

**CONSULTATION ON
THE MONEYLENDERS BILL 2008**

20th AUGUST – 12th SEPTEMBER 2008

1. INTRODUCTION

1.1 The Moneylenders Act (“MLA”), which was enacted in 1959, was originally intended as a piece of social legislation to safeguard borrowers from unscrupulous moneylenders that charge exorbitant interest.

1.2 Over the years, the moneylending business landscape has changed significantly. Thus, a major review of the MLA was necessary to ensure that the laws governing moneylending are updated, relevant and in keeping with changes in consumer credit, business financing, the moneylending industry as a whole and the principles underlying the regulation of the financial industry in general.

1.3 The Ministry of Law (“MinLaw”) and the Registry of Moneylenders (“ROM”) have completed a review of the MLA and are proposing the introduction of a Moneylenders Bill 2008 (“MLB”) to repeal and replace the current MLA. A copy of the MLB is attached.

1.4 MinLaw and ROM invite interested parties to provide their feedback on the MLB. The consultation period ends on Friday, 12 September 2008. You may send your feedback in electronic or hard copy form to :

**The Registry of Moneylenders
45 Maxwell Road, #06-11,
The URA Centre East Wing, Singapore 069118**

Fax: 6325 1416

E-mail: ipto_romp@ipto.gov.sg

1.5 MinLaw and ROM reserve the right to make public all or parts of any written submission, unless confidentiality is specifically requested for the whole or any part of the submission.

2. THE SCOPE OF THE MLB

I. Clarifying the moneylending activities to be licensed

2.1 The MLB will cover the licensing and regulation of moneylenders providing all forms of loans to members of the public as private individuals.

2.2 The MLB will make it clear that persons that are licensed, approved, registered, or regulated by the Monetary Authority of Singapore; persons who grant staff loans, and persons who grant loans to corporations or loans to accredited investors within the meaning of section 4A of the Securities and Futures Act (Cap. 289), will be excluded from the application of the MLB as “excluded moneylenders” [Clause 2 of MLB]. Excluded moneylenders will not need to seek exemption from the application of the MLB.

2.3 The MLB will retain the provision in the MLA to allow for the exemption of lenders which do not fall within the list of “excluded moneylenders”. These lenders will be termed “exempt moneylenders” [Clause 34 of MLB].

II. Modernising moneylending operations

2.4 Arising from its origin as a piece of social legislation, the MLA currently has tight controls on business location, advertising, interest rates, non-interest fees, how loans should be disbursed, how payments from borrowers should be accepted and how accounts are to be kept. While continuing to keep moneylenders in check through a robust licensing and regulatory regime, the MLB proposes to relax some current controls to facilitate moneylending in the modern credit economy [Parts I to III of MLB].

(a) Location

2.5 The MLA currently allows a licensed moneylender to operate from only one location. The MLB proposes to allow licensed moneylenders to operate from more than one location, with the prior approval of the Registrar of Moneylenders (“the Registrar”) who may impose conditions for the business to be conducted at the additional location(s). Each additional location will attract a separate processing fee [Clause 10 of MLB].

(b) Advertising

2.6 The MLA imposes strict restrictions on advertising by licensed moneylenders, which financial institutions do not face. The MLB proposes to allow advertising subject to conditions that the Registrar may impose. While licensed moneylenders will be free to conduct their advertising and marketing activities, it will be an offence for a licensed moneylender to issue a false or misleading advertisement (including on the Internet) [Clause 15 of MLB].

(c) Interest rate

2.7 The MLA currently imposes a maximum interest rate which a licensed moneylender can charge, i.e. 18% per annum for unsecured loans and 12% per annum for secured loans. The MLB proposes to decriminalise the charging of interest above the prescribed maximum interest rates and remove the prohibition against the charging of compound interest, in line with loans made by financial institutions. The MLB also proposes to give the Minister the discretion to prescribe different interest rates for different classes of loans or borrowers, bearing in mind the need for protection from possible exploitation by moneylenders for borrowers who have low or no income. With these measures, moneylenders will have greater flexibility to determine the interest charges based on market forces and their risk assessment [Clause 22 of MLB].

