

Moneylenders (Amendment) Bill

Bill No. 12/2006.

Read the first time on 9th March 2006.

A BILL

intituled

An Act to amend the Moneylenders Act (Chapter 188 of the 1985 Revised Edition).

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

Short title and commencement

1. This Act may be cited as the Moneylenders (Amendment) Act 2006 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

5 Amendment of section 2

2. Section 2 of the Moneylenders Act is amended —

(a) by deleting the word “and” at the end of paragraph (e) of the definition of “moneylender”; and

10 (b) by deleting the full-stop at the end of paragraph (f) of the definition of “moneylender” and substituting the word “; and”, and by inserting immediately thereafter the following paragraph:

“(g) any merchant bank which is an approved financial institution for the purposes of section 28 of the Monetary Authority of Singapore Act (Cap. 186);”.

15 Amendment of section 3

3. Section 3 of the Moneylenders Act is amended by deleting the words “paragraphs (a) to (e)” and substituting the words “paragraphs (a) to (g)”.

Amendment of section 10

4. Section 10 of the Moneylenders Act is amended —

20 (a) by inserting, immediately after the words “a licence” in subsection (1), the words “, or suspend it for such period as he considers appropriate”;

(b) by inserting, immediately after the word “Act” in subsection (1)(b)(iii), the words “or any rules made thereunder”;

25 (c) by inserting, immediately after the word “revoking” in subsection (2), the words “or suspending”;

(d) by inserting, immediately after the word “revocation” in subsections (2), (3), (4), (5) and (7) and in the marginal note, the words “or suspension”; and

30 (e) by inserting, immediately after the word “revoked” in subsections (2), (3) and (4), the words “or suspended”.

New sections 10A and 10B

5. The Moneylenders Act is amended by inserting, immediately after section 10, the following sections:

“Power to require information and documents

5 **10A.**—(1) For the purpose of determining whether the provisions of this Act or any rules made thereunder have been complied with, the Registrar or an officer duly authorised by him may by notice to a moneylender require him to give to the Registrar or the officer any particular information or document, or information or document of a particular kind, within the period and in the manner specified in the notice.

10 (2) Any moneylender who refuses or fails, without reasonable excuse, to comply with such notice shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$6,000 or to imprisonment for a term not exceeding 6 months or to both.

15 (3) Any moneylender who, in purported compliance with such notice, knowingly or recklessly —

 (a) gives to the Registrar or the officer any information that is false or misleading in a material particular; or

20 (b) gives to the Registrar or the officer any document 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 \$10,000 or to imprisonment for a term not exceeding 12 months or to both.

Powers of entry and inspection

25 **10B.**—(1) The Registrar or an officer duly authorised by him may —

30 (a) at any reasonable time enter any premises where a moneylender is carrying on the business of moneylending, or any premises where he reasonably suspects any business is being carried on in contravention of this Act or any rules made thereunder; and

(b) inspect the premises and any document on those premises which he reasonably requires to inspect for the purpose of ascertaining whether a contravention of this Act or any rules made thereunder is being or has been committed.

5 (2) Any person who —

(a) refuses or fails without reasonable excuse to admit any person who demands admission to the premises under subsection (1)(a);

10 (b) on being required by a person referred to in subsection (1) to do so, refuses or fails without reasonable excuse to permit the person to inspect the premises; or

15 (c) on being required by a person referred to in subsection (1) to produce any document in his possession or under his control and which that person reasonably requires to inspect for the purpose specified in that subsection, refuses or fails without reasonable excuse to produce it to him and to permit him to take copies of it or of any entry in it,

20 shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$6,000 or to imprisonment for a term not exceeding 6 months or to both.

25 (3) Any person who, on being required by a person referred to in subsection (1) to produce any document in his possession or under his control and which that person reasonably requires to inspect for the purpose specified in that subsection, knowingly or recklessly produces any document 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 \$10,000 or to imprisonment for a term not exceeding 12 months or to both.”.

30 **Amendment of section 19**

6. Section 19(5) of the Moneylenders Act is amended by deleting the word “The” and substituting the words “For the purpose of determining if a provision of this section or any rules made under section 37 has been complied with, the”.

Amendment of section 23

7. Section 23(5) of the Moneylenders Act is amended by deleting the words “paragraphs (a) to (e)” and substituting the words “paragraphs (a) to (g)”.

5 **Amendment of section 36**

8. Section 36 of the Moneylenders Act is amended —

- (a) by deleting the words “any body corporate or society” in subsection (1) and substituting the words “any person”;
- 10 (b) by deleting the words “, and may revoke any exemption granted by him at any time by the service of a notice of revocation in writing on the body corporate or society” in subsection (1); and
- (c) by inserting, immediately after subsection (2), the following subsections:

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

(4) Without prejudice to the generality of subsection (3), the Minister may at any time revoke whether wholly or in part any exemption —

- 20 (a) for a breach of any condition of the exemption or any provision of this Act or any rules made thereunder; or
- (b) if he is satisfied that it is in the public interest to do so.

