

ASSAM ACT IV OF 1934.

THE ASSAM MONEY LENDERS' ACT,
1934.

[Published in the Assam Gazette of the 27th June 1934.]

An Act to provide for more effectual control
of money-lending in Assam.

Preamble.

WHEREAS it is expedient to make better
provision for the control of money-lending and to
give additional powers to Courts to deal with
money-lenders in Assam ;

And whereas the previous sanction of the
Governor General has been obtained under
sub-section (3) of section 80A of the Government
of India Act to the passing of this Act.

It is hereby enacted as follows :—

Short
extent
and
commencement.

1. (1) This Act may be called the Assam
Money-Lenders Act, 1934.

(2) It extends to the whole of Assam including
the territories mentioned in section 14 of the
Assam General Clauses Act, 1915. Assam Act II
of 1915,

(3) It shall come into force on such date as
the Local Government may by notification direct.

Definitions.

2. In this Act, unless there is anything
repugnant in the subject or context,—

(1) "Money-lender" means a person who
grants a loan.

(2) "Interest" means rate of interest and
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 ;

(3) "Loan" means an advance (whether of
money or in kind) at interest made by a money-
lender and shall include any bond bearing interest
executed in respect of past liabilities and any
transaction which in substance is a loan ; [Expla-
nation.—A bond bearing interest executed in
respect of goods taken on credit constitutes a
loan.] and

(4) "Prescribed" means prescribed by rules
made under this Act.

Society or Bank
either private or registered
under the Co-operative
Societies Act, 1912, or the
Indian Companies Act,
1913

2A - See Section 3 of Assam Act XVIII of 1940.

Price—English: 4d.]

[India: annas 3.]

Penalty for
stating larger
amount in the
bond than ac-
tually lent.

3. If the loan actually made be less than the sum entered in the bond or hand note, the money-lender shall be guilty of a contravention of the provisions of this Act and shall, on conviction, be punishable with fine not exceeding two hundred rupees.

Prohibition of
compound
interest and
provisions as to
defaulting.

4. Any contract made ^{before or} after the commencement of this Act for the loan of money by a money-lender shall be illegal in so far as it provides directly or indirectly for the payment of compound interest or for the rate or amount of interest being increased by reason of any default in the payment of sums due under the contract :

Simple inte-
rest in case of
default.

Provided that provision may be made by any such contract that if default is made in the payment upon the due date of any sum payable to the money-lender under the contract, whether in respect of principal or interest, or both, the money lender shall be entitled to charge simple interest on that sum from the date of the default until the sum is paid, at a rate not exceeding the rate payable in respect of the principal apart from any default, and any interest so charged shall not be reckoned for the purposes of this Act as part of the interest charged in respect of the loan.

Prohibition
of charge for
expenses on
loans by money-
lenders.

5. Any agreement between a money-lender and a borrower or intending borrower for the payment by the borrower or intending borrower to the money-lender of any sum on account of costs, charges or expenses incidental to or relating to the negotiations for or the granting of the loan or proposed loan shall be illegal, and if any sum is paid to a money-lender by a borrower or intending borrower as for or on account of any such costs, charges or expenses, that sum shall be recoverable as a debt due to the borrower or intending borrower, or, in the event of the loan being completed, shall, if not so recovered, be set off against the amount actually lent and that amount shall be deemed to be reduced accordingly.

Exception.—This will not debar money-lenders from recovering reasonable costs of inspection of Revenue or Registration records including examination of titles and also costs of inspection of property, in cases where the contract includes a stipulation that property is given as security or by way of mortgage and where both parties have agreed to such costs and reimbursement thereof.

Keeping of 6. Every money-lender shall keep accounts in
accounts. the form prescribed.

