THE RAJASTHAN MONEY-LENDERS ACT, 1963
(RAJASTHAN ACT NO. 1 OF 1964)

[Published in Rajasthan Gazette, Part IV-A, Extraordinary, dated 3-1964.]

List of Amending Acts & ordinances

CONTENTS

Sections

1. Short title, extent and commencement
2. Definitions
(1) Bank
(2) Business of Money-lending
(3) Capital
(4) Company
(5) Co-operative Society
(6) Interest
(7) Licence
(8) Licence fee
(9) Loan
(10) Money Lender
(11) Principal
(12) Provident fund
(13) Recognized Language
(14) Register
(15) Suit to which this Act applies
(16) Trader
3. Appointment of Registrar General, Registrars and Assistant Registrars 4. Registers of money-lenders
5. Money-lenders not to carry on business of money-lending except for area under licence and except in accordance with terms of licence
6. Application by money-lender for grant or renewal of licence
7. Inquiry into and disposal of application
8. Grounds for refusal of licence
9. Registrar's power to cancel licence
10. Term of licence
11. Dismissal of suit by money-lender not holding licence
12. [Omitted]
13. Application for cancellation of licence
14. Application of section 5 of Central Act IX of 1903 to certain appeals 15. Registrar, Assistant Registrar and authorized officer to have powers of civil courts
16. Power of authorized officer to require production of record documents

17. Court's power to cancel or suspend a licence
18. No compensation for suspension or cancellation of licence
19. Persons debarred from doing business during period of suspension or cancellation of licence
20. Person whose licence is suspended or cancelled not to apply without giving particulars of endorsement of disqua

21. Transfer of licence to heir
22. Duty of money-lenders to keep accounts and furnish copies
23. Delivery of statement of accounts and copies thereof by money lender 24. Fees for certain statements supplied to debtor and Assistant Registrars 25. Debtor not bound to admit correctness of accounts
26. Procedure of court in suits regarding loans
27. Maximum amount of interest recoverable on loans and discharge of loans in certain cases
28. Power of court to direct payment of decretal amount by instalments
29. Limitation on rates of interest
30. Prohibition of charge for expenses on loans by money-lenders
31. Notice and information to be given on assignment of loans
32. Application of Act as respects assignees
33. Reopening of transaction or accounts already taken
34. Application to court by debtor for taking account
35. Deposit in court of money due to money-lender
36. When interest to be paid for entire month
37. Money-lenders to exhibit their names over shops
38. Entry of wrong sum in bond etc. to be an offence
39. Penalty for molestation
40. Punishment for contravention of sections 5, 22, 23, 29, 30 and 37
41. Offences by corporation etc.
42. Cognizance of certain offences
43. Compounding of offences
44. Arrest and imprisonment in execution of decree for money- against agricultural debtors abolished
45. Every officer to be public servant
46. Protection to persons acting under this Act
47. Provisions of Rajasthan Act 28 of 1957 saved
48. Power to make rules
*49.*Repeal
SCHEDULE
APPENDICES A, B & C

List of Amending Acts & Ordinances

1. The Rajasthan Money Lenders (Amendment) Act, 1976 (Raj. Act No. 13 of 1976) vide Notification No. F. 2(37) Vidhi /75, dated 13-2-1976, Pub. in Raj. Gazette, Extra-ordinary, Part IV-A, dated 13-2-1976, Page 181 to 185.

2. The Rajasthan Money-Lenders (Amendment) Act, 1986 (Raj Act No. 6 of 1986) vide Notification No. F. 2(4) Vidhi/86, dated 13-2-1986, Pub. in Raj, Gazette, Extra-ordinary, Part IV-A, dated 13-2-1286, Page; 105 to 107, and shall be deemed to have come into force on 30-12-1985, the date of Raj Ordinance No,l3 of 1985.

List of Ordinances

1 The Rajasthan Money Lenders (Amendment) Ordinance, 1975 (Raj Ordinance No. 14 of 1974) Pub. in Raj. Gaz., Extraordinary Part IV-B, dated 15-8-1975, P. 65-67,

2. The Raj. Money Lenders *(*Amendment) Ordinance, 1985 (Raj. Ordi. No. 13 of 1985) which come into force from 30-12-1985, Vide No. 4(13) Vidhi/1 5. dated 30-12-1985, Pub. in, Raj, Gaz., Extra-ordinary, Part IV-B, dated 30-12-1985 Page 15 w.e.f.

30-12-1985,

THE RAJASTHAN MONEY LENDERS ACT, 1963
(RAJ, ACT NO. 1 OF 1964)

[Received the assent of the President on the 9ih day of March, 1964]

An Act To make better provision for the regulation and control of transactions of money-lending in the State of Rajasthan.

Be it enacted by the Rajasthan State Legislature in the Fourteenth Year of the Republic of India as follows: —

1. Short title, extent and commencement--(I) This Act may be called the Rajasthan Money-lenders Act, 1963.

(2) It extends to the whole of the State of Rajasthan.

(3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint in this behalf.

NOTIFICATION

Notification No. F. 23 (2) Rev. (D)/54 dated 25-8-1955.

In exercise of the powers conferred by sub section (3) of section 1 of the Rajasthan Money-lenders Act, 1963 (Rajasthan Act 1 of 1964), the State Government hereby appoints the 1st day of October, 1965 as the date-on which the said Act shall come into force.

{Pub. in Raj Gaz , Extra-ordinary, Part IV-C, dated 1-9-1965.]

SYNOPSIS

1. Application of the Act & Scope of application
2. Construction of provisions
3. Object of the Act
4. Principles of interpretation of statutes
5. Amending Act No, 13 of 1976 - Extent of retrospective effect 6.
Order 41, Rule 27, C.P.C & Sections 22 & 23 of the Act.
7. Statement of objects & reasons

COMMENTARY

I. Application of the Act- Scope of- It was held that section 29 has not been made retrospective and section 29 of the Act does not apply to transactions entered into before the Act came into force—*Nanu Ram vs Vishwa Mitra*, **ILR (1968) 18 Raj. 534=1968** RLW 358 (AIR 1953 Bombay 125, relied on.)

The application of the Act is not restricted to loans only by professional money -lenders. - *Ramula Bose vs. Manmath Nath*, **AIR 1945 FC 108.**

The provisions of the Act do not apply to a loan to trader for trade, — *Wassiahmul vs. Good Luck Pictures*, **64 Bom. LR 549.**

The rule of Damdupat applies to all classes of money-lenders and money- lending transactions in the State- *Sajan Lai vs. Gulabchand,* **AIR 1953 Bom. 123** : **54 Bom. LR 132.**

The rule of Damdupat does not apply to mortgages—*Gopal Ram Chandra vs. Ganga Ram,***20 Bom. LR 72L**

The rule of Damdupat does not apply to decrees but the court has discretion in the matter—*Achyut Narayan vs. Ramchandra,* **AIR 1925 Bom 362** : **27 Bom LR 492**

The rule of Damdupat has no application where The original debtor is a Mohammadan--*Hiralal vs. Nagar Jayram*, **21 Bom. LR 38**.

The section conferring power on the Court to limit interest applied to all leans whether they were to traders or other parties — *Wassiamull vs. Good Luck Picture*, **64 Bom. LR 549.**

The provisions of the Act, except sections 23 & 25, do not apply to a trader, (ibid).

The Act does not apply to a suit for the redemption – *Chunilal vs. E. Christopher*, **AIR 1926 Born. 65**: 27 Bom LR 1462 & *Thakan Sahu vs. Ram Partay*; **AIR 1950 Pat 201**

2. Construction of Provision.—In construing the Act which takes away vested

rights and curtails freedom of contractor, the court should interpret it literally and strictly-*Bhupendra Nath vs. Debendranath,***AIR l942Cal. 370.**

In clear case of repugnance, in the subject or context, the-court can assign another suitable meaning to the expression—The *Official Liquidator vs. Jugal Kishore*, **AIR 1936:** *All Secretary of State vs, Arunachalam,***AIR 1936 Mad. 711.**

3. Object of Act —The Act was intended to put down a very serious evil in the society. It was intended to keep control over money lending transactions and to see that excessive rate of interest was not charged by money-lenders, and the only way that such control can be maintained is by providing penalties for doing money lending business without a proper licence from the State—54 Born. LR 160: 21 Bom. Or, C.

317: ILR (1952) BOM.914: AIR 1952 Bom; 276 (276,297),

The object of the Act appears to be that unwary agriculturists and non-traders and parties who are into banking and commercial transactions should be protected --*Wassiamull v. Good Luck Pictures*, **64 Bom. L.R. 549**.

The Act intended to keep control over money-lending transactions and to see that excessive rate of interest was not charged by money-lenders- In Re. Parshuram, AIR 1952 Bom. 279: 54 Bom. LR 549.

It was the view of the legislature that commerce and business methods of loans should in no way, be hindered by reason of provisions of the Act — *Wassiamull vs. Good Luck Pictures*, 64 Bom. LR 549.

The provisions of the Act have been enacted to prevent unscrupulous money-lenders exploiting the needs of the poor and a breach of the provisions cannot be countenanced—*State vs. Devi Dose*, 62 Bom. LR 316,

The object of the rules is clearly to protect debtors from unscrupulous creditors —1951 NLJ (Notes) 92 : 1951 NLJ (Notes) 10.

4. Principles of Interpretation of statutes having Retrospective effect.

It is a fundamental rule of interpretation of statutes that no statute shall be construed to have a retrospective operation unless such a construction appears very clearly in the terms of the Act or arises by necessary and distinct implication. A statute is not to be construed to have a greater retrospective operation than its language renders necessary.

The question arose whether the rates of interest fixed by the State Government under section 29 would be applicable even to those transactions which had been entered into prior to the coming into force of the Act. It was observed that there is nothing in section 29 to show that the legislature intended that the maximum rate of interest fixed by the State Government under sub-section (!) of section 29 shall also apply to those transactions which had been entered into prior to the coming into force

of the Act.

It was held that section 29 has not been made retrospective and does not apply to transactions catered into before the Act came into force (AIR 1953 Bom, 125 relied on); Nanu Ram vs. Vishwa Mitra, ILR (1968) 1« Raj. 534=1968 RLW358.

5. Amending Act No. 13 of 1976 —Extent of its retrospective application — Since amending Act No. 13 of 1976 prohibits issue of licenses with retrospective effect licenses shall have prospective effect henceforth. Thus contravention of section 5 of this Act cannot be condoned.—Narayan vs. State of Raj., 1979 RRD »24,

According to section 6 of the Money-lenders Act, the persons doing the business of money lending are bound to obtain licenses within the stipulated period before actually carrying on the money lending business. Time factor is an important element for applying for the licence.

Section 7 of the Act envisages issue of licenses prospective and not with a retrospective effect. Old sections 11 *&* 12 of the Act enabling issue of licenses retrospectively stand amended and thus omitted to have retrospective effect thereafter on and from the application of Rajasthan Amendment Act No. 13 of 1976.—Narayan vs. State, 1979 RRD 124.

Normally all legislation is prospective and an intention to divest citizens of vested rights, will not be imputed to the legislature unless it is expressly mentioned.—Sajjan Lal vs. Gulabchand. AIR 1953 Bombay 125 • 54 Bom. LR 632

Sections 11 and 26(b) as Amended by the Amending Act No. 13 of 1976 have retrospective effect Sec.11 and 26 of the Act were amended in 1976. In section 11 the Legislature expressly provided an exception of its application to pending cases, but no such exception was earned out in Section 26(b) when the legislature acts at the particular point of time in legislating two provisions in the same Act and in retrospective effect is avoided by making an exception and in the otherdrastic consequences are contemplated by not enacting such an explanation, this court, while interpreting the law has got no option but to respect the wishes of the legislature though seemingly it may create hardship to those money lenders who have already filed their suits and were not aware of the drastic consequences of non-compliance of the section of the Act. Such an intention of the legislature cannot be changed unless it lapse any legislative authority or become violate of any of the constitution. None of the two contingencies contemplated have been shown to exist as there is no challenge to plenary authority nor there is any violation of the constitutional provisions. General Principal of interpretation of the statute is that the statute should be treated prospective and not retrospective, more so, when the provisions are penal in nature. However, it all depends upon the scheme of the Act, intention to enact a particular statute and merely on the basis of generalization when

expressly by providing contra language in Section I in contra to section 26(b), the Legislature expresses its intention, this court cannot enter to the contrary (Para 5 *& 6),* Ramchandra vs Prabhulal, **1982 Raj LR 275.**

Section *27* of the Act should be given retrospective effect (AIR 1953 Bom, 420, (1889) 9 Q B D. 672, AIR 1936 Rom 37, AIR 1949 Ori. 37, relied on AIR 1936 Cal 334. AIR 1938. Nag. 112, 1968 RLW 658 S.B. Civil Revision No. 270 of 1969, decided by the Rajasthan High court on October 29, 1969 unreported, *Man Mohan v. Ram Gopal* explained and distinguished *Durgadas vs Kanhilal* and others, IL **R (1971) 21 Raj 1127=1971 R.L W. 50=1970 WLN 563**

6 Order 41, Rule 27, CPC & Sections 22 & 23 of the Act. -Money advanced and documents, executed in 1967, statement of accounts, not sent to debtor. Fresh documents executed in 1973 without showing interest and adjustment of money, repaid—Held, Ss, 22 and 23 not complied with.

In the first appellate court certain documents were sought to be produced under Order 41, R. 27, CPC and the court having considered the implications of these documents cannot save the Plaintiff from the drastic consequences of dismissal of suit in as much as they relate to the year 1974 to 1976, It was then held that in the documents of 1975 and 1976, the rates of interest have not been shown nor any payments have been adjusted and it has not been shown for showing compliance of Sections 22 and 23 of the Act that any statement of account was sent to the latter. On these findings the first appellate court after examining the document submitted by the plaintiff has held that sections 22 and 23 have not been complied with. Held, finding about non-compliance of sections 22 and 23 of the Act does not call for any interference (Para 9). -Ramchandia vs. Prabhulal, **1982 RLR 275**

7. Statement of Objects and Reasons,—The Rajasthan Money Lenders Act, 1963 regulates and controls the business of money lending in the State. This Act is, however, not applicable to certain registered societies, insurance companies and banks. It has been felt that certain bodies institutions engaged in financing housing schemes, etc. also need exemption from the said Act so that they can give loans to the public for housing and other welfare purposes. Sub-clause (iii) of Clause (10) of section 2 of the Act is, therefore, to be substituted so as to empower the State Government to exempt an institution from the provisions of this Act by issuing a notification in the Official Gazette.

Since the Rajasthan Legislative Assembly was not in session and the circumst- ances existed which made it necessary to issue an Ordinance, the Governor of the State of Rajasthan made and promulgated the Rajasthan Money-lenders (Amendment) Ordinance, 3985 (Ordinance No, 13 of 1985) on 28th day of December, 1985.

8

Rajasthan Money Lenders Act, 1963

[Raj. Bill No. I of 1986 vide Notification No. F. 13(1) ए. वी.शा./ 86 दिनांक 23-1-1986 जो राज. राजपत्र विोषांक भाग III-क, दिनांक13-1-1986 के पृष्ठ 47-50 पर छपा]. Vi Sha./ 86 dated 23-1-1986 State Gaz. Notification Spl. Part III-A, dated 13-1-1986 Printed at Page no. 47-50

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

(1)*'bank'* means a banking company as defined in the Banking Companies Act, 1949 (Central Act X of 1949), and includes the State Bank of India and any other banking institution notified by the Central Government under sec. 51 of the said Act;

(2)*'business of money-lending'* means the business of advancing loans whether or not in connection with or in addition to any other business;

(3)*'capital'* means a sum of money which a money-lender invests in the business of money - lending;

(4)*'company'* means a company as defined in sec. 3 of the Companies Act, 1956 (Central Act I of 1956);

(5)*'co-operative society'* means a society registered or deemed to have been registered under the Rajasthan Co-operative Societies Act, 1953 (Rajasthan Act IV of 1953) or under the Co-operative Societies Act, 1912 (Central Act II of 1912) or under any Act of any other State Legislature relating to co-operative societies;

(6)*'interest'* includes any sum, 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, but does not include any sum lawfully charged by a money- lender for or on account of costs charges or expenses in accordance with the provisions of this Act or any other law for the time being in force;

(7)*'licence'* means a licence granted under this Act;

(8)*'licence-fee'* means the fee payable in respect of a licence;

(9)*'loan* means an advance at interest, whether of money or in kind, but does not include: —

(a) a deposit of money or other property in a Government Post Office Savings Bank or in any other bank or in a company or with co-operative society;

(b) a loan to or by, or a deposit with, any society or association registered or deemed to be registered under the Rajasthan Societies Registration Act, 1958 or any other enactment, relating to a public, religious or charitable objects;

(c) a loan advanced by Government or by any local authority authorized by Govt.;

(d) a loan advanced to a Government servant from a fund established for the welfare and assistance of Govt. servants and which is sanctioned by the State Govt;

(e) a loan advanced by a co-operative society;

(f) an advance made to a subscriber to, or a depositor in, a Provident Fund from the amount standing to his credit in the fund in accordance with the rules of the fund; (g) a loan to or by an insurance company as defined in the Insurance Act, 1938 (Central Act IV of 1938);

(h) a loan to, or by a bank;

(i) an advance made on the basis of a negotiable instrument as defined ju the Negotiable Instruments Act, 1881 (Central Act XXVI of 1881) other than a promissory note:

(j) except for the purposes of sections 27 and 29.

(i) a loan to a trader, or

(ii) a loan to a money-lender who holds a valid licence;

(10) *"money-lender'"* means:-—

(i) an individual or

(ii) an individual Hindu family, or

1(iii) a company (not being a banking company as defined in section 5 of the Banking Regulation Act, 1949;, body or institution other than such of them as may, by notification in the Official Gazette, be exempted from the provision's of this Act by the Stale Government on being satisfied that it is necessary or expedient so to do in public interest, or]

(iv) an un incorporated body of individuals,

who or which—

(a) carries on the business of money-lending in the State; or

(b) has his or its principal place of such business in the State.

(11)*"principal"* means in relation to a loan, the amount actually advanced to the debtor;

(12)*"Provident Fund"* means a Provident Fund as defined in the Provident Funds Act, 1925 (Central Act X of 1925) and includes a Government Fund and a Railway

[1]Substituted for the original expression—(iii) a company other than a banking company as defined in sec. 5 of the Banking Company Act, !949, or by the Rajasthan Money-lenders Amendment Act, 1986 (Raj. Act No. 6 of 19e'6) vide Notification No. R 2 (4), vidhi/86, dated / 3-2-1986 Pub. in Raj, Gaz., Extra-ordinary, Part IV-A, dated 13-2-1986 at pages 105-107 and came into force w e.f. 30-12-1985 the day on which Raj. Ordinance No. 13 of 1985 came into force.

Provident Food as defined in the said Act;

(13) *'recognized language'* means—

(i) Hindi written in the Devnagri script, or

(ii) English, if the debtor so desires in writing, or

(iii) where both the parties speak the same language, that language;

(14) *register'* means a register of money-lenders maintained under sec. 4

(15) *'suit to which this Act applies'* means any suit or proceeding—

(a) for the recovery of a loan made after the date on which this Act comes into force; or

(b) for the enforcement of any security taken or any agreement made after the date on which this Act comes into force in respect of any loan made either before or after the said date; or

(c) for the redemption of any security given after the date on which this Act comes into force in respect of any loan made either before or after the said date;

(16) *'trader'* means a person who in the regular course of business buys and sells goods or other property, whether movable or immovable, & includes—

(a) a whole-sale or retail merchant,

(b) a commission agent,

(c) a broker,

(d) a manufacturer,

(e) a contractor, and

(f) a factory owner,

but does not include an artisan or a person who sells his agricultural produce or cattle or buys agricultural produce or cattle for his use.

Explanation.—For the purposes of clause (16) an 'artisan' means a person who does not employ more than ten workers in manufacturing process on any one day of the twelve months immediately preceding.

Notification No. F 2 (2) Rev /Gr. 4/85/5 dated February 3, 1986.