(d) *Non interest-related fees*

2.8 The MLA makes loan contracts illegal where fees other than legal fees and fees payable by law, such as stamp duties, are charged by a licensed moneylender. The MLB proposes to give the Minister the discretion and power to prescribe the types and quantum of fees which may be charged. This will bring the business practices of licensed moneylenders more in line with the market practices of financial institutions [Clause 21 of MLB].

(e) *Mode of disbursing loans*

2.9 The MLA makes a loan contract unenforceable if the loan was not disbursed by way of an 'account payee' crossed cheque made payable to the borrower. The MLB proposes to remove this outdated provision so as to give licensed moneylenders the flexibility of disbursing loans by means other than a crossed cheque, for example, via cash, or inter-bank or other electronic funds transfer.

(f) *Mode of repaying loans*

2.10 The MLA makes it an offence for a licensed moneylender to accept any payment amount from a borrower exceeding \$10 in any form other than a cheque, money order or postal order. The MLB proposes to remove this provision, so as to allow a borrower to repay any amount in cash or electronic funds transfer. Where payment is made in cash by or on behalf of the borrower, the safeguard for the borrower will be a requirement for the licensed moneylender to issue a receipt which is to be acknowledged [Clause 20 of MLB].

(g) *Keeping of accounts*

2.11 The MLA requires licensed moneylenders to keep accounts of their loans in a book paginated and bound in such manner so as not to facilitate the elimination or interpolation or substitution of pages. The MLB proposes to remove this requirement so as to allow moneylenders to keep their accounts in electronic form [Clause 23 of MLB].

III. Improving the regulatory framework

(a) Enhancing the powers of the Registrar in licensing

2.12 The MLB proposes to enhance the licensing regime by giving the Registrar additional grounds for refusing to issue, revoking and suspending a licence, and by empowering the Registrar to impose and amend conditions of licence [Clauses 5, 6, 7, and 9 of MLB].

(b) Raising the standards of business practices

2.13 The MLB proposes to require licensed moneylenders to maintain certain standards in their professional business practices as follows:

- (a) Loans to be granted only on application by a borrower in writing [Clause 16 of MLB].
- (b) No granting of unsolicited loans [Clause 16 of MLB].
- (c) To inform a prospective borrower of the terms of loan before granting the loan [Clause 18 of MLB].
- (d) To issue a statement of account to borrowers twice yearly [Clause 20 of MLB].
- (e) To obtain an acknowledgement by the borrower of the receipt of cash payment [Clause 20 of MLB].

2.14 These will be in addition to the existing requirements for licensed moneylenders to issue their borrowers with a promissory note duly completed, and to issue a receipt upon any cash payment made by their borrowers.

(c) Enhancing the regulatory framework

2.15 In modernising the current regulatory framework governing the moneylending business, the MLB proposes to give the Registrar greater investigative powers, including powers to inspect without notice premises, documents and records, make a copy of documents produced or inspected, take photographs of the premises, seize and remove from the premises any document or record or computer or data storage equipment, and compel the attendance of persons for investigations and the recording of statements [Clause 24]. The Registrar will also be able to issue directions to moneylenders [Clause 25 of MLB].

IV. Strengthening the enforcement framework for moneylending

2.16 The MLB proposes to introduce an offence for a person to hold out to others that he carries on a moneylending business where he is neither a licensed excluded or exempt moneylender [Clause 13 of MLB].

2.17 In addition, a person who allows an unlicensed moneylender to use any telecommunication service subscribed in his name or purchased by him will be presumed to be assisting in unlicensed moneylending. Furthermore, the offence of harassing, threatening or abusing a borrower or his surety will apply to all moneylenders, and if the offence is committed by abetting any person to cause damage to property or hurt to another person, the offender may be punished with caning in addition to a term of imprisonment [Clause 27 of MLB].

Ministry of Law
Registry of Moneylenders
20th Aug 2008

ANNEX

Draft Moneylenders Bill

Bill No. /2008.

Read the first time on 2008.

MONEYLENDERS ACT 2008

(No. of 2008)

ARRANGEMENT OF SECTIONS

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A BILL

intituled

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.

