

**L. A. Bill No. 46 of 1957.**

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**The Kerala  
Money-Lenders Bill, 1957**

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# THE KERALA MONEY-LENDERS BILL, 1957

## A BILL

*to provide for the regulation and control of the business of money-lenders in the State of Kerala and to consolidate the laws relating to the same.*

*Preamble.*—WHEREAS it is expedient to provide for the regulation and control of the business of money-lenders and to consolidate the laws relating to the same in the State of Kerala;

BE it enacted in the Eighth Year of the Republic of India as follows:—

1. *Short title, extent and commencement.*—(1) This Act may be called the Kerala Money-lenders Act, 1957.

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

(3) It shall come into force on such date and in such area as may be specified by the Government.

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

(1) 'bank' means a banking company as defined in section 5, clause (c), of the Banking Companies Act, 1949 (Central Act X of 1949);

(2) "Co-operative society" means a society registered or deemed to be registered under the Madras Co-operative Societies Act, 1932 (Madras Act VI of 1932) or the Travancore-Cochin Co-operative Societies Act, 1952 (Act X of 1952).

(3) "interest" includes the return to be made over and above what was actually lent, whether the same is charged or sought to be recovered specifically by way of interest or otherwise, but does not include any sum charged by a lender in accordance with the provisions of this Act or any other law for the time being in force, for, or on account of, costs, charges or expenses;

(4) "licence" means a money-lender's licence granted under this Act;

(5) "loan" means an advance whether of money or in kind at interest, and includes any transaction which the Court finds in substance to amount to such an advance but does not include—

(i) a deposit of money or other property in a Government Post Office Savings Bank or in a bank, or in a company as defined in the Companies Act, 1956 (Central Act I of 1956), or with a co-operative society;

(ii) an advance made by a bank or a co-operative society or an advance made from a provident fund to which the Provident Funds Act, 1925 (Central Act XIX of 1925) applies;

(iii) an advance made by Government or by any person authorised by the Government to make advances in their behalf, or by any local authority;

(iv) an advance made by any authority specified by Government by notification in the Gazette;

(v) an advance made by any person bona fide carrying on any business, not having for its primary object the lending

of money, if such loan is advanced in the regular course of such business;

(vi) an advance made on the basis of a negotiable instrument as defined in the Negotiable Instruments Act, 1881 (Central Act XXVI of 1881), other than a promissory note;

(vii) an advance made to its members by any Nidhi or Permanent Fund registered under any law in force in India;

(6) a person shall be deemed to "molest" another person if he—

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

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

(c) loiters at or near a house or other place where such other person resides, or works, or carries on business, or happens to be, or

(d) interrogates the members of the family of such other person or does any act calculated to annoy or intimidate them, or

(e) moves or acts in a manner which causes or is calculated to cause alarm or danger to the person or property of such other person;

(7) "money-lender" means a person whose main or subsidiary occupation is the business of advancing and realising loans, but excludes

(a) a bank or a co-operative society;

(b) an agriculturist, that is to say, a person who is regularly engaged in the cultivation of land to the possession of which he is entitled and who is not assessed to income-tax under the Indian Income tax Act, 1922 (Central Act XI of 1922)

*Explanation (i)*—Where a number of persons jointly cultivate land to the possession of which they are entitled or out of the produce of which they are entitled to be maintained, each such person shall be deemed to cultivate such land.

*Explanation (ii)*—The land cultivated by a person either wholly or in part by hired labour shall be deemed to be cultivated by such person provided that such labour is under such person's direct supervision and control;

(c) any member of a learned profession, that is to say, any person whose name is borne on a register maintained in accordance with any special statute which prescribes particular qualifications for admission to the profession and which regulates the manner of admission to the profession, of disciplinary control over the members thereof and of removal for sufficient cause of any such member from the register of the profession.

(d) whole-time servants of the Government of any State or of the Union or of any local authority.

*Explanation*—Where a person who carries on in the State of Kerala the business of advancing and realising loans is resident outside the State of Kerala the agent of such person



resident in the State of Kerala shall be deemed to be the money-lender in respect of that business for the purposes of this Act;

(8) "principal" in relation to a loan means the amount actually lent to the debtor;

(9) "year" means the financial year.

3. *Money-lender to obtain licence annually.*—No person shall, after the date on which the provisions of this Act are brought into force in any area carry on, or continue to carry on, business as a money-lender at any place in such area, except under and in accordance with the terms of a licence;

*Explanation I*—Where a money-lender has more than one shop or place of business, whether in the same town or village or in different towns or villages he shall obtain a separate licence in respect of each shop or place of business.

*Explanation II*—(a) Where a money-lender is a registered firm the licence shall be obtained in the firm's name.