Obligation of 7.(1) In respect of every contract for the re-
money-lender to supply informa- payment of a loan made by a money-lender,
tion as to state whether made before or after the commencement
of loan and of this Act, the money-lender shall on demand in
copies of docu- writing being made by the borrower at the
ments relating time of executing the contract or at any time
thereto. during the continuance of the contract, supply
to the borrower, or, if the borrower so requires,
to any person specified in that behalf in the
demand, a statement signed by the money-lender
or his agent showing—

- (a) the date on which the loan was made,
the amount of the principal of the loan,
and the rate per cent. per annum of
interest charged ; and
- (b) the amount of any payment already
received by the money-lender in respect
of the loan and the date on which it
was made : and
- (c) the amount of every sum due to the
money-lender, but unpaid, and the
date upon which it became due and the
amount of interest accrued due and
unpaid in respect of every such sum ;
and
- (d) the amount of every sum not yet due
which remains outstanding and the date
upon which it will become due :

Provided that when a demand under this sub-
section has once been complied with, a second
demand may not be made in respect of the same
loan within six months.

Copy of docu- (2) A money-lender shall on demand in writing
ment for borr- by the borrower, and on tender of the prescribed
ower. sum for expenses, supply a copy of any document
relating to a loan made by him or any security
therefor, to the borrower, or if the borrower so
requires, to any person specified in that behalf in
the demand.

Civil effects of (3) If a money-lender to whom a demand has
non-compliance, been made under this section fail without reason-
able excuse to comply therewith within one
month after the demand has been made, he shall
not so long as the default continues be entitled
to sue for or recover any sum due under the con-
tract on account either of principal or interest,
and interest shall not be chargeable in respect of
the period of the default.

Presumption in the case of certain loans.

28. Where in any suit in respect of any loan made or any security taken for a loan made by a money-lender after the commencement of the Usurious Loans Act, 1918, it is found that the interest charged exceeds the rate of $12\frac{1}{2}$ per cent. per annum in the case of a secured loan or $18\frac{3}{4}$ per cent. per annum in the case of an unsecured loan, the Court shall, until the contrary is proved, presume for the purposes of section 3 of the Usurious Loans Act, 1918, that the interest charged is excessive and that the transaction was, as between the parties thereto, substantially unfair, but this provision shall be without prejudice to the powers of the Court under the said section where the Court is satisfied that the interest charged though not exceeding $12\frac{1}{2}$ per cent. per annum or $18\frac{3}{4}$ per cent. per annum, as the case may be, is excessive. 7

Act X of 1918.

Act X of 1918.

Bar to recovery of interest exceeding the principal.

29. No Courts shall, in respect of any loan made before or after the commencement of this Act, decree on account of arrears of interest a sum greater than the principal of the loan. 7

Deposit in Court of money due to money-lender.

10. (1) Where a borrower has sent to a money-lender by postal money-order or by registered post with acknowledgment due any sum of money due from him to the money-lender in respect of a loan and the money-lender has refused to accept the same, the borrower may apply in the prescribed manner to the lowest Civil Court having jurisdiction over the place where he resides for permission to deposit the said sum in Court to the account of the money-lender, and the Court shall thereupon keep the sum in deposit and shall send a notice of the deposit in the prescribed manner to the money-lender.

(2) If the money-lender accepts money sent in the manner specified in sub-section (1) by a borrower or withdraws money deposited under the said sub-section, he shall not be bound by any statement made by the borrower in remitting or depositing the money.

Restrictions on money-lending advertisements.

11. (1) No person shall knowingly send or deliver or cause to be sent or delivered to any person except in response to his written request any circular or other document advertising the name or address of a money-lender, or containing an invitation—

(a) to borrow money from a money-lender; or

Section 8 -
Introductory
by Section 4
of Usurious Loans Act
vi 1918.

Sec. 9 -
Introductory
by Sec. 5 of Usurious Loans Act
vi 1918.

(b) to enter into any transaction involving the borrowing of money from a money-lender; or

(c) to apply to any place with a view to obtaining information or advice as to borrowing any money from a money lender.

Agents and canvassers inviting borrowers must not be employed by money-lenders.