S.O. 185 -In exercise of the powers conferred by sub-clause (iii) of clause 10 of section 2 of the Rajasthan Money Lenders Act, 1963 (Rajasthan Act 1 of 1964) as amended by the Rajasthan Money Lenders (Amendment) Ordinance, 1985 (Ordinance No. 13 of 1985), the State Government, hereby exempts the Housing Development Finance Corporation Limited a Company incorporated under Indian Companies Act, 1956 (1 of 1956) from the provisions of this Act. [Pub. in Raj. Gaz.

Extra-ordinary, Part 1V-C, dated 13-2-1986, p. 381],

SYNOPSIS 1.

Business of Money lending—Meaning explained 2.

Interest
3. Licence
4. Loan
5. Suit - Meaning of RL.L. XV—27

COMMENTARY

/. *Business of Money lending —Meaning explained* -The word 'business‘ imports the notion of system repetition and continuity,

'Money lenders‘—Meaning of causal money lender not a professional money lender business what does it import.

The mere fact that the money was advanced on interest on more than one occasion would not necessarily import that the person was not engaged in the business of advancing loans nor does a man become money lender merely because he may on one or several isolated occasions lend money to a stranger.

In the present case the statement of the plaintiff simply showed that he was a casual money-lender and not a professional money lender who alone is contemplated under clause (10) of section 2. (1006) 1 KB 584, 1896 AC 325 and 17 ALJ 1147 relied on Gaurishanker v. Magbaram, ILR (1974) 24 Raj, 658=1974 RLW 106 = 1974 WLN 93=AIR 1974 Raj. 238.

The provisions of the Act relating to licence do not apply to Foreign Money lenders.—ILR 1947 Nag 137=1947 NLJ 385=A1R 1947 Nag 201.

The creditor must plead that he is merely a causal money lender .- AIR 1974 Patna 103.

Cooperative society.—Since the Rajasthan Co-operative Societies Act 1953 (Raj. Act 4 of 1953) has been repealed and substituted by the Rajasthan Co-operative Societies Act, 1965 (Rajasthan Act 13 of 1965) reference to the said Rajasthan Co-operative Societies Act, 1953 shall be deemed to be a reference to the Rajasthan Cooperative Societies Act, 1965 under section 8 of the General Clauses Act;

A Co-operative Society is deemed to be a validly registered Cooperative Society who holds a valid registration certificate issued or deemed to have been issued under the respective law for the time being in force arid which has not been cancelled as yet by the competent authority in accordance with the law.

2. Interest — An interest is essential ingredient of loan- AIR 1955 Nagpur(NUC) 2456 = ILK 1955 Nag. 513 =1955 Nag. LJ 359

An interest free advance is not loan as contemplated under this Act— Ramchandra vs. Bhao Rao, 1960 Nag. LJ (notes) 89.

The use of word 'includes' in the definition of the term interest denotes, it is not exhaustive.

Original amount is principal and balance is nothing but the interest — Maganlal Pragibhai vs. State of Bombay, AIR 1958 Bom. l54=-56 Bom LR 139(FB).

There must be something more than the excessive rate of interest to satisfy the court that the transaction is unfair.-- Mehdi Razvi vs. Panaa Lai -- AIR 1917 Pat. 336.

Where there is a payment covering the entire amount of the interest due at the bound rate also towards the principal the excess payment will certainly go towards reduction of the principal—Ramswaroop Mahtar vs. Mathura Prasad Singh, 4 DLR Pat. 237.

If the excess amount bears to the loan a ratio higher that the rate of interest prescribed, the money-lender comes within the mischief of the Act —Maganlal Praggi Bhai vs. State of Bombay, AIR 1958 Bom 92.

An agreement for payment of interest in excess of the maximum rate was void.— In Re Parshuram, AIR 1952 Bom. 276.

Where the interest charged in excess of the prescribed rate, the court is required to presume that the transaction is pot fair—Elias Suleh Mahammed vs. Khumull, AIR 1959 Mys. 132.

The executing court has to investigate the contention that the decree holder was recovering larger amount by way of interest than principal.— Ramlal vs. Shrinhar, AIR 1960 MPLJ (Notes) li.

The court cannot decree on account of interest, a sum greater than principal.— Pandurang vs. Nuru Miya, 62 Bom LR 547.

In view of the words, 'Notwithstanding anything contained in any other enactment, the court had power to reopen the transaction and disallow interest—Bisanlal vs. Malilal, 1960 Nag. U (Notes) 83.

As the plaintiff failed to maintain and send accounts he was not entitled to interest— Dattatraya vs. Maroli, 1959 NLJ (Notes) 113.

Even though the note did not make any specific mention of interest, the plaintiff was entitled to interest at 6% per annum by virtue of section 80 of the Negotiable Instruments Act—Abdul Hussain vs. Seth Fazal Bhai, AIR 1957 Bom. 529.

The court could disallow interest where the plaintiff did not supply the statement of accounts--Shankar vs. Rania, 1956 NLJ (Notes) 148.

13

Rajasthan Money Lenders Act, 1963

There is no inconsistency between Sections 27 and 33 for determining quantum of interest Transaction can be reopened. Principal being Rs. 1689.11/-and interest of Rs. 1500/ already paid. Held, Plaintiff can claim Rs. 189.11/-towards interest

Section 27 of the Rajasthan Act can only be construed according to the definition given to the word _principal' in section 2(11) and for determining the quantum of interest, the transaction between the debtor and the creditor can be ripped up and re-opened and to *me* there does not appear to be any conflict or inconsistency between the provisions of sections 27 and 33 of the Rajasthan Act

The principal of the loan is Rs.189.11/-The Plaintiffs can only claim a sum of Rs. 180.11/- by way of interest and beyond that the defendant is not liable to pay any interest. The total liability with regard to interest can be to the extent of the amount of Rs. 1689.11/- and a sum of Rs.1500/-has already been paid by the defendant to be appropriated as interest. Thus the plaintiffs are only entitled to a decree of Rs1879/ -*Basti Ram v. Ghewarchand and anr.***1979 WLN 51=1979 RLW 50= AIR 1979 Raj.148.**

3.*Licence*—It is mandatory for every person to obtain licence 'before" doing money-lending business--*Desai Bhao vs. Kaniram,* AIR **1952 Hyd. 142.**

4.*Loan*—The expression 'an advance at interest' covers cases ".-where the interest was provided by the contract as well as cases when the interest was payable under a statute. In a suit filed on a promissory note in which the rate of interest was not mentioned and no interest was claimed in the suit, the question was whether the transaction was a 'loan' within the meaning of the Act. Held that by virtue of sec 80 of the Negotiable instruments Act, ' 88', the

advance made under the promissory note was an, advance at Interest and, therefore, a loan within the meaning of the Act - **(1971) 73 BLR 458=1971 Mah. LJ 608.**

The legislature has not made any provision that the interest payable in respect of loans borrowed before the Act came into force be reduced- *Sajjanlal vs. Gulabchand,* **AIR 1953 Bom 125=54 Bom LR 635**.

The word 'loans' in plural in the definition points out that if a person tends money on a single occasion on interest, he cannot be considered to be a money-lender -- *Binapani vs. Ravindranath,***AIR 1959 Cal. 213.**

The advance of money in cash or by a cheque is loan.- Shivlal Seth vs. Devendra Kumar, 1960 MPLJ (Notes) 166.

The definition of 'loan' covers a loan which is unsecured. -- *Emperor vs. Jheverilal,* AIR 1960 Bom. 119= 51 Bom LR 991; Bansilal Ramgopal vs. Harishchand, AIR 1953 Bom. 420=55 Bom LR I44=ILR 1953 Bom. 1055.

The amount advanced without interest on account of cordial relations did not

amount to a loan—Ranuhandar vs. Bhao Rao, 1960 NLJ (Notes) 89.

Debt is not necessarily a loan.—Radha Krishna vs. Keshavdeo, AIR 1957 SC 743.

The goods sold on credit do not amount to loan -- Mangilal vs. R.R. Contractor, 1952 MFC 442.

The renewed bond where interest is capitalized is loan although no money is actually advanced—Fatehchand vs. Akimuddin, AIR 1943 Cal. 163.

A compromise decree allowing the balance to be paid in instalments with same rate of interest does not convert the unpaid purchase price into a loan—Radha Krishna vs. Keshavdeo, AIR 1957 SC 743.

The transaction of selling gold ornaments does not amount to loan.— Daulal vs. Ramsingh, 1961 MPLJ (Notes) 301.

There may be debt contracted without contracting a loan.—Mangilal vs. R.R. Contractor, 1959 MPC 442.

The unpaid purchase price converted as a loan by an agreement, is loan.—Fateh Chand vs. Akimuddin, AIR 1943 Cal. 108.

A promissory note taken in satisfaction of the unpaid purchase price, amount to a loan— Nirode Barani vs. Sisir Kumar, AIR 1942 Cal. 538

Price of goods supplied on credit with stipulation to pay interest is a debt and not a loan— Surendra Sekhar vs. Lalit Mohan, AIR 1941 Cal. 538.

Rent realizable from tenants by the mortgage in possession is interest as the mortgage transaction is a loan— Maherunnissa Bibi vs. Satish Chandra, AIR 1944 Cal. 288.

A security Bond taken for the balance of the price of the goods already supplied and to be supplied in future is not a loan Kunj Behari vs. Satyendranath, AIR 1941 Cal. 689.

A mortgage essentially falls under the definition of loan--Ganpatrao vs. Jagannath Das, AIR 1940 Nag. 19=1940 NLJ 1940 NLJ 187, Emperor vs, Jhaverlal, AIR 1950 Bom. 119 = 51 Bom. LR 991; Bansilal vs. Harish Chandra, AIR 1953 Bom. 420=55 Bom LR 444.

Where the purchaser of bullocks executes a bond in favour of the seller agreeing to pay the purchase money within a certain date and its case of its failure to do so to pay interest the transaction was held to be a loan. Da NLJ (Notes) 113.

A deposit of money may under certain conditions amount to loan.— Mohammed

Akbar vs. Atarsingh, AIR 1936 PC 171: 38 Bom. LR 731; Suleman Haji vs. Haji Abdulla, AIR 1940 PC 132 : 42 Bom. LR 871.

Lend and Loan—Meaning explained, AIR 1966 SC 495.

5. Suit—Meaning of—The word 'suit' includes pending suits court to dismiss suit if provisions of secs. 22 & 23 are not complied.

Keeping in view the purpose and object or the reasons and spirit of the Act the provisions of section 26 (b) of the Act as they stand after the amendment by the amending Act of 1976 will apply to the pending suits also and if sections 22 and 23 have not been complied with then the court has to dismiss the suit as the word -suit' as used in amended section 26(b) embraces within it the pending suits—Kanhiiyalal vs. Shri Lai and others, 1980 WLN 469 = 1980 RLW 301.

Secs. 22, 23 and 26 provisions of secs. 22 & 23 not complied with in respect of whole claim. Held, amended sec. 26(b) to apply to pending cases.

The intention of the legislature has been clearly and undoubtedly expressed that the amended section 26(b) is to apply to the pending suits. It is enjoined that the court shall dismiss the whole suit where it finds that the provision of sections 22 and 23 of the Act have not been complied with by the Money lender in respect of the whole claim —Ranchordass vs. Malook Chand, 1980 WLN 580,

In a suit to which the Act applies the Court must take account even if the defendant is absent.—Vithal Krishan vs. Sogmal Nathmal & Co., AIR 1958 Bom. 92: 59 Bom. LR 1048.

3. **Appointment of Registrar General, Registrars and Assistant Registrars** —The State Government may, by notification in the official Gazette appoint such officers, as it thinks proper, to be a Registrar General, Registrars and Assistant Registrars of money-lenders for the purposes of this Act and may define the areas within which each such officer shall exercise his powers and perform his duties.

NOTIFICATIONS

1. Notification No. F. 23(2) Rev./D/54, dated 25-8-65.

In exercise of the powers conferred by sec. 3 of the Rajasthan Money lenders Act, 1963 (Rajasthan Act 1 of i964), the State Government hereby appoints the Registrar. Co-operative Societies to the Registrar General of Money-lenders for the whole of the State of Rajasthan and appoints Deputy Registrars and Assistant Registrars, Co-operative Societies, for the areas within their respective jurisdiction to be Deputy Registrars and Assistant Registrars of Money-lenders respectively, for the purposes of the said Act.

This notification shall have effect on and from the 1st day of Oct. 1965,

2. Notification No. F 23(2) Rev./B/M, dt. January, 1967.

In exercise of the powers conferred by Section 3 of the Rajasthan Money Lenders Act, 1963 (Act I of 1964} the State Government hereby makes the following
amendment to this department (second) notification No. F. 23(2) Rev./D/64, dated the 25th August, 1965, published on page 215 in the Rajasthan Gazette Part 1V-C, dated the September, 1965, namely: —

In the said notification, after the words "appoints Deputy Registrars‖ a comma shall be inserted and for the expression and Assistant Registrars, Co-operative Societies for the areas within their respective jurisdictions to be Deputy Registrars and Assistant Registrars of Money Lenders respectively for the following expression shall be substituted, namely:—

"Co-operative Societies to be Registrars of money lenders and further appoints Assistant Registrars and Additional Assistant Registrars, Co operative Societies, to be Assistant Registrars of money lenders for the areas within their respective jurisdictions‖

[Pub. in Raj. Gaz. 4(Ga)-Dt. 15-6=67 Page 208]

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3. अधिसूचना संख्या प. 2(6) राजस्व ग्रुप 4/75, दिनांक 20–9–1975.

जी.एस.आर. 15835:– राजस्थान साहूकार अधिनियम 1963 राजस्थान अधिनियम 1 सन् 1964 की धारा 3 द्वारा प्रदत शक्तियों का प्रयोग करते हुए तथा निमित जारी किए गये समस्त विद्यमान अधिसूचनाओं काअतिक्रमण करते हुए राज्य सरकार एतद्द्वारा उक्त अधिनियम के प्रयोनार्थ श्री आर. मुखर्जी सदस्य राजस्व मंडल, राजस्थान अजमेर को सम्पूर्ण राजस्थान राज्य के लिए साहकार महापंजीयक नियुक्त करती है।

तथा समस्त जिला कलक्टरों और उपखंड अधिकारियों को अपनी अधिकारिता क्षेत्रों के लिए क्रमशः साहूकार पंजीयक और सहायक पंजीयक नियुक्त करती है। यह अधिसूचना 1–10–1975 से प्रभावशील होंगे।

[राज. राजपत्र भाग 4 (ग)(1), दिनांक 25–9–1975 पृष्ठ 530 (64)]

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4.अधिसूचना संख्या प. 2(6) राज/ग्रुप 4/75, दिनांक 5–10–1976.

इस विभाग की विज्ञप्ति सम दिनांक 20–9–1975 के आंशिक संशोधन में एवं राजस्थान

साहूकार अधिनियम 1963 राजस्थान अधिनियम 1 सन् 1964 की धारा 3 द्वारा प्रदत शक्तियों का प्रयोग करते हुए तथा निमित जारी किए गये समस्त विद्यमान अधिसूचनाओं काअतिक्रमण करते हुए राज्य सरकार एतद्द्वारा उक्त अधिनियम के प्रयोनार्थ श्री के.एस. रस्तोगी सदस्य राजस्व मंडल, राजस्थान अजमेर को सम्पूर्ण राजस्थान राज्य के लिए साहूकार महापंजीयक नियुक्त करती है। यह अधिसूचना तुरन्त प्रभाव से प्रभावशील होगी।

5. अधिसूचना संख्या प. 2(9)राज/ग्रुप 4/75, दिनांक 26–8–1976.

राजस्थान साहूकार अधिनियम 1963 राजस्थान अधिनियम 1 सन् 1964 की धारा 3 द्वारा प्रदत शक्तियों का प्रयोग करते हुए राज्य सरकार जिलों के समस्त अपर जिलाधीशों को उक्त अधिनियम के प्रयोनार्थ को अपने अपने अधिकारिता क्षेत्र के भीतर एतद्द्वारा साहूकारी के रजिस्ट्रार (पंजीयक) नियुक्त करती है।

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अधिसूचना संख्या प. 2(6)राज/ग्रुप 4/75/33, दिनांक जुलाई 23,1984.

राजस्थान साहूकार अधिनियम 1963 राजस्थान अधिनियम 1 सन् 1964 की धारा 3 द्वारा प्रदत शक्तियों का प्रयोग करते हुए तथा इस निमित पूर्व में जारी की गयी इस विभाग की समसंख्यक अधिसूचना दिनांक 14 जुलाई 1982 को अतिष्ठित करते हुए राज्य सरकार एतद्द्वारा उक्त अधिनियम के प्रयोनार्थ श्रीमती कृष्णा भटनागर, सदस्य राजस्व मंडल, राजस्थान अजमेर को सम्पूर्ण राजस्थान राज्य के लिए साहूकार महापंजीयक नियुक्त करती है। यह अधिसूचना तुरन्त प्रभाव से प्रभावशील होगी।

[राज. राजपत्र विशेषांक भग 1(क), दिनांक 26–7–1984 के पृष्ठ 37 पर छपा]

4. Register of money-lenders. — Every Assistant Registrar shall maintain for the area of his jurisdiction a register of money-lenders in such form as may be prescribed:

Provided that any such register maintained in any area immediately before the commencement of his Act under the provisions of the enactments repealed by section 49 shall, in so far as it is not inconsistent with this Act or the rules made thereunder, be deemed to have been maintained under this A7ct.

5.Money- lenders not to carry on business of money-lending except for area under licence and except in accordance with term of licence.--Save is provided in section 49, no money-lender shall after the expiration of six months from the date on which this Act is brought into forces carry on, or continue to carry on, the business of money-lending except in accordance with the terms and conditions of such licence.

6. **Application by money-lender for grant or renewal of licence.** — Every money-lender shall make an application in the prescribed form for the grant of a licence to the Assistant Registrar of the area within the limits of which the place, where he intends to carry on the business of money-lending, or, if he intends to carry

on such business at more than one place in the area, the principal place of such business, is situated.

(2) Such application shall contain the following particulars, namely: —

(a) the name in which such money-lender intends to carry on business and the name of the person proposed to be responsible for the management of the business;

(b) if the application is by or on behalf of —

(i) an individual, the name and address of such individual;

(ii) an undivided Hindu family, the names and addresses of the manager and the adult coparceners of such family;

(iii) a company, the names and addresses of the directors, manager or principal officer managing it;

(iv) an un -incorporated body of individuals, the names and address of such individuals;

(c) the area and the place or principal place of the business of money- lending in the State;

(d) the name of any other place in the Slate where the business of money- lending is carried on or intended to be carried on;

(e) whether the person singing the application has himself, or any of the adult coparceners of an undivided Hindu family or any director manager or principal officer of the company or any member of the un-incorporated body application has been made, as the

case may be. has carried on the business of money-lending in the State in the year ending on the 31st day of March immediately preceding the date to the application either individually or in partnership or jointly with any other copartner or any other person and whether in the same or any other name; (f) the total amount of the capital which such person intends to invest in the business of money-lending in the years for which the application has been made; (g) if the places at which the business of money-lending is to be carried on are more than one, the names of persons who shall be in charge of the management of the business at each such place;

(h) such other particulars as may be prescribed.

(3) The application shall be in writing and shall be signed, —

(a) (i) if the application is made by an individual, by the individual;
(ii) if the application is made on behalf of an undivided hindu family, by the manager of such family;
(iii) if the application is made by a company or un-incorporated body, by the managing director or any other person having control of its principal place of business in India or of its place of business in the area in which it intends to carry on the business; or

(b) by an agent authorized in this behalf by a power of attorney by the individual money-lender himself, or the family or the company or the un- incorporated body, as the case may be.

(4) The application shall be accompanied by a licence fee at the following rates:

a	if the place at which the busi-ness of money-lending is to be carried on is not more than one	Rs 15/-
b	if the business of money-lending is to be carried on at more than one place within the limits of the area of the Registrar.	Rs. 15/- for the licence for the principal place of business, and Rs. 6/- for the licence for each of the other places in the area.

Explanation. — For the purposes of this section, "place" means, in relation to the business of money-lending, the shop or address or place at which themoney-lender carries on his business of money-lending.

(5) The fee payable under this section shall be paid in the manner prescribed and shall not be refunded, notwithstanding the fact that the grant of the licence is refused or the application is withdrawn.

