

Reg. No.M. 8270

Registered with the Registrar
of Newspapers for India



புதுவை மாநில அரசிதழ்
LA GAZETTE DE L'ETAT DE PONDICHERRY
THE GAZETTE OF PONDICHERRY

PART - II

சிறப்பு வெளியீடு EXTRAORDINAIRE EXTRAORDINARY
அதிகாரம் பெற்ற வெளியீடு Publiée par Autorité Published by Authority
விலை: ரூ: 0-45 Prix: Re. 0-45 Price: Re. 0-45

எண்	புதுவை	சனிக்கிழமை	1983ஆம்	டிசம்பர் 31
No.	30	Pondichéry Samedi	31	Decembre 1983
No.		Pondicherry Saturday	31st	December 1983

(10 Pausa 1905)

GOVERNMENT OF PONDICHERRY.
LAW AND LABOUR DEPARTMENT

No. 624/Leg./83-LLD.

Pondicherry, the 23rd December 1983.

The following Act of the Legislative Assembly, Pondicherry received the assent of the President on the 11th December 1983, and is hereby published for general information :-

THE PONDICHERRY MONEY LENDERS
(AMENDMENT) ACT, 1983
(Act No. 7 of 1983)

11-12-1983

AN
ACT

to amend the Pondicherry Money Lenders Act, 1970.

BE it enacted by the Legislative Assembly of Pondicherry in the Thirty-fourth Year of the Republic of India as follows:—

Short title
and
commence-
ment.

1. (1) This Act may be called the Pondicherry Money Lenders (Amendment) Act, 1983.

(2) It shall come into force at once.

Amendment
of section 2.

2. In section 2 of the Pondicherry Money Lenders Act, 1970 (hereinafter referred to as the principal Act),—

(i) for clauses (a) and (b), the following clauses shall be substituted, namely:—

“(a) “bank” means—

(i) a banking company to which the Banking Regulation Act, 1949 applies;

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

(iii) a subsidiary bank as defined in clause (k) of section 2 of the State Bank of India (Subsidiary Banks) Act, 1959;

(iv) a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970;

(v) a Regional Rural Bank established under the Regional Rural Banks Act, 1976;

(vi) the Industrial Development Bank of India established under the Industrial Development Bank of India Act, 1964;

(vii) the Agricultural Refinance and Development Corporation established under the Agricultural Refinance and Development Corporation Act, 1963;

No. 26
of
1970.

Central
Act X
of
1949.

Central
Act 23
of
1955.

Central
Act 38
of
1959.

Central
Act 5
of
1970.

Central
Act 21
of
1976.

Central
Act 18
of
1964.

Central
Act 10
of
1963.

Central
Act 31
of
1956.

(viii) the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956;

Central
Act XV
of
1948.

(ix) the Industrial Finance Corporation of India established under the Industrial Finance Corporation Act, 1948; and

(x) any other financial or banking institution notified in this behalf by the Government in the Official Gazette;

Central
Act 57
of
1955.

(aa) “citizen of India” means a person who is a citizen of India within the meaning of Part II of the Constitution of India and the Citizenship Act, 1955;

(b) “co-operative society” means a society registered or deemed to be registered under any law for the time being in force in the Union territory relating to co-operative societies;

(ii) in clause (g), in item (vi), for the words “rupees three thousand”, the words “rupees ten thousand” shall be substituted.

3. In section 4 of the principal Act, in sub-clause (iii) of clause (c) of sub-section (3), for the words and figures “under section 11 or section 13”, the words, figures and letter “under section 10A or section 11 or section 13” shall be substituted.

Amendment
of section 4.

4. In section 7 of the principal Act, for sub-section (1), the following shall be substituted, namely:—

Amendment
of section 7.

“(1) Notwithstanding anything contained in the decree dated 22nd September, 1935, no money lender shall charge interest on any loan at a rate exceeding such rate as the Government may, by notification, fix from time to time:

4(2) Provided that the rate of interest as may be fixed by the Government shall be correlated to the current bank rates of lending as may be fixed by the Reserve Bank of India, from time to time.”

Amendment
of
section 10.

5. In section 10 of the principal Act, in clause (a) of sub-section (3),—

(i) for the words "A Magistrate of the first class", the words "A District Magistrate, an Additional District Magistrate or a Sub-Divisional Magistrate" shall be substituted;

(ii) for the words "safes, vaults and pledges" wherever they occur, the words "securities, safes and vaults" shall be substituted;

(iii) for the words "and documents" wherever they occur, the words "documents and securities" shall be substituted.

