TUE ASSAM MONEY LENDERS' ACT, 1934.

A. .t ACT or 1934. -r THE ASSAM MONEY vLENDERS' ACT, 1934. [Published in the Gazette of the 27th Juue 1934.] Jet efectåaå control WHEREAS it is expedient to make better' provision fov the eont,rol of money-lending and to givo addi oional powers I bo Courts t? deal with money-lenders in Assam ; And whereas the previous sanction of the Governor General has been obtained under sub-section ($) of keetion of the Government OE India Act to, the passing of this Act. It is hereby enacted as follows - Short 1. (1) This may beye called -tho Assam extent 1934. (2) It extends fto the whole of Assam including Aot the territories ementioneæ in section of the ot Assam General Clauses Act, {915. (3) It shall come into force on such date as the Local Government may by notification direct

2. In this Act, unless there is anything Yepugnantin• the subject or (I) "Money-lehder" megns _ person ho grants- loon.• (2) • "lntere$t? rneanst rate* of interoÅK includes return f.o ber made . Over and above what swag. actually lent whether- the came ig cba,rged or songhb. to be recovered specifically b woy of interest. or OtbegyiSo • (3) 8 'Loan?" meanS an advxneo (whether of money- or in kind) alvinterest made by•a moneye londer and shall include nriy bond bearing interest executed Sin respee€ of -past liabilitie Mid any which insubstance a lod C Expla- nation; —A bond: boaring, interest _executed in respect of goods taken credit constitutes a loan.) and' (4) '-Prescribed" prescribed by rules under this Price—English, 4d.J IKdia,,: -annag 3. 2 Penalty for 3. If the loan actually made be less than the etnting larger amount in gum entered in the bond or hand note, the bond than ne• money-lender shall be guilty of a contravention tuahy lent. Of the provisions of th1S Act •nd shall, on con- viction, be punishable with fine not exceeding two hundred rupees. prohibition ot 4. Any contract made 'after the Commence- interegt and ment of this for loan of money by a provigion• 10 money-lender shall bo illegal in—so far, as it defaulting. 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 pzyment of sums due under the contract : Simple into. Provided that provision may be made by any in such contract that if default iB mado in the pay- ment 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 t of the interest charged in respect of the loan