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;

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

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

20 “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 such Act;

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

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

- (d) any pawnbroker licensed under the Pawnbrokers Act (Cap. 222);
- (e) any person granting one or more loans solely to one or more corporations;
- 5 (f) any person granting one or more loans solely to his employees as a benefit of employment;
- (g) any person granting one or more loans to accredited investors within the meaning of section 4A of the Securities and Futures Act (Cap. 289);
- 10 (h) 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; or
- (i) any person who does any combination of the activities or businesses referred to in paragraphs (e) to (h);
- 15 “exempt moneylender” means any moneylender who has been granted an exemption under section 34 from holding a licence;
- “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
- 20 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,
- 25 but does not include any permitted fee, stamp duty or other fee payable under any written law;
- “licence” means a moneylender’s licence issued or renewed under this Act, and “licensee” shall be construed accordingly;
- “limited liability partnership” has the same meaning as in the Limited
- 30 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 business, but does not include any excluded moneylender;

“permitted fee”, in relation to a loan, means the costs, charges or expenses prescribed under section 21 that may be imposed on the borrower under the contract for the loan;

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

“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;

10 “substantial shareholder” has the same meaning as in Division 4 of Part IV of the Companies Act (Cap. 50);

“written law” includes this Act.

Persons presumed to be moneylenders

15 **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.

Appointment of Registrar and Assistant Registrars

20 **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.

PART II

LICENSING OF MONEYLENDERS

No moneylending except under licence, etc.

25 **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 —

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

(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 —

- 5 (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.

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

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

- 15 (a) where any information or statement furnished by the applicant that is material to his application is incomplete, false or misleading;
- (b) where the applicant does not satisfy the requirements of the class or description of the licence applied for; or
- 20 (c) unless the applicant has placed a deposit of \$20,000 with the Accountant-General as security for the proper conduct of his business, in such form as the Registrar may determine, 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.

25 (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.

30 (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.

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 existing licence, in such form and manner as may be determined by the Registrar.

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

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

(4) 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.

10 **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:

- 15 (a) if the applicant, any substantial shareholder, director or partner of the applicant, or any person who is or will be responsible for the management of the business of moneylending —
- 20 (i) has been convicted of any offence involving dishonesty or moral turpitude, or 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);
- (ii) is contravening or has contravened any provision of this Act;
- (iii) has been convicted of any offence under this Act; or
- 25 (iv) is carrying on or has carried on any business of moneylending in such a manner as renders him unfit to hold a licence;
- (b) if the applicant does not have a place of business;
- 30 (c) if the Registrar is not satisfied that the place of business in respect of which the licence is to be issued is suitable for a business of moneylending or that it is in the public interest for a business of moneylending to be conducted in that place;

- (d) if the applicant, any director or partner of the applicant, or any person who is or will be responsible for the management of the business of moneylending is not at least 21 years of age;
- (e) if —
- 5 (i) the applicant is not —
- (A) an individual who is ordinarily resident in Singapore;
or
- (B) a company, firm or limited liability partnership; or
- 10 (ii) any person who is or will be responsible for the management of the business of moneylending is not ordinarily resident in Singapore;
- (f) where 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 business of moneylending;
- 15 (g) where the Registrar is not satisfied as to the good character of the applicant, any substantial shareholder, director or partner of the applicant, or any person who is or will be responsible for the management of the business of moneylending;
- 20 (h) where the Registrar is not satisfied that the applicant, any substantial shareholder, director or partner of the applicant, or any person who is or will be responsible for the management of the business of moneylending is a fit and proper person to carry on or manage a business of moneylending.
- 25 (2) For the purposes of sections 5 and 6, where an application is made by any person for a licence to carry on the business of moneylending as an agent for a principal, the licence shall not be issued or renewed where —
- 30 (a) any of the grounds for the refusal of a licence under subsection (1) applies to the agent, any substantial shareholder, director or partner of the agent, or any person who is or will be responsible for the management of the business of moneylending of the agent;
- (b) the Registrar is not satisfied as to the good character of the principal, any substantial shareholder, director or partner of the

principal, or any person who is or will be responsible for the management of the business of moneylending of the principal;

5 (c) the Registrar is not satisfied that the principal, any substantial shareholder, director or partner of the principal, or any person who is or will be responsible for the management of the business of moneylending of the principal 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 outside Singapore 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 or renew a licence may appeal in writing to the Minister and the decision of the Minister shall be final.

15 **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.

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

20 (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 in respect of the class or description of licence which the licensee holds.

25 (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 cancelled, revoked or suspended or when the licensee ceases to carry on business at any time prior to the expiry of the licence.

