

**MONEY LENDERS.**8<sup>c</sup> Elizabeth II., No. LXXX.

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**No. 80 of 1959.**

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**AN ACT to amend the Money Lenders  
Act, 1912-1948.**

[Assented to 14th December, 1959.]

**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title  
and citation.1. (1) This Act may be cited as the *Money Lenders Act Amendment Act, 1959.*Reprinted in  
Appendix to  
Sessional  
Volume,  
1937-38, and  
further  
amended by  
Acts Nos. 23  
of 1941 and  
54 of 1948.

(2) In this Act the Money Lenders Act, 1912-1948, is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Money Lenders Act, 1912-1959.

2. Subsection (4) of section five of the principal Act is amended— S. 5 amended.

- (a) by adding after the subsection designation, “(4)” the paragraph designation “(a)”;
- (b) by adding after the word, “not” in line five, the words, “less than fifty pounds nor”;
- (c) by adding after the word, “not” where secondly appearing in line eight, the words, “less than fifty pounds nor”;
- (d) by adding after the word, “not” in the last line, the words, “less than one hundred pounds nor”; and
- (e) by adding the following paragraph—

(b) Any minimum fine that may be imposed under the provisions of this section is irreducible in mitigation, notwithstanding the provisions of section one hundred and sixty-six of the Justices Act, 1902.

3. Section nine of the principal Act is amended— S. 9 amended.

(a) by repealing and re-enacting subsection (1) as follows—

(1) Where a money lender agrees to lend money under a contract that includes a provision for the repayment of the money, the payment of interest, or for the giving of security in respect of the money or all or any of those provisions, the money lender shall, before the money or any portion of it is lent, deliver to the borrower

Money lender to supply note or memorandum and copy of security to borrower.

- (a) a note or memorandum which complies with subsection (2) of this section, signed by or on behalf of the money lender and the borrower; and
- (b) a true copy of the document of security, if any, securing the amount of the loan. ;

- (b) by adding after subsection (1) the following subsection—

(1a) (a) Where the contract provides for payment of interest on the whole or portion of the loan at a rate in excess of the maximum rate as determined from time to time by section eleven A of this Act or by regulation or for an amount that represents interest at a rate in excess of that maximum rate, whether or not in relation to the contract the money lender complies with subsection (1) of this section the contract shall be deemed to provide, instead of the rate provided for or represented in the contract, for payment of interest at that maximum rate and the contract and any document of security, if any, in respect of the loan shall be read and construed accordingly.

(b) The operation of the provisions of paragraph (a) of this subsection does not prejudice or affect the operation of the provisions of sections four or nineteen of this Act, or any conviction or penalty which a money lender has suffered or incurred or is liable to suffer or incur under the provisions of section eleven A or twenty-one of this Act for failing to comply with the provisions of subsection (1) of this section.

- (c) by repealing and re-enacting subsections (2) and (3) as follow—

(2) (a) The note or memorandum referred to in subsection (1) of this section shall show—

- (i) the date on which the loan is to be made;
- (ii) the amount of the principal of the loan;

- (iii) subject to paragraph (b) of this subsection either the interest to be charged on the loan expressed in terms of a rate per centum per annum or the rate per centum per annum represented by the interest charged as calculated in accordance with the provisions of the Schedule to this Act;
- (iv) the manner in which and the time when the principal of the loan and interest thereon are to be repaid and paid respectively; and
- (v