(2) No money-lender or any person on his behalf shall employ any agent or canvasser for the purpose of inviting any person to borrow money or to enter into any transaction involving the borrowing of money from a money-lender, and no person shall act as such agent or canvasser or demand or receive directly or indirectly any sum or other valuable consideration by way of commission or otherwise for introducing or undertaking to introduce to a money-lender any person desiring to borrow money.

Penalty.

(3) Any person acting in contravention of any of the provisions of this section shall in respect of each offence be liable, on conviction to imprisonment for a term not exceeding three months or a fine not exceeding three hundred rupees or both.

Civil effects of contravention.

(4) Where it is shown that a money-lending transaction was brought about by a contravention of any of the provisions of this section, the transaction shall be illegal, unless the money-lender proves that the contravention occurred without his consent or connivance.

Penalty in case of fraud.

12. (1) Where in any suit in respect of any money lent or in respect of any security taken for money lent by a money-lender, the trying Court is of opinion that the money-lender has been guilty of fraud, or of any contravention of the provisions of this Act, or is otherwise unfit to carry on the business of money-lending, the Court may make an order debarring him from carrying on such business for such time as may be specified in the order and an appeal shall lie from such an order to the court to which an appeal ordinarily lies under the provisions of the Code of Civil Procedure, 1908, irrespective of the money value of the suit.

Acto V f 1908.

Penalty.

(2) Any money-lender carrying on the business of money-lending in contravention of any order made under sub-section (1) shall, on conviction, be liable to a fine which may extend to five hundred rupees.

Appeal.

13. Any order of conviction passed under this Act shall be appealable to the Court to which appeal ordinarily lies under the Code of Criminal Procedure, 1898, irrespective of the amount of fine to which an accused may be sentenced. Act V of 1898.

Power of Local Government to make rules.

14. (1) The Local Government may make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

- (i) the form in which money-lenders shall keep accounts;
- (ii) the intervals at which borrowers may demand statements of accounts under sub-section (1) of section 7 and the fees to be paid for copies of documents supplied under sub-section (2) of the same section;
- (iii) the manner in which an application for a deposit is to be made under sub-section (1) of section 10, and a notice of the deposit is to be sent to the money-lender under the said sub-section; and
- (iv) the enforcement of orders made under sub-section (1) of section 12.

(3) The power to make rules under this Act shall be subject to the condition of previous publication.

15- (See Annexure No. XXIX of 1956)

The 12th March 1935.

No. 1099G.J.—In exercise of the powers conferred by section 14 of the Assam Money Lenders Act, 1934 (Assam Act IV of 1934), the Governor in Council is pleased to make the following rules for carrying out the purposes of the Act.

RULES.

1. The account prescribed by section 6 shall be maintained in the Form I shown in the Schedule attached to these rules.

" Provided that in the case of a society registered under the Co-operative Societies Act, 1912 (Act II of 1912), the account shall be kept in the form prescribed by that Act or rules framed thereunder "

2. The fees to be paid for copies of documents to be supplied under sub-section (2) of section 7 of the Act shall be three annas for every 300 vernacular or 150 English words or part thereof: Provided that where the borrower or his authorised agent is allowed to copy a document, no fee shall be charged.

3. The application under sub-section (1) of section 10 for permission to deposit in the Court any sum of money due from a debtor to a money-lender in respect of any loan or loans shall be in writing and shall contain the following particulars:—

(a) the name and full address of the money-lender in whose favour the deposit is made;

(b) a recital that the debtor has sent the money to the money-lender by postal money order or by registered post with acknowledgment due and that the money-lender has refused to accept it. (The amounts sent on account of principal and interest should be separately stated with the date of the remittance). The application shall be signed and verified in the manner provided in sub-rules 2 and 3 of rule 15 of Order I in Schedule I to the Code of Civil Procedure, 1908, by the debtor, or by his authorised agent.