30 (6) The Registrar may, where he considers 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 —

(i) has ceased to carry on the business of a moneylender, or is wound up or otherwise dissolved;

(ii) had, in connection with an application for the issue or renewal of the licence —

(A) knowingly or recklessly made a statement or furnished any information 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

(C) produced to the Registrar any book, record or 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; or

(iv) has carried on a business of moneylending at any place in respect of which he has not been licensed or 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

(b) that there exists a ground on which the Registrar may refuse to issue 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 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 from the date of the notice, upon which the revocation or suspension shall take effect.

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

5 (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.

10 (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 decision is made.

Approval of places of business

15 **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 the place or places, apply in writing to the Registrar for approval to do so.

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

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

(a) the applicant for such approval has paid the requisite licence fee referred to in section 8;

25 (b) the applicant has placed a deposit of \$20,000 with the Accountant-General as security for the proper conduct of his business, in such form as the Registrar may determine, for each additional place of business for which approval is sought; and

30 (c) the Registrar is of the view that the place of business is suitable for a business of moneylending to be conducted in that place and that it is not contrary to the public interest for a business of moneylending to be conducted in that place.

(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 or impose new conditions.

35 (5) Where the approval of the Registrar is granted to a firm, the approval shall be deemed to be granted to every partner of the firm

actively conducting the business of moneylending of that firm in Singapore.

5 (6) The Registrar may revoke his approval or suspend his approval for such period as he considers appropriate if he is satisfied that the licensee has contravened any condition of approval imposed under this section.

10 (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 revoked or suspended.

15 (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 from the date of the notice, upon which the revocation or suspension shall take effect.

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

20 (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.

25 (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 decision is made.

(12) Any licensee who —

- 30 (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.

(13) 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.

Approval and notification of change of profile

5 **11.**—(1) Every licensee shall obtain the approval of the Registrar —

(a) before changing his business name;

(b) as soon as practicable after a person becomes a substantial shareholder, director or partner of the licensee, or after any change in the shareholding of a substantial shareholder of the licensee; or
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(c) before the admission of a person who will be responsible for the management of the business of moneylending of the licensee.

(2) Every licensee shall notify the Registrar when a person ceases to be a substantial shareholder, director or partner 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.
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(3) Every licensee shall notify the Registrar of the making of a bankruptcy order against any substantial shareholder, director or partner of the licensee not later than 14 days after the order is made.

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

Publication of lists

25 **12.** 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 section 34, and such of their particulars and the conditions of their exemption, as the Registrar may determine.
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Unlicensed moneylending

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

5 (a) where the person 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 \$200,000 or to imprisonment for a term not exceeding 2 years or to both; and

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 (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.

15 (2) No contract for a loan granted by an unlicensed moneylender, and no guarantee or security given for such a loan, shall be enforceable.

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

 (a) is not ordinarily resident in Singapore;

 (b) has appointed a licensee or an exempt moneylender to act as his agent to carry on a business of moneylending in Singapore; and

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 (c) does not himself carry on a business of moneylending in Singapore.

 (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).

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30 (5) In this section, unless the context otherwise requires —

 “telecommunication service” has the same meaning as under the Telecommunications Act (Cap. 323);

 “unlicensed moneylender” means a moneylender —

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

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

Other offences under this Part

14.—(1) Any person who, in connection with an application for the issue or renewal of a licence —

- 5 (a) knowingly or recklessly makes a statement or furnishes any information 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
- 10 (c) produces to the Registrar any book, record or document which he knows or has reason to believe contains information 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 \$40,000 or to imprisonment for a term not exceeding
15 12 months or to both.

(2) Any licensee who —

- (a) contravenes any condition of his licence; or
- (b) carries on the business of moneylending under any name other than his business name,
- 20 shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000.

PART III

**REGULATION OF BUSINESS OF MONEYLENDING,
ENFORCEMENT AND PROCEEDINGS**

25 **Regulation of advertising and marketing**

15.—(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
30 particular.

(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 —

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(a) does not show the business name of the licensee;

(b) shows such business name in an inconspicuous manner;

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(c) states that the licensee offers loans at a specified percentage of interest without stating the rate of interest, and the actual rate of interest charged is at a rate that is other than 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

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(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.

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(3) Without prejudice to the generality of the Registrar's power to issue directions under subsection (1) of section 25, the Registrar may issue directions under that subsection to any licensee with respect to the issue, publication or contents of marketing or advertising materials or the conduct of marketing or advertising 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.