Insertion
of new
section 10A.

6. After section 10 of the principal Act, the following section shall be inserted, namely:—

"10A. (1) No money lender, whether licensed or not, shall take from a debtor or an intending borrower any note, promise to pay, acknowledgement, power-of-attorney, bond, security or other document which does not state the actual amount of the loan, the rate of interest charged and the time, if any, within which the principal is stipulated to be repaid in full, or which states any of such particulars incorrectly, nor shall he take from any debtor or an intending borrower any document in which any entry is left blank for completion at a later date.

(2) Whoever contravenes the provisions of sub-section (1) shall be punished with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both.

(3) Notwithstanding anything contained in section 21 or in any other law for the time being in force, any note, promise to pay, acknowledgement, power-of-attorney, bond, security or other document referred to in sub-section (1) shall be void and unenforceable."

Amendment
of section 11.

7. In section 11 of the principal Act,—

(i) for sub-section (1), the following sub-section shall be substituted, namely:—

15

"(1) any money lender, whether licensed or not—

(a) who actually advances an amount less than the amount shown in his accounts or registers or other document relating to the loan, or

(b) who takes or receives interest or any other charge at a rate higher than the rate shown in the accounts, registers, or documents aforesaid or allowed under this Act,

shall be punished with imprisonment for a term not exceeding six months but not less than three months:

Provided that the court may, in addition to such imprisonment, impose fine which may extend to one thousand rupees.

(1A) Notwithstanding anything contained in the Indian Evidence Act, 1872, or in any other law for the time being in force, in any suit by or against a money lender, whether licensed or not, or in any prosecution or other proceeding in a court, the burden of proving that the money lender had actually advanced to the debtor the amount specified in—

(a) any document relating to the loan; or

(b) the accounts or registers of such money lender,

shall be on the money lender.";

(ii) in sub-section (2), for the words, brackets and figure "under sub-section (1)", the words, figures and letter "under section 10A or under this section" shall be substituted.

8. After section 12 of the principal Act, the following section shall be inserted, namely:—

"12A. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, an offence under section 12A shall be deemed to be an offence under section 12A.

Insertion
of new
section 12A.

Offences
under section
12A

Central
Act 1 of
1872.

Central
Act 2 of

Substitution of new section for section 13.

Penalty for molestation of debtor.

Amendment of section 14.

Amendment of section 16.

Insertion of new section 18A.

Non-citizens not to carry on business of money lending.

9. For section 13 of the principal Act, the following section shall be substituted, namely:—

“13. Whoever molests or abets the molestation of any debtor for the recovery of any loan shall be punished with imprisonment for a term not exceeding six months but not less than three months:

Provided that the court may, in addition to such imprisonment, impose fine which may extend to one thousand rupees.”

10. In clause (c) of sub-section (1) of section 14 of the principal Act, for the words and figures “under section 11”, the words, figures and letter “under section 10A or section 11” shall be substituted.

11. In section 16 of the principal Act, after the words and figures “cancelled under section 14”, the words, brackets, figures and letter “or is deemed to have been cancelled under sub-section (2) of section 18A” shall be inserted.

12. After section 18 of the principal Act, the following section shall be inserted, namely:—

“18A. (1) Notwithstanding anything contained in sections 3 and 4, no person who is not a citizen of India shall, on and from the date of publication of the Pondicherry Money Lenders (Amendment) Act, 1983 in the Official Gazette (hereinafter in this section referred to as the said date), carry on the business of money lending:

Provided that nothing in this sub-section shall apply to the nationals of France and of the French Union domiciled in the Union territory on the 1st November, 1954.

(2) All licences granted under this Act to any person referred to in sub-section (1) shall be deemed to have been cancelled on and from the said date and all transactions of money lending carried on by such person as a money lender, shall cease from the said date.

(3) Any person referred to in sub-section (1) who had obtained a licence for money lending under this Act, prior to the said date may, subject to the

provisions of this Act including section 21A recover through a competent court, the loans advanced before the said date.

(4) Any person referred to in sub-section (1) who carries on the business of money lending in contravention of the provisions of the said sub-section or recovers his dues otherwise than in accordance with the provisions of sub-section (3) shall be punished with imprisonment which may extend to one year or with fine or with both.

(5) Any court trying an offence under this section shall, unless it is proved to the contrary, presume that the accused is not a citizen of India and that he was carrying on the business of money lending in contravention of the provisions of this section.”