5. Any agreement between a money-lender Prohibition ot for on and a borrower or intending borrower for the expense b Ioane by money• payment by Che borrower or intending borrower Lenders.to the money-lender of any sum on account of costs, ch•rges or expenses incidental to or relating to the negotiations for or the grantin of the loan or proposed loan shall be illegal, an if any sum ig paid to a money-lender by L borrower or intending borrower 0B for or on account of any such costs, Charges or expenses, thit sum shall be recoverable as debt due to the borrower or intending borrower, or, in the event of the loan being completed, Bhall, 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 exgmi- nation of titles and also costs of inspcction of pro- perty, 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 there of. 1 3 ot 6. Every money-lender shall keep accounts in tho form prescribed. Obligation of 7.(1) In respect Of every Contract for the re- money-leader to • payment of a loan made by a money-lender, 'upply intormn t ton as to •tate of and whether made before or after the commencement copies of doeu• of this Act, tho money-lender shall on demand in • mente relating thereto. Copy of ment tor u"er. writing being mado by tho borrower at the time of executing the contract, or at "any time during the continuance of the contract, supply to the borrower, or, if tho borrower so requires, to any person specified in that behalf in the demand, a statement signed by the money-lender or his Lgent showing— tho 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 if t 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 doto upon which it -will become due : Provided that when a demand under this sub- section has onco been complied with, a second demand may not be made in respect of the same loan within six months. (21 A money-lender shall on demand in writin borr • by o borrower, and on tender of the prescribe gurn for expenses, supply a copy ofÆny 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 effect, of aon.compii.oce. 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 oon- tract on account eitber of principal or interest, and interest shall not be chargeable in respect of the period of the default. 4 preumption In Where in any suit in respect of any loan the can ot cer• tain loan'. made or any security taken for a loan madg by a money-lender after the commencement of the Usurious Loans Act, 1918, it ig found that, the x of to'S. interest charged exceeds the rate Of per cent. per annum in the Case ofa secured loan or por cent. per annum in the case of an loan, the •ourt shall. until the contrary is proved, presume- for the purposes of section $ of tho Usurious Loans Act, 1918, that, 'interest Act x Obarged is excessive and fibat the transaction was, as between the partios thereto. substantially unfair, but this provision shall be without pro- judice to the powers of the Court under tho snid section where the Cow f, is -satisfied t,hn€ interest Charged though not exceeding 12} per cent. per. annum or per cent.. per annnms as the ease may be, is excessive. Bar to recovery 09. No Courts shall, in respect of any loan made Ot interest before or after the commenc-ment of this »et, geed Ing decree on account of arrears of interest a sum greater than the principal of the loan.' court of money 10• (l) Where a borrower has sent.' to a money- dat to money• lender by postal money-order or by : • registered lender. post with acknowledgment due any sum of money due from him to the money-lender in res- pect of a loan and the money-lender has refused to acecpt tho same, the borrower niay apply in the prescribed manner to the lowe;f Civil Court having jurifdietion over the place, where he resides for mission to deposit the sa idsum in Court to the account of the money-lender, and the Court shall thereupon keep sum in deposit, and shall send a notice Of the (deposit in the prescribed manner to the money-lender. (2) If the money-lender aeeeptg money sent in tho manner specified in sub-section (I by a borrower or withdraws money deposite under the said sub-section, he shall not be bound by any statement made by the borrower in remitting or depositing tho money. Retrictlon. on 11. (1) No person shall knowingly gend or moneylending deliver or cause to be sent or delivered to any person except in response to his written request any circular or other document Che name or address of a money-lender, or containing an invitation— (a) to borrow money from a money-lender ; or of 1018. 5 (b) to enter into any [tansaetion 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 (2) No money-lender or any person on 'his be- donvaggorb invit• must not half shall employ any agent or Canvasser for the employed b' purpose of inviting any person to borrow money money-tenders. Penolty. or to enter into any transaction involving the borrowing of money from a money-lender, and no person shall aet as such agent or Canvasser or demand or receive directly or indirectly any sum or other valuable consideration by way of com- mission or otherwise for introducing or under- taking to introduce to a money-lender any person desiring to borrow money. (3) Any person acting in contravention of any of the provisions of this section shall in respect of each ononee be liable, on conviction to imprison- mont for o term not exceeding three months or a fine not exceeding three hundred rupees or both. (4) 'Where it is shown that a money-lending transaction wag brought about by a contravention eontr „vention. of any of the provisions of this section, the trans- action shall be illegal, unless the money-lender proves that the contravention occurred without his consent or connivance. 12. (I) Where in arty suit in rospect, Penalty iu of fraud. of any money lent or in respect of any security taken for money lent by a money-lender, tho trying Court is of opinion that the money- lender has been guilty of fraud, or of any contra- vontion of the provisions of thig Act, or is otherwise unfit to carry on the business of money- lending, tho Court may make an order debarring him from carrying on such business for such time as bo 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 v t 1908. tho money value of the suit. (2) Any money-lender carrying on the business Of money-lending in

contravention of any order made under gub-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, 1S9S, irrespective of the amount Of v of 1893.• fine to which an accused may be sentenced. 14. (1) The Local Government may make rules G overnment to 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 f0110',Ning•.. matters, namely tho

form in which money-lenders shall keep accounts ; the intervals at which borrowers 'may demand statements of accounts under sub-section (l) of section 7 and the fees to be paid for copies of documents sup- plied under sub-section (2) Of tho same section ; (iii) the manner in which an-application for a deposit is to be made under sub-gection (1) of section 10, and L 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 (l) of section 12. (3) The power to mako rule-rundeæthis Act shall be subject to the condition of previous publication. The 12th March 1935. NO' 1099G.J. —In exercise of tho powers Conferred by section 14 of the Assam Money Lenders Act, 1934 (Assam Aot IV of 1934), the Governor in Council ig pleased to make the following rules for carrying out the purposes of the Act. RULES. I. Tho account proscribed by seotion 6 shall be maintained!in the Form I shown in the vschedtlle attached to these rules. Provided that in the case of a society rÖgistered under the Co- operative Societies Act, 1912 (Act 11 of 1912), the account Bhall be kept in tho 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 docu- ments no feo shall be charged

3. The application under gub-section (1) of section IO for permis- Sion to deposit in the Court any sum of money due from a debtor to 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 tho deposit is mcde ; (b) a recital that the debtor has sent tho money to the money-lender by postal money order or by registered post with acknowledgment duo and that the money-lender has refused to accept it.(The amounts sent on account of principal and interest should be separately stated with tho 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 in Schedule I to the Code of Civil Procedure, 1908, by the debtor, or by his authorised agent

