Act which subsists immediately before the date of commencement of this Act; and

5 (b) qualifies to be an excluded moneylender in relation to the activities or services for which the exemption is granted,

the Registrar may, in his discretion, refund such amount of the fees paid by the person in respect of such exemption as is proportionate to the period (being a period of not less than 6 months) for which, but for such
10 person becoming an excluded moneylender, the exemption would continue to subsist.

(4) Any notice, order, decision, direction, requisition or approval made or granted by the Registrar or the Minister under the repealed Moneylenders Act (Cap. 188) in force immediately before the date of
15 commencement of this Act shall continue and be deemed to have been made or granted by the Registrar or the Minister, respectively, under this Act and shall have effect accordingly.

(5) All acts done by or on behalf of the Registrar or the Minister under the repealed Moneylenders Act before the date of commencement of this
20 Act shall continue to remain valid and have effect as though done by or on behalf of the Registrar or the Minister, respectively, under this Act until such time as such acts are invalidated, revoked, cancelled or otherwise determined by the Registrar or the Minister, as the case may be.

(6) Subject to subsection (2)(c), where anything has been commenced
25 by or on behalf of the Registrar or the Minister before the date of commencement of this Act, such thing may be carried on and completed by or on behalf of the Registrar or the Minister, respectively, under the authority of this Act.

(7) Any subsidiary legislation made under the repealed Moneylenders
30 Act and in force immediately before the date of commencement of this Act shall, so far as it is not inconsistent with the provisions of this Act, continue in force as if made under this Act until it is revoked.

(8) Any written law or document referring to the repealed Moneylenders Act or any provision thereof shall, as far as may be necessary for
35 preserving its effect, be construed as referring or as including a reference to this Act or the corresponding provision in this Act, as the case may be.

EXPLANATORY STATEMENT

This Bill seeks to repeal and re-enact the Moneylenders Act (Cap. 188) for the following purposes:

- (a) to clarify the types of moneylending activities that would be regulated;
- (b) to update the Act to facilitate moneylending activities within a modern regulatory framework; and
- (c) to enhance the powers of the Registrar of Moneylenders in relation to the licensing of moneylenders and the enforcement of the Act.

The Bill also makes consequential amendments to the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Cap. 65A) and the Registration of Criminals Act (Cap. 268).

PART I

PRELIMINARY

Part I (comprising clauses 1 to 4) contains the preliminary provisions of the Bill.

Clause 1 relates to the short title and commencement.

Clause 2 defines certain terms used in the Bill.

Clause 3 sets out the circumstances under which a presumption arises that a person is a moneylender.

Clause 4 provides for the appointment of a Registrar of Moneylenders, and Deputy and Assistant Registrars of Moneylenders (the Registrar).

PART II

LICENSING OF MONEYLENDERS

Part II (comprising clauses 5 to 15) contains the provisions for the licensing of moneylenders and the related offences.

Clause 5 sets out the procedure for obtaining a licence under the Bill, and empowers the Registrar to issue a licence with or without conditions or to refuse to do so. The clause also sets out the circumstances under which the Registrar will not issue a licence. Every licence will be valid for 12 months or some other prescribed period specified in the licence. The clause further empowers the Registrar to vary or revoke any existing condition of any licence issued or renewed under the Bill, or to impose new conditions.

Clause 6 sets out the procedure for renewing a licence. A licensee must notify the Registrar at least one month before the expiry of his licence if he does not wish to renew it. The Registrar has the discretion to renew a licence with or without conditions, or to refuse to renew a licence. The clause also sets out the circumstances under which the Registrar will not renew a licence, which are drawn from those prescribed for the issue of a licence under clause 5.

Clause 7 sets out the grounds on which the Registrar may refuse to issue or renew a licence, including a licence to carry on moneylending business as an agent for a principal. An applicant who is aggrieved by the refusal of the Registrar to issue him a licence or to renew his licence may appeal to the Minister.

Clause 8 provides for the payment of licence fees, which are payable in respect of every place of business of a licensee. Different fees may be prescribed for different classes or descriptions of licences. The clause also makes provision for the refund or remission of licence fees.

Clause 9 sets out the grounds on which, and the procedure by which, the Registrar may revoke or suspend a licence. Any revocation or suspension of a licence will not affect any moneylending transaction entered into before the date of such revocation or suspension. Any licensee who is aggrieved by the revocation or suspension of his licence may appeal to the Minister.