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Prohibition of unsolicited loans

16.—(1) No licensee shall —

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

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(b) 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

5 **17.**—(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.

10 (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

18.—(1) Every licensee shall, before granting any loan to a borrower, inform the borrower in writing as to —

- 15 (a) the rate of interest charged on the loan expressed as a percentage per annum;
- (b) whether interest is computed on the daily outstanding balance of the loan or the outstanding balance at some other interval of time, or on a simple interest basis on the amount of the loan;
- 20 (c) the date or day when the interest on the principal is credited to the loan account as payable;
- (d) the rate of interest charged on late payment of the principal and interest;
- (e) whether late interest is computed on the daily outstanding balance of the overdue amount or on the overdue amount at some other interval of time;
- 25 (f) whether any permitted fee will be charged and, if so, what the permitted fees are, how they are or will be computed and the circumstances under which they will be charged;
- (g) in the case of a term loan —
 - 30 (i) the frequency of the instalment payments;
 - (ii) the amount of each instalment payment;
 - (iii) the portion of each instalment payment comprising repayment of the principal and payment of the interest; and

(iv) the total number of instalments and the total amount the borrower will pay over the entire term of the loan if he does not default on any payment; and

(h) such other matter as may be prescribed.

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

10 (3) Where any loan has been granted in contravention of subsection (1) or (2) —

(a) the loan shall be void; and

(b) the licensee shall not be entitled to enforce the repayment of the loan, whether by the borrower or any surety, or to enforce any security given for the loan.

15 (4) 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

20 **19.**—(1) No contract for a loan granted by a licensee, and no security given by or on behalf of a borrower under such a contract, shall be enforceable unless —

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

25 (b) a copy of the note, 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.

30 (2) Where the borrower or his agent referred to in subsection (1) does not know or understand the English language, the licensee shall cause the note to be attested in accordance with subsection (3) by an advocate and solicitor, a Justice of the Peace, a commissioner for oaths or such other person as may be appointed by the Minister for that purpose.

(3) The attestor shall explain the terms of the note to the borrower or his agent (as the case may be) in the language that he understands, and shall certify on the note that the borrower or his agent (as the case may be) appeared to understand the meaning of the note.

5 (4) Where the loan is to be paid in cash to the borrower or any other person on the direction of the borrower, the licensee or his agent shall pay the loan to the borrower or that other person in the presence of the attestor, who shall certify the fact on the note.

(5) Where any note required to be attested under this section is not so
10 attested in accordance with subsection (3) —

(a) the note shall be void; and

(b) the licensee shall not be entitled to enforce the repayment of any loan for which the note was taken, whether by the borrower or any surety, or to enforce any security given for the loan.

15 (6) Any licensee who contravenes subsection (1), (2) or (4) 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.

20 (7) Any licensee who makes or causes to be made any note 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 to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 6 months or to both and, in the case of a second or subsequent offence, to a fine not exceeding \$40,000 or to imprisonment
25 for a term not exceeding 12 months or to both.

(8) This section shall not apply to loans on revolving credit approved by a licensee.

30 (9) In subsection (8), “revolving credit”, in relation to a loan, means a loan 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 as approved by the licensee.

Provision of statements of account, loan documents and receipts

35 **20.**—(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 to the

borrower is subsisting, a statement of account for the relevant half year period in the English language containing —

- (a) the business name, the address of the place of business and the telephone number of the licensee;
 - 5 (b) the date on which the loan was granted or approved, the principal or credit limit of the loan, and the rate of interest charged expressed as a percentage per annum or the amount of interest charged;
 - 10 (c) the total principal, interest, late interest, and permitted fees outstanding as at the beginning of that half year period;
 - (d) in the case of a loan approved with a credit limit, a list of the amount and date of every drawdown in that half year period;
 - (e) a list of every item of interest, late interest and permitted fees charged to the borrower, the amount of each item and the date each amount was credited in that half year period;
 - 15 (f) a list of payments received by the licensee in respect of the loan and the date of each payment in that half year period;
 - (g) the portion of each payment referred to in paragraph (f) attributed to repayment of principal, or payment of interest, late interest or permitted fees; and
 - 20 (h) the total principal, interest, late interest and permitted fees outstanding as at the end of that half year period.
- (2) The statement of account under subsection (1) shall be —
- (a) provided to the borrower without charge; and
 - 25 (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
- 30 applicant or any person specified by him not later than 21 days after the date the application is made —
 - (a) a statement of account in relation to the loan to which the applicant is or was a borrower or surety, containing the

information specified in subsection (1), for any period of account not exceeding the duration of the loan as may be specified by the applicant; or