(6) An application for the renewal of a licence previously granted under this Act shall be made within two months before the expiration of the term thereof to the Assistant Registrar referred to in sub-section (1) in the prescribed form and containing the prescribed particulars:

Provided that where an application is made after the expiry of the period specified in this sub-section, it shall be accompanied by a licence fee at double the rates prescribed therefor.

(7) Save as otherwise provided in this Act, the provisions thereof shall, as far as may be, apply to the renewal of licenses and to renewed licence in the same manner as they apply respectively to the grant of licence granted originally.

(8) Where a licence granted to a money-lender is lost, destroyed or torn or otherwise defaced in such manner as to reader it illegible, the money-lender may obtain a duplicate licence in the prescribed manner on payment of such fee as may be prescribed.

Scope of sections 6 & 7 of the act,effect of—According to section 6 of the Money Lenders Act, the persons doing the 'business of money lending* are bound to obtain

licenses within the stipulated period before actually carrying on the money lending business. Time factor is an important element for applying for the licence.

Section 7 of the Act envisage issue of licenses prospectively and not with retrospective effect. Old sections 11& 12 of the Act enabling issue of licenses retrospectively stand amended and thus omitted to have retrospective effect thereafter on and from the application of Rajas than Amendment Act No. of 1976 Since Amending Act No. 13 of 1976 prohibits issue of licence with retrospective effect, licenses shall have prospective effect, hence forth. Thus contravention of section 5 of this Act cannot be condoned --*Naravan vs. State of Raj*., 1979 RRD 124.

7. **Inquiry into and disposal of application**.—(U (a) On the receipt an application under section 6 and after making a summary inquiry in 'accordance with the prescribed procedure, the Assistant Registrar shall forward the application, together with his report, to the Registrar. The Registrar may, after making such further inquiry, if any, as he deems fit grant a licence in such form and subject to such conditions as may be prescribed and direct the Assistant Registrar to enter the name of such applicant in the- : register maintained by him under section 4.

(b) If the application is in respect of more than one place of business in the area under the jurisdiction of the Registrar, a separate licence in respect of each such place shall be granted in the name of the applicant and the person responsible for the management of the business at such place.

(2) If the application also contains a request for the grant of a licence to carry on the business of money-leading at any place within the State outside the jurisdiction of the Registrar who granted the licence in respect of the principal place of business of the money-lender, the Registrar shall forward copies of the application and of the licence granted to the Registrar having jurisdiction, who may grant a licence on payment of the licence fee provided for in section 6 without making any inquiry in respect of the application.

8.Grounds for refusal of licence.—(1) The grant of a licence shall not be refused except on any of the following grounds:—

(a) that the applicant, or any person responsible or proposed to be responsible for the management of his business as a money-lender, is disqualified from holding a licence;

(b) that the applicant has not complied with the provisions of this Act or the rules in respect of an application for the; grant of a licence;

(c) that the applicant has made willful default in complying with or knowingly acted in contravention of, any requirement of this Act;

(d) that satisfactory evidence has been produced that the applicant

or any person responsible or proposed to be responsible for the management of business of money-lending has—

(i) Knowingly participated in or connived at any fraud or dishonesty in the conduct of or in connection with the business of money-lending, or

(ii) has been convicted of an offence specified in the Schedule to the Act and sentenced to imprisonment for any term with or without any fine:

Provided that the State Government may at any time on an application in the prescribed form accompanied by the prescribed fee remove a disqualification under clause (d) (ii) of this subjection having regard to the time which has elapsed since the order and the circumstances under which it was made or to the time that has elapsed since the conviction and to the nature of the offence.

(2) The Registrar shall, before refusing a licence under sub-section (I), give to the applicant a reasonable opportunity of producing evidence, if any, in support of the application and of showing cause why the licence should net be refused, and record the evidence adduced before him and his reasons for such refusal.

(3) An appeal shall lie from *an* order of the Registrar refusing a licence under sub-section (1) to the Registrar General and may be preferred within sixty days from the date on which the order is communicated to the applicant.

(4) The decision of the Registrar General on such appeal shall be final.

9. Registrar's power to cancel licence. — (I) The Registrar may, during the term of any licence, cancel the same by an order in writing on the ground that the person to whom it was granted has been guilty of any act or conduct for which he might, under section 8, have refused him the grant of the licence and which act or conduct was not brought to his notice at the time of the grant.

(2) Before cancelling a licence under subsection (1), the Registrar shall give notice in writing to the licensee and may hold such inquiry as may be necessary.

(3) An appeal shall lie from an order of the Registrar cancelling a licence under sub-section (1) to the Registrar General and may be preferred Within sixty days from the date on which the order is communicated to the licensee.

(4) The decision of the Registrar General on such appeal shall be final.

10. Term of licence.—A licence shall be valid for a period of three years from the date of its issue:

Provided that when an application for renewal of a licence has been received by an Assistant Registrar within the prescribed period, the licence shall, until the application is finally disposed of, be deemed to be valid.

[2][11. Dismissal of suit by money-lender not holding licence.—

(I) Where a suit to which this Act applies is filed by a money-lender and the court in which it is filed is satisfied that at the time when the loan or any part thereof to which the suit relates was advanced, the money-lender did not hold a valid licence, it shall dismiss the suit forthwith without going into the merits of the claim and shall order the refund of the security, if any, without repayment of the loan.

(2) Nothing in this section shall affect—

(a) suits pending in any court on the date of the commencement of the Rajasthan Money-lenders (Amendment) Ordinance, 1975, which may be disposed of according to the law existing immediately before such commencement;

(b) suits in respect of loans advanced by a money-lender before the date on which this Act came into force; and

(c) the powers of the Court of Wards or an Official Assignee or a receiver or an administrator or a court under the law relating to insolvency for the time being in force or a liquidator under the Companies Act, 1956 (Central Act 1 of 1956) to release the properly of a money-lender.)

NOTES

Sections 11 and 26(b) as amended by the Amending Act No. 13 of 1976 have retrospective effect. Sections 11 and 26 of the Act were amended in 1976 by the Amending Act No. 13 of 1976. In section 11 the Legislature expressly provided an exception of its application to pending cases, but nosuch exception was carved out in Section 26(b) when the legislature acts at a particular point of time in legislating two provisions in the same Act and in one retrospective effect is avoided by making an exception and in the other drastic consequences are contemplated by not enacting such an explanation or exception, this court, while interpreting the law has got no option but to respect the wishes of the legislature though seemingly it may create hardship to those money-lenders who have already filed their suits and were not aware of the drastic consequences of non compliance of the section of the Act, Such an intention of the legislature cannot be changed unless it lapses any legislative authority or become violative of any of the provision is of the constitution. None of the two contingencies contemplated have been shown to exist, as there is no challenge to planery authority nor there is any violation of the constitutional provision. General Principal of interpretation of the statute is that the statute should be treated prospective and not retrospective, more so, when the provisions are penal in nature. However, it all depends upon the scheme of the Act, intention to enact a particular statute and merely on the basis of generalization when expressly by providing contra

[2]Substituted by section 2 of Rajasthan Act No. 13 of 1976, published in the Rajasthan Gazette, Part IV-A, Extraordinary, dated 13-2-1976, page181 to 185,

language in Section II in contract to section 26(b), the Legislature expresses its intention, this court cannot enter to the contrary (Para 5 and 6) —*Ramchandra vs. Prabhulal*, **1982 RajLR.275.**

12. [3](Omitted).

13. Application for Cancellation of licence.—(i) Any person may, during the currency of a licence, file an application to the Register for the cancellation of the licence issued to a money-lender on the ground that such money-lender has been guilty of any act or conduct for which the Registry may, under section 8. refuse to grant a licence.

(2) Along with in such application the said person shall deposit such amount not exceeding one hundred rupees as the Registrar may deem fit.

(3) On the receipt of such application and deposit or of a report to that effect from an officer acting under section 16, the Registrar shall hold an inquiry i:i the prescribed manner and, if he is satisfied that the money-lender has been guilty of such act or conduct, he may cancel the licence of the money-lender and may also direct the return of the deposit made under sub-section (2).

(4) If in the opinion of the Registrar an application made under sub-section (1) is frivolous or vexatious, he may, out of the deposit made under sub-section (2), direct to be paid to the money-lender such amount as he deems fit as compensation.

(5) Any person aggrieved by an order of the Registrar under sub-section (3) or sub section (4), may within sixty days from the is communicated to him and on

payment of such fee as may be prescribed appeal to the Registrar General and the order of the Registrar General on such appeal shall be final.

14. Application of section 5 of Central Act IX of 1908 to certain appeals.—The provisions of section 5 of the Indian Limitation Act, 1908 (Central Act IX of 1908) shall apply to all appeals made under sections 8, 9 and 13 and for the purpose of the said section of the said Act, the Registrar General shall be deemed to be a court.

15. Registrar, Assistant Registrar and authorized officer to have powers of civil courts - For the purposes of sections 7, 13 and 16, the Registrar. Assistant Registrar and, as the case may be the officer authorized under section 16 shall have and may exercise the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (Central Act V of 1908), in respect of the following matters:—

(a) enforcing the attendance of any person and examining him on oath;

3Omitted by section 3 of the Rajasthan Amending Act No. 13 of 1976Pub. in-Raj. Gaz., Extraordinary, Part 1V, dated l3-2-1976. Paces 18 to 185,

(b) compelling the production of documents and material objects;

(c) issuing commissions for the examination of witnesses; and

(d) proof of facts by affidavits

16 Power of authorized officer to require production of record or documents—(1) For the purpose of verifying whether the business of money-lending is carried on in accordance with the provisions of this Act, any Registrar, Assistant Registrar or any other officer authorized by the State Government in this behalf in may require -any money-lender or any person in respect of whom the Registrar, Assistant Registrar or the officer so authorized has reason to believe that he is carrying on the business of money lending in the State to produce any record or document in his possession which, in his opinion, is relevant for the purpose and thereupon such money-lender or person shall produce such record or document.

(2) The Registrar, Assistant Registrar or officer so authorized may, after reasonable notice, at reasonable time enter any premises where he believes such record or document to be and may ask any question necessary for interpreting or verifying such record or document.

17. Court's power to cancel or suspend a licence.—(1) A court passing an order of conviction against a money-lender for an offence under this Act, or a court trying a suit to which this Act applies, if satisfied that such money lender has committed such contravention of the provisions of this Act or the rules made thereunder as would, in its opinion, make him unfit to carry on the business of money-lending may:—

(a) if it is a competent court, pass an order under sub-section (3); or

(b) if it is not a competent court, record is opinion and forward the proceedings to a competent court having jurisdiction in the place where such court is held.

(2) A competent court to which the proceedings are submitted under clause (b) of sub-section (1) may, if it thinks fit, examine the parties and recall and examine any person who has already given evidence in the proceedings and may call for and take any further evidence and pass such order in the case as it thinks fit in accordance with the provisions of sub section (3).

(3) A competent court referred to in clause (a) of sub-section (1) or to which proceedings are submitted under sub-section (2),—

(a) may order that all the licenses held by any money-lender in the State, referred to in sub-section (l), be cancelled or suspended for such time as it thinks fit,

(b) may if it thinks fit, declare any & such money-lender, or if such money-lender is an undivided Hindu family, a company or an un-incorporated body, such family,

company, or body and also any person responsible for the management of the business of money lending carried on by such family, company or body, be disqualified from holding any licence in the State for such time as the court may think fit:

Provided that no order or declaration shall be made under this subsection unless a reasonable opportunity has been given to the person concerned to show cause against the order or declaration proposed to be made.

(4) Any person aggrieved by the decision of a competent court under sub section (3) may, within ninety days of the passing of the order, appeal against such order to toe High Court; and the competent court which passed the order or the High Court in appeal may, if it thinks fit, stay the operation of the order under this section pending the disposal of the appeal.

(5) Where a court convicts a money-lender of an offence under this Act, or makes an order or declaration under clause (a) or clause (b) of sub-section (3), it shall cause the particulars of the conviction, order or declaration, as the case may be, to be endorsed on all the licenses held by the money-lender convicted or any other person affected by the order or the declaration and shall cause copies of the order or the declaration to be sent to the Registrar by whom the licenses were granted for the purpose of entering such particulars in the registers.

(6) Any licence required by a court for endorsement in accordance with sub-section (5) shall be produced by the person by whom it is held in such manner and within such time as maybe directed by the court, and any person who, without reasonable cause, makes default in producing the licence as required shall be liable, on conviction, to a fine not exceeding five hundred rupees for each day of the period during which the default continues.

(7) The powers conferred on a court under sub-section (3) and sub-section (5) may be also exercised by any court in appeal.

(8) For the purposes of this section, a "competent court means a court of the District Judge or in any area, .such court subordinate to the High Court as the State Government may, by notification in the Official Gazette, designate in this behalf.

18. Nocompensation for suspension or cancellation of licence. — Where any licence is suspended or cancelled under this Act, no person shall be entitled to any compensation or the refund of any licence fee.

19. Persons debarred from doing business during period of suspension or cancellation of licence.—A person whose licence has been suspended or cancelled in accordance with the provisions of this Act shall, during the period of suspension or cancellation, as the case may be, be disqualified from holding any licence ii) the State

20 Person whose licence is suspended or canceled not to apply without giving particulars of endorsement or disqualification.—No person whose licence has been endorsed under section 17 or who has been disqualified from holding a licence, shall apply for, or be eligible to hold, a licence without particulars of such endorsement or disqualification.

21. Transfer of licence to heir.—

(1) Where a licensee under this Act dies, any person claiming to be his legal representative may apply to the licensing authority for transferring in his name the licence standing in the name of deceased.

(2) Every such application shall be in such form and shall contain such particulars as may be prescribed.

(3) The licensing authority may, if it is satisfied that the applicant is in fact the legal representative of the deceased and that he is otherwise eligible to obtain a licence under this Act, transfer the licence in the name of the applicant after obtaining from him a declaration in the prescribed form.

Any licence transferred under sub-section (3) shall be deemed to have been granted to the applicant himself and shall be valid for the period for which it would have been valid if the licence had not been transferred find the provisions of this Act shall apply accordingly.

22. **Duty of money-lenders to keep accounts and furnish copies.—**

*(*1)Every money-lender shall keep and maintain a cash book, a ledger and a receipt book in such form and in such manner as may be prescribed.

(2) Every money-lender shall,—

(a) Deliver or cause to be delivered in the prescribed manner—

(i) to the debtor within three months from the date on which a loan is made, a statement in the prescribed form and in any recognized language showing in clear and distinct terms the amount and date of the loan and of its maturity, the nature of the security, if any, for the loan, the name and address of the debtor and of the money-lender and the rate of interest thereon and such other particulars as may be prescribed

Provided that no such statement shall be required to be delivered to a debtor if he is supplied by the money-lender with a pass-book which shall be in the prescribed form and shall contain an up-to-date account of the transactions with the debtor;

(ii) To the Assistant Registrar within the said period, a statement containing the particulars referred to in sub-clause (i);

(b) upon repayment of a loan in full, mark indelibly every paper signed by the debtor with words indicating payment of cancellation, and discharge every mortgage, restore every pledge, return every note and cancel or re-assign every assignment given by the debtor as security for the loan.

(3) Notwithstanding anything contained in sub-clause (ii) of clause (a) of sub section (2), the State Government may, by order in writing, permit such class of money-lenders as may be specified in the order to deliver or cause to be delivered to the Assistant Registrar a statement containing the particulars referred to in sub clause (i) of sub-section (2) in respect of all loans, made during every such period as may be specified in the order; and upon the issue of such order a money-lender electing to deliver a periodical statement as provided in this sub section shall deliver or cause to be delivered the same within a period of thirty days from the date of expiry of the aforesaid period.

(4) No money lender shall receive any payment from a debtor on account of any loan without giving him a clear anti complete receipt in the prescribed form for the payment and shall take the signatures of the debtor on the counterfoil of the receipt maintained for the purpose.

(5) No money-lender shall accept from a debtor any article as a pawn, pledge or security for a loan without giving him a plain signed receipt for the same with its (description, estimated value, the amount of the loan advanced against it and other particulars as may be prescribed. Such money-lenders shall maintain the duplicates of such receipts in a separate register.

COMMENTARY

Money advanced and documents, executed in 1967—Statement of accounts, not sent to debtor. Fresh documents executed in 1973 without showing interest and adjustments of money, repaid-Held, Sec. 22 & 23 not complied with.

In the first appellate court certain documents were sought to be produced under Order 41, R. 27, C.P.C. and the court having considered the implications of these documents held that these documents cannot save the plaintiff from the drastic consequences of dismissal to suit in as much as they relate to the year 1974 and 1976. It was then held that in the documents of 1975 and 1976, the rates af interest have not been shown nor any payments have been adjusted and it has not been shown for showing compliance of section 22 and 23 to the Act that any statement of accounts was sent to the latter. On these findings, the first appellate court after examining the document submitted by the plaintiff has held that sections 22 and 23 have not been complied with. Held, finding about non-compliance of sections 22 & 23 of the Act does not call for any interference (para 9).— Ramchandra vs. Prabhulal, 1982 Raj L.R 275

28

Rajasthan Money Lenders Act, 1963

23. Delivery of statement of accounts and copies thereof by moneylender.—(i) Every money-lender shall deliver or cause to be delivered every year to each of this debtors a legible statement of .such debtor's account signed by the money-lender or his agent of amount that may be outstanding against such debtor. The statement shall show —

(i) she amount of principal, the amount of interest and the amount of fees referred to in section 24, separately, due to the money-lender at the beginning of the year; (ii) the total amount of loans advanced during the year;

(iii) the total amount of repayments received during the year; and

(iv) the amounts of principal and interest due at the end of the year.

The statement shall be signed by the money-lender, or his agent, and shall be in any recognized language. It shall be in such form and shall be supplied to the debtor on or before such date as may be prescribed.

The money-lender shall, on or before the aforesaid date, deliver or cause to be delivered a copy of each statement to the Assistant Registrar.

(2) In respect of any particular loan, whether advanced before or after the date on which this Act comes into force, the money lender shall on demand in writing being made by the debtor at any time during the period when the loan or any part thereof has not been repaid and on payment of the prescribed fee supply to the debtor, or if the debtor so requires to any person specified in thatbehalf in the demand, a statement, in any recognized language, signed by the money-lender or his agent, and containing the relevant particulars specified in sub-section (I).

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

(4) For the purpose of this section, "year" means the year for which the accounts of the money-lender arc ordinarily maintai

24.Fees for certain statements supplied to debtor and Assistant Registrars--(I) A money-lender may recover from a debtor fees for the statements supplied under sub-section (2) or sub-section (3) of section 22 or sub-section (1) of section 23 to the debtor and to the Assistant Registrar.

(2) Such fees shall be recoverable at such rates and in such manner as prescribed, subject to the maximum of two rupees per debtor, year, irrespective of the number of statements supplied to the debtor or to the Assistant Registrar during the relevant year.

25. Debtor not bound to admit correctness of accounts—A debtor to whom a

statement of accounts of a pass book has been furnished under section 22 shall not be bound to acknowledge or deny its correctness and bis failure to do so shall not, by itself, be deemed to be an admission of the correctness of the accounts.

26. Procedure of court in suits regarding loans.—Notwithstanding anything contained in any law for the time being in force, in any suit to which this Act applies—

(a) a court shall, before deciding the claim on merits, frame and decide the issue whether the money-lender has complied with the provisions of section 22 and section 23;

[4][(b) if the court finds that the provisions of section 22 and section 23 have not been complied with by the money-lender in respect of the whole or any part of the claim, it shall dismiss —

(i) the whole suit with costs where such contravention has been in respect of the entire claim in the suit; or

(ii) so much of the claim costs proportionate thereto in respect of which the said provisions have not been complied with by the moneylender.]

Explanation.—A money-lender who has given the receipt or furnished a statement of accounts or a pass book in the prescribed form and manner, shall be held to have complied with the provisions of section 22 or section 23, as the case may be, in spite of any errors and omissions, if the court finds that such errors and omissions, are not material or not made fraudulently.