4. The application shall bur a court-fee stamp of eight annas as re uired by Article I (b) of Schedule 11 of the Court-fees Act, 1870, 8ball further be accompanied by printed forms of notice in

Form 11 annexed to these rules for service on the money-lender with process- fees payable in court-fee stamps according to the scale prescribed b the fligh Court for service of summons on defendants. The spaoønn Forn 11 shall be filled in by -the debtor or by his authorised agent

5. If it appears to the Court, to which an application for permis- Sion to deposit under section 10 is made, that tho applicant is entitled under that section to deposit the money, it shall receive the same •nd give the receipt in

Form IV annexed to these rules, and the procedure in connection with • such withdrawal Ehall 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 tho Act shall be served on the money-lender in the munør laid down for servioø of summons on defendants. Loan Account of Opening balance (if any)— Principal Interest— Advance in glo SCHEDULE.

FORM 1. (See rule l.) caste Repayments in Remarks. residence Cr. Appropriation. FORM n. (See rule 4.) Horm of notiec o/ deposit undet 10(1) Name of money-lender.... .. . Address of You are hereby informed that deposited in this Court hog on JO(L) of tho Assam Money Lenders' Act, 1934' a sum of Rs. on account of principal and Rs. (Rs. on account of interest) to your account in connection with the loan which was made by you to him on You are requested to withdraw thig amount at your earliest Conve- nience. Government accept no regponsibility for any loss which you may incur in connection with the aforesaid sum while it remains in deposit with tho Court. Signature of Munsif. Addregg Dated the FORM 111. (See rule 5.) Receipt granted by Court for depoail of money due to money-lender. Station. Court. Whereas an application has been filed by under sub-section (1) of section IO of the Assam Aot IV GfÄfSKfödepositin a sum of money on account of his debt and wherea• Court is o opinion that the Raid is entitled to deposit the amount under the sm section it ts ereby given in writing that the undermentioned amount has been deposited In this Court by ot lender. Date • Date Ot loan. Amount ot payment payment tonrda Prinvtpal. otergst. Signature Seal of the Court. 11 FORM lv. (See rule 6.) Form of witådraø,'l. PAYMENT ORDER. PAbT I. —Application for payment of Deposits (to be filled in by the applicant). Name Of applicant. 1 Date . I •ate of deposit. 2 Atuount to bepaid. 3 Signature Of applicant... *Examined and found correct, Signature of Chief Ministerial Officer... . Signature of Presiding Officer... , • The signature below the words Examined and found correct " must of courge be held to indicate that the officer signing the certificate has sntigßed bimgølf e c' tbat the A)plicant is the proper party to receive payment of the amount claimed", and that the particulars stated are correct, while the Judge in charge Till be, res• pongible that the amount claimed is iD deposit, that there is no •bur to payment, and that the name of the claimant corresponds witb that of the payee•enteredin hig Regidor. 12 (To be filled in by the Court or under its order.) PAET 11.— Serial number and date ot payment order.' 2 Court's chalan number and date of tho original deposit from which the payment ig gougbt. 8 Court's number and date or the original -deposit. Amount io depoeit•. 5 6 At whoso credit in dcpodt.• 8 Officer in charge of the Treasury •t To—The Cashier of the Please pay above to Signature of Court's Accountant— Court or order Rupeest Signature of Judge in charge— • Rogister Ot Deposita Received. t Words ond NOT* l.—Tbis order uOt payable moro than one month atter date without moot by the Court and aboolutely lapses and eea€ea to have erect on the 316t M•rch next. NOTE 2'—Phyee is hereby to lake notice that after tender and payment this order, the Treasury• Omce will no [urthor responsibi:ity. ig tha dat' ot .puyee to see proper guetoay or document until it PART 111. there)j• —[tO be filled in at, Treasury (or at Court if payable Received contents, Rupees Sigruturo of Disbursing Cashier.. Treasury _ Pay Rupees.. .. The Stamp Of One aona If for more than Rs

20. Payee's signature.19 Eramined and.entered. Accountant... Officer in charge of.Treasury. J. A. DAWSON, Chief Secretary to Ile Governmeut Of A88am. G. P. (G.&.J.i No.