4. The application shall bear a court-fee stamp of eight annas as required by Article 1 (b) of Schedule II of the Court-fees Act, 1870, and shall further be accompanied by printed forms of notice in Form II annexed to these rules for service on the money-lender with process-fees payable in court-fee stamps according to the scale prescribed by the High Court for service of summons on defendants. The blank spaces in Form II shall be filled in by the debtor or by his authorised agent.

5. If it appears to the Court, to which an application for permission to deposit under section 10 is made, that the applicant is entitled under that section to deposit the money, it shall receive the same and give the receipt in Form III annexed to these rules.

6. The money-lender may apply for withdrawal of the money in Form IV annexed to these rules, and the procedure in connection with such withdrawal shall be the same as in the case of withdrawal of other civil deposits.

7. A copy of the order under sub-section (1) of section 12 of the Act shall be served on the money-lender in the manner laid down for service of summons on defendants.

FORM II.

(See rule 4.)

Form of notice of deposit under section 10(I)

Name of money-lender.....

Address

You are hereby informed that _____ of _____
 has on _____ deposited in this Court under section
 10(I) of the Assam Money Lenders' Act, 1934 a sum of Rs.
 (Rs. _____ on account of principal and Rs.
 _____ on account of interest) to your account in connection with the loan
 of Rs. _____ which was made by you to him on _____.
 You are requested to withdraw this amount at your earliest convenience. Government accept no responsibility for any loss which you
 may incur in connection with the aforesaid sum while it remains in
 deposit with the Court.

Signature of Munsif.

Address

Dated the

FORM III.

(See rule 5.)

Receipt granted by Court for deposit of money due to money-lender.

Station.

Court.

Whereas an application has been filed by _____
under sub-section (1) of section 10 of the Assam Act IV
of 1934, for depositing a sum of money on account of his debt and
whereas the Court is of opinion that the said _____
is entitled to deposit the amount under the said section it is hereby
given in writing that the undermentioned amount has been deposited
in this Court by _____.

Name of Money-lender.	Date of loan.	Amount of loan.	Payment towards Principal.	Payment towards Interest.	Total.

Date.

Signature

Seal of the Court.



FORM IV.

(See rule 6.)

Form of withdrawal.

PAYMENT ORDER.

PART I.—Application for payment of Deposits (to be filled in by the applicant).

Name of applicant.	Date of deposit.	Amount to be paid.
1	2	3

Signature of applicant.....

Date

*Examined and found correct.

Signature of Chief Ministerial Officer.....

Signature of Presiding Officer.....

* The signature below the words "Examined and found correct" must of course be held to indicate that the officer signing the certificate has satisfied himself "that the applicant is the proper party to receive payment of the amount claimed", and that the particulars stated are correct, while the Judge in charge will be responsible that the amount claimed is in deposit, that there is no bar to payment, and that the name of the claimant corresponds with that of the payee entered in his Register.

PART II.— (To be filled in by the Court or under its order.)

Serial number and date of payment order.		Court's chalan number and chalan date of the original deposit from which the payment is sought.		Court's number and date of the original deposit.		Amount in deposit*.	At whose credit in deposit.*
1	2	3	4	5	6	7	8

To—The Officer in charge of the Treasury at
Cashier of the Court

Please pay as above to

or order Rupees†

Signature of Court's Accountant—

Signature of Judge in charge—

* As per Court's Register of Deposits Received.

† Words and figures.

NOTE 1.—This order is not payable more than one month after date without a renewal enforcement by the Court and it is absolutely lapses and ceases to have effect on the 31st March next.

NOTE 2.—Payee is hereby to take notice that after tender and payment of this order, the Treasury Office will admit no further responsibility. It is the duty of the payee to see to the proper custody of this document until it is cashed.

PART III.—[to be filled in at Treasury (or at Court if payable there)].

Received contents, Rupees

Signature of Disbursing Cashier.....

Treasury No.... ..

Pay Rupees... ..

Stamp of one
anna if for more
than Rs. 20.

Payee's signature.

The

19 .

Examined and entered.

Accountant... ..

Officer in charge of Treasury.

J. A. DAWSON,
Chief Secretary to the Government of Assam.