

The Laws of Zambia

REPUBLIC OF ZAMBIA

**THE MONEY-LENDERS ACT**

**CHAPTER 398 OF THE LAWS OF ZAMBIA**

**CHAPTER 398 THE MONEY-LENDERS ACT**

THE MONEY-LENDERS ACT

ARRANGEMENT OF SECTIONS

*Section*

1. Short title
2. Interpretation
- 2A. Exemption
3. Licences to be taken out by money-lenders
4. Certificate required for grant of money-lender's licence
5. Suspension and forfeiture of money-lender's certificates
6. Names to be stated on documents issued by money-lenders
7. Restrictions on money-lending advertisements
8. Penalties for false statements and representations
9. Form of money-lender's contracts
10. Prohibition of compound interest and provision as to defaults
11. Obligation of money-lender to supply information as to state of loan and copies of documents relating thereto
12. Provisions as to bankruptcy proceedings for money-lender's loans
13. Appropriation of principal and interest
14. Reopening of transactions of money-lenders
15. Interest at a rate exceeding 48 per centum to be deemed harsh and unconscionable
16. Courts to which proceedings on money-lending transactions are to be taken
17. Prohibition of charge for expenses on loans by money-lenders
18. Limitation of time for proceedings in respect of money lent by money-lenders
19. Special provisions as to pawnbrokers' loans
20. Notice and information to be given on assignment of money-lenders' debts
21. Application of Act as respects assignees

SCHEDULE-Calculation of interest where the interest charged on a loan is not expressed in terms of a rate

**CHAPTER 398**

**MONEY-LENDERS**

11 of 1938  
15 of 1952  
36 of 1970  
13 of 1994  
*Government Notices*  
279 of 1964  
497 of 1964  
*Statutory Instrument*  
5 of 1965

**An Act to make provision with respect to persons carrying on business as money-lenders; and to provide for matters incidental thereto.**

[26th August, 1938]

The Laws of Zambia

1. This Act may be cited as the Money-lenders Act. Short title
2. In this Act, unless the context otherwise requires- Interpretation
- "authorised name" and "authorised address" mean respectively the name under which and the address at which a money-lender is authorised by a certificate granted under this Act to carry on business as a money-lender;
- "business name" means the name or style under which any business is carried on, whether in partnership or otherwise;
- "company" means any body corporate being a money-lender;
- "firm" means an unincorporate body of two or more individuals, or one or more individuals and one or more corporations, or two or more corporations, who have entered into partnership with one another with a view to carrying on business for profit;
- "interest" does not include any sum lawfully charged in accordance with the provisions of this Act by a money-lender for or on account of costs, charges or expenses, but, save as aforesaid, includes any amount, by whatsoever name called, in excess of the principal, paid or payable to a money-lender in consideration of or otherwise in respect of a loan;
- "money-lender" includes every person whose business is that of money-lending or who advertises or announces himself or holds himself out in any way as carrying on that business, but shall not include-
- (a) any pawnbroker in respect of business carried on by him in accordance with the provisions of any law for the time being in force in relation to pawnbrokers; or
  - (b) any body corporate in so far as it is empowered to lend money by any Act or by any British Act; or
  - (c) any person *bona fide* carrying on the business of banking or insurance or *bona fide* 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
  - (d) any building society registered under the Building Societies Act; or Cap. 412
  - (e) any body corporate for the time being exempted under section two A;

"Permanent Secretary" means the Permanent Secretary, Ministry of Finance;

"principal" means in relation to a loan, the amount actually lent to the borrower.

(As amended by No. 15 of 1952, G.N. No. 279 of 1964,  
S.I. No. 5 of 1965 and No. 36 of 1970)

**2A.** (1) The Minister may, by statutory order, exempt any body corporate from the provisions of this Act, and such exemption may be granted subject to such terms and conditions and in respect of such period as the Minister may specify in the order.

Exemption

(2) An order under this section may be revoked at any time.

(No. 36 of 1970)

**3.** (1) Except as hereinafter provided, every money-lender, whether carrying on business alone or as a partner of a firm, shall take out annually in respect of every address at which he carries on his business as such, a licence (in this Act referred to as "a money-lender's licence") which shall expire on the 31st December in every year, and there shall be charged on every money-lender's licence a fee of four hundred and fifty fee units or, if the licence be taken out not more than six months before the expiration thereof, three hundred fee units:

Licences to be taken out by money-lenders

Provided that in respect of any address for which one partner in a firm of money-lenders has duly taken out a money-lender's licence, every other partner in such firm shall, subject to the provisions of section *four*, be issued with a money-lender's licence free of charge for such address.

(2) Subject to the provisions of this Act, money-lenders' licences shall be in such form as the Minister may direct, and shall be issued by the Permanent Secretary on payment of the licence fee, and regulations made by the Minister, by statutory instrument, may make provision as to the procedure to be followed in making application for money-lenders' licences:

Provided that a money-lender's licence shall be taken out by a money-lender in his true name, and shall be void if it be taken out in any other name, but every money-lender's licence shall also show the money-lender's authorised name and authorised address.