(b) Where a money-lender is an undivided Hindu family, the licence shall be obtained in the name of the manager or the karanavan or the yajaman, as the case may be, described as such in the licence.

(c) Where a money-lender is any other association of individuals, not required to be registered under the Indian Companies Act, 1956 (Central Act I of 1956), a separate licence shall be obtained by each such individual in his name describing himself as a member of the association:

Provided that nothing contained in this Explanation shall affect the operation of section 69 of the Indian Partnership Act, 1932 (Central Act IX of 1932).

4. *Grant and refusal of licences.*—(1) Every application for a money-lender's licence shall be in writing and shall be made to the licensing authority prescribed under this Act.

Provided that a person under the age of eighteen years shall be eligible to apply for a licence only through a guardian:

Provided further that if any person acting as a guardian on behalf of a minor applies for, and obtains, a licence under this Act, such guardian shall be subject to all the provisions of this Act as if the licence has been granted to himself.

(2) Every licence shall be granted in such form and subject to such conditions as may be prescribed including conditions as to payment of licence fees not exceeding one hundred rupees.

(3) The licensing authority may by order in writing refuse to grant a licence if such authority is satisfied—

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

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

(c) that the applicant has—

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

(ii) been found guilty of an offence under Chapter XVII or Chapter XVIII of the Indian Penal Code (Central Act XLV of 1860); or

(iii) been found guilty of an offence under section 11 or section 13 on two or more occasions; or

(d) that the applicant has had his licence cancelled within six months before the date of application.

(4) Any person aggrieved by an order of the licensing authority under sub-section (3) may, within one month from the date of communication of such order to him, appeal to the prescribed authority.

(5) Every licence granted under this Act, shall, subject to the provisions of sub-section (7), expire on the last day of the year in which it was granted.

(6) A licence granted under sub-section (2) may be renewed from year to year and the provisions of sub-sections (1) to (5) shall apply in relation to the renewal of a licence as they apply in relation to the grant of a licence.

(7) If orders refusing to renew a licence are not communicated to a money-lender by the licensing authority before the expiry of his current licence, the money-lender shall, notwithstanding such expiry, be deemed to have a valid licence till orders are received by him on his application for renewal.

(8) Nothing in this section shall be deemed to disentitle a money-lender, whose licence has expired or has not been renewed, from taking steps to recover any loan advanced during the period when the licence was in force.

5. *Change of place of business by money-lender.*—No money-lender shall change his place of business without previous notice to the licensing authority and without having the address of the new place of business duly endorsed on his licence.

6. *Money-lenders to exhibit their names over shops.*—Every money-lender shall always keep exhibited over his shop or place of business, his name with the word "money-lender" and its equivalent in the regional language.

7. *Interest and charges allowed to money-lenders.*—(1) No money-lender shall charge interest on any loan, at a rate exceeding nine per cent per annum, simple interest, where the loan is a secured loan, or at a rate exceeding twelve per cent per annum simple interest, where the loan is not a secured loan.

(2) A money-lender may demand and take from the debtor such charges and in such cases, as may be prescribed.

(3) A money-lender shall not demand or take from the debtor any interest profit or other sum whatsoever in excess of that payable under sub-section (1).

8. *Power to deposit in Court money due on loan.*—(1) Where a money-lender refuses to accept the whole or any portion of the money or other property due in respect of his loan, the debtor may deposit the said money or property into the Court having jurisdiction to entertain a suit for recovery of such loan and apply to the Court to record full or part satisfaction of the loan, as the case may be.



(2) Where any such application is made, the Court shall, after due inquiry, pass orders recording full or part-satisfaction of the loan as the case may be.

(3) The procedure laid down in the Code of Civil Procedure, 1908 (Central Act V of 1908), for the trial of suits shall, as far as may be, apply to applications under this section.

(4) An appeal shall lie from an order passed by a Court under sub-section (2) as if such an order relates to the execution, discharge or satisfaction of a decree within the meaning of section 47 of the Code of Civil Procedure, 1908 (Central Act V of 1908).

9. *Money-lender to keep books, give receipts etc.*—(1) Every money-lender shall—

(a) regularly record and maintain or cause to be recorded and maintained, an account showing for each debtor separately—

(i) the date of the loan, the amount of the principal of the loan and the rate of interest charged on the loan; and

(ii) the amount of every payment received by the money-lender in respect of the loan, and the date of such payment.