Clause 10 sets out the procedure by which a person obtains the approval of the Registrar to carry on moneylending business at any place. The clause also sets out the circumstances under which the Registrar will not grant his approval, including the case where he is not satisfied that a proposed place is suitable for the conduct of a moneylending business. The Registrar may also revoke or suspend any such approval. A licensee who is aggrieved by the revocation or suspension of the Registrar's approval of a place of business has a right of appeal to the Minister. A licensee who commences moneylending business at a place that has not been approved by the Registrar, who continues to carry on moneylending business in a place the approval for which has been revoked or is suspended, or who contravenes a condition of approval, commits an offence.

Clause 11 sets out the grounds upon which the Registrar may forfeit the whole or part of any deposit placed with the Accountant-General under clause 5(5)(c), 6(4)(c) or 10(3)(c). An aggrieved licensee has a right of appeal to the Minister. A licensee who continues to carry on moneylending business after his security deposit or any part thereof has been forfeited has to restore the security deposit to the full amount. A licensee who contravenes this requirement is liable to have his licence revoked or suspended under clause 9.

Clause 12 requires a licensee to obtain the Registrar's approval in relation to certain changes specified in the clause, such as, a proposed change in the business name of the licensee, or after a person becomes a substantial shareholder of the licensee or there is a change in the substantial shareholding of the substantial shareholder. A licensee is also required to report the withdrawal of any key person as specified in the clause, or the making of a bankruptcy order against himself (among others), within 14 days after the change or the making of the order. The clause further requires a person to obtain the approval of the Registrar before becoming a substantial shareholder of a licensee. A person who becomes a substantial shareholder of a licensee without the Registrar's approval must take the necessary steps to cease to be a substantial shareholder, failing which, he commits an offence.

Clause 13 provides for the publication of lists of all licensees and persons granted any exemption under clause 35 as the Registrar may determine.

Clause 14 makes it an offence for any person to carry on, or hold himself out as carrying on, moneylending business in Singapore unless he is authorised to do so by a licence, or he is an excluded moneylender or exempt moneylender. It is also an offence for any person to assist in the commission of such an offence, and the clause contains a presumption for this purpose. A contract for a loan from an unlicensed moneylender, and any guarantee or security given for such a loan, will be unenforceable, and any money paid by or on behalf of the unlicensed moneylender is not recoverable in any court of law, regardless of the cause of action.

Clause 15 contains certain other offences arising from the provisions of the Part, such as —

- (a) the provision of false or misleading information to the Registrar in connection with an application for the issue or renewal of a licence or for the approval of any place of business for moneylending; and
- (b) the carrying on of moneylending business under a name that is not a business name authorised by a licence under the Bill.

PART III

REGULATION OF BUSINESS OF MONEYLENDING, ENFORCEMENT AND PROCEEDINGS

Part III (comprising clauses 16 to 30) contains the main provisions for the regulation of moneylending business, the enforcement powers that may be exercised, and the powers of the court in relation to certain transactions.

Clause 16 makes it an offence for a licensee to knowingly or recklessly issue or publish, or cause to be issued or published, any advertising or marketing material in any form (including electronic or web-based formats) or any business letter, circular or other document which contains information that is false or misleading in a material particular. The clause contains a presumption for this purpose, and states that the Registrar may issue directions with respect to the issue, publication or contents of advertising or marketing materials or the conduct of advertising or marketing activities.

Clause 17 prohibits the grant of loans or the grant of approval for loans by a licensee if the borrower had not first applied in writing to the licensee for the loan.

Clause 18 re-enacts, with amendments, section 14 of the Moneylenders Act (Cap. 188) that is to be repealed by clause 39 (repealed Act), to simplify the requirements as to signages at the places of business of a licensee.

Clause 19 requires a licensee to inform a borrower or his agent in writing, before the grant of a loan, of such prescribed matters relating to the terms and conditions of the loan which the borrower or his agent must sign and acknowledge. Any contravention of this requirement will be an offence, and the licensee is not entitled to enforce the payment of all sums of interest, late interest and permitted fees payable under the contract for the loan nor any guarantee or security given for the loan to recover such sums.

Clause 20 prescribes certain requirements relating to the note of a contract for a loan granted by a licensee. The breach of these requirements will be an offence, or will render the contract for the loan, and any guarantee or security given under such a contract, unenforceable. The clause makes it clear that these requirements do not apply to loans on revolving credit.

Clause 21 mandates the supply of statements of account by licensees to borrowers in accordance with the specified requirements, the form of and manner in which receipts are to be issued for any payment made by or on behalf of a borrower, and the contents of such receipts. A licensee who contravenes any of the specified requirements commits an offence, and forfeits his right to enforce the payment of all sums of interest, late interest and permitted fees payable under the contract for the loan, and to enforce any guarantee or security given for the loan to recover such sums.