(3) If any person-

(a) takes out a money-lender's licence in any name other than his true name;  
or

The Laws of Zambia

- (b) carries on business as a money-lender without having in force a proper money-lender's licence authorising him so to do, or, being licensed as a money-lender, carries on business as such in any name other than his authorised name, or at any other place than his authorised address or addresses; or
- (c) enters into any agreement in the course of his business as a money-lender with respect to the advance or repayment of money, or takes any security for money, in the course of his business as a money-lender, otherwise than in his authorised name;

he shall be guilty of an offence and shall be liable, on conviction by a subordinate court of the first or second class, to a fine not exceeding three thousand penalty units in respect of each offence:

Provided that on a second or subsequent conviction of any person (other than a company) for an offence under this subsection, the court may, in lieu of or in addition to ordering the offender to pay the fine aforesaid, order him to be imprisoned for a term not exceeding three months, and an offender being a company shall, on a second or subsequent conviction, be liable to a fine not exceeding fifteen thousand penalty units.

*(As amended by G.N. No. 279 of 1964 and Act No. 13 of 1994)*

4. (1) A money-lender's licence shall be granted except to a person who holds a certificate granted in accordance with the provisions of this section authorising the grant of the licence to that person, and a separate certificate shall be required in respect of every separate licence. Any money-lender's licence granted in contravention of this section shall be void.

Certificate required for grant of money-lender's licence

(2) Certificates under this section (in this Act referred to as "certificates") shall be granted by the subordinate court of the first or second class having jurisdiction in the district in which the money-lender's business is to be carried on.

(3) Every certificate granted to a money-lender shall show his true name and the name under which, and the address at which, he is authorised by the certificate to carry on business as such, and a certificate shall not authorise a money-lender to carry on business at more than one address, or under more than one name, or under any name which includes the word "bank", or otherwise implies that he carries on banking business, and no certificate shall authorise a money-lender to carry on business under any name except-

- (a) his true name; or
- (b) the name of a firm in which he is a partner, not being a firm required by the Registration of Business Names Act to be registered; or
- (c) a business name, whether of an individual or of a firm in which he is a partner, under which he or the firm has, at the commencement of this Act, been registered for not less than three years under the Registration of Business Names Act.

Cap. 389

Cap. 389

(4) A certificate shall come into force on the date specified therein, and shall expire on the next following 31st December.

(5) The Minister may, by statutory instrument, make regulations with respect to the procedure to be followed in making applications for certificates (including the notices to be given of intention to make such an application), and be given of intention to make such an application), and certificates shall be in such form as may be prescribed by regulations so made.

(6) A certificate shall not be refused except on some one or more of the following grounds:

- (a) that satisfactory evidence has not been produced of the good character of the applicant, and, in the case of a company, of the persons responsible for the management thereof;
- (b) that satisfactory evidence has been produced that the applicant, or any person responsible or proposed to be responsible for the management of his business as a money-lender, is not a fit and proper person to hold a certificate;
- (c) that the applicant, or any person responsible or proposed to be responsible for the management of his business as a money-lender, is by order of a court disqualified for holding a certificate;
- (d) that the applicant has not complied with the provisions of any regulations made under this section with respect to applications for certificates.

(7) Any person aggrieved by the refusal of a subordinate court to grant a certificate may appeal to the High Court.

*(As amended by G.N. No. 279 of 1964)*

5. (1) Where any person, being the holder of a certificate, is convicted of any offence under this Act, or under section 2 or 4 of the Betting and Loans (Infants) Act, 1892, of the United Kingdom, the court-

Suspension and forfeiture of money-lenders' certificates

- (a) may order that any certificate held by that person, and in the case of a partner in a firm by any other partner in the firm, shall either be suspended for such time as the court thinks fit, or shall be forfeited, and may also, if the court thinks fit, declare any such person, or any person responsible for the management of the money-lending business carried on by the person convicted, to be disqualified for obtaining a certificate for life or for such less time as the court thinks fit; and

- (b) shall cause particulars of the conviction and of any order made by the court under this subsection to be endorsed on every certificate held by the person convicted or by any other person affected by the order, and shall cause copies of those particulars to be sent to the court by whom any certificate so endorsed was granted and to the Permanent Secretary:

Provided that-

Cap. 88

- (i) where, by order of a court, the person convicted is disqualified for obtaining a certificate or his certificate is suspended or forfeited, he shall have the same right of appeal against the order as against his conviction or sentence, and the court making the order, may, if it thinks fit, pending the appeal, defer the operation of the order;
- (ii) where, by order of a court, some person other than the person convicted is disqualified for obtaining a certificate or his certificate is suspended or forfeited, he shall be served by the court with notice of such order and if he gives notice of appeal within fourteen days of such service, shall have the same right of appeal against such order as though he were the person convicted, and the court shall, pending the service of the notice, defer the operation of the order and may, if it thinks fit, pending the appeal, further defer the operation of the order. Every notice under this proviso shall be signed by the Judge or magistrate making the order and shall be served in the manner provided for the service of a summons by the Criminal Procedure Code.