(a) Interpretation of statute—General principles discussed. Raj. Money Lenders Act, 1963 Ss. 11 & 26(b) as amended in 1976—Held, *amended provisions have retrospective effect.*

Sec. 1 and 26 were amended in 1976. In section 1, the Legislature expressly provided an exception of its application to pending cases, but no such exception was carved out in Section 26 (b) when the legislature acts at a particular point of time in legislating two provisions in the same Act and in one retrospective effect is avoided by making an exception and in the other drastic consequences are contemplated by not enacting such an explanation or exception, this court, while interpreting the law has got no option but to respect the wishes of legislature though seemingly it may create hardship to those money lenders who have already filed their suits and were not aware of the drastic 'consequences of non-compliance of the section of the Act. Such an intention of the legislature cannot be changed unless it lapse any legislative authority or become violative of any of the provisions of the constitution. None of the two contingencies contemplated have been shown to exist, as there is no challenge

[4]Whole of sub-section (b) of section 26 was substituted by section *4* of the Rajasthan Money Lenders Amendment Act, 1976 (Raj. Act No. 13 of 1976) Pub. in Raj. Gaz., Extra-ordinary, Part 1V-A, dated 13-2-1976 at pages 181 to 185.

to planery authority nor there is any violation of the constitutional provisions, General principal of interpretation of the statute is that the statute should be treated pros-pective and not retrospective, more so, when the provisions are penal in nature. However, it all depends upon the scheme of the Act, intention to enact a particular statute and merely on the basis of generalization when expressly by providing contra language in Section 11 in contrast to section 26 (b), the Legislature expresses its intention, this court cannot infer to the contrary (Para 5 *&* 6)—Ramchandra vs. Prabhulal, 1982 Raj. LR 275.

The word 'suit‘ includes pending suits—Court to dismiss suit if provisions of section 22 & 23 are not complied with.

Keeping in view the purpose and object or the reasons and spirit of the Act the provisions of sec. 26(b) of the Act as they stand after the amendment by the amending Act of 1976 will apply to the pending suits also and if sections 22 and 23 have not been complied with then the court has to dismiss the suit as the 'word' suit as used in amended sec. 26 (b) embraces within it the pending suits—Kanhaiyalal vs. Shri Lai and others, 1980 WLN 469—1980 RLW 301.

Sees. 22. 23 and 26—-Provisions of secs. 22 & 23 not complied with in respect of whole claim—Held, amended sec. 26 (b) to apply to pending cases.

The intention of the legislature has been clearly and undoubtedly expressed that the amended section 26 (b)is to apply to the pending suits. It is enjoined that the court shall dismiss the whole suit where it finds that the provision of sections 22 and 23 of the Act have not been complied with by the money-lender in respect of the whole claim—Ranchcrdass v. Malook Chand. 1980-WLN 580.

5[**27. Maximum amount of interest recoverable on loans and discharge of loans in certain cases.—(**1) No money-lender shall recover towards the interest in respect of any loan advanced by him, an amount in excess of the amount of principal.

(2) Any loan in respect of which the money-lender has realised from the debtor an amount equal to or more than twice the amount of the principal, shall stand discharged and the amount, if any, so realised in excess of twice the amount of the loan shall be refunded by the money-lender to the debtor :

Provided that no refund shall be made if such excess amount had been realised prior to three years from the date of commencement of the Rajasthan Money-lenders (Amendment) Act, 1976.]

5Substituted by section 5 of Rajasthan Act No. 13 of 1976, published in the Rajasthan Gazette, Part IV-A Extraordinary, dated 13-2-1976. Page 131 to 185

COMMENTARY

Conflict between sections 27 & 33 of the Act—There is no conflict or in consistency between the provisions of sections 27 and 33 of the Act.— Basti Ram vs. Ghewarchand, 1979 WLN 51=1979 RLW 50=AIR 1979 Raj, 1-48.

Retrospective effect.—Section 27 of the Act should he given retrospective effect AIR 1953 Bom. 420; (1982) 9 Q.B.D. 672; AlR 936 Bom. 37 AIR 1949 Ori. 37, relied on) AIR 1936 Cal. 334, AIR 1938 Nag. 112, 1968 RLW 33; SB Civil Revision No. 270 of 1969, decided by the Rajasthan of interpretation of the statute is that the statute should be treated prospective and not retrospective, more so, when the provisions are penal in nature. However, it all depends upon the scheme of the Act, intention to enact a particular statute and merely on the basis of generalisation when expressly by providing contra language in Section 11 in contrast

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S.27- Suit decided before promulgation of Act- Appeal pending when Act promulgated Law can be applied by Appellate Court.

The Appellate court is entitled to apply the law as in force at the decision by the Appellate Court (AIR 1938 Nag. 112, Explained and distinguished AIR 1941 FC 5 and AIR 1963 SC 358 relied on).

Held, the appellant is entitled to invoke section 27 of the Act in this appeal.

In this case the Act was promulgated after the decision of the suit and during the pendency of this appeal and a question arose whether the appellant could invoke section 27 of the Act in the appeal —Durgadas vs. Kanhiyalal and others, 1LR (1971)21 Raj. 1127=1971 RLW 50=1970 WLN 563.

S. 27 of the Act promulgated after decision of suit but during pendency of appeal the date of application is date of decree of trial Court

The relevant date with reference to which the principals of section 27 of the Act should be applied, should be the date of the trial court's decree (AIR 1969 SO 671, relied on) Durgudas vs. Kanhiyalal and others ILR (1971) 21 Raj. 1127=1971 RLW 50=1970 WLN 563.

28 Power of court to direct payment of decretal amount by installments.— Notwithstanding anything contained in the Code of Civil Procedure 1908 (Central Act V of 1908), the court may, at any time, on the application of a judgment debtor, after notice to the decree-holder, direct that the amount of any decree passed against him,

whether before or after the date on which this Act comes into force, in respect of a loan shall be paid in such number of installments and subject to such conditions, and payable on such dates, as, having regard to the circumstances of the judgment debtor and the amount of the decree, it considers lit:

Provided that nothing contained in this section shall apply to a decree passed under Order 34 of the First Schedule to the said Code.

29, Limitation on rates of interest. —(1) The State Government may, from time to time, by notification in the Official Gazette, fix the maximum rates of simple interest for any class of business of money-lending in respect of secured and unsecured loan.

(2)No money-lender shall charge or receive from a debtor interest at a rate exceeding the maximum rate fixed by the State Government under sub section (1).

(3) Notwithstanding anything contained in any law for the time being in force, no agreement between a money-lender and a debtor for payment of interest at rates exceeding the maximum rates fixed by the State Government under sub-section (I) shall be valid and no court shall, in any suit to which this Act applies, award interest exceeding the said rates.

(4) If any money-lender charges or receives from a debtor, interest at the rate exceeding the maximum rates fixed by the State Government under sub-section (i), he shall for the purpose of section 40. be deemed to have cont- ravened the provisions of this Act.

NOTIFICATIONS

Notification No. F. 23 (2) Revenue/D/54.

In exercise of the powers conferred by sub-section I of section 29 of the Rajasthan Money-Lenders Act, 1963 (Rajasthan Act 1 of 1964), the State Government hereby fixes the maximum rate of simple interest for any class if business of money-lending in respect of secured and unsecured loans to be NINE percent and TWELVE percent (per annum) respectively.

[Pub. in Raj. Gaz , Part IV-C, dated 1-10-1965].

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अधिसूचना संख्या प. 5(8) राज/ग्रुप 4/75, दिनांक 19–2–1975.

एस. ओ. 233ः—राजस्थान साहूकार अधिनियम 1963 राजस्थान अधिनियम 1 सन् 1964 की धारा 29 की उप धारा (1) द्वारा प्रदत शक्तियों के प्रयोग में तथा राजस्व विभाग की अधिसूचना संख्या एफ. 23(2) राजस्व डी 54 दिनांक 1—10—1965 में प्रकाशित हुए हैं का अतिक्रमण करते हुए राज्य सरकार एतद्द्वारा साहूकारी के कारोबार के किसी वर्ग के लिए प्रतिभूति या प्रतिभूति रहित उधारों के संबंध में साधरण ब्याज की अधिकतम दरें

क्रमशःग्यारह (11%) तथा चौदह (14%) निश्चित करती है।

[राज. राजपत्र भाग 4(ग), दिनांक 20—2—1975 के पृष्ठ 233]

COMMENTARY

Section 29(2)(3).—Section has no application to transaction entered into before the Act—Interpretation of statutes—Retrospective operation.

It is a fundamental rule of interpretation of statutes that no statute shall be construed to have a retrospective operation unless such a construction appears very clearly in the terms of the Act or arises by necessary and distinct implication. A statute is not to be construed to have a greater retrospective operation than its language renders necessary.

The question arose whether the rates of interest fixed by the Slate Government under section 29 would be applicable even to those transactions which had been entered into prior to the coming into force of the Act. It was observed that there is nothing in Section 29 to show that the legislature intended that the maximum fixed by the State Government under Sub-sec. (1) of section 29 shall also apply to those transactions which had been entered into prior to the coming into force of the Act.

It was held that section 29 has not been made retrospective and does not apply to transactions entered into before the Act.

It was held that s. 29 has not been made retrospective and does not apply to transactions entered into before the Act came into force (AIR 1953 Bom. 125 relied on)—Nanuram vs. Vishwamitra, ILR (1968) 18 Raj. 534= 1968RLW358.

Excessive interest—What is.—The term *excess interest* is a relative term and whether a particular rate of interest is excessive or not is to be determined with reference to the current law (such as Raj M.L Act, 1963) prevalent at the time for such determination.—Balchand Mahta vs Munshi Lal Raut, **AIR** 1955 Patna 494

The rate of interest may not be excess according to the prevailing custom or in respect to the Indian Interest Act or the Usurious Loans Act, it will be excess if it exceeds the rate so notified in the gazette.

The scale of determination is quite simple. The notification as to of interest is final scale to declare an excess rate of interest for the purpose of this Act.

30. Prohibition of charge for expenses on loans by money -lenders. — No money-lender shall receive from a debtor or intending debtor any sum other than reasonable costs of investigating title to the property, costs of stamp, registration of documents and other usual out-of-pocket expenses in cases where an agreement

between the parties includes a stipulation that property is to be given as security or by way of mortgage and where both parties have agreed to such costs and reimbursement thereof, or

where such costs, charges or expenses are leviable under the provisions of the Transfer of Property Act, 1882 (Central Act IV of 1882) or any other law for the time being in force.

31. Notice and information to be given on assignment of loans. —

(1) Where a loan advanced, whether before or after the date on which this Act comes into force, or any interest on such loan or the benefit of any agreement made or security taken in respect of such loan 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 —

(a) give the assignee notice in writing that the loan, interest, agreement or security is affected by the operation of this Act,

(b) supply to the assignee all information necessary to enable him to comply with the provisions of this Act, and

(c) give the debtor notice in writing of the assignment supplying the name and address of the assignee,

(2) Any person acting in contravention of the provisions of subsection (1) shall be liable to indemnify any other person who is prejudiced by the contravention.

32Application of Act as respects assignees.—

(1) Save as hereinafter provided, where any debt due to a money-lender in respect of money lent by him, whether before or after the date on which this Act comes into force or 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, has been assigned, the assignee shall be deemed to be the money-lender and all the provisions of this Act shall apply to such assignee as if he were the money-lender.

(2) Notwithstanding anything contained in this Act or in any other law for the time being in force, where for any reason any such assignment is invalid and the debtor has made any payment of money or transfer of property on account of any loan which has been so assigned, the assignee shall in respect of each payment or transfer be deemed to be the agent of the money lender for all the purposes of This Act.

33. Reopening of transactions or accounts already taken — Notwithstanding anything contained in any law for the time being in force, the court shall, in any suit to which this Act applies, whether heard *ex party* or otherwise.

(a) re-open any transaction or any account already taken between; the parties;

(b) taken account between the parties;

(c) reduce the amount charged to the debtor in respect of any excessive interest;

(d) if on faking accounts it is found that the money-lender has received more than what is due him, pass a decree in favour of the debtor in respect of such amount:

Provided that, in the exercise of these powers, the court shall not—

(i) re-open any adjustment or agreement purporting to close previous dealings and to create new obligations which have been entered into by the parties or any person through whom they claim at a date more than six years from the date of the suit;

(ii) do anything which affects any decree of a court.

Explanation - For the purpose of this section excessive interest means interest at a rate which contravenes any of the provisi

COMMENTARY

Comparison between sections 27 & 33 of the Act. — No inconsistency between Sections 27 and 33. For determining quantum of interest transaction can be reopened Principal being Rs 1689/- all and interest of Rs.1500/ already paid-Held, plaintiff can claim Rs. 189.11 towards interest.

Section 2(11) and for determining the quantum of in interest, the transaction between the debtor and the creditor can be ripped up and reopened and to me there does not appear to be any conflict or inconsistency between the provisions of sections 27 and 33 of the Rajasthan Act.

The principal of the loan is Rs. 1689/-. The Plaintiffs can only claim a sum of Rsl80.1l/- by way of interest and beyond that the defendant is not liable to pay interest. The total liability with regard to interest can be to the extent of the amount of Rs. 1689.11/- and a sum of Rs. 1500/- has already been paid by the defendant to be appropriated as interest. Thus the plaintiffs are only entitled to a decree of Rs. 1879.6/- Basti Ram v. Ghewarchand 1979 WLN 51= 1979 RLW 20=AIR 1979 Raj. 148.

37 Raja

34. Application to court by debtor for taking account.-- (1) Any debtor may make an application at any time to the court, whether the loan has or has not become payable, for taking accounts and for declaring the amount due to the money-lender.

(2) Such application shall be in the prescribed form and accompanied by the prescribed fee.

(3) On receipt of such application, the court cause a notice shall of the application to be given to the money-lender.

(4) On the date fixed for the hearing of the application or on such dale to which the hearing may be adjourned from time to time, the court shall make an inquiry and shall, after taking an account of the transactions between the parties, pass an order declaring the amount, if any, still payable by the debtor to the money-lender, in respect of the principal and interest, taking accounts under this section the court shall follow IP visions of sections 22 to 33 and section 36.

35. Deposit In court of money due to money-lender -- (1) At any time debtor may tender to a money-lender any sum of money due from to the money-lender in respect of a loan by way of principal, interest or both or may remit to him such sum of money by money-order.

(2) If the money-lender refuses to accept any sum so tendered or remitted, the debtor may deposit the said sum in court to the account of the money-lender.

(3) The court shall thereupon cause written notice of the deposit to be served on the money-lender, and he may, on presenting a petition, verified in the manner provided for the verification of a plaint and stating the sum then due in respect of the loan and his willingness to accept the money so deposited, receive the same and appropriate it first towards the interest and the residue, if any, towards the principal:

Provided that in accepting any sum deposited under this section, the money-lender shall not be bound by any statement made by the debtor while depositing the same.

(4) A deposit made under sub-section (2) shall operate as an acquaintance for the amount so deposited in the same manner and to the same extent as if that amount had been received by the money-lender to whose Credit the deposit was made, on the date of such deposit.

36. When interest to be paid for entire month.—Notwithstanding any agreement between the parties or any law for the time being in force, when a statement is delivered or pass book is supplied to a debtor under section 22 or if accounts are taken under section 34 or a tender or remittance is made by a debtor to a money lender in respect of a loan under section 35 before the tenth day of a calendar month, the interest due shall be calculated as payable for fifteen days of the said month and if the statement is delivered or pass book is supplied or accounts are taken or tender or remittance is made on any subsequent day, then for the entire calendar month irrespective of the fact that such statement is delivered or pass book is supplied or such accounts are taken or such tender or remittance is made on any such day.

37. Money-lenders to exhibit their names over shops --Every money lender

38 Raj

shall always keep exhibited over his shop or place of business, in Hindi written in Devnagri script his name with the word 'money-lender' and the number of his licence.

38. Entry of wrong sum in bound etc. to be an offence. -No money lender shall take any promissory note, acknowledgement, bond or other writing which does not state the actual amount of the loan or which states such amount wrong!; or take from any debtor any instrument in which blanks are left to be filled after execution.

(2) Whoever contravenes the provisions of sub-section (1) shall, on conviction, be punishable with fine which may extend to one thousand rupees or with imprisonment of either description which may extend to six months or with both.

39. Penalty for molestation—Whoever molests, or abets the molestation of a debtor for the recovery of a debt due by him to a creditor shall, on conviction, be punishable with imprisonment of either description which may extend to three months or with fine which may extend to five hundred rupees or with both.

Explanation.— For the purpose of this section, a person who, with intent to cause another person to obtain from doing any act which he has a right to do or to do any act which he has a right to abstain from doing —

(a) obstructs or uses violence to or intimidates such other person, or

(b) persistently follows such other person from place to place or interferes with any property owned or used by him or deprives him of, hinders him in, the use thereof, or

(c) loiters near a house or other place where such other person resides or works or carries on business or happens to be or does any act calculated to or annoy or intimate such other person, shall be deemed to molest such other person,

Provided that a person who goes to such house or place in order merely to obtain or communicate information shall not be deemed to molest.

40. Punishment for contravention of sections 5, 22, 23, 29, 30 and 37.— Whoever fails to comply with, or acts in contravention of, any provision contained in sections 5, 22, 23, 29, 30 and 37 shall be punishable—

(a) for the first offence, with fine which may extend to two hundred rupees, (b) for the second or subsequent offence, with fine which may extend to five hundred rupees.

41. Offences by corporation etc.—If the person contravening any of the provisions of this Act is an undivided Hindu family or a company or an unincorporated body, the person responsible for the management of the business of such family, company or body shall be deemed to be guilty of such contravention.

42. Cognizance of certain offence.—No court shall take cognizance of any offence punishable under section 40 for contravening the provisions of sections 5, 22 or 23, except with the previous sanction of the Registrar.

43. Compounding of offences.—(1) The offences punishable under various sections specified in the first two columns of the table next following may be compounded by the persons mentioned in the third column of that table:—

Offence	Section applicable	Person by whom offence may be compounded
Receiving payment without a receipt or accepting any article as pawn or pledge or security for a loan without giving a plain signed receipt. Charging or receiving interest at a rate exceeding the maximum rates fixed under sub-section (1) of section 29 Charging any sum for expenses on loan by money-lenders. Entering of wrong sum in bond etc. Molestation	22 (4) and (5), 40 29,40 30,40 38 39	The debtor by whom or on whose behalf payment is made or by whom the article is pawned, pledged or given as security. The debtor from whom the interest is charged or received. The debtor from whom any sum for expenses on loan is charged. The debtor from whom the document is taken. The person molested or the molestation of whom was abetted.

39 Raja

(2) The Registrar may, either before or after the institution of proceedings for any offence punishable under section 40, accept from any person charged with such offence by way of composition of the offence—

(a) for contravening the provision of section 22, sub-section (2), or section 23 a sum not exceeding fifty rupees;

(b) for contravening the provisions of section 5, a sum not exceeding five hundred rupees in addition to the arrears of licence fees payable by him under this Act.

(3) The composition of an offence under this section have the effect of an acquittal of the accused with whom the offence has been compounded,

44. Arrest and imprisonment in execution of decree for money against agricultural debtors abolished.—Notwithstanding any taw for the time being in force, no debtor who cultivates land personally and whose debts do not exceed fifteen thousand rupees shall be arrested or imprisoned in execution of a decree for money passed in favour of a money-lender, whether before or after the date on which this Act comes into force.

Explanation:—"To cultivate personally'* has the meaning assigned to it by clause (25) of section 5 of the Rajasthan Tenancy Act, 1955 (Rajasthan Act 3 of 1955).

45. Every officer to be public servant.-Every officer of the State Government acting under the provisions of this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code,1860 (Central Act XLV of

40 Raja

1860).

46. Protection to persons acting under this Act.-No suit prosecution or proceeding shall lie against any officer for anything which is In good faith done or intended to be done under this Act.

47. Provisions of Rajasthan Act 28 of 1957 saved.—Nothing in the Act shall affect anyof the provisions of the Rajasthan Relief of Agricultural Indebtedness Act, 1957 (Rajasthan Act 28 of 1957), and no court shall entertain or proceed under this Act with any suit or proceeding relating to any loan in respect of which proceedings can be taken under the said Act.