Clause 22 empowers the Minister to prescribe the types or limits of the costs, charges and expenses that a licensee may impose in respect of every loan granted by him (defined as permitted fees under clause 2). The clause further provides that the imposition by a licensee of any amount other than or in excess of the permitted fees will be unenforceable and may be recovered from the licensee, whether as a debt or by way of set-off against the loan and all sums of interest, late interest and permitted fees payable.

Clause 23 authorises a court to re-open moneylending transactions and to give the borrower relief where the interest is excessive and the transaction is unconscionable or substantially unfair. A borrower or surety may apply to the court for relief at any time and not merely when proceedings have already been instituted against him by a licensee. The clause further provides that the Official Assignee may exercise the same powers as the court under the clause when dealing with a proof of debt filed by a licensee in the bankruptcy of a borrower. The clause also empowers the Minister to prescribe the maximum rate of interest that a licensee may charge for any loan granted by the licensee for the purposes of the clause.

Clause 24 requires every licensee to keep accounts and other documents specified for a period of at least 5 years, and to submit quarterly statements to the Registrar. Where the documents in relation to a specific transaction or borrower, or belonging to a class of documents, are required by the Registrar in connection with a criminal investigation under the Bill, the documents must be kept for such longer time as may be required.

Clause 25 empowers the Registrar or an officer authorised by him to enter premises used or believed to be used by a moneylender to carry on business in order to inspect the premises and any book, record or other document found on the premises, and to require a moneylender to provide information or documents, among others.

Clause 26 provides the Registrar with a general power to issue directions to any licensee or exempt moneylender for the carrying out of the provisions of the Bill.

Clause 27 makes it an offence for certain persons, including a licensee or an exempt moneylender, to fraudulently induce or attempt to induce any person to borrow money.

Clause 28 re-enacts section 33 of the repealed Act, with amendments, to make it an offence for any unlicensed moneylender, or any person assisting such unlicensed moneylender, to harass a borrower or to beset his residence, etc. The clause makes the offence punishable with caning in certain circumstances, which may extend to unlicensed moneylenders whether they commit the infringing acts personally or by any person on their behalf.

Clause 29 re-enacts section 34 of the repealed Act to provide for the recovery, of a fine for an offence under the Bill committed by an agent who is or has been licensed to carry on moneylending business in Singapore on behalf of a principal who is not resident in Singapore, out of the property situated in Singapore belonging to the principal or the agent. The clause also accords the court certain powers when an application has been made under clause 23 to re-open any transaction entered into with a non-resident moneylender.

Clause 30 re-enacts section 35 of the repealed Act to set out the powers of entry, inspection and seizure of police officers without warrant under the Bill.

PART IV

MISCELLANEOUS

Part IV (comprising clauses 31 to 39) contains the miscellaneous provisions.

Clause 31 deems the offences under clause 14 (relating to unlicensed moneylending) and clause 28 (relating to harassment of borrowers, etc.) as seizable and non-bailable offences.

Clause 32 re-enacts section 35A of the repealed Act to provide for the District Court to have jurisdiction to try offences under the Bill and to impose the full penalty or punishment in respect of the offence notwithstanding the provisions of the Criminal Procedure Code (Cap. 68).

Clause 33 re-enacts section 35B of the repealed Act, which relates to the liability of officers, partners or members where an offence under the Bill is committed by a body corporate or an unincorporated association.

Clause 34 empowers the Registrar, the Commissioner of Police or any police officer authorised in writing by the Commissioner of Police to compound offences under the Bill which are prescribed to be compoundable offences.

Clause 35 empowers the Minister to grant or extend exemptions from any or all of the provisions of the Bill, to impose or vary conditions of exemption, and to revoke the whole or part of any exemption where necessary. Every exemption granted will, in the first instance, be valid for 3 years or less and may be extended for further periods of up to 3 years each.

Clause 36 empowers the Minister to grant exemptions on a class basis from any, but not all, of the provisions of the Bill.

Clause 37 empowers the Minister to make rules for the purposes of the Bill, which may apply to any moneylender, whether licensed or exempted under the Bill. The rules may be general or relate to specific classes or descriptions of moneylenders, and may make different provisions for different classes or descriptions of moneylenders.

Clause 38 makes consequential amendments to Part II of the Second Schedule to the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Cap. 65A) and Part II of the First Schedule to the Registration of Criminals Act (Cap. 268) to update the serious offences and registrable crimes, respectively, in those Acts by virtue of this Bill.

Clause 39 repeals the Moneylenders Act (Cap. 188), and sets out the transitional and savings provisions arising from the repeal of that Act. For example, all existing licences under the repealed Act will be deemed as licences issued under the Bill, and any pending application will be treated as an application made under the Bill.

EXPENDITURE OF PUBLIC MONEY

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