(2) Any certificate required by a court for endorsement in accordance with subsection (1) shall be produced, in such manner and within such time as may be directed by the court, by the person by whom it is held, and any person who, without reasonable causes, makes default in producing any certificate so required shall, in respect of each offence, be liable, on conviction by a subordinate court of the first or second class, to a fine not exceeding one hundred and fifty penalty units for each day during which the default continues.

(3) Where a certificate held by any person is ordered to be suspended or to be forfeited under subsection (1), any money-lender's licences granted to that person, whether in pursuance of that or any other certificate, shall be suspended during the period for which the certificate is ordered to be suspended or become void, as the case may be.

*(As amended by G.N. No. 279 of 1964  
and Act No. 13 of 1994)*

**6.** (1) Without prejudice to the provisions of the last foregoing section and to the provisions of section *eighty-five* of the Companies Act and to the provisions of section *nineteen* of the Registration of Business Names Act, a money-lender shall not, for the purposes of his business as such, issue or publish, or cause to be issued or published, any advertisement, circular, business letter or other similar document which does not show in such manner as to be not less conspicuous than any other name, the authorised name of the money-lender, and any money-lender who acts in contravention of this subsection shall be liable, on conviction by a subordinate court of the first or second class, to a fine not exceeding six hundred penalty units in respect of each offence.

Names to be stated on documents issued by money-lenders.  
Cap. 388  
Cap. 389

The Laws of Zambia

(2) If a money-lender, for the purposes of his business as such, issues or publishes, or causes to be issued or published, any advertisement, circular or document of any kind whatsoever containing expressions which might reasonably be held to imply that he carries on banking business, he shall, on conviction by a subordinate court of the first or second class, be liable to a fine not exceeding three thousand penalty units

Provided that on a second or subsequent conviction of any person (other than a company) for an offence under this subsection, the court may, in lieu of or in addition to ordering the offender to pay the fine aforesaid, order him to be imprisoned for a term not exceeding three months, and an offender being a company shall on a second or subsequent conviction be liable to a fine not exceeding fifteen thousand penalty units:

*(As amended by Act No. 13 of 1994)*

7. (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, address or telephone number of a money-lender, or containing an invitation-

Restrictions on money-lending advertisements

- (a) to borrow money from a money-lender;
- (b) to enter into any transaction involving the borrowing of money from a money-lender;
- (c) to apply to any place with a view to obtaining information or advice as to borrowing any money from a money-lender.

(2) Subject as hereinafter provided, no person shall publish or cause to be published in any newspaper or other printed paper issued periodically for public circulation, or by means of any poster or placard, an advertisement advertising any such particulars, or containing any such invitation, as aforesaid:

Provided that an advertisement in conformity with the requirements of this Act relating to the use of names on money-lenders' documents may be published by or on behalf of a money-lender in any newspaper or in any such paper as aforesaid or by means of a poster or placard exhibited at any authorised address of the money-lender, if it contains no addition to the particulars necessary to comply with the said requirements, except any of the following particulars, that is to say, any authorised address at which he carries on business as a money-lender and the telegraphic address and telephone number thereof, any address at which he formerly carried on business, a statement that he lends money with or without security, and of the highest and lowest sums that he is prepared to lend, and a statement of the date on which the business carried on by him was first established.



(3) 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, 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.

(4) Where any document issued or published by or on behalf of a money-lender purports to indicate the terms of interest upon which he is willing to make loans or any particular loan, the document shall either express the interest proposed to be charged in terms of a rate per centum per annum or show the rate per centum per annum represented by the interest proposed to be charged as calculated in accordance with the provisions of the Schedule.

(5) Any person acting in contravention of any of the provisions of this section shall be guilty of an offence and shall, in respect of each offence, be liable, on conviction by a subordinate court of the first or second class, to imprisonment for a term not exceeding three months or to a fine not exceeding three thousand penalty units or to both.

(6) 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, notwithstanding that the money-lender was duly licensed under this Act, be illegal, unless the money-lender proves that the contravention occurred without his consent or connivance.

*(As amended by Act No. 13 of 1994)*

**8.** If any money-lender, or any manager, agent or clerk of a money-lender, or if any person being a director, manager, or other officer of any corporation carrying on the business of a money-lender, by any false, misleading, or deceptive statement, representation, or promise, or 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 guilty of an offence, and shall be liable, on conviction by a subordinate court of the first or second class, to imprisonment for a term not exceeding two years or to a fine not exceeding fifteen thousand penalty units, or to both.