5 (b) a copy of any document relating to a contract for a loan granted, or any security given under the contract, 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 —

10 (a) the business name, the address of the place of business and the telephone number of the licensee;

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

(c) the portions that the amount paid is attributed to repayment of principal, or payment of interest, late interest or permitted fees;

15 (d) where any portion is attributed to payment of interest, the period of the loan and the principal on which that interest amount was computed; and

(e) where any portion is attributed to payment of late interest, the overdue amount on which late interest was charged and the period for which it was overdue.

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

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

(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) 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.

(7) Where a licensee has been convicted of an offence under subsection (6) and the borrower has not repaid in full the outstanding

amount of the loan together with any interest, late interest or permitted fee under the contract for the loan, the contract shall not be enforceable in respect of all moneys remaining unpaid under that contract.

Charges other than permitted fees unenforceable

5 **21.**—(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.

10 (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 any written law) on account of costs, charges or expenses other than or in excess of the permitted fees, that sum —

- (a) shall be unenforceable against the borrower and any surety;
- 15 (b) if so paid, shall be recoverable as a debt due to the borrower; and
- (c) if not recovered, shall be set off against the outstanding amount of the loan and any interest payable.

Re-opening moneylending transactions by court

20 **22.**—(1) When proceedings are brought in any court by a licensee for the recovery of a loan or the enforcement of a contract or security given for a loan, and the court is satisfied that the 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.

25 (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 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, late interest and permitted fees as the court, having regard to the risk and all
30 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), 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
35 relief —

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

(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; and
- (b) that the time for repayment of the loan or any instalment thereof may not have arrived.

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

(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 charged on any loan exceeds such maximum rate of interest as may be prescribed for the loan computed in accordance with subsection (8)(a), the court or the Official Assignee, as the case may be, shall, unless the contrary is proved, presume for the purposes of this section that the interest charged is excessive and that the transaction is unconscionable or substantially unfair.

(7) Subsection (6) shall be without prejudice to the powers of the court under this section where the court is satisfied that the interest charged under the circumstances, although not exceeding such maximum rate of interest as may be prescribed for a 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 charged on any loan exceeds such maximum rate of interest as may be prescribed for the loan, take no account of late interest, and 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.

Accounts to be kept and submissions to Registrar

5 23.—(1) Every licensee shall keep or cause to be kept, in books or electronic records, a regular account of each loan made by him stated clearly in the English language.

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

10 (a) such accounts relating to his business 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 cash received and paid;

(b) such notes of the contracts for the loans in which he is or has been concerned; and

15 (c) such other documents as may be prescribed.

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

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(4) 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 to which the statement relates:

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(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.

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

(6) Any person who contravenes subsection (1), or any requisition made by the Registrar under subsection (5), shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000.

5 (7) Any licensee who contravenes subsection (2) or (3) 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) Any licensee who knowingly or recklessly furnishes to the Registrar any information in —

10 (a) a statement under subsection (4); or

(b) an account or explanation to the Registrar under subsection (5), 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.

15 (9) Where a licensee submits a statement after the time specified for submission under subsection (4), 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.

Power to inspect, and require information or documents

20 **24.**—(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 —

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

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

- (a) to grant to the Registrar or an authorised officer access to the premises or any part thereof, or to any document or record under subsection (1)(a);
- 5 (b) to furnish the Registrar or an authorised officer with any information, document or record 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 document or record under
10 subsection (1)(c);
- (d) to permit the Registrar or an authorised officer to take any photograph of the premises or any part thereof under subsection (1)(d); or
- 15 (e) to permit the Registrar or an authorised officer to seize or remove from the premises any document or record, or any machine or equipment containing any document or record 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
20 or to both.

(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
25 imprisonment for a term not exceeding 12 months or to both.

(4) Any person who, knowingly or recklessly —

- (a) gives to the Registrar or an authorised officer any information under subsection (1) that is false or misleading in a material particular; or
- 30 (b) produces to the Registrar or an authorised officer, or grants him access to, any document or record under 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.