13. For section 20 of the principal Act, the following sections shall be substituted, namely:—

“20. No court inferior to that of a Judicial Magistrate of the first class shall try any offence punishable under this Act.

20A. Notwithstanding anything contained in any agreement or any law for the time being in force, no court shall in respect of any loan whether advanced before or after the date of the publication of the Pondicherry Money Lenders (Amendment) Act, 1983 in the Official Gazette, decree on account of interest a sum greater than the principal of the loan due on the date of the decree.

20B. Notwithstanding anything contained in the Code of Civil Procedure, 1908, the court may, at any time, on application of a judgement debtor, and after notice to the decree holder, direct that the amount of any decree passed against him, whether before or after the date of the publication of the Pondicherry Money Lenders (Amendment) Act, 1983 in the Official Gazette, in respect of a loan, shall be paid in such number of instalments and subject to such conditions and payable on such dates, as having regard to the circumstances of judgement debtor and the amount of the decree, it considers fit.

Substitution of new sections for section 20.

Jurisdiction to try offence.

Power of court to limit interest recoverable in certain cases.

Power of court to direct payment of decretal amount by instalments.

Central Act V of 1908.

7

Reopening
of transac-
tion.

20C. Notwithstanding anything contained in any law for the time being in force, the court shall, in any suit to which this Act applies, whether heard *ex-parte* or otherwise—

- (a) reopen any transaction, or any account already taken between the parties;
- (b) take an account between the parties;
- (c) reduce the amount charged to the debtor in respect of any excessive interest;
- (d) if on taking accounts it is found that the money lender has received more than what is due to him,

pass a decree in favour of the debtor in respect of such excess amount :

Provided that in the exercise of these powers, the court shall not—

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

(ii) do anything which affects any decree of a court.

Explanation.— For the purposes of this section, “excessive interest” means interest charged at a rate higher than that fixed by the Government under sub-section (1) of section 7.

Inquiry for
taking
accounts
and dec-
laring the
amount due.

20D. (1) Any debtor may make an application at any time to the court, whether the loan to which the suit relates has or has not become payable, for taking accounts and for declaring the amount due to the money lender. Such applications shall be in the prescribed form and accompanied by the prescribed fee.

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

(3) On the date fixed for the hearing of the application or on such date to which the hearing may be adjourned from time to time, the court shall make an inquiry and shall after taking an account of the transactions between the parties pass an order declaring the amount, if any, still payable by the debtor to the money lender, in respect of the principal and interest, if any.

14. In section 21 of the principal Act, for the words “where a money lender”, the words, brackets, figures and letter “subject to the provisions of sub-section (3) of section 10A, where a money lender” shall be substituted.

Amendment
of
section 21.

15. After section 21 of the principal Act, the following section shall be inserted, namely:—

Insertion of
new section
21A.

“21A. (1) Nothing in this Act shall affect, or shall be deemed to affect any of the benefits conferred on any person by any of the provisions of the Tamil Nadu Debt Relief Act, 1976 or any other law relating to relief of agricultural indebtedness in force corresponding to that Act, as extended to the Union territory notwithstanding anything to the contrary contained in this Act.

Savings.

(2) Save as otherwise provided in sub-section (1), the provisions of this Act shall be in addition to, and not in derogation of, any of the Acts specified in sub-section (1) or any other law for the time being in force.”

16. In section 22 of the principal Act, for sub-section (3), the following sub-sections shall be substituted, namely:—

Amendment
of
section 22.

“(3) (a) All rules made under this Act shall be published in the Official Gazette and unless they are expressed to come into force on a particular day, shall come into force on the day on which they are so published.

(b) All notifications issued under this Act shall, unless they are expressed to come into force on a particular day, shall come into force on the day on which they are published.

President's
Act 31
of
1976.

(13)

No. E-2763/69/Rev.

Pondicherry

NOTIFIC

In exercise of the powers of section 1 of the Pondicherry Revenue Act, 1970 (Act No. 26 of 1970) the Governor, Pondicherry, hereby orders that the said Act shall come into force in the territory of Pondicherry.

(By Order of the Lieutenant Governor)

Und

IMPRIMERIE DU GOUVERNEMENT

(4) Every rule made or notification issued under this Act shall, as soon as possible after it is made or issued be laid before the Legislative Assembly, Pondicherry, and if, before the expiry of the session in which it is so placed or the next session, the Legislative Assembly agree in making any modification in any such rule or notification or the Legislative Assembly agree that the rule or notification should not be made or issued, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

A. CHANDRASEKHARA MENON
Secretary to Government.