COMMENTARY

Rajasthan Relief of Agricultural Indebtedness Act, 1957, Sec. 6—Respondent a member of scheduled caste proceedings u/s 6 could be initialed to determine debt—Held, suit inrespect of such loan is barred and District Judge was justified in returning plaint.— *Hazari Mal vs. Pusaram***, 1917WLN (UC)449.**

48. Power to make rules.—(1) The State Government may make rules for carrying out the purposes of this Act.

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

(a) the form of the register under section 4;

(b) the form of the application for a licence, Use further particulars to be included therein and the manner of payment of licence fee under section 6;

(c) form of application for renewal of licence and further particulars to be included therein;

(d) the manner inwhich a duplicate licence may be obtained and the feeto be paid under sub-section (8) of section 6;

(e) the form of the application and the fee to be paid under the provision of proviso tosub-section (1) of section 8;

(f) the form and conditions of the licence, the manner of payment of licence fee and the manner of inquiry under section 7;

(*g)* the form of theapplication and the particulars to be contained therein, and the form of the declaration, to be presented under section 21;

(h) the form of each book and ledger andthe manner in which they should be maintained under sub-section (1) and the other particulars to be; prescribed under sub-section (5) of section 22;

(i) the manner and

form inwhich .statement under sub-section (1) of section 22 may be delivered to the Assistant Registrar and further particular to be indicated therein;

(j) the form of pass-book to be supplied by themoney-lender under the proviso to part (i) of clause (a) of sub-section (2) of section 22;

(k) the form of the statement of accounts to be furnished and the date before winch it is to be furnished under sub-section (1) andthe sum of expenses to be paid under sub-section (3) section 23;

(l) the rates at which and the manner in which fees may be recovered under

41 Raja

section 24;

(m) the form of application andthe fee to be paid under sub-section (1) of section 34;

(n) the rates at which and the manner in which fees may be paid for the supply by the Assistant Registrar, Registrar or Registrar General of copies of documents in the record of any application, inquiry or appeal under this Act, and the persons lo whom such copies may be supplied,

(o) any other matter which is required to be or may be prescribed under this Act or any matter for which there is no provision or insufficient provision in this Act and for which Provision is, in the opinion of the State Government, necessary for giving effect to the provisions of this Act.

(3) The rules made under this section shall, subject to the condition of previous publication, be published in the Official Gazette.

(4) All rules finally made under this Act shall be laid as soon as may be after they are so made, before the House of the State Legislature, while it is in session, for a period of not less than fourteen days which may be comprised in one session or in two successive sessions and, if, before the expiry of the session in which they are so laid or of the session immediately following, the House of the State Legislature make any modification in any of such rules or resolves that any such rule should not be made, such rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however that any such modification or announcement shall be without prejudice to the validity of anything previously done thereunder,

49. Repeal.—Upon the commencement of this Act, all corresponding laws in force in any part of the State shall stand repealed:

Provided that such repeal shall not effect —

(a) the previous operation of any Act so repealed or anything duly done or suffered thereunder; or

(b) any right, privilege obligation or liability incurred under any Act so repealed; or

(c) any penalty, forfeiture or punishment incurred in respect of any offence committed against any Act so repealed; or

(d) any investigation, legal proceedings or remedy in respect of any such right. privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;

(e) and any such investigation, legal proceeding or remedy may be instituted continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if it is Act had not been passed:

Provided further that, subject to the preceding proviso, anything done or any action taken (including rules, delegations and authorizations made registers maintained, registration certificates and licenses granted and notifications issued) under a provision of any Act so repealed shall, in so far as it is not inconsistent with any provision of this Act, be deemed to have been done or taken under the corresponding

4

provision of this Act, and shall continue to be in force accordingly, unless and until altered, amended or superseded by anything done or any action taken under this Act.

THE SCHEDULE

(See section 8}

Any offence punishable under any of the following section Indian Penal Code, 1860 (Central Act XLV of 1*860),* namely:—

Sections 379 to 382, 384 to 389, 392 to 404, 406, 411 to 414, 417 to 424, 450 *(with* intent to commit theft) 455, 457 (with intent to commit theft 458 to 462, 465, 477 and 477A.

APPENDIX A

Fees

Description of document Or matter 1	Amount of fees 2	Mode of payment of fees 3
Licence fee under section 6(4) of the Act		
1. Licence fee for single place.	Rs.15/-	Cash
2, Licence fee for more than one place	Additional fee of Rs. 6/- per additional place	Cash
3. Renewal fee u/section 6 (6) when made in time Late renewal	Same as above Double the fee	Cash Cash
3 A. Duplicate licence fee	Rs.10/-	Cash
4. Fee for supply of statement by the debtor u/s 23 (2) (See rule 18 (4))	Rs.00.50 nP.	Cash
5. Expenses payable by the debtor to the Money lender for copies 100 words or part 100 words or part (for tabular Statement) Cost of the paper	Rs.00.05 Rs.00.13 Rs.00.02	Cash Cash Each paper, Cash
6. Fee for .supply of Statement or copies under section 22(2) or 23(i)	Rs.00.12	Each statement, Cash

7. Fee for each *pass* book containing not less than 8 pages supplied under Section 22 (2) or 23 (i).	Rs.00.50	Each-cash
8. Fee for application made by the debtor for taking of accounts from the M. L. under Section 34.	Rs.1.00	Stamp
9. Fee for appeal under & section 8(3), 9 (3) and 13(5).	Rs.2.00	Stamp
10.Fee for revision before the High Court Valuation up to Rs. 1000/- Exceeding Rs. 1000/-	Rs.5.00 Rs.10.00	Stamp of court fee Stamp of court fee
11. Miscellaneous applications in any office or court under this Act which is cot a High Court. Before the High Court.	Rs.00.50 Rs.2.00	Stamp of court fee Stamp of court fee
12. Fees for supply of copies to a person from the Assistant Registrar, Registrar and the Registrar general or officer under the Act. (Rule 23)	Rs.00.05	For 25 words or part payable in cash

(ii) For certified copies.	Same rate as given above plus Rs.00.50 per hundred words as comparing fee. Payable in cash	
(iii) Copies in tabular form.	Double the rate as given above	
(iv)Search fee of the documents.	Rs.1.00	For each year of search, payable in cash

13.Appeal from an order— before the High Court. before other courts.	 Rs.10.00 Rs.1.00	 Stamp of court fee Stamp of court fee
14. Vakalatnama. before the High Court. before other courts.	 Rs.2.00 Rs.00.50	 Stamp of court fee Stamp of court fee
15.Petition before the High Court under Art 226 and 227.	Rs.25.00	Stamp of court fee

APPENDIX B

Limitation of time under the Act

1. Application for grant of a licence by a money lender on commencement of the Act.	Six months	From the date this Act come into force i.e. 1-10-1966
2. Application by a new money lender who starts business after the commencement of this Act.	Immediately	Before such date when such moneylender commences the business of advancing loans.

45 Rajasthan

3. Application for renewal of existing licenses. 4. Appeal against the order under section 8 (3), 9 (3) and 13 (5) of the Act, 5. Appeal against the order of the competent court to the High Court under section 17(4). 6. Any revision before the High Court. 7. Quarterly statements to be supplied by the money lender to the debtor under section 22 (2A i). 8. Copy of the quarterly statement which is supplied to the debtor by the money lender is to be delivered to the Assistant Registrar also under sec. 22 (2A ii). 9. Statement by specified class of M.L. under section 22(3).	2 months 60 days 90 days 90 days 3 months 3 months 30 days	Before the date when such licence expires. From the date such order is communicated to the appellant. Passed by the competent court. From the date such order, sought to be revised, is passed. From the date the loan to such debtor is advanced by the Ml. Same as above. From the date of the expiry of such quarterly period.
10. Annual statement of such account delivered by M. L. to the debtor under section 23(i) and rule 18(i)	2 months	From the close of the year
11. Copy of such annual statement to be delivered to the Assistant Registrar by the M.L.23 (1).	2 Months	Same as above

12. Application for recording change in nature and constitution of the money lender‘s concern. A. Introducing or terminating any partner in the concern (Rule 6). B. or appointing new manager of the concern-Rule 6.	7 days 7 days	From the date such change commences. From the date such change in management commences.
13. Change in address of the business concern-(Rule 7).	7 days	From the date such change of address commences

Rajasthan Money Lenders Act, 1963

(See Section 8)

Any offence punishable under any 6f the following sections of the Indian Penal Code, 1960 (Central Act XLV of 1860) namely:—

Sections 379 to 382, 384 to 389, 392 to 404, 406, 411 to 414, 417 to 421, 450 (with intent to commit theft), 455, 457 (with intent to commit theft) 458 to 462, 465 to 477 and 477-A.

APPENDIX C

THE SCHEDULE

(*See section 8)*

Any offence punishable under of the following sections of the Indian Penal Code, 1960 (Central Act XLV of 1860) namely:-

Section 379 to 382, 384 to 389, 392 to 404, 406, 411 to 414, 417 to 421, 450 (With intent to commit theft), 455, 457 (With intent to commit theft) 458 to 462, 465 to 477-A

CHAPPTER XVII-OFFENCES AGAINST PROPERTY.

Section of I.P.C 1	Scheduled Offence specified in the M.L. Act, 1964 2	Whether the police may arrest without warrant or not. 3	Whether a warrant or a summon shall ordinarily issue in the first instance.	Whether bailable or not 5	Whether Compoundable or not. 6	Punishme under th Indian Pe Code 7
379	Theft	May	Warrant	Not	Compoundable	Imprison

		arrest without warranty		bailable	when the value of the property does not exceed two hundred and fifty rupees and permission is given by the Court before which the prose-	of eith descriptio years or f both
380	Theft in a building tent or vessel.	Ditto	Ditto	Ditto	(Not compoundable)	Imprisonm of eith descriptio 7 years a
381	Theft by clerk or servant of property in possession of master or employer	Ditto	Ditto	Ditto	Same as section 379	Ditt
382.	Theft preparation having been made for causing death, or hurt, or restraint, in order to the committing of such theft, or to	Ditto	Ditto	Ditto	(Not compoundable)	Rigorous imprisonm for 10 yea and fin
	committing it, or to retaining property taken by it					
			Of Extortion			
384.	Extortion	Shall not arrest without warrant.	Warrant	bailable	(Not Compoundable).	Imprisonm of eith description years, or fi or both
385	Putting or attempting to put in fear of injury, in order to commit	Ditto	Ditto	Ditto	Ditto	Imprisonm of eith descriptio 2 years, o fine, or bo

386	Extortion by putting a person in fear of death or	Ditto	Ditto	Ditto	Not bailable	Imprisonm of eith descriptio 10 years, a
387	Putting or attempting to put a person in fear of death or grievous hurt in order to commit	Ditto	Ditto	Ditto	Ditto	Imprisonm of eith descriptio years, and fine
388	Extortion by threat of accusation of an offence punishable with death, (Imprisonment for life), or imprisonment for 10 years. If the offence threatened be an unnatural offence	Shall not arrest without warrant Ditto	Warrant Ditto	Bailable Ditto	(Not comoundable) Ditto	Imprisonm of eith descriptio 10 years, a fine (imprison for life).
389	Putting a person in fear of accusation of offence punishable with death, (imprisonment for life), or with imprisonment for 10 years in order to commit extortion. If the offence	Ditto	Ditto	Ditto	Ditto	Imprisonm of eith descriptio 10 years a fine
	unnatural offence	Ditto	Ditto	Ditto	Ditto	(Imprison for life).

Of Robbery and dacoity

392	Robbery	May arrest without warrant	warrant	Not bailable	Not compoundable	Rigor imprison for 10 ye and fi
393	Attempt to commit robbery	Ditto	Ditto	Ditto	Ditto	Rigor imprison for 14 ye and fi
394.	Person voluntarily causing hurt in committing or attempting to commit robbery or any other person jointly concerned	Ditto	Ditto	Ditto	Ditto	(Impriso for lif rigor impriso for 10 and f
395.	Dacoity	Ditto	Ditto	Ditto	Ditto	Dit
396.	Murder in dacoity	May arrest without warrant,	Warrant	Not Bailable	Not compoundable	Deat (Imprison for life rigoro imprisonm for 10 y
397.	Robbery or dacoity with attempt to cause death or grievous	Ditto	Ditto	Ditto	Ditto	Rigor imprison for not than 7 ye
398.	Attempt to commit robbery and dacoity when armed with deadly	Ditto	Ditto	Ditto	Ditto	Dit

399.	Making preparation to commit dacoity	Ditto	Ditto	Ditto	Ditto	Rigor imprison for 10 ye and fine
400.	Belonging to a gang of persons associated for the	Ditto	Ditto	Ditto	Ditto	(Impriso for life rigor impriso for 10
	purpose of habitually committing dacoity					and f
401	Belonging to wandering gang of person associated for the purpose of habitually committing	Ditto	Ditto	Ditto	Ditto	Rigor imprison for 7 yea fine
402	Being one of five or more person assembled for the purpose of committing	Ditto	Ditto	Ditto	Ditto	Dit

Of Criminal Misappropriation of Property

403.	Dishonest misappropriation of moveable property or converting it to	Shall not arrest without warrant	Warrant	Bailable	(Compoundable when permission is given by the Court before which the	Imprisonm of eith descriptio years or fi or both
	use.				pending.	

404.	Dishonest misappropriation of property knowing that it was in possession of a deceased person at his death, and that it has not since been in the possession of any person legally entitled to it.	Shall not arrest without warrant	warrant	Bailable	Not compoundable	Imprisonm of eith descriptio 3 years a fine

of Criminal Breach of Trust

406.	Criminal, breach of trust.	May arrest without warrant	Warrant	Not Bailable	(Compoundabl e when the value of the property does not exceed two hundred and fifty rupees and permission is given by the court before which prosecution is	Imprisonm t for eith descriptio years or f or both.

Of the receiving of stolen property

411	Dishonesty receiving stolen property knowing it to be stolen.	May arrest without warrant	Warrant	Not bailable	Not compoundable	Imprisonm of either descriptio years or fi or both
412	Dishonesty receiving stolen property knowing that it was obtained by	May arrest without warrant	Warrant	Not bailable	Not compoundable	(Imprison for life imprison for 10 y and fi

413	Habitually dealing in stolen property	Ditto	Ditto	Ditto	Ditto	(Imprison for life imprisonm eithe descripti 10 years a
414	Assisting in concealment or disposal of stolen property knowing is to be stolen.	Ditto	Ditto	Ditto	Ditto	Imprisonm of either descriptio years or fi or both

Of checking

417	Cheating	Shall not arrest without warrant	Warrant	Bailable	(Compoundabl e when permission is given by the court before which the prosecution is	Impriso t of ei descripti year or bot
418	Cheating a person whose interest the	Ditto	Ditto	Ditto	(Compoundabl e when permission is given by the	Impriso t of ei descripti years or
	was bound either by law or by legal contract to				which the prosecution is pending.)	
419	Cheating by persontion.	May arrest without warrant	Ditto	Ditto	(Compoundabl e when permission is given by the court before which the prosecution is	Di

420	Cheating and thereby dishonesty including delivery of property, or the making alteration or destruction of a valuable security	May arrest without warrant	Warrant	Bailable	(Compoundabl e when permission is given by the court before which the prosecution is pending.)	Imprisc t of ei descripti years fin

of Fraudulent Deeds and Disposition of Property

421	Fraudulent removal or concealment of property, etc. to prevent distribution amongst	Shall not arrest without warrant	Warrant	Bailable	(Compoundabl e when permission is given by the court before which the prosecution is	Imprison of eit descript 2 years fine or
422	Fraudulently preventing from his creditors a debt or demand due to the	Ditto	Ditto	Ditto	Ditto	Di
423	Fraudulent execution of deed of transfer containing a false statement of	Ditto	Ditto	Ditto	Ditto	Di

424	Fraudulent removal or concealment of property, of himself, or any other person, or assisting in the doing thereof, or dishonestly releasing any demand of claim in which	Ditto	Ditto	Ditto	Ditto	Di

Of Criminal Trespass

451	House trespass with intent to commit theft	May arrest without warrant	Warran t	Not Bailable	Not Compoundable	Imprison nt of eit descript for 7 ye and fin
455	Luking house-trespass or house breaking after preparation made for	Ditto	Ditto	Ditto	Ditto	Imprison of eith descripti 10 years fine
	assault etc.					
457	Luking house-trespass or house-breaking by night in order to the commission of an offence of	Ditto	Ditto	Ditto	Ditto	Imprison of eith descripti 14 years fine
458	Lurking house-trespass or house-breaking by high after preparation made for causing hurt	Ditto	Ditto	Ditto	Ditto	Ditt

459	Grievous hurt caused whilst committing lurking house-trespass or house breaking	Ditto	Ditto	Ditto	Ditto	Imprison nt for lif imprison for eith descript for 10 y
460	Death of grievous hurt caused by one of several persons jointly concerned in house-breaking	Ditto	Ditto	Ditto	Ditto	Ditt

461	Dishonestly breaking open or unfastening any closed receptacle containing or supposed to contain	Ditto	Ditto	Bailabl e	Ditto	Imprison nt of eit descript for 2 yea fine or b
462	Being entrusted with any closed receptacle containing or supposed to contain any property and fraudulently opening the	May arrest without warrant	Warran t	Bailabl e	Not compoundable	Imprison nt of eit descript for 3 yea fine or b

Chapter XVII – Offence Relating to Document to trade or property marks.

465	Forgery	Shall not arrest without warrant	Warrant	Bailable	Not compoundable	Imprison of either description years or fi or both

477	Fraudulentl y destroying or defacing or attempting to destroy or deface, or erecting, a will, etc.	Ditto	Ditto	Not Bailable	Ditto	(Imprison t for life imprisonm of eithe description 7 years a fine.
477 A	Falsification of accounts	Ditto	Ditto	Bailable	Ditto	Imprison of either description years or fi or both

THE RAJASTHAN MONEY-LENDERS RULES, 1965

CONTENTS

Notification
Rules
1. Short title
2. Definitions
   (a) Act
   (b) Form
   (c) Section
3. Register of Money lenders
4. Display of list of money lenders
5. Application for grant or renewal of licence
6 Change in particulars or management
7. Change of address
8. Procedure for summary inquiry u/section 7
9. Form of licence
10. Manner of payment of licence fee
11. Reasons for refusing to grant licence to be communicated to applicant 12. Form of application for removal of disqualification and fee therefor
13. Display of licence
14. Issue of Duplicate licence
15. Procedure for inquiry under section 13
16. Procedure for effecting transfer of a licence when a licensee dies
17. Forms of cash book, ledger and statement and receipts under section 22
18. Annual statement of accounts to be delivered by Money Lender to Debtor u/section 23
19. Fees for supply of statements or pass books
20. Form of pass book
21. Notice & information to be given on assignment of loan
22. Form of application u/sect

23. Copies of documents on payment of fees
24. Form of Summons

FORMS I TO 23

THE RAJASTHAN MONEY LENDERS RULES, 1965

[Notification No. F. 23 (2) Rev. D/54, dated 1-9-65, published in Rajasthan Gazette, Part 1V-C, Extraordinary, dated 1-9-65]

In exercise of the powers conferred be section 48, of the Rajasthan Money-lenders Act, 1963 (Rajasthan Act 1 of 1964), read with sections 4, 5, 7, 8, 10, 13, 21, 22, 23, 24, 26 and 34 thereof, the State Government hereby makes the following rules the same having been previously published as required by sub-section (3) of section 48 of the said Act, namely;—.

1. Short Title: - (1) These rules may be called the Rajasthan Money Landers Rules, 1965.

(2) These rules may come into force on the 1s day of October, 1965. **2.**

Definitions:- In these rules, unless the context otherwise requires.-

a) *"Act"* means the Rajasthan Money-Lenders Act, 1963:

b) ―*form*‖ means a form appended to these rules; and

c) *"Section"* means a section of the Act.

3. Register of money-lenders:- The register of money-lenders required to be maintained under section 4 shall be in

form no. 1.

4. Display of list of licensed money lender: - Every Assistant Register shall display on a notice board in his office a list of money lenders licensed to carry on the business of money-lending in the area under his jurisdiction. Such list shall contain the addresses of the money lenders.

5. Application for grant or renewal of licence:- A money-lender desiring to carry on the business of money-lending in any area shall make an application in

form No. 2 to the office assistant Register during office hours either personally by the applicant through an agent duly authorized in writing in this behalf or sent by registered post addressed to the assistant register.

6. Change in partnership or management:- If during the currency of a licence, a new partner is taken up or a person is appointed as responsible for the management of the business of money-lending the money lender shall, within seven days, communicate to the Registrar the name of the partner to taken up or of the person appointed ; and shall satisfy the registrar that the new partner or the person appointed is not himself disqualified from holding a license on any of the grounds mentioned in section 8.