General power to issue directions

5 **25.**—(1) The Registrar may issue directions, either of a general or specific nature, to any 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
10 may by such directions —

(a) require any moneylender to display or exhibit such cautionary statements as the Registrar thinks fit in a conspicuous place at every place of business;

15 (b) require any moneylender to provide cautionary statements in writing to borrowers; or

(c) set out the manner in which any moneylender must conduct the business of moneylending.

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

False statements or representations to induce borrowing an offence

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

25 (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
30 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 debtor, besetting his residence, etc.

27.—(1) Subject to subsection (3), where a moneylender, whether licensed or otherwise under this Act —

- 5 (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,

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

- (i) where the person is a body corporate, to a fine of not less than \$8,000 and not more than \$80,000; and
- (ii) in any other case —
 - 15 (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 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.

25 (2) Subject to subsection (3), any person who, acting on behalf of a moneylender referred to in subsection (1), commits or attempts to commit any of the acts 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
- 30 (b) in the case of a second or subsequent offence, shall be liable on conviction to a fine of not less than \$4,000 and not more 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 subsection (1) or (2) shall also be liable to be punished with caning —

5 (i) with not more than 4 strokes if it is proved to the satisfaction of the court that, while committing the offence, he had caused or abetted any person to cause damage to any property;

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

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

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

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

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

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

35 (4) For the purposes of subsection (2), any person who does any of the acts referred to in subsection (1) in connection with a demand for the repayment of a loan to a moneylender, whether licensed or otherwise under this Act, shall be presumed, until the contrary is proved, to act on behalf of such a 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;
- 5 (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;
- 10 (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.

Special provisions relating to non-resident principal

15 **28.**—(1) When any fine is imposed on an agent who is or has been licensed under this Act to carry on a business of moneylending 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 fine shall, unless the court imposing the fine otherwise directs, be
20 recoverable out of the property belonging to the principal or the agent, or to both, situated in 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 the levy of the amount of the fine.

25 (3) When it is made to appear to any court by any person entitled to make an application under section 22 that any transaction entered into with a moneylender not resident in Singapore prima facie ought to be re-opened, the court may —

- 30 (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 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 22.

Powers of police officer

- 5 **29.** 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 or document relating to any
10 moneylending transaction without a warrant being issued by a Magistrate for that purpose.

PART IV

MISCELLANEOUS

Certain offences seizable and non-bailable

- 15 **30.** Every offence under section 13 or 27 shall be deemed to be a seizable and non-bailable offence within the meaning of the Criminal Procedure Code (Cap. 68).

Jurisdiction of court

- 20 **31.** 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.

- 25 **32.—**(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,

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

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

5 (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,

10 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 —

15 (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,

20 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” —

25 (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

30 (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

33.—(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.

Power of Minister to grant exemptions

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

(2) Every exemption under subsection (1) may —

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

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

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

5 (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 furnish the Registrar with such information, as the Registrar may require; and

10 (b) pay such fee as is prescribed by the Minister for the making of such application.

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

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

(7) Any moneylender who makes an application for an 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.

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

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

25 (a) for the breach 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.

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

Rules

35.—(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 class or description of borrowers;
- 5 (b) to prescribe the class or description of borrowers to which a moneylender may make 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
10 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;
- 15 (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;
- 20 (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;
- 25 (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,
30 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.

(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;

(b) relate to all or any class or description of moneylenders; and

5 (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 —

10 (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 provision thereof, 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

15 (ii) in any other case, for penalties not exceeding a fine of \$50,000; and

Repeal, transitional and saving provisions

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

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

25 (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 subsist until its expiry, and may be renewed, revoked or suspended in accordance with the provisions of this Act;

30 (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 subsist until its expiry, and may be extended or revoked 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) Any notice, order, decision, direction, certificate or approval made or granted by the Registrar or the Minister under the repealed Moneylenders Act in force immediately before the date of 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.

(4) 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 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.

(5) Subject to subsection (2)(c), where anything has been commenced 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.

(6) Any subsidiary legislation made under the repealed Moneylenders 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 or repealed.

(7) Any written law or document referring to the repealed Moneylenders Act or any provision thereof shall, as far as may be necessary for 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 (the Registrar) in relation to the licensing of moneylenders and the enforcement of the Act.