(b) give to the debtor or his agent a receipt for every amount paid by him, duly signed and, if necessary, stamped at the time of such payment;

(c) on requisition in writing made by the debtor furnish to him, or, if he so requires, to any person mentioned by him in that behalf in his requisition a statement of account signed by himself or his agent, showing the particulars referred to in clause (a) and also the amount which remains outstanding on account of the principal and of interest and charge such fee therefor as the Government may prescribe:

Provided that no such statement shall be required to be furnished to a debtor if he is supplied by the money-lender with a pass book in the prescribed form containing an up-to-date account of the money-lender's transactions with the debtor, and

(d) submit such returns relating to the loans advanced by him to the Inspector concerned, in such form and at such times as may be prescribed.

(2) All records or entries made in the books, accounts and documents referred to in sub-section (i) shall be in such language as may be prescribed in respect of any area.

(3) A debtor to whom a statement of account has been furnished under clause (c) of sub-section (i) and who fails to object to the correctness of the account shall not by such failure alone be deemed to have admitted the correctness of such account.

(4) In the receipt to be given under clause (b) of sub-section (1) or in the statement of account to be furnished under clause (c) of that sub-section the figures shall be entered only in Arabic numerals.

(5) In any suit or proceeding relating to a loan if the Court finds that a money-lender has not maintained an account

as required by clause (a) of sub-section (1), he shall not be allowed his costs.

(6) If any money lender fails to give to the debtor or his agent a receipt as required by clause (b) of sub-section (i) or to furnish on a requisition made under clause (c) of that sub-section a statement of account as required therein within one month after such requisition has been made, he shall not be entitled to any interest for the period of his default.

(7) Notwithstanding any agreement between the parties or any law for the time being in force, when a statement is furnished to a debtor under this section on any day during a month, the interest due shall be calculated as payable for the entire month irrespective of the fact that such statement is furnished on any such day.

10. *Appointment of Inspector and their powers.*—(1) The Government or any authority or officer empowered by them may, by notification in the Gazette, appoint one or more persons to be Inspectors for the purposes of this Act and specify in such notification the local limits of their jurisdiction.

(2) Every Inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (Central Act XLV of 1860).

(3) (a) A magistrate of the first class may, on receiving a report from an Inspector that a person carries on without a licence or that a money-lender carries on in contravention of the provisions of this Act or the conditions of the licence granted thereunder the business of money-lending at any place within the jurisdiction of such magistrate, issue a warrant empowering the Inspector to enter such place with such assistants as he considers necessary and inspect the books, accounts, records, files, documents, safes, vaults and pledges in such premises. On receiving such warrant, the Inspector may enter the place and inspect the books, accounts, records, files, documents, safes, vaults and pledges in such premises and may take to his office for further investigation such books, accounts, records, files and documents as he considers necessary.

Provided that if the Inspector removes from the premises any books, accounts, records, files and documents, he shall give to the person in charge of the place, a receipt describing the books, accounts, records, files and documents so removed by him;

Provided further that within twenty-four hours of the removal of the books, accounts, records, files and documents from the premises, the Inspector shall either return them to the person from whose custody they were removed or produce them in the Court of the Magistrate who issued the warrant. Such Magistrate may return the books, accounts, records, files and documents or any of them to the person from whose custody they were removed by the Inspector after taking from such person such security as the Magistrate considers necessary for the production of the books, accounts, records, files and documents when required whether by the Inspector or by



the Court, or may pass such other orders as to their disposal as appear just and convenient to the Magistrate.

(b) An Inspector shall have authority to require any person whose testimony he may require regarding any loan or any money-lending business, to attend before him or to produce or cause to be produced any document and to examine such person on oath.

(4) An Inspector may apply for assistance to an officer in charge of a police station and take police officers to accompany and assist the Inspector in performing his duties under this Act.

11. *Money-lender advancing smaller amount or securing higher interest than that specified in the accounts, etc. to be punishable.*—(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 documents 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 which may extend to six months or with fine which may extend to one thousand rupees or with both.

(2) If a money-lender is convicted of an offence under sub-section (1) the Court convicting him may cancel his licence as a money-lender.

12. *Cognizance of offences.*—No Court shall take cognizance of an offence punishable under this Act or the rules made thereunder except on a complaint in writing made by the Inspector.

13. *Penalty for molestation of debtor.*—Whoever molests or abets the molestation of any debtor for the recovery of any loan shall be punished with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both.

14. *Power to cancel licences, etc.*—(1) The licensing authority may, at any time, during the term of any licence, cancel it by an order in writing—

(a) if the licensee carries on the business in contravention of any of the provisions of this Act or the rules made thereunder or of the conditions of the licence, or

(b) if any reason for which the licensing authority could have refused to grant the licence to the money-lender under sub-section (3) of section 4, is brought to the notice of that authority after the grant of the licence, or

(c) if the licensee is convicted for an offence under section 11 or section 13, or

(d) if the licensee maintains false accounts or is found to molest or abet the molestation of any debtor for the recovery of any debt.