Penalties for false statements and representations

*(As amended by Act No. 13 of 1994)*

**9.** (1) No contract for the repayment by a borrower of money lent to him or to any agent on his behalf by a money-lender after the commencement of this Act, or for the payment by him of interest on money so lent, and no security given by the borrower or by any such agent as aforesaid in respect of any such contract, shall be enforceable, unless a note or memorandum in writing of the contract be made and signed personally by the borrower, and unless a copy thereof be delivered or sent to the borrower within seven days of the making of the contract; and no such contract or security shall be enforceable if it is proved that the note or memorandum aforesaid was not signed by the borrower before the money was lent or before the security was given, as the case may be.

Form of money-lenders' contracts

(2) The note or memorandum aforesaid shall contain all the terms of the contract, and in particular shall show the date on which the loan is made, the amount of the principal of the loan, and either the interest charged on the loan expressed in terms of a rate per centum per annum, or the rate per centum per annum represented by the interest charged as calculated in accordance with the provisions of the Schedule.

**10.** Subject as hereinafter provided, any contract made 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:

Prohibition of compound interest and provision as to defaults

Provided that provision may be made in writing 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, 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.

**11.** (1) In respect of every contract for the repayment of money lent by a money-lender, whether made before or after the commencement of this Act, the money-lender shall, on any reasonable demand in writing being made by the borrower at any time during the continuance of the contract and on tender by the borrower of the sum of ten ngwee for expenses, 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-

Obligation of money-lender to supply information as to state of loan and copies of documents relating thereto

- (a) the date on which the loan was made, the amount of the principal of the loan and the rate per centum 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.

(2) A money-lender shall, on any reasonable demand in writing by the borrower, and on tender of a reasonable 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.

(3) If a money-lender to whom a demand has been made under this section fails, without reasonable 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 contract on account either of principal or interest, and interest shall not be chargeable in respect of the period of the default, and if such default is made or continued after proceedings have ceased to lie in respect of the loan, the money-lender shall be liable, on conviction by a subordinate court of the first or second class, to a fine not exceeding one hundred and fifty penalty units for every day on which the default continues.

*(As amended by Act No. 13 of 1994)*

**12.** (1) Where a debt due to a money-lender in respect of a loan made by him after the commencement of this Act includes interest, that interest shall, for the purposes of the provisions of the Bankruptcy Act relating to the presentation of a bankruptcy petition, voting at meetings, compositions and schemes of arrangement, and dividend, be calculated at a rate not exceeding five per centum per annum, but nothing in the foregoing provision shall prejudice the right of the creditor to receive out of the estate, after all the debts proved in the estate have been paid in full, any higher rate of interest to which he may be entitled. The provisions of this subsection shall, in relation to such a debt as aforesaid, have effect in substitution for the provisions of subsection (1) of section *sixty-eight* of the Bankruptcy Act.

Provisions as to  
bankruptcy  
proceedings for  
money-lenders' loans.  
Cap. 82

(2) No proof of a debt due to a money-lender in respect of a loan made by him shall be admitted for any of the purposes of the Bankruptcy Act, unless the affidavit verifying the debt is accompanied by a statement showing in detail-

Cap. 82

- (a) the amount of the sums actually lent to the debtor and the dates on which they were lent, and the amount of every payment already received by the money-lender in respect of the loan and the date on which every such payment was made; and
- (b) the amount of the balance which remains unpaid, distinguishing the amount of the principal from the amount of interest included therein, the appropriation between principal and interest being made in accordance with the provisions of this Act where the interest is not expressed by the contract for the loan in terms of a rate; and
- (c) where the amount of interest included in the unpaid balance represents a rate per centum per annum exceeding five per centum, the amount of interest which would be so included if it were calculated at the rate of five per centum per annum.

(3) The Chief Justice may, with the concurrence of the Minister, by statutory instrument, make general regulations for carrying into effect the objects of this section.

*(As amended by G.N. No. 279 of 1964)*

13. Where, by a contract for the loan of money by a money-lender, the interest charged on the loan is not expressed in terms of a rate, any amount paid or payable to the money-lender under the contract (other than simple interest charged in accordance with the proviso to section *ten*) shall be appropriated to principal and interest in the proportion that the principal bears to the total amount of the interest, and the rate per centum per annum represented by the interest charged as calculated in accordance with the provisions of the Schedule shall be deemed to be the rate of interest charged on the loan.