7. Change of address:- A money-lender shall communicate to the registrar any change in his address giving full details of the new address within seven days of such change.

8.Procedure for summary inquiry under section 7.- On the receipt of an application for the grant or renewal of a licence , the Assistant Registrar shall make the summary enquiry under section 6 by examing the money lending or such other persons as he may have deem fit, by calling for such information from the applicant as he considers necessary and by inspecting or causing to be inspected such accounts and documents as he may deem fit in order to satisfy himself about the bonafides and conduct of the applicant. If from the examination made for information supplied the assistant register is not so satisfied, he may take further steps to satisfy himself. The Assistant Registrar shall maintain a record of such inquiry and shall sign below the same. The record shall contain a brief memorandum of the substance of evidence taken and a summary of the conclusion regarding the fact elicited during the inquiry.

form No. 3.

10. Manner of payment of licence fee.—(I) The licence fee payable under section 6 shall be paid in cash at the time of presenting the application, or by remitting it by postal money order addressed to the Assistant Registrar, or by

crediting to the Government account at a treasury, sub-treasury or bank authorized by the Rajasthan Government 10 transact business on its behalf, and forwarding the receipt of the postal money-order or the receipted challan to the Assistant Registrar along with the application.

(2) The Registrar, while forwarding copies ofthe licence for the principal place and the application to other Registrar or Registrars shall make an endorsement in token of having received the requisite licence fee.

11 Reasons for refusing to grant licence to be communicated to applicant— If a Registrar refuses to grant a licence, he shall communicate to the applicant his reasons for so doing,

12. Form of application for removal of disqualification and fee there for.—An application for removing a disqualification referred in sub-clause (ii) of clause (d; of section 8 shall be made in

Form No 4 to the Secretary to the Government of Rajasthan in the Revenue Department. A fee of ten rupees shall be deposited in the Government treasury and the receipt (challan) thereof shall be forwarded with the application.

13. Display of licence,—Every money lender shall exhibit his licence in a prominent place on the premises where he carries on the business of money-lending

14. Issue of duplicate licence—(I) When a licence granted to a money-lender is lost, destroyed, or torn or otherwise defaced in such a manner as to render it illegible, the money-lender may make an application to the Registrar, through the Assistant Registrar concerned, for the grant of a duplicate licence.

(2) Where a duplicate licence is required on the ground that the original licence is torned or defaced the money-lender shall surrender the original licence to the Registrar along with the application made under sub-rule (1).

(3) An application under sub-rule (i) shall be accompanied by a fee of ten rupees. The fee shall be paid in the manner prescribed in rule 10.

(4) On receipt of such application, if the Registrar is, after making such inquiry as may be deemed necessary, satisfied that a duplicate licence may be issued to the money-lender, he shall issue a duplicate licence and direct the Assistant Registrar to make a note of the issue of such a duplicate licence to the money-lender against his name in the register.

(5) The duplicate licence so issued shall bear on its face the number and date of the original licence and shall also bear the word "Duplicate".

15. Procedure for inquiry under section 13.—The Registrar, on receipt of an application for cancellation of a licence under section 13, shall examine the applicant and such other persons as he may deem fit and if he is satisfied that the *prima facie* case is made out, he shall give a notice in writing to the money-lender asking him to show cause why his licence may not be cancelled, and after hearing both the parties and examining such witnesses of either side as he may consider necessary, shall pass necessary orders thereon in accordance with the provisions contained in sub-section (3) and (4) of section 13.

16. Procedure for affecting transfer of a licence when a licensee dies.-

66 Rajasth

(1) Any person claiming to *be* the legal representative of a deceased licensee may apply to the licensing authority in

Form No. 5 for transferring in his name the licence standing in the name of the deceased.

(2) A certificate of death issued by the Village Panchayat or the Municipal Board or Council concerned or the registered medical practitioner who attended on the deceased shall ordinarily accompany the application in

Form No. 5,

(3) The declaration to be obtained from the legal representative under sub section (3) of section 21 shall be in Form No. 5.

17. Forms of cash book, ledger and statement and receipt under section 22.—(I) The cash-book and ledger to be maintained by a money-lender under sub-section (1) of section 22 shall be in Forms Nos. 6 and 8 respectively, or in Forms Nos. 7 and 9 respectively: Provided that the first cash-book and ledger under this sub-rule may be maintained from the commencement of the accounting year of the money-lender next after the commencement of the Act if the money-lender maintains a cash-hook and ledger in a different form-

(2) The receipts under sub-sections (4) and(5) of section 22 shall be in Forms Nos. 10 and 11.

Form No. 12.

(4) The statement referred to in sub-rule (3) shall be delivered by the money-lender personally or sent by post under a certificate of posting.

18. Annual statement of accounts to lie delivered by money-lender to debtor, etc., under section 23 —(1) The annual statement of accounts to be delivered by a money-lender to each of his debtors under sub-section (1) of section 23 shall be in

Form No 3,

(2) The statement shall be furnished to each of the debtors within sixty days after the close of the year for which the accounts of the money lender arc ordinarily maintained.

(3) The statement shall be delivered by the money-lender personally or sent by post under certificate of posting.

(4) The fee to be paid by a debtor to a money-lender for supplying a statement of accounts under sub-section (2) of section 23 shall be fifty paise.

(5) The expenses to be recovered from a debtor for supplying copies of documents by a money-lender under sub-section (3) of section 23 shall be according to the following scale:

For copying 100 words or fraction thereof	5 paise
For copying 100 words or fraction thereof (tabular statement)	10 paise
Cost of paper	2 paise each.

67 Rajastha

19. Fees for supply of statements or pass-books—(I) The rate of fees recoverable under sub-section (2) of section 24 shall be—

(a) twelve paise for each statement or a copy thereof supplied under sub-section (1) of section 22 and sub-section (2) of section 23; and

(b) fifty paise for each pass-book containing not less than eight pages excluding cover pages supplied under sub-section (2) of section 22 and sub section (1) of section 23.

(2) The amount on account of such fees shall be shown separately in the debtor's account.

Form No. 14 or 15.

21. Notice and information to be given in assignment of loan.— The notice to be given to an assignee under clause (a), the statement of information to be supplied to an assignee under clause (b), and the notice to be given to the debtor under clause (c) of sub-section (1) of section 31, shall be? Form Nos. 16, 17 and 18 respectively.

22. Form of application under section 34.—The application to be made by a debtor under sub-section (?) of section 34 shall be in

Form No. 19 and shall be accompanied by a court fee of one rupee.

23. Copies of documents on payment of fees.—(I) Any party to any application, inquiry or appeal under the Act before the Assistant Registrar, Registrar or Registrar-General, or any person who is inserted in application inquiry or appeal may apply to the Assistant Registrar, Registrar or Registrar General as the case may be, for a copy of any document in the record of such application, inquiry or appeal.

(2) The application shall be accompanied by deposit of an amount to cover the cost of preparing copies according to the following scale of copying fees, namely:—

7[(a) XXX]

*(t) in the case of certified copies, five paise for every twenty-five words or fraction thereof for preparing copies and five paise for every one hundred words or fraction thereof for comparing;]

(c) in the case of documents in tabular forms, twice the ordinary rate;

(d) when the description of the document given in the application is incorrect or deficient, and it shall in consequence be necessary for the Record-Keeper to search his record in order to find it, a fee at the rate of one rupee for each year of which the records are searched shall be payable by the applicant for such search, whether the document be found or not and whether the copy for which he applies, on examination of the said document, be granted or not.

(3) The amounts calculated according to the above scale shall be retained by the Assistant Registrar, or Registrar General to whom the application for grant of copies is made, as copying fees and the surplus amount, if any deposited by the person

7 Omitted by Notification No. G.S.R. 43/F. 6(9) Rev. Gr. 4/73, dated 20-10-73, published in Rajasthan Gaz. Part 1V-C, Sub-part-I, Extraordinary dated 29-8-75, Page 2U-2i2.

* Substituted vide Notification No. G.S.R. 43/F 6(9) Rev, Gr. 4/73, dated 20-10-73, Published in Rajasthan

applying for copy or copies shall be refunded to him at the time of supplying the copy :

Provided that the person applying for copies shall, if the amount deposited him is not sufficient to cover copying fees, pay the deficit before taking delivery of the copy:

24 Form of Summons. — The summons to be issued for enforcing attendance of any person under section 15 shall be in Forms Nos. *20, 21*, 22 or 23 as the case may be.

FORM NO. 1

(Rule 3)

Register of Money-Lenders

Office of the Assistant Registrar……..

Tehsil.....District ……..

Serial No.	Name of father's or husband's Name caste or religion and full address of the money-lenders*	Name, father's name, religion and full address of the person or persons responsible for the management of the business if any	Full details of the principal place the branches thereof
1	2	3	4

Date and S. No. of previous licence if any	Date of the issue of the present licence	Serial No. of application	[8][Date of renewal of licence]	Cancellation of licence @ if any, with date and particulars
5	6	7	7-A	8

Orders of Appellate Authority, if any	Particulars of cancellation or suspension of the licence under s.17(3) (a) or disqualification under s. 17(3)(b)	[1][Date of renewal of Licence
9	10	10-A

[8] Added vide Notification No. F.6 (ii) rev./C/71, dated 20-10-71; S O, 65, published in Rajasthan Gazette, Part IV-C, Sub-part II, Ordinary dated 20-10-71. P.74.

* In the case of an undivided Hindu Family, column 2 should show the names and addresses of the manager and adult co-parceners of such family; in the case of a company, column 2 should show the names and addresses of the Directors and managers or principal officers and in case of an unincorporated body of individuals, the names and addresses of all individuals.

@ When filling up this column the section of the Act under which cancellation is made should be entered.

No. of duplicate is licence issued with dates	Signature of Assistant Registrar	Remarks.
11	12	13

FORM NO. 2

(Rule 5)

Application for the grant of a licence to a money-lender

In the Office of the Assistant Registrar of ..... ……..

P. O .....

Tehsil .....

District .....

1. Names of the applicant, with father's or husband's name, residence and address in full……..

Names of the manager and the adult coparceners of the undivided Hindu Family with Father's names, residence and address in full……..

Name of the Director, manager or principal officer managing the company with father's or husband's name, residence in full……

Name of all the persons

forming an unincorporated body, with fathers or husband's name, residences and addresses in full…….

2. Name in which the applicant carries on, or intends to carry on his money-lending business……

3. Name of the area within which the applicant has or intends to start his business of money-lending on the date of the application……

4. Names of persons responsible, or proposed to has responsible, for the management of the applicant's money-lending business with the father's or husband's name, residence and address in full……..

5. Location of the applicant's place or principal place of business with full particulars thereof and the name, father's or husband's name, and address of the person in charge……

6. Whether the person signing the application has himself or any of the adult coparceners of an undivided Hindu family, or any director, manager or principal officer of the Company or any member of the unincorporated body‘s on behalf of. which the application is made, as the case may be has carried on the business of money lending "n the State in the year ending, on the 31st day of March, immediately preceding the date of the application either individually, or in partnership or jointly with any other coparcener or any other person and whether in the same or any other name……..

7. Is the applicant or any other person on behalf of whom the application has been made, carrying on or intends to carry on the business of money-lending in any other place in the State? If so give complete particulars with the name, fathers or husband's name and address of the person incharge of each office. Give particulars of the

70 Rajasthan

location of each such office and the area within which the business of money-lending is being carried on or is proposed to be carried on at each such place.....

8. What is the extent of the total business of the applicant on 31st March?

9. What is the total amount of the capital which the applicant intends to invest in the business of money-lending in the year for which the application has been made?.....

10. What is the year for which the applicant's accounts are maintained?
.....

11. Has the applicant carried on the business of money-lending in the past and if so, since when? .....

12. Has any application for licence previously been made? If so, when where and with what results? .....

13. In case the application has previously been granted, give full particulars of the licence .....

14. Has any licence granted previously to the applicant been cancelled or suspended or does it contain any endorsements of the Court or any disqualifications imposed by the Court? If so, full particulars should be given including the name of the officer and/or Court and the date and terms of

15. Is money-lending the sole business of the applicant or is he engaged in any other business, profession or calling? If so, state such business, profession or calling ..... ……

16. Whether the applicant is a full time servant in the employment of Government or of a local authority; if so, state the designation of the post held and (ii) whether by rules applicable to him in that capacity he is entitled to start or carry on the business of money- lending……

Certified that all the facts set out in the application are true to my knowledge except paragraphs, which are true to my belief being based on information supplied by

Signature of applicant with date

71 Rajastha

FORM NO. 3

(Rule 9)

Money Lenders Licence

District……. Full name and address of the Money-lender .....

……..

Tehsil……..Full name/s of person's responsible for the money-lending business…….

Place…… P.O. Full name/s of partners or coparceners……

Licence No…….. Name in which money-lending business carried on .....

Full address of the place of business .....

This licence has been granted to ……...to carry on the business of money-lending subject to the provisions of the Rajasthan Money Lenders Act, 1963, and the rules made thereunder and the following conditions, namely:—

(1) The licence shall be valid up to [1][.....month……..…….year] (2) It shall entitle the money lender to carry on the business of money lending in*

(3) The licensee shall surrender the licence when ordered to do so by the Registrar granting it or by the Registrar-General or by a Court.

Seal Registrar of Money-Lenders

Date: —

Bank

Endorsement, if any:

Signature

Here insert area. Remarks

1. Substituted by Notification No. G.S.R. 43/F. 6 (9) Rev./Gr. 4/73, dated 20-10-73, published in Rajasthan Gazette, Part IV-C, Sub-part I, Extraordinary dated 29-8-75, page 211-212.

FORM NO. 4

(Seerule 12)

Form of Application for removal of disqualification under clause (d) (ii) of sub-section (1) **of section 8 of the Rajasthan Money-Lenders Act, 1963 (Rajasthan Act, 1 of 1964).**

To

The Secretary to Government,
Revenue Department,
Government of Rajasthan
Jaipur.

I/We the undersigned applicant/applicants hereby apply under clause (d) (ii) of sub-section (1) of section 8 of the Rajasthan Money-lenders Act, 1963, for removal of my/our disqualification (s) for holding a licence under section…… of the said Act. Particulars relating to my/our case are given below: —

The challan showing the deposit of the prescribed fee of Rs……. is attached herewith.

Particulars-

1. Name of applicant and his address.
2. Number of licence with date of cancellation.
3. Conviction, if any, with particulars, date, section, etc.
4. Nature of sentence awarded.
5. Reasons for removal of disqualification.
6. Special grounds, if any.
7. Remarks.

Signatur

e

73 Raj

FORM NO. 5

(Rule 16)

Form of application for the transfer of licence To

The Registrar,

1. Name in full of the applicant applying for the transfer of the licence.
2. Address in full of the applicant.
3. Name in full of the deceased licensee.
4. Address in full of the deceased licensee.
5. Licence number and date (now sought to be transferred)
6. Applicant's relationship with the deceased licensee.
7. Is theapplicant the only heir of the deceased, and if not, mention the names of the other legal heirs.
8. Is theapplicant a member of undivided Hindu family and if so, is he the manager?
9. Is theapplicant already a licensee under the Act and if so, give particulars.
10. Is the certificate of death of the licensee enclosed? if not, the reason should be stated.

Signature of the applicant

I declare that the particulars stated above are correct and (rue to the best of my knowledge and belief.

Signature of the applicant

FORM NO. 6

(Rule 17)

Cash Book

Receipts				Disbursements			
Date	Particulars	Ledger Folio	Amount Rs. P.	Date	Particulars	Ledger Folio	Amount Rs. P.
1964 Aug. 2	Brought forward		6000.00	Aug. 2	Lent to C.D		5000.00
	interest received from A.B on the Rupees five mortgage bond thousand, Interest dated…… …….. per From…… annum To		5000.00				
			25.00	By balance c/f			
	Aug. 3 to balance		6025.00				1025.00
	B/F		6025.00				6025.00
			1025.00				

IN case of loans in kind, the entry shall contain clear reference to the commodity advanced, with market value of same at the date of each transaction.

FORM NO. 7

(*Rule 17)*

Cash Book

Date …….

Creditor ……. Debtor ……..

Amount	Particulars	Amount	Particulars
Rs. P	Opening balance brought forward closing balance carried over	Rs. P	

N.B. The Ledger Folio number should be entered in any convenient manner.

75 Rajastl

FORM NO. 8

(Rule 17)

Debtor……..

Name and address of the debtor ..... …….ledger account …….. Ledger Folio No ……..

Date	Principal amount borrowed debited		Amount of fees due to respect of supply of statements of debts.
1	2		3
Amount repaid or credited.			
Principal	Interest	Fees for statements of debts	Total
4	5	6	7
Balance due after each transaction			
Principal	Interest		Fees of statements of debts
8	9		10
Details of calculation of interest			
Principal due	Months	Amount of interest recovered	Remarks
12	12	13	14

76 Rajastl

FORM NO. 9

(Rule No. 17)

Ledger Folio No. …….. Date of Loan …….. Name of debtor …… Amount of Loan …….. Full address of debtor……..

Date of maturity of loan, if any ……..

Rate of interest per annum …….

Nature of security, if any……..

Particulars of document, if any…….

Any special conditions on which loan have been made……

Creditors				Debtor			
Amount	Date	Page No. of the correspo-nding entry in the cash book	Particu -lars	Amount	Date	Page No. of the corresp - onding entry in the cash book	Particulars

Total Receipt	Total Payment	
Debited (during the year) Recoveries (during the year) Net balance due carried over	Abstract Principal	Interest

Rajasthan Money Lenders Act, 1963

Form No. 10

(Rule 17)

Receipt

Counter foil

Serial No.		Date and Serial No.		Date	
Money Landers address Licence No.	Name	and	Money-lenders address Licence No.	Name	and

Received Rs……from Shri……(debtor‘s of name)
In respect of loan of Rs…… advanced on …….. and the amount has been credited as follows:
Toward Interest
From…… (date) to……. Rs……
Paise
Signature of money lender

Signature of the Debtor.

Form No. 10

(Rule 17)

Receipt

(Receipt to be given to the debtor)

Received Rs……from Shri……(debtor‘s of name) In respect of loan of Rs…… advanced on …….. and the amount has been credited as follows:
Toward Interest
From…… (date) to…….
Rs…… Paise
Signature of money lender

78 Rajastha

Form No. 11

(Rule 17)

Serial No…….	Serial No…….
Date…….	Date…….
Money Lender‘s name and address …….	Money Lender‘s name and address ……..
Receipt	Receipt
Counter foil	(Receipt to be given to the debtor)

1. Full name of the debtor and his full address. 2. Caste (If he/she belongs to backward class). 3. Full Particulars of the security. 4. Estimated Value 5. Total amount of loans advanced 6. Other connected information. Signature of the debtor.	1. Full name of the debtor and his full address. 2. Caste (If he/she belongs to backward class). 3. Full Particulars of the security. 4. Estimated Value 5. Total amount of loans advanced 6. Other connected information. Signature of the Money-Lender or of the person responsible for the Money lending business.

In case of valuable articles, weight of the articles, etc. should be given against item No. 3 above.

79 Rajasth

FORM NO. 12

(Rule 17)

Statement showing the details of conditions of the loan

Name of debtor:

Address:

(1) Amount of loan ..... …….

(2) Date of loan ..... ……..

(3) Date of maturity of the loan, if any…….

(4) Rate of interest per annum .. …….

(5) Nature of the security ..... (weight, estimated values etc.)

(6) Particulars of documents, if any.

(7) Any special conditions on which the loan has been made.

(8) Other connected information

Signature of the Money-lender; Name and address of money-lender

Licence No.....

Date .....

N.B. — A separate statement shall be furnished in respect of each loan transaction.

In case of loans in kind, there shall be reference to the commodity advanced along with market value of the same at the date of each transaction.

FORM NO. 13

(See Rule18)

Annual statement of Accounts to be delivered by a money-lender to his debtors v

1. (a) Name of the Debtor.
   (b) Occupation.
   (c) Address.

2. Number of Ledger Account or Ledger Folio.

3. Amounts of principal and interest separately due to the money-lender and the amount of fees due in respect of supply of statements of debts.

4. Amount of every payment already received by the money-lender in respect of the loan during the accounting year together with the date on which each payment was made.