(2) Before cancelling a licence under sub-section (1), the licensing authority shall give the licensee a notice in writing stating the grounds on which it is proposed to take action



and requiring him to show cause against it within such time as may be specified in the notice.

(3) Any person aggrieved by an order of the licensing authority cancelling a licence may, within one month of the date of communication of such order to him, appeal to the prescribed authority.

15. *Publication of order of cancellation.*—Every order of cancellation of a licence under this Act shall be notified in the Gazette and also on the notice board of the office of the licensing authority.

16. *No compensation for cancellation of licence.*—A person whose licence is cancelled under section 14 shall not be entitled to any compensation in respect of such cancellation or to the refund of any fee paid in respect of such licence.

17. *Penalty for carrying on business without licence.*—Whoever carries on the business of money-lending without a licence or otherwise than in conformity with the terms and conditions of a licence shall be punished with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both:

Provided that a person shall not be deemed to carry on the business of money-lending without a licence if, after the expiry of the period of the licence granted to him, he had ceased to carry on the business of money-lending but was taking steps to recover any loan advanced by him during the period when the licence was in force.

18. *Penalties.*—(1) Whoever contravenes any of the provisions of this Act or of any rule made thereunder or of any terms or conditions of a licence granted or deemed to be granted thereunder or makes a claim or a statement which is false or which he does not believe it to be true shall, if no other penalty is elsewhere provided for in this Act for such contravention, be punished with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both.

*Explanation.*—The cancellation of a licence under section 14 shall not be deemed to be a penalty for the purposes of this sub-section.

(2) Where a contravention of any of the provisions of this Act or of any rule made thereunder of which a person is convicted consists of an omission to do a thing, the Magistrate may, when convicting the offender direct him to do the thing before an appointed day and may on the failure of the offender to do the thing before the said day, pass an order, whether the offender appears in court, or not on that day, cancelling his licence.

19. *Transfer of licence to heir.*—(1) Where a licensee under this Act dies, any person claiming to be his legal representative may apply to the licensing authority for transferring in his name the licence standing in the name of the deceased.

(2) Every such application shall be in such form and shall contain such particulars as may be prescribed.

(3) The licensing authority may, if he is satisfied that the applicant is in fact the legal representative of the deceased and that he is otherwise eligible to a licence under this Act, transfer the licence in the name of the applicant after obtaining from the applicant a declaration in the prescribed form.

(4) Any licence transferred under sub-section (3) shall be deemed to have been granted to the applicant himself and shall be valid for the period for which it would have been valid if the licence had not been transferred, and the provisions of this Act shall apply accordingly.

20. *Jurisdiction to try offences.*—No court inferior to that of a Magistrate of the second class shall try any offence punishable under this Act.

21. *Contracts not to be void on account of offence.*—Where a money-lender is guilty of an offence punishable under this Act any contract made by him in relation to his business of money-lending shall not be void by reason only of that offence not shall be by reason only of that offence, lose his right to the loan and the interest and other charges, if any, payable in respect thereof.

22. *Power to make rules.*—(1) The Government may make rules to carry out all or any of the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) all matters expressly required or allowed by this Act to be prescribed;

(b) the form and the particulars to be contained in an application for a licence under this Act;

(c) the terms and conditions subject to which a licence may be granted;

(d) the form in which books, accounts and documents specified in this Act shall be recorded, maintained, kept or used;

(e) the procedure which should be followed and the powers which may be exercised by the authorities exercising functions, holding inquiries and hearing appeals under this Act.

(3) All rules made under this Act shall, as soon as possible after they are made be placed before the Legislative Assembly and shall be subject to such modifications by way of amendments or repeal as the Assembly may make within fourteen days on which the Assembly actually sits either in the same session or in more than one session.

## STATEMENT OF OBJECTS AND REASONS

The Bill seeks to make provision for regulating the business of money-lending. By passing an enactment of this nature it is intended to regulate the interests to be charged by money-lenders and to afford protection to borrowers. The rights and liabilities of the both the money-lender and the borrower are defined within statutory provisions.

**FINANCIAL MEMORANDUM**

Under clause 10 of the Bill, the Government or any authority or officers empowered by them may by notification in the Gazette appoint one or more persons to be Inspectors for the purpose of the Act. The Government will also derive some revenue by way of licence fee to be levied from money-lenders.

The question whether there should be full time Inspectors or the work could be entrusted to some of the existing executive officers without prejudice to their normal duties can be decided only after seeing and assessing the volume of work to be done. It is therefore not possible at this stage to estimate with any degree of accuracy, the income and expenditure connected with the administration of the legislation.

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K. P. GOPALAN.