25 (5) Any revocation under this section shall not affect any moneylending transaction entered into before the date of the revocation.

30 (6) For the avoidance of doubt, subsections (3), (4) and (5) shall apply to any exemption granted whether before, on or after the date of commencement of the Moneylenders (Amendment) Act 2006.”.

Repeal and re-enactment of section 37

9. Section 37 of the Moneylenders Act is repealed and the following section substituted therefor:

“Rules

37.—(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 prescribe the maximum rate of interest that may be charged for any loan or class or description of loans in a case where section 23 does not apply;
- 10 (d) to regulate, in a case where section 13 does not apply, the use of advertisements by or on behalf of any moneylender, or any solicitation or canvassing for business by or on behalf of any moneylender;
- 15 (e) to prescribe the types of activities and services which a moneylender may engage in or provide;
- (f) to require a moneylender to display or exhibit in the prescribed manner a prescribed cautionary statement;
- 20 (g) to require a moneylender to issue to his borrowers a prescribed cautionary statement;
- (h) to regulate the conduct of the business of moneylending;
- (i) to prescribe the forms for the purposes of this Act;
- (j) to prescribe the fees to be paid in respect of any matter required for the purposes of this Act and the refund and remission, whether wholly or in part, of such fees; and
- 25 (k) 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.

30 **(2)** Rules made under subsection (1) may —

- (a) relate to any moneylender, whether he is licensed under this Act, or exempted from any or all of the provisions of this Act, before, on or after the date of commencement of the Moneylenders (Amendment) Act 2006;

- (b) relate to all or any class or description of moneylenders; and
- (c) make different provisions for different classes or descriptions of moneylenders.

(3) Rules made under subsection (1) may provide that any
 5 contravention thereof shall be an offence punishable —

(a) in the case of an individual, with a fine not exceeding
 \$12,500 or with imprisonment for a term not exceeding
 10 12 months or with both and, in the case of a continuing
 offence, with a further fine not exceeding \$1,250 for every
 day or part thereof during which the offence continues after
 conviction; or

(b) in any other case, with a fine not exceeding \$12,500 and, in
 the case of a continuing offence, with a further fine not
 15 exceeding \$2,500 for every day or part thereof during which
 the offence continues after conviction.

(4) Without prejudice to the generality of subsection (1)(h), rules
 made under that provision may include rules —

(a) specifying the places where a moneylender may conduct the
 business of moneylending;

20 (b) requiring a moneylender to keep particular accounts or
 records relating to loans;

(c) prescribing the manner in which such accounts and records
 are to be kept and the particulars to be entered therein; and

25 (d) for the prevention of money laundering and the financing of
 terrorism.”.

EXPLANATORY STATEMENT

This Bill seeks to amend the Moneylenders Act (Cap. 188) for the following main purposes:

- (a) to enhance the powers of the Registrar of Moneylenders (the Registrar) in the administration of the Act;
- (b) to clarify that the Minister may revoke an exemption granted to a person on certain grounds; and

(c) to expand the rule-making power of the Minister.

Clause 1 relates to the short title and commencement.

Clause 2 amends the definition of “moneylender” in section 2 to exclude a merchant bank which is an approved financial institution under section 28 of the Monetary Authority of Singapore Act (Cap. 186).

Clause 3 makes an amendment to section 3 (Certain persons and firms presumed to be moneylenders) that is consequential to the amendment to section 2.

Clause 4 amends section 10 (Revocation of licence) to enable the Registrar to suspend a licence for such period as he considers appropriate instead of revoking it, and to enable the Registrar to suspend or revoke a licence for a contravention of rules made under the Act.

Clause 5 inserts new sections 10A and 10B.

The new section 10A empowers the Registrar or an officer authorised by him to require a moneylender to provide information or document.

The new section 10B 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 found on the premises.

Clause 6 amends section 19 (Accounts to be kept in permanent books) to provide that the Registrar may exercise his power of inspection under that section for the purposes of determining if a provision of that section or any rules has been complied with.

Clause 7 makes an amendment to section 23 (Prescribed maximum rate of interest) that is consequential to the amendment to section 2.

Clause 8 amends section 36 (Power of Minister to grant exemptions) to enable the Minister to revoke wholly or in part an exemption granted to a person from any provision of the Act if —

- (a) that person has contravened a condition of the exemption or a provision of the Act or any rules made thereunder; or
- (b) the Minister is satisfied that it is in the public interest to do so.

The clause also provides (similar to section 10(7) relating to the revocation of a licence) that the revocation of an exemption does not affect any moneylending transaction entered into before the date of such revocation.

Clause 9 repeals and re-enacts section 37 (Rules) to enable the Minister to make rules for additional matters including the maximum amount that may be lent to a borrower or class or description of borrowers, the borrowers to whom a loan may be made and the conduct of the business of moneylending. In relation to the last matter, rules may in particular be made for the prevention of money laundering and terrorism financing. Rules may be made to apply to any moneylender, whether licensed or exempted under the Act.

EXPENDITURE OF PUBLIC MONEY

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