Appropriation of principal and interest

14. (1) Where proceedings are taken in any court by a money-lender for the recovery of any money lent after the commencement of this Act, or the enforcement of any agreement or security made or taken after the commencement of this Act, in respect of money lent either before or after the commencement of this Act, and there is evidence which satisfies the court that the interest charged in respect of the sum actually lent is excessive, or that the amounts charged for expenses, inquiries, fines, bonus, premium, renewals, or any other charges, are excessive, and that, in either case, the transaction is harsh and unconscionable, or is otherwise such that a court of equity would give relief, the court may reopen the transaction, and take an account between the money-lender and the person sued, and may, notwithstanding any statement or settlement of account or any agreement purporting to close previous dealings and create a new obligation, reopen any account already taken between them, 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 and charges, as the court, having regard to the risk and all the circumstances, may adjudge to be reasonable; and if any such excess has been paid, or allowed in account, by the debtor, may order the creditor to repay it; and may set aside, either wholly or in part, or revise, or alter, any security given or agreement made in respect of money lent by the money-lender, and if the money-lender has parted with the security may order him to indemnify the borrower or other person sued.

Reopening of transactions of money lenders

(2) Any court in which proceedings might be taken for the recovery of money lent by a money-lender shall have and may, at the instance of the borrower or surety or other person liable, exercise the like powers as may be exercised under this section, where proceedings are taken for the recovery of money lent, and the court shall have power, notwithstanding any provision or agreement to the contrary, to entertain any application under this Act by the borrower or surety, or other person liable, notwithstanding that the time for repayment of the loan, or any instalment thereof, may not have arrived.

(3) On any application relating to the admission or amount of a proof by a money-lender in any bankruptcy proceedings, the court may exercise the like powers as may be exercised under this section when proceedings are taken for the recovery of money.

(4) The foregoing provisions of this section shall apply to any transaction which, whatever its form may be, is substantially one of money-lending by a money-lender.

(5) Nothing in the foregoing provisions of this section shall affect the rights of any *bona fide* assignee or holder for value without notice.

(6) Nothing in this section shall be construed as derogating from the existing powers or jurisdiction of any court.

**15.** (1) Where, in any proceedings in respect of any money lent by a money-lender after the commencement of this Act or in respect of any agreement or security made or taken after the commencement of this Act in respect of money lent either before or after the commencement of this Act, it is found that the interest charged exceeds the rate of forty-eight per centum per annum, or the corresponding rate in respect of any other period, the court shall, unless the contrary is proved, presume for the purposes of section *fourteen*, that the interest charged is excessive and that the transaction is harsh and unconscionable, but this provision shall be without prejudice to the powers of the court under that section where the court is satisfied that the interest charged, although not exceeding forty-eight per centum per annum, is excessive.

Interest at a rate exceeding 48 per centum to be deemed harsh and unconscionable

(2) Where a court reopens a transaction of a money-lender under section *fourteen*, the court may require the money-lender to produce any certificate granted to him in accordance with the provisions of this Act, and may cause such particulars as the court thinks desirable to be endorsed on any such certificate, and a copy of the particulars to be sent to the court by whom the certificate was granted.

(3) The powers of a court under section *fourteen* with respect to the reopening of the transactions of money-lenders shall extend to any transaction effected under a special contract made in accordance with the provisions of section 24 of the Pawnbrokers Act, 1872, of the United Kingdom, and accordingly, for the purposes of section *fourteen*, the provisions of paragraph (a) of the definition of the term "money-lender" in section *two* shall not apply with respect to any such transaction.

(4) The powers of a court under subsection (2) of section *fourteen* may, in the event of the bankruptcy of the borrower, be exercised at the instance of the trustee in bankruptcy, notwithstanding that he may not be a person liable in respect of the transaction.

(5) The powers of a court under subsection (2) of section *fourteen* may be exercised notwithstanding that the money-lender's right of action for the recovery of the money lent is barred.

**16.** Subject as hereinafter provided, no action by a money-lender for the recovery of money lent by him or for enforcing any agreement or security relating to any such money shall be brought in any subordinate court other than a subordinate court of the first class:

Courts to which proceedings on money-lending transactions are to be taken

Provided that the Minister may, with the concurrence of the Chief Justice, by order direct that any subordinate court specified in the order shall have the same jurisdiction as respects such actions as aforesaid as it would have had but for the provisions of this section, and any such order may contain provisions with respect to the making of rules for regulating the procedure to be followed in the case of any such action.

(As amended by G.N. No. 279 of 1964)

The Laws of Zambia

**17.** 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 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.

Prohibition of charge for expenses on loans by money-lenders

**18.** (1) No proceedings shall lie for the recovery by a money-lender of any money lent by him after the commencement of this Act or of any interest in respect thereof, or for the enforcement of any agreement made or security taken after the commencement of this Act in respect of any loan made by him, unless the proceedings are commenced before the expiration of twelve months from the date on which the cause of action accrued:

Limitation of time for proceedings in respect of money lent by money-lenders

Provided that-

- (i) if during the period of twelve months aforesaid or at any time within any subsequent period during which proceedings may by virtue of this proviso be brought, the debtor acknowledges in writing the amount due and gives a written undertaking to the money-lender to pay that amount, proceedings for the recovery of the amount due may be brought at any time within a period of twelve months from the date of the acknowledgment and undertaking;
- (ii) the time limited by the foregoing provisions of this section for the commencement of proceedings shall not begin to run in respect of any payments from time to time becoming due to a money-lender under a contract for the loan of money until a cause of action accrues in respect of the last payment becoming due under the contract;
- (iii) if at the date on which the cause of action accrues or on which any such acknowledgment and undertaking as aforesaid is given by the debtor, the person entitled to take the proceedings is *non compos mentis*, the time limited by the foregoing provisions of this section for the commencement of proceedings shall not begin to run until that person ceases to be *non compos mentis* or dies, whichever first occurs; and
- (iv) if at the date on which the cause of action accrues or on which any such acknowledgment and undertaking as aforesaid is given by the debtor, the debtor is not within the Republic, the time limited by the foregoing provisions of this section for the commencement of proceedings shall not begin to run until he returns within the Republic:

Provided that where the cause of action has accrued against two or more joint debtors, the time limited by the foregoing provisions of this section for the commencement of proceedings shall commence to run from the date on which the cause of action accrued in the case of any one or more of such joint debtors who is or are within the Republic on such date, notwithstanding that some other one or more of such joint debtors is or are without the Republic on such date, but the person entitled to take the proceedings shall not be barred from commencing such proceedings against any joint debtor or joint debtors, who was or were without the Republic on the date on which the cause of action accrued, after his or their return within the Republic, by reason only that judgment has already been recovered against any one or more of such joint debtors who was or were within the Republic at the date aforesaid.

(2) Without prejudice to the powers of a court under section *fourteen*, if at the time when proceedings are taken by a money-lender in respect of a default in the payment of any sum due to him under a contract for the loan of money, any further amount is outstanding under the contract but not yet due, the court may determine the contract and order the principal outstanding to be paid to the money-lender with such interest thereon, if any, as the court may allow up to the date of payment.

**19.** (1) The provisions of sections *nine*, *seventeen* and *eighteen* shall not apply in relation to any loan by a pawnbroker on a pledge, or in relation to any debt in respect of such a loan, or any interest thereon, notwithstanding that the loan is not made in the course of the business carried on by the pawnbroker in accordance with any law for the time being in force in relation to pawnbrokers, so long as the following conditions are complied with in respect of the loan:

Special provisions as to pawnbrokers' loans

- (a) the pawnbroker shall deliver or send to the pawner within seven days a note or memorandum containing all the terms of the contract, and in particular showing the date on which the loan is made, the amount of the principal of the loan, the interest charged on the loan expressed in terms of a rate per centum per annum, and any other charges payable by the pawner under the contract, and the rate of interest charged shall not exceed the rate of twenty per centum per annum;
- (b) subject as hereinafter provided, the pawner shall not be charged 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, except a charge for the preparation of documents relating to the loan not exceeding the sum of ten ngwee, and a charge equal to the actual amount of any stamp duty paid by the pawnbroker upon any such document:

Provided that a pawnbroker shall not be deemed to have failed to comply with the foregoing conditions by reason of his having made in good faith and in accordance with the terms of the contract for the loan-

- (i) a reasonable charge in respect of the storage or care of any pledge which is not physically delivered to him or which, although so delivered, is of such weight or size that it would not under the Postal Regulations for the time being in force be received for transmission by parcel post; or
- (ii) a charge for interest at a rate not exceeding twenty per centum per annum upon any sum reasonably expended by the pawnbroker in respect of the storage or care of the pledge; or
- (iii) a charge not exceeding ten ngwee for rendering any account of the sale of any pledge; or
- (iv) a charge not exceeding ten ngwee in respect of any inspection of the pawnbroker's books.

(2) Any charge authorised by this section for the preparation of documents relating to a loan, or in respect of stamp duty upon any such document, may be deducted by the pawnbroker from the amount of the loan, and, if so deducted, shall be deemed for the purposes of this Act to be included in the principal.

**20.** (1) Where any debt in respect of money lent by a money-lender whether before or after the commencement of this Act or in respect of interest on any such debt or the benefit of any agreement made or security taken in respect of any such debt or interest is assigned to any assignee, the assignor (whether he is the money-lender by whom the money was lent or any person to whom the debt has been previously assigned) shall, before the assignment is made-

Notice and information to be given on assignment of money-lender' debts

- (a) give to the assignee notice in writing that the debt, agreement or security is affected by the operation of this Act; and



- (b) supply to the assignee all information necessary to enable him to comply with the provisions of this Act relating to the obligation to supply information as to the state of loans and copies of documents relating thereto;

and any person acting in contravention of any of the provisions of this section shall be liable to indemnify any other person who is prejudiced by the contravention, and shall also be guilty of an offence, and shall in respect of each offence be liable, on conviction by a subordinate court of the first or second class, to imprisonment for a term not exceeding two years or to a fine not exceeding fifteen thousand penalty units, or to both.

(2) In this section, "assigned" means assigned by any assignment *inter vivos* other than an assignment by operation of law, and "assignor" and "assignee" have corresponding meanings.