5. All payments credited first in the account of interest, and the residue, if any, of any payment more than sufficient to discharge the balance of interest due at the time it is made, credited to the debtor in the account

of principal or at the choice of the money-lender to either of the two accounts or both.

6. Payment made on account of fee due in respect of supply of statement of debts.

7. The amount of principal remaining unpaid, the interest thereon aid the amount remaining unpaid on account of fees due in respect of statements of debts.

Signature of

Money-Lender or his agent

Address of Money-Lender……..

Licence No…….

FORM NO. 14

(Rule 20)

Pass Book

(Cover Page)

Name of the Money-lender……...

His address . ……..

Licensed money-lender under the Rajasthan Money-lenders Act, 1963.

Name of Debtor……..

His Address ..... ……

Contents of Pass Book

PASS BOOK

Name of the Money-lender…… His address……....

S.No.	Date, month and year	Amount of loan advanced
1	2	3

Name of the debtor…… His address……..

Nature of security, particulars of documents and special conditions if any	Rate of interest	Date of maturity
4	5	6

Total amount repaid by debtor	Amount repaid by the debtor how credited		Balance to be recovered from the debtor		Signatur e of money-lender	Re mar ks
	Princip al	Interes t	Princip al	Inter est		
7	8	9	10	11	12	13

82 Rajastha

FORM NO. 15

(Rule 20)

Pass Book

(*Cover Page)*

Name of the licensed Money-Lender…….

His Address……..

Name of the Debtor …….

His Address ……..

Contents of the Pass Book

PASS BOOK

Credit				Debt			
Amount	Date	Particulars	Signature of the money lender	Amount	Date	Particulars	Signature of the Money Landers.

ANNUAL ABSTRACT

Total Receipt Total
Payment Principal and
Interest Signature of the Money
Lander.

83 Rajastha

FORM NO. 16

(*Rule 21)*

Please take notice under clause (a) of sub-section (1) of section 31 of the Rajasthan Money-L

The loan
to assign *the balance of loan*
interest on the loan
balance of interest on the loan

advanced to Shri..... Address.....

together with accrued interest/balance of interest and benefits of the agreement under which this aforesaid loan was given to the debtor as security in respect of loan/interest on effect from..... to..... the provision of Rajasthan Money-lenders Act, 1963.

Signature of the Money-lender,
Prior assignee of the Moneylender date

84 Rajastha

FORM NO. 17

(*Rule 21)*

Statement of information to be supplied to the assignee under clause (b) of sub-section (1) of section 31 of the Rajasthan Money Lenders Act, 1963

Name of the money-lender including subsequent assignees, if any, and his/their address/addresses.

Name of debtor—
Address
1. Date of
loan……
2. Amount of
loan……..
3. Rate of interest per annum……
4. Amount of fees due in respect of supply of statements of debts.....
5. Total repayment made by the debtor up-to date
   (a) Principal
   (b) Interest
   (c) Fees for supply of statement of debts
   (d) Total
6. Amount outstanding on……..
   (a) Principal
   (b) Interest
   (c) Fees for supply of statements of debts
   (d) Total
7. Nature and value of the security……
8. Particulars of documents in ents, if any 9.

Any special condition attaching to the loan…… 10. List of documents of which copies are attached……..

11. Other information, if any.....

Signature of Assignor/Money lender
Address
Date

85 Rajastha

FORM NO. 18

(Rule 21)

86 Rajasthan Money Lenders Act, 1963

To……..

Debtor.

Please take notice under clause (c) of sub-section (i) of section 31 of the Rajasthan Money-lenders Act, 1963, that I propose to make an assignment of

the loan

balance of loan

interest on loan

balance of interest of loan

advanced to you on…….....together with accrued interest/ balance of interest and benefits of the agreement under the aforesaid loan as well as security taken in respect of the loan/interest on the loan to (Name of assignee)..... ……(address of the Assignee)…… .....
……

(Dated)…….with effect from..... and that from the date of such assignment, the assignee above named shall exercise all rights and shall have all the liabilities under the provisions of the Rajasthan Money-lenders Act, 1963.

Signature of Money-lender

Address

Signature of prior assignee of the Money-lender

Address

87 Rajasthan Money Lenders Act, 1963

FORM NO. 19

(Rule 22)

(Application to a Court under sub-section (1) of section 34 for taking accounts)

In the Court of

Misc. Case No. ……. of 19……. The under mentioned debtor applies for taking accounts of the loan described below and for declaring the amount due to the money-lender.

Particulars of loan.

1.Document, if any, with particulars ……

2. Amount

……

3. Description of the money-lender

……

(a) Name ……

(b) Father's/Husband's name

…….

(c) Address

…….. .....

4. Description of the debtor

(a) Name

……

(b) Father's/Husband's name

……

(c) Address

……

Date……..

Signature…….

FORM NO. 20

(Rule 24)

Summons to Money-lender

No. Name of the Office

To

Whereas your application for grant of a licence under the Rajasthan Money-lenders Act, 1963 has been received by me, you are hereby summoned in

accordance with section 15 of the said Act, to appear before me at the above address in person on the……. day of……. 19…… at…….O'clock In the……. Noon, for being examined in connection with the said application; and you are directed to produce on that day all this documents upon which you intend to rely in support of your application.

Take notice that, in default of your appearance on the day before-mentioned, your application for grant of a licence under the said Act shall not be considered……..... Given under my hand and seal this…….. day of…….. 19……..

Seal Designation of the Officer

FORM NO 21

(Rule 24)

Summons to Witness No.

Name of the Office To

Whereas it is necessary to examine you in connection with the application made by Shri……. for grant of a licence under the Rajasthan Money-lenders Act, 1963, for cancellation of a licence granted under the Rajasthan Money-lenders Act, 1963 to Shri…….. you are hereby summoned in accordance with section 15 of the said Act, to appear before me at the above address in person on the…… day of……..19……. at……. O' clock in the……..Noon; and you are directed to produce any documents you may have in your possession in support of the information that will be supplied by you.

Take notice that if you fail to comply with this order without lawful excuse you will be liable to a fine which may extend to five hundred rupee;

Given under my hand and seal, this..... day of..... 19……

Seal Designation of the Officer]

Strike out what is not needed.

FORM NO. 22

89 Rajasthan Money Lenders Act, 1963

(Rule 24)

Summons to Applicant

No. Name of the Office

To

Whereas your application for cancellation of the licence issued to Shri..... under the Rajasthan Money-lenders Act, 1*963* has been received by me, you are hereby summoned in accordance with section 15 of said Act, to appear before me at the above address in person on the .....day of .....

19 ..... at ..... O'clock in the..... Noon, for your being examined in connection with the said application; and you are directed to produce on that day all the documents upon which you intend to rely in support of your application.

Take notice that, in default of your appearance on the day before mentioned your application for cancellation of a licence under the said Act shall be rejected and action under sub-section (4) of section 13 may be taken against you, Given under my hand and seal this..... day of

……..... 19.....

Seal Designation of the Officer

FORM NO 23

(Rule 24)

Summons to produce record or document

No, Name of Office

To

Whereas I have reason tobelieve that you are carrying on the business of money-lending in the State of Rajasthan;

And Whereas (he following record/document in your possession is in my opinion relevant for the purpose of verifying whether the business of money lending is carried on by you in accordance with the provisions of the Rajasthan Money lenders Act, 1963;

You are therefore, directed to produce the aforesaid record/document in accordance with sections 15 and 16 of the said Act, at the above address either in person or by any authorized representative on the ..... day of .....

19..... At..... O'clock in the..... Noon;

Take notice that if you fail to comply with this order without lawful excuse, you will be liable to a fine which may extend to five hundred rupees

Given under my hand & seal this ..... day of.....

19.....

90 Rajasthan Money Lenders Act, 1963

Signature

Seal Designation of the Office

THE RAJASTHAN MONUMENTS, ARCHAEOLOGICAL SITES AND ANTIQUITIES, ACT, 1961
(RAJASTHAN ACT NO. 19 OF 1961)

[First published in the Rajasthan Gazette Extraordinary\ Part IV-A, dated the 17th July, 1961]

CONTENTS

CHAPTER I

Preliminary

Sections

1. Short title, extent and commencement

2. Definitions

(i) Ancient or historical monument

(ii) Antiquity

(iii) Archaeological officer

(iv) Archaeological site

(v) Central Act

91 Rajasthan Money Lenders Act, 1963

(vi) Director

(vii) Maintain

(viii) Owner

(ix) Prescribed

(x) Protected

(xi) Protected antiquity

3. Power to declare monuments etc. to be protected

CHAPTER II

Protected Monuments

4. Acquisition of rights in or guardianship of a protected monument 5. Preservation of protected monument by agreement

6. Owners under disability

7. Failure or refusal to enter into agreement

8. Application of endowment to repair protected monument

9. Enforcement of agreement

10. Power to make order prohibiting contravention of agreement

11. Purchasers and persons claiming through owner bound by instrument 12. Acquisition of protected monument

13. Maintenance of certain protected monuments

14. Voluntary contributions

15. Protection of place of worship from misuse, pollution or desecration 16. Relinquishment of rights in a protected monument

17. Penalties

18. Power to control mining etc. near protected monuments

19. Preservation of amenities of or to protected monuments

20. Right of access to protected monuments

21. Acquisition of a protected area

22. Restrictions on property rights in protected areas

23. Excavations for archaeological or historical purposes

24. Restrictions on excavations

25. Disposal of Antiquities etc. discovered during excavations

26. Contraventions of chapter

27. Regulation of excavations in protected areas

28. Power of Government to control movement of protected antiquities 29. Purchase of protected antiquities by Government

30. Constitution of an Advisory Board

31. Compensation for loss or damage

32. Assessment of market value or compensation

33. Delegation of powers

34. Jurisdiction of Courts

35. Special procedural provisions

36. Recovery of amount due to Government 37. Protection of action taken under the Act 38. Power to make rules –

39. Repeal and savings

1. Short title, extent and commencement.-

(1) This Act may be called the Rajasthan Monuments, Archaeological Sites and Antiquities Act, 1961.

(2) It extends to the whole of the State of Rajasthan.

(3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. **Definitions**-In this Act, unless the subject or context otherwise requires,-

(i) "ancient or historical monument" means any archaeological building, structure, erection or monument or any tumulus, tomb or place of interment or any cave, rock-sculpture, rock-painting or sculpture of or on stone, metal, terracotta or other immovable object or any inscription or monolith, which is of historical, archaeological or artistic importance, interest or value, and includes –

(a) any remains thereof,

(b) the site thereof,

(c) the portion of land adjoining such site which may be necessary or required for the preservation, protection, upkeep and maintenance of the same, and (d) the means of access thereto and of convenient inspection and repairs thereof; but does not include an ancient monument as defined in the Central Act, to which the provisions of that Act apply for the time being;

(ii) "antiquity" means –

(a) any coin, sculpture, epigraph, manuscript, record, document, picture, painting, printed matter or other work of art or craftsmanship,

(b) any article, object or thing of historical, archaeological or artistic importance, interest or value, detached from a protected monument or collected from or discovered in a protected area;

(c) any article, object or thing illustrative of science, art, crafts, literature, religion, customs, morals or politics in bygone ages, and

(d) any other article, object or thing of historical, archaeological or artistic importance, interest or value, and includes any article, object or thing which the State Government may, by notification in the Official Gazette, declare, by reason of its historical or archaeological association, to be an antiquity for the purposes of this Act but does not include an antiquity as defined in the Central Act, to which the provisions of that Act apply for the time being;

(iii)"archaeological officer" means an officer, of the Department of Archaeology of the

State Government not below such rank as the State Government may from time to time prescribe;

(iv)"archaeological site" means any mound indicating ancient habitation or any area which contains or is reasonably believed to contain ruins or relics of historical or archaeological importance, interest or value and includes –

(a) any remains thereof,

(b) the site thereof,

(c) the portion of land adjoining such site which may be necessary or required for the preservation, protection, upkeep and maintenance thereof, and

(d) the means of access thereto and of convenient inspection, repairs and excavation thereof, but does not include an archaeological site and remains as defined in the Central Act, to which the provisions of that Act apply for the time being;

(v)"Central Act" means the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (Central Act 24 of 1958) as amended from time to time ;

(vi)"Director" means the Director of Archaeology and Museums of the State and includes any officer appointed by the State Government to perform the duties of the Director under this Act ;

(vii) "maintain", with its grammatical variations and cognate expressions, includes the fencing, covering in, repairing, restoring and cleaning of an ancient or historical monument, an archaeological site or an antiquity or the doing of any act which may be necessary for the preservation, protection, upkeep or regulation of such monument, site or antiquity, or for securing convenient access thereto;

(viii)"owner" used with reference to an ancient or historical monument, archaeological site or antiquity includes –

(a) a joint owner invested with powers of management of or over such monument, site or antiquity on behalf of himself and other joint owners and the successor-in-title of any such owner, and

(b) any manager or trustee exercising powers of such management and the successor-in-office of any such manager or trustee;

(ix) "Prescribed" means prescribed by rules made under this Act;

(x) ―Protected‖ when used with reference to an ancient or historical monument or an archaeological site, means such monument or site which may be declared by the State Government under section 3 to be a protected monument or a protected area; and

(xi) "Protected antiquity" means an antiquity declared by the State Government under section 3 to be a protected antiquity and includes any article, object or thing referred to in sub-clause (b) of clause (ii).

3. Power to declare monuments etc. to be protected –

(1) The State Government may declare for the purposes of this Act –

(i) any ancient or historical monument to be a protected monument, or (ii) any archaeological site to be a protected area, or

(iii) any antiquity to be a protected antiquity.

(2) Before making any such declaration as is referred to in sub-section (1), the State Government shall, by notification in the Official Gazette give two month,s notice of its intention to do so and a copy of such notification along with a statement of the reasons for which such declaration is proposed to be made, shall be affixed in a conspicuous place at or near the ancient or historical monument or the archaeological site which is proposed to be declared as protected or on or near the place where or in which such monument or the antiquity proposed to be declared as protected is for the time being.

(3) Any person interested in any such monument, archaeological site or antiquity may, within two months after the publication of such notification in the Official Gazette, object to the proposed declaration.

(4) On the expiration of the said period of two months the State Government may, after considering the objections, if any, received by it, declare by notification in the Official Gazette –

(i) an ancient or historical monument to be a protected monument, or

(ii) an archaeological site to be a protected area, or

(iii) an antiquity to be a protected antiquity.

(4A) **Notwithstanding anything** contained in Sub-Sections (2) and (3), where the State Government is satisfied with respect to any monument, archaeological site or antiquity, that there is immediate danger of its removal or destruction, it may instead of proceeding under the said subsections, by Notification in the official Gazette and for reasons of its satisfaction to be recorded in such notification, forth with make a declaration under clauses (i), (ii) or (iii), as the case may be, of subsection (4) in respect of any such monument, archaeological site or antiquity :

Provided that any person interested in any such monument, archaeological site or antiquity may within two months after the publication of such notification object to the declaration so made and the State Government after giving to such person an opportunity of being heard, may by order in writing dismiss the objection or withdraw the notification."; and (ii) in sub-section (5), after the expression "under sub-section (4)", the expression "or under sub-section (4A)" shall be inserted. 4. Repeal and savings – (1) The Rajasthan Monuments, Archaeological Sites and Antiquities (Amendment) Ordinance, 1975 (Rajasthan Ordinance No. 29 of 1975) is hereby repealed. (2) Notwithstanding such repeal, anything done or action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act. Inserted by Law Department Notification No. F.2(48)Vidhi/75 dated 24 January, 1976. (Published in

Exo. Gazette dt. 24.1.1976. * This Act may be called the Rajasthan Monuments, Archaeological Sites and Antiquities (Amendment) Act, 1976. 5. A notification published under sub-section (4) shall, unless and until it is withdrawn, be conclusive evidence of the fact that the ancient or historical monument, archaeological site or antiquity to which it relates is a protected monument, a protected area or a protected antiquity for the purposes of this Act. CHAPTER II Protected Monuments.

4. **Acquisition of rights in or guardianship of a protected monument**-

(1) The director may, with the sanction of the State Government, purchase or take a lease of, or accept a gift or bequest of any protected monument.

(2) Where a protected monument is without an owner, the Director may, by notification in the Official Gazette, assume the guardianship of such monument.

(3) The owner of any protected monument may, by written instrument, constitute the Director to be the guardian of such monument and the Director may, with the sanction of the State Government, accept such guardianship.

(4) When the Director has accepted the guardianship of a protected monument under sub-section (3), :- (a) The owner shall, except as expressly provided in this Act, have the same estate, right, title and interest in or to the monument as if the Director had not been constituted a guardian thereof; and (b) the provisions of this Act relating to agreements executed under section 5, shall apply to the written instrument executed under the said subsection.

(5) Nothing in this section shall affect the use of any protected monument for customary religious observances.

5. Preservation of protected monument by agreement –

(1) The Collector, when so directed by the State Government, shall propose to the owner of a protected monument to enter into an agreement with the State Government within a specified period for the maintenance and upkeep of the monument.

(2) An agreement under this section may provide for all or any of the following matters, namely :-

(a) the maintenance and upkeep of the monument;

(b) the custody of the monument and the duties of any person who may be employed to watch it;

(c) the restriction of the owner's right –

(i) to use the monument for any purpose, or

(ii) to charge any fee for entry into, or inspection of, the monument, or (iii) to destroy, injure, mutilate, deface, alter, repair, remove or disperse the monument or

to allow it to fall into decay, or

(iv) to build on or near the site of the monument;

(d) the facilities of access to be permitted to the public or any section thereof or to archaeological officers or to persons deputed by the owner or any archaeological officer or the Collector to inspect or maintain the monument.

(e) the notice to be given to the State Government in case the land on which the monument is situated or any adjoining land is offered for sale by the owner, and the right to be reserved to the State Government to purchase such land, or any specified portion of such land, at its market value;

(f) the payments of any expenses incurred by the owner or by the State Government in connection with the maintenance and upkeep of the monument;

(g)the proprietary or other rights which are to vest in the State Government in respect of the monument when any expenses are incurred by the State Government in connection with the maintenance and upkeep of the monument;

(h) the appointment of an authority to decide any dispute arising out of the agreement; and

(i) any matter connected with the maintenance and upkeep of the monument which is a proper subject of agreement between the owner and the State Government.

3. The terms of an agreement under this section may be altered from time to time by the State Government with the consent of the owner.

4. The State Government or the owner may, at any time after the expiration of three years from the date of execution of an agreement under this section, terminate it on giving six months‘ notice in writing to the other party: Provided that, where the agreement is terminated by the owner he shall pay to the State Government the expenses, if any, incurred by it on the maintenance and upkeep of the monument during the five years immediately preceding the termination of the agreement or, if the agreement has been in force for a shorter period, during the period the agreement was in force.

5. An agreement under this section shall be binding on any person claiming to be the owner of the monument to which it relates, from, through or under a party by whom or on whose behalf the agreement was executed.

6. Owners under disability-

(1) In case of the owner of a protected monument being unable, by reason of infancy or other disability, to act for himself, the person legally competent to act on his behalf, and, in case of village property, the lambardar or other village-officer exercising powers of management of or over such property, may exercise the powers conferred upon an owner by section 5.

(2) Nothing in this section shall be deemed to empower any person not being of the

same religion as the person on whose behalf he is acting to make or execute an agreement relating to a protected monument which or any part of which is periodically used for the religious worship or observances of that religion.

7. Failure or refusal to enter into agreement-

(1) If any owner or other person competent to enter into an agreement under section 5 for the maintenance and upkeep of a protected monument refuses or fails to enter into such an agreement, the State Government may make an order providing for all or any of the matters specified in sub-section (2) of section 5.

(2) No order under sub-section (1) shall be made unless the owner or other person has been given an opportunity of making a representation in writing and being heard against the proposed order.

(3) Every order made under sub-section (1) shall be binding on the owner or such other person and on every person claiming title to the monument from, through or under the owner or such other person.

(4) When an order made sub-section (1) provides that the monument shall be maintained by the owner or other person competent to enter into an agreement, all reasonable expenses for the maintenance and upkeep of the monument shall be payable by the State Government.