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.

PART II

LICENSING OF MONEYLENDERS

Part II (comprising clauses 5 to 14) 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.

Clause 6 sets out the procedure for renewing a licence.

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 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.

Clause 9 sets out the grounds on 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. An aggrieved licensee has a right of 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 Registrar may refuse to grant his approval if he is of the view that a proposed place is unsuitable for a moneylending business to be conducted in that place. The Registrar may also revoke or suspend any such approval. A licensee who is aggrieved by such revocation or suspension has a right of appeal to the Minister.

Clause 11 requires a licensee to obtain the Registrar's approval in relation to certain changes specified in the clause, such as, a change in the business name of the licensee. A licensee is also required to report the withdrawal of any key person, as specified in the clause, within 14 days after the change.

Clause 12 provides for the publication of lists of all licensees and persons granted any exemption under clause 34 by the Registrar from time to time.

Clause 13 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. A contract for a loan from an unlicensed moneylender, and any guarantee or security given for such a loan, will be unenforceable.

Clause 14 contains certain other offences arising from the provisions of the Part, such as, the provision of false or misleading information to the Registrar in connection with an application for the issue or renewal of a licence, or 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 15 to 29) 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 15 makes it an offence for a licensee to knowingly or recklessly publish or cause to be published any advertising or marketing material in any form (including electronic or web-based materials) or any business letter, circular or other document which contains false or misleading information.

Clause 16 prohibits licensees from granting loans or approval for loans where the borrower had not made an application for the loan.

Clause 17 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 18 requires a licensee to inform a borrower in writing, before the grant of a loan to him, of the terms of the loan. Any contravention of this requirement will be an

offence, and the loan granted in contravention of this requirement will be void and unenforceable.

Clause 19 prescribes certain requirements relating to the form of the contract in respect of a loan granted by a licensee, and the manner in which the loan is to be paid by the licensee. Any note that is not in compliance with the clause will be void and the loan will be unenforceable.

Clause 20 mandates the supply of statements of account by licensees to borrowers in accordance with the specified requirements, and the manner in which receipts are to be issued for any cash payment made by or on behalf of a borrower.

Clause 21 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 of any amount other than or in excess of the permitted fees will be unenforceable and may be recovered by the borrower, whether as a debt or by way of set off against the loan and interest payable.

Clause 22 authorises a court to re-open moneylending transactions and to give the debtor relief where the interest is excessive or the transaction is unconscionable or substantially unfair. A debtor may apply to the court for relief at any time and not merely when proceedings have already been instituted against him by a moneylender. 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 moneylender in the bankruptcy of a borrower. The clause also empowers the Minister to prescribe the maximum interest rate for any loan granted by a licensee.

Clause 23 requires every licensee to keep regular accounts of each loan, and to submit quarterly statements to the Registrar. The accounts and other documents specified must be kept for a period of at least 5 years. Where the documents in relation to a specific transaction are required by the Registrar in connection with a criminal investigation under the Act, then the documents must be kept for such longer time as may be required.

Clause 24 empowers the Registrar or an officer authorised by him to enter premises used by a moneylender to carry on business in order to inspect the premises and any document or record found on the premises, and to require a moneylender to provide information or documents, among others.

Clause 25 provides the Registrar with a general power to issue directions to any moneylender, whether or not licensed under the Bill, for the carrying out of the provisions of the Bill.

Clause 26 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 27 re-enacts section 33 of the repealed Act, to make it an offence for any moneylender or any person assisting such a moneylender to harass a debtor or to beset his resident, etc., which is punishable with caning in certain circumstances.

Clause 28 re-enacts section 34 of the repealed Act to empower a court imposing a fine under the Bill.

Clause 29 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 30 to 36) contains the miscellaneous provisions.

Clause 30 deems the offences under clause 13 (relating to unlicensed moneylending) and clause 27 (relating to harassment of debtors) as seizable and non-bailable offences.

Clause 31 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 32 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, a firm or an association.

Clause 33 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 34 empowers the Minister to grant or extend exemptions from any or all of the provisions of the Bill, and to impose or vary conditions of exemption.

Clause 35 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.

Clause 36 repeals the Moneylenders Act (Cap. 188), and sets out the transitional and savings provisions arising from the repeal of the Act.

EXPENDITURE OF PUBLIC MONEY

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