(As amended by Act No. 13 of 1994)

**21.** (1) Subject as hereinafter provided, the provisions of this Act shall continue to apply as respects any debt to a money-lender in respect of money lent by him after the commencement of this Act or in respect of interest on money so lent or of the benefit of any agreement made or security taken in respect of any such debt or interest, notwithstanding that the debt or the benefit of the agreement or security may have been assigned to any assignee, and, except where the context otherwise requires, references in this Act to a money-lender shall accordingly be construed as including any such assignee as aforesaid:

Application of Act as respects assignees

Provided that, notwithstanding anything in this Act-

- (i) any agreement with, or security taken by, a money-lender in respect of money lent by him after the commencement of this Act, shall be valid in favour of any *bona fide* assignee or holder for value without notice of any defect due to the operation of this Act, and of any person deriving title under him; and
- (ii) any payment or transfer of money or property made *bona fide* by any person, whether acting in a fiduciary capacity or otherwise, on the faith of the validity of any such agreement or security, without notice of any such defect shall, in favour of that person, be as valid as it would have been if the agreement or security had been valid; and
- (iii) the provisions of this Act limiting the time for proceedings in respect of money lent shall not apply to any proceedings in respect of any such agreement or security commenced by a *bona fide* assignee or holder for value without notice that the agreement or security was affected by the operation of this Act, or by any person deriving title under him;

but in every such case the money-lender shall be liable to indemnify the borrower or any other person who is prejudiced by virtue of this section, and nothing in this proviso shall render valid an agreement or security in favour of, or apply to proceedings commenced by, an assignee or holder for value who is himself a money-lender.

(2) Nothing in this section shall render valid for any purpose any agreement, security, or other transaction which would, apart from the provisions of this Act, have been void or unenforceable.

The Laws of Zambia

SCHEDULE  
(Sections 7, 9 and 13)

CALCULATION OF INTEREST WHERE THE INTEREST CHARGED ON A LOAN  
IS NOT EXPRESSED IN TERMS OF A RATE

1. The amount of principal outstanding at any time shall be taken to be the balance remaining after deducting from the principal the total of the portions of any payments appropriated to principal in accordance with the provisions of this Act.

2. The several amounts taken to be outstanding by way of principal during the several periods ending on the dates on which payments are made shall be multiplied in each case by the number of calendar months during which those amounts are taken to be respectively outstanding, and there shall be ascertained the aggregate amount of the sum so produced.

3. The total amount of the interest shall be divided by one-twelfth part of the aggregate amount mentioned in paragraph 2, and the quotient, multiplied by one hundred, shall be taken to be the rate of interest per centum per annum.

4. If, having regard to the intervals between successive payments, it is desired so to do, the calculation of interest may be made by reference to weeks instead of months, and in such a case the foregoing paragraphs shall have effect as though in paragraph 2 the word "weeks" were substituted for the words "calendar months", and in paragraph 3 the words "one-fifty-second" were substituted for the words "one-twelfth".

5. Where any interval between successive payments is not a number of complete weeks or complete months, the foregoing paragraphs shall have effect as though one day were one-seventh part of a week or one-thirtieth part of a month, as the case may be.

**SUBSIDIARY LEGISLATION**

**MONEY-LENDERS**

**SECTION 3-THE MONEY-LENDERS (APPLICATION FOR LICENCE) REGULATIONS**

*Government Notices*  
76 of 1938  
279 of 1964

*Regulations by the Minister*

1. These Regulations may be cited as the Money-lenders (Application for Licence) Regulations. Title

2. An applicant for a money-lender's licence shall send to the Permanent Secretary by registered post the certificate authorising the grant to him of a licence or, if he so desires, he may attend personally at the office of the Permanent Secretary and produce the said certificate. On payment of the prescribed fee and if satisfied that the certificate is in order, the Permanent Secretary shall issue licence to the applicant. Such licence shall be in the form set out in the Schedule. Method of application

*(As amended by No. 279 of 1964)*

The Laws of Zambia

SCHEDULE  
(Regulation 2)

THE MONEY-LENDERS ACT

THE MONEY-LENDERS (APPLICATION FOR LICENCE) REGULATIONS

LICENCE  
(Section 3)

Fee Paid .....

..... is hereby licensed to carry on  
business as a money-lender at .....  
under the name or style of .....

This licence shall expire on the 31st December, 19 .....

.....  
*Permanent Secretary, Ministry of Finance*

LUSAKA,

Date.....