8. Application of endowment to repair protected monument-

(1) If any owner or other person competent to enter into an agreement under section 5 for the maintenance and upkeep of a protected monument refuses or fails to enter into such an agreement, and if any endowment has been created for the purpose of keeping such monument in repair or for that purpose among others, the State Government may institute a suit in the court of the district judge, or, if the estimated cost of repairing the monument does not exceed one thousand rupees, may make application of such endowment or part thereof.

(2) On the hearing of an application under sub-section (1), the district judge may summon and examine the owner and any person whose evidence appears to him necessary and may pass an order for the proper application of the endowment or of any part thereof, and any such order may be executed as if it were a decree of a civil court.

9. Enforcement of agreements-

(1) If an owner or other person who is bound by an agreement for the maintenance and upkeep of a protected monument under section 5 refuses of fails, within such reasonable time as the Director may fix, to do any act which in the opinion of the Director is necessary for the maintenance and upkeep of the monument, the Director may authorise any person to do any such act, and the owner or other person shall be liable to pay the expenses of doing any such act or such portion of the expenses as the owner may be liable to pay under the agreement.

(2) If any dispute arises regarding the amount of expenses payable by the owner or other person under sub-section (1), it shall be referred to the State Government whose decision shall be final.

10. Power to make order prohibiting contravention of agreement-

(1) If the Director apprehends to the owner or occupier of a protected monument intends to destroy, injure, mutilate, deface, alter, disperse, remove, imperil or misuse the monument or to allow it to fall into decay or to build on or near the site thereof in contravention of the terms of agreement under section 5, he may, after giving such owner or occupier an opportunity of making a representation in writing, make an order prohibiting any such contravention of the agreement : Provided that no such opportunity may be given in any case where the Director, for reasons to be recorded, is satisfied that it is not expedient practicable to do so.

(2) Any person aggrieved by an order made under sub-section (1) any appeal to the State Government within such time and in such manner as may be prescribed and the decision of the State Government shall be final. 11. Purchasers and persons claiming through owner bound instrument- Every person who purchases any land on which is situated a protected monument in respect of which any instrument has been executed by the owner for the time being under section 4 or section 5, and every person claiming any right, title or interest to or in a monument from, through or under an owner who executed any such instrument, shall be bound by such instrument.

12. Acquisition of protectedmonument –

(1) If the State Government apprehends that a protected monument is in danger of being destroyed, injured, mutilated, defaced, altered, dispersed, removed, misused or allowed to fall into decay, the State Government may acquire it under and in accordance with the provisions of the Rajasthan Land Acquisition Act, 1953 (Rajasthan Act 24 of 1953) as if the preservation, maintenance and upkeep of the monument were a public purpose within the meaning of that Act.

(2) No protected monument shall be acquired under sub-section – (a) If such monument or any part of it is periodically used for religious observances, or (b) If such monument is the subject of a subsisting agreement executed under section 4 or section 5, and (c) unless the owner or other person competent to enter into an agreement under section 5 has failed to enter into an agreement proposed to him by the Collector under sub-section (1) of section 5 within the period specified in such proposal, or (d) unless such owner or other person has terminated or given notice of his intention to terminate an agreement made under section 5.

13. Maintenance of certain protected monuments –

(1) The State Government shall maintain every monument which has been acquired under section 12 or in respect of which any of the rights mentioned in section 14 have been acquired.

(2) When the Director has assumed or accepted the guardianship of a protected

monument under section 4, he shall, for the purpose of the maintenance and upkeep of such monument, have access to the monument at all reasonable times, by himself and by his agents, subordinates and workmen, for the purpose of inspecting and repairing the monument and for the purpose of bringing such materials and doing such acts as he may consider necessary or desirable for the maintenance and upkeep thereof.

13A. Power to enter into agreement for the maintenance of certain monument.-

(1) The State Government may, for the purposes of maintenance of a monument falling under section 13, enter into an agreement with any person, firm or trust on such terms and conditions, not inconsistent with the provisions of this Act, as may be specified in the agreement.

(2) Notwithstanding anything contained in section 20A, the person, firm or trust referred to in sub-section (1) shall be entitled to collect and retain the whole or such portion of the fee leviable under section 20A and for such period, as may be agreed upon between the State Government and such person, firm or trust, having regard to the expenditure involved in the maintenance of the monument and collection of fee, interest on the capital invested, reasonable return on the investment and the volume of visitors".

14. Voluntary contributions – The Director may receive voluntary contributions towards the cost of maintaining a protected monument and may give orders as to the management and application of any funds so received by him: Provided that no contribution received under this section shall be applied to any purpose other than the purpose for which it was contributed.

15. Protection of place of worship from misuse, pollution or desecration –

(1) A protected monument maintained by the State Government under this Act which is a place of worship or shrine shall not be used for any purpose inconsistent with its character.

(2) Where the State Government has acquired a protected monument under section 12, or where the Director has purchased, or taken a lease, or accepted a gift or bequest or assumed or accepted guardianship of, a protected monument under section 4, and such monument or any part thereof is used for religious worship or observances by any community, the Collector shall make due provision for the protection of such monument or part thereof from pollution or desecration –

(a) by prohibiting the entry therein, except in accordance with the conditions prescribed with the concurrence of the persons, if any, in religious charge of the said monument or

part thereof, of any person not entitled so to enter by the religious usages of the community by which the monument or part thereof is used, of

(b) by taking such other action as he may think necessary in this behalf.

16. Relinquishment of rights in a protected monument- With the sanction of the State Government, the Director may :- (a) Where rights have been acquired in respect of any monument under this Act by virtue of any sale, lese, gift or will, relinquish, by notification in the official Gazette, the rights so acquired to the person who would for the time being is the owner of the monument as if such rights had not been acquired; or (b) relinquish any guardianship of a monument which he has accepted or assumed under this Act.

17. Penalties –

(1) Whowever – (i) destroys, injures, mutilates, defaces, alters, removes, disperses, misuses, imperils or allows to fall into decay a protected monument, or (ii) removes from a protected monument any sculpture, carving image, bas-relief, inscription or other like object, shall be punishable with imprisonment for a term which may extend to six months with fine which may extend to five thousand rupees or with both.

(2) Whoever – (i) being the owner or occupier of protected monument, contravenes an order made under section 7 or section 10, or (ii) contravenes any other provision of this chapter for which contravention no punishment is provided for elsewhere therein, shall be punishable with the like punishment.

18. Power to control mining etc. near protected monuments –

(1) If the State Government is of opinion that mining, quarrying, excavating, blasting and other operations of a like nature should be restricted or regulated monument, the State Government may, by notification in the Official Gazette, make rules –

(a) fixing the boundaries of the area to which the rules are to apply,

(b) forbidding the carrying on of mining, quarrying, excavating, blasting or other operation of a like nature except in accordance with such rules and otherwise than under and in accordance with terms of a license, and

(c) prescribing the authority by which, and the terms on which licenses may be granted to carry on any of the said operations.

(2) A rule made under this section may provide that any person committing a breach thereof shall be punishable with fine which may extend to two hundred rupees.

19. Preservation of amenities of or to protected monuments –

(1) If the State Government is of opinion that for the purpose of preserving amenities to or of any protected monument it is necessary so to do, the State Government may, by notification in the Official Gazette, in respect of any area comprising or adjacent to the site of such monument and specified in such notification (hereinafter referred to as the controlled area).

(a) prohibit or restrict the construction, erection or execution of buildings, structures and other works above ground within the controlled area, or the alteration or extension of any such buildings, structures or works in such manner as materially to affect their external appearance ;

(b) prescribe the position, height, size, design, materials, colour and screening, and otherwise regulate the external appearance, of buildings, structures and other works above ground within the controlled area ;

(c) require any local authority –

(i) to construct any approach road to any protected monument, or

(ii) to demolish any place of public convenience vesting in it, that is to say a latrine, urinal, dustbin and the like, located close to in the vicinity of any protected monument ;

(d) prohibits or restrict the falling of trees with in the controlled area;

(e) otherwise restrict the user of land within the controlled area to such extent as may appear to the State Government to be expedient for the purpose of preserving the amenities to or of the protected monument;

(f) provide for such matters as appear to the State Government to be incidental to or consequential on the foregain provisions of this section or to be necessary for giving effect to those provisions.

(2) Not less than forty-five days before issuing a notification under sub-section (1) the State Government shall cause to be published in the Official Gazette, in the controlled area and in the village and as the headquarters of the tehsil in which the controlled area is situated a notification stating that it proposes to issue a notification in terms of sub-section (1), together with a notice requiring all persons affected by such notification, who wish to make any objections to the issuing of such a notification, to submit their objections in writing to the State Government or to appear before any officer duly authorised in that behalf to hear objections on behalf of the State Government, within one month of the publication of the notification in the Official Gazette or within fifteen days from the date of the publication of the notification in the controlled area, whichever period expires later.

(3) If, before the expiration of the time allowed by sub-section (2) for the filling of objections, no objections has been made, the State Government shall proceed at one to issue the notification under sub-section (1) If any such objection has been made, the State Government, after all the objections have been considered or heard, as the case may be, may either –

(a) abandon the proposal to issue the notification (1), or

(b) issue the notification under sub-section (1) with such modification as it thinks fit.

(4) In considering the objections, the decision of the State Government on the question of issuing the notification under sub-section (1) shall be final and conclusive.

(5) Nothing contained in any notification under sub-section (1) shall affect any building, structure or other work above ground or any alteration or extension thereof,

if it was constructed, erected or executed before the date when notice of intention to issue a notification was given under sub-section (2), and for the purpose of this provision a building, structure or other work and any alteration or extension thereof shall be deemed to have been constructed, effected or executed before that date – (a) if its construction, erection or execution was begun before that date, or (b) if and so far as its construction, erection or execution was necessary for the purpose of performing a contract made before that date.

(6) If any person contravenes any of the provisions of a notification issued under sub-section (1), he shall, on conviction, be punished with fine not exceeding one hundred rupees for every day on which the contravention occure or continues.

(7) If, after any person has been convicted under sub-section (6) by reason of the fact that any building, structure or other work is not in conformity with the provisions of the notification issued under sub-section (1), the contravention continues after the expiration of such period as the court before whom he was convicted may determine, the State Government shall have power to do all such acts as in its opinion are necessary for removing so much of the building, structure or work as is not in conformity with the provisions of the notification aforesaid for making it conform with the provisions of the notification and any recoverable as an arrear of land revenue from the person convicted.

20. Right of access to protected monuments –

(1) Subject to any rules made under this Act, the public shall have a right of access to every protected monument.

(2) In making any rule under sub-section (1) the State Government may provide that a breach of it shall be punishable with fine which may extend to one hundred rupees. "20A. Power to entrance fee.- (1) The State Government may, by notification in the Official Gazette, levy entrance fee in respect of such protected monuments, and at such rates not exceeding two thousand five hundred rupees per head, as may be specified in such notification :- Provided that if the State Government is of the opinion that it is expedient in the public interest so to do, it may by like notification, exempt, wholly or partly, any class of persons from the payment of entrance fee. (2) Such entrance fee when so levied shall be collected in accordance with the rules made under this Act". CHAPTER III Protected Areas

21.Acquisition of a protected area – If the State Government is of opinion that any protected area contains an ancient or historical monument or antiquities of historical, archaeological or artistic importance, interest or value, it may acquire such area under and in accordance with the provisions of the Rajasthan Land Acquisition Act, 1953 (Rajasthan Act 24 of 1953) as if the acquisition thereof were for a public purpose within the meaning of that Act.

22. Restrictions on property rights in protected areas –

(1) No person including the owner or occupier of a protected area, shall construct

any building within the protected area or carry on any mining, quarrying, excavating, blasting or any operation of like nature in such area, or utilise such area or any part thereof in any other manner without the permission of the State Government; Provided that nothing in this sub-section shall be deemed to prohibit the use of any such area or part thereof for purposes of cultivation if such cultivation does not involve the digging of not more than one foot of soil from the surface.

(2) The state Government may, by order, direct that any building constructed by any person within a protected area in contravention of the provisions of sub-section (1) shall be removed within a specified period and, if the person refuses or fails to comply with the order, the Collector may cause the building to be removed and the person shall be liable to pay the cost of such removal.

23. Excavations for archaeological or historical purposes –

(1) An archaeological officer or an officer authorised by him in this behalf or any person holding a license granted in this behalf in the prescribed manner under this Act (hereinafter referred to as the licensee) may, after giving notice in writing to the Collector and the owner, enter upon and make excavations in any protected area.

(2) Where an archaeological officer has reason to believe that any area not being a protected area contains ruins or relics of historical or archaeological importance, he or an officer authorised by

him in this behalf may, after giving notice in writing to the Collector and the owner, enter upon and make excavations in the area.

24. Restrictions on excavations –

(1) Notwithstanding anything contained in section 23, no excavation or other like operation for archaeological or historical purposes shall be undertaken or authorised to be undertaken in any area except with the previous approval of the Central Government and in accordance with such rules and directions, if any, as the Central Government may make or give in this behalf.

(2) Where, in the exercise of the power conferred by section 22, the rights of any person are infringed by the occupation or disturbance of the surface of any land, the State Government shall pay to that person compensation for such infringement.

25. Disposal of Antiquities etc. discovered during excavations –

(1) Where, as a result of any excavations made in any area under section 23, any antiquities are discovered, the archaeological officer or the licensee, as the case may be, shall – (a) as soon as practicable, examine such antiquities and submit a report to the State Government in such manner and containing such particulars as may be prescribed, and (b) at the conclusion of the excavation operations, give notice in writing to the owner of the land, from which such antiquities have been discovered, of the nature of such antiquities.

(2) All such antiquities shall be deemed to be protected antiquities and, until orders of the State Government as to the disposal or compulsory purchase thereof are

received, the archaeological officer of the licensee as the case may be, shall keep them in such safe custody as he may deem fit.

(3) On receipt of a report under sub-section (1) the State Government may make an order for the compulsory purchase of any such antiquities at their market value.

(4) When an order for the compulsory purchase of any antiquities is made under sub-section (3), such antiquities shall vest in the State Government with effect from the date of the order.

26. Contraventions of chapter – Whoever does any act in contravention of the provisions of this chapter, for which contravention no punishment is provided for elsewhere therein, shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to five thousand rupees or with both.

27. Regulation of excavations in protected areas –

(1) The State Government may make rules – (a) prescribing the authorities by whom licenses to excavate for archaeological and historical purpose in a protected area may be granted ; (b) regulating the conditions on which such licenses may be granted the form of such licenses and the taking of security from licensees; (c) prescribing the manner in which antiquities found by a licensee shall be disposed of; and (d) generally to carry out the purposes of this chapter.

(2) Such rules may be general for all protected areas for the time being or may be special for any particular protected area or areas and may provide that any person committing a breach of any rule or of any condition of a license shall be punishable with fine which may extend to five thousand rupees, and may further provide that, where the breach has been by the agent or servant of a licensee, the licensee himself shall be punishable. CHAPTER IV Protected Antiquities

28. Power of Government to control movement of protected antiquities –

(1) If the State Government considers that any protected antiquities or class of protected antiquities ought not to be moved from the place where they are without the sanction of the State Government, the State Government he Official Gazette, direct that any

such protected antiquity or any class of such protected antiquities shall not be moved except with the written permission of the Director.

(2) Every application for permission under sub-section (1) shall be in such form and contain such particulars as may be prescribed.

(3) Any person aggrieved by an order refusing permission may appeal to the State Government whose decision shall be final.

(4) Any person who moves any protected antiquity in contravention of a notification issued under sub-section (1) shall be punishable with fine which may extend to five hundred rupees.

(5) If the owner of any property proves, to the satisfaction of the State Government, that he has suffered any loss or damage by reason of the inclusion of such property in a notification issued under sub-section (1), the State Government may – (a) exempt such property from the said notification, or (b) purchase such property at its market value, or (c) pay compensation for any loss or damage sustained by the owner of such property.

29. Purchase of protected antiquities by Government –

(1) If the State Government apprehends that any antiquity mentioned in a notification issued under sub-section (1) of section 28 is in danger of being destroyed, injured, mutilated, defaced, altered, removed, dispersed, misused or allowed to fall into decay or is of opinion that by reason of its historical or archaeological or artistic importance it is desirable to preserve such antiquity in a public place, the State Government may make an order for the compulsory purchase of such antiquity at its market value and the Collector shall thereupon give notice to the owner of the antiquity to be purchase. Provided that the power of purchase given by this sub-section shall not extend to any image or symbol actually used for bonafide religious observations.

(2) Where a notice of compulsory purchase is issued under sub-section (1) in respect of any antiquity such antiquity shall vest in the State Government with effect from the date of the notice. CHAPTER-V Miscellaneous

30. Constitution of an Advisory Board –

(1) For the purpose of advising the State Government in the matter of the preservation, maintenance, upkeep, protection, acquisition, regulation and control of ancient or historical monuments, archaeological sites and antiquities in the State, the State Government may constitute an Advisory Board under the name of the Rajasthan Board for ancient Monuments, Archaeological Sites and Antiquities.

(2) The constitution of the Advisory Board and the procedure regarding its work shall be such as may be prescribed.

31. Compensation for loss or damage – Any other or occupier of land who has sustained any loss or damage or any diminution of profits from the land by reason of any entry on, or excavations in, such land or the exercise of any other power conferred by this Act shall be paid compensation by the State Government for such loss, damage or diminution of profits.

32. Assessment of market value or compensation –

(1) The market value of any property which the State Government is empowered to purchase at such value under this Act under this Act or the compensation to be paid by the State Government in respect of anything done or any property acquired under this Act shall, where any dispute arises in respect of such market value or compensation, be ascertained in the manner provided in the provisions of the Rajasthan Land Acquisition Act, 1953 (Rajasthan Act 24 of 1953) in so far as those

provisions can be made applicable : Provided that, when making an inquiry under that Act, the Collector shall be assisted by two assessors, one of whom shall be a competant person nominated by the State Government and the other a person nominated by the owner, or, in case the owner fails to nominated an assessor within such reasonable time as may be fixed by the Collector in this behalf, by the Collector.

(2) Notwithstanding anything contained in sub-section (1) or in the Rajasthan Land Acquisition Act, 1953 (Rajasthan Act 24 of 1953), in determining the market value of any antiquity in respect of which an order for compulsory purchase is make under sub-section (3) of section 25 or under sub-section (1) of section 29, any increase in the value of the antiquity by reason of its being of historical, archaeological or artistic importance, interest or value shall not be taken into consideration.

33. Delegation of powers –The State Government may, by notification in the Official Gazette, direct that any power exercisable by it under this Act may be exercised subject to such conditions, if any, as may be specified in such notification, by the Director or by any other officer not below the rank of a Collector as may be specified in the notification.

34. Jurisdiction of Courts –No court inferior to that of a Magistrate of the first class shall try any offence under this Act.

35. Special procedural provisions – Notwithstanding any thing contained in the Code of Criminal Procedure, 1898 (Central Act 5 of 1898) – (a) an offence under sub-section (1) of section 17 shall be deemed to be a cognizable offence within the meaning of that code and (b) it shall be lawful for any Magistrate of the first class specially empowered by the State Government in this behalf to pass a sentence of fine exceeding two thousand rupees on any person convicted of an offence which under this Act is punishable with fine exceeding two thousand rupees.

36. Recovery of amount due to Government – Any amount due to the State Government from any person under this Act may, on a certificate issued by the Director or an archaeological officer authorised by him in this behalf, be recovered in the same manner as an arrear of land revenue.

37. Protection of action taken under the Act –No suit for compensation and no criminal proceeding shall lie against the State Government or any public servant in respect of any act done or intended to be done in good faith in the exercise of any power conferred by this Act. 38.

38. Power to make rules –

(1) The State Government may, by notification in the Official Gazette and subject to the condition of previous publication, 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 matters which, under any provision of this Act, may be or

are required to be prescribed or provided for by rules.

(3) Any rule made under this section may provide that a breach thereof shall be punishable with fine, which may extend to five thousand rupees.

(4) All rules made under this section shall be laid before the House of the State Legislature as soon as possible after they are made and shall be subject to such modifications as that House may make during the session in which they are so laid or the session immediately following.

39. Repeal and savings – The Ancient Monuments Preservation Act, 1904 of the Central Legislature as adapted to the pre-reo than or as extending to the Abu and

Ajmer areas and other corresponding laws of any State Legislature for the time being in force in any part of the State shall cease to have effect upon the coming into force of this Act, except as respects things done omitted to be done before the commencement of this Act. D