(As amended by No. 279 of 1964)

SECTION 4-THE MONEY-LENDERS (APPLICATION FOR  
CERTIFICATE) REGULATIONS

*Regulations by the Minister*

*Government Notice  
77 of 1938  
Statutory Instruments  
10 of 1964  
5 of 1965*

1. These Regulations may be cited as the Money-lenders (Application for Certificate) Regulations. Title
  
  2. Any person intending to apply for a certificate under section *four* of the Act (hereinafter referred to as "a certificate") shall lodge with the court having competent jurisdiction in the district in which the applicant intends to carry on business a statement in Form 1 in the Schedule. Form to be lodged with court
  
  3. When a time has been fixed for the hearing of the application, such person- Steps to be taken by applicant
    - (a) shall serve personally or by registered post, not less than two weeks before the date fixed for the hearing of the application, a copy of the statement referred to in regulation 2 upon the officer in charge of the police for the district wherein the premises to which the application will relate are situate, or if there be no such officer, upon the Inspector General of Police, and shall at the same time inform him in writing of the date fixed for the hearing of the application;
    - (b) shall, unless the application relate merely to a renewal of a certificate, publish, on a date not more than four weeks nor less than two weeks before the date fixed for the hearing of the application, a notice in the *Gazette* and such notice shall set forth his true name, the name in which and the address at which he desires to be authorised to carry on business as a money-lender, and the court and time at which the application is to be heard;
    - (c) shall attend in person the court in which the statement has been lodged, and may be called upon to answer on oath such questions as the court may think necessary.
  
  4. The court after hearing objections, if any, shall, if satisfied that no good grounds exist for refusing the certificate for which application has been made, issue a certificate in Form 2 in the Schedule. Certificate
  
  5. A police officer not below the rank of Sub Inspector may, acting on the general or special instructions of the Inspector General of Police or on information received, by appearance in person before the court in which the application is being made, oppose the grant of a certificate. Police may oppose application
- (As amended by No. 10 of 1964  
and No. 5 of 1965)*
6. Applications for certificates by two or more partners in a firm shall be made on the same day unless the court otherwise allows. Applications by partners

The Laws of Zambia

SCHEDULE

PRESCRIBED FORMS

The Laws of Zambia  
THE MONEY-LENDERS ACT

THE MONEY-LENDERS (APPLICATION FOR CERTIFICATE) REGULATIONS

FORM 1  
(Regulation 2)

STATEMENT

1. The name of applicant. (If the applicant is a company, the name of the company should be stated here.) Cap. 3:
2. Private address of applicant, or, in the case of a company, the registered address of the company.
3. Name under which it is desired to carry on business as a money-lender.
4. Address at which it is desired to carry on business.

The address to be entered is the address of the head office or branch in respect of which the application is being made. A separate application to the appropriate court must be made in respect of each branch.

5. True names and addresses of partners, if any.
6. Name of person or persons (other than owners or partners) responsible or proposed to be responsible for the management of the business. In the case of a company, the names of the directors, treasurer and secretary should be given.
7. Date of any previous certificate under the Money-lenders Act, and name and address authorised by such certificate.
8. If registered under the Registration of Business Names Act, date of registration and name and address under which registered.

9. Particulars of any convictions under the Money-lenders Act, of the applicant, his partner, or any person responsible or proposed to be responsible for the management of the business.

The ap  
must b  
prepar  
necess  
produc  
certific

10. Particulars of any order under section 5 of the Money-lenders Act, suspending or forfeiting any certificate of, or disqualifying from obtaining a certificate, the applicant or his partner or any person responsible or proposed to be responsible for the management of the business.

11. Particulars of any refusal of a certificate to the applicant, or his partner or any person responsible or proposed to be responsible for the management of the business.

Dated.....

.....  
*Signature of Applicant*

The Laws of Zambia

THE MONEY-LENDERS ACT

THE MONEY-LENDERS (APPLICATION FOR CERTIFICATE) REGULATIONS

FORM 2  
(Regulation 4)

CERTIFICATE

I, ..... the undersigned, do hereby  
certify that I do authorise the grant to A.B. of .....  
of a money-lender's licence to carry on the business of a money-lender, under the style and title of (here insert authorised  
name) at (here insert authorised address). This certificate

shall come into force on the .....day of ..... 19 .....

and shall expire on the ..... day of ..... 19 .....

Dated this ..... day of ..... 19 .....

(Stamp of Court)

.....  
*Magistrate*



The Laws of Zambia

SECTION 2A-THE MONEY-LENDERS (BODIES CORPORATE) (EXEMPTION) ORDER  
*Order by the Minister*

*Statutory Instrument*  
127 of 1973  
227 of 1973  
80 of 1977

1. This Order may be cited as the Money-lenders (Bodies Corporate) (Exemption) Order. Title

2. The bodies corporate named in the Schedule are hereby granted exemption from the provisions of the Money-lenders Act. Exemptions

The Laws of Zambia

SCHEDULE  
(Regulation 2)

1. Agricultural Finance Company.
2. Barclays Overseas Development Corporation, Limited.
3. Commonwealth Development Finance Company, Limited.
4. Industrial Finance Company.
5. Standard Chartered Merchant Bank Limited.

*(As amended by S.I. No. 227 of 1973  
and 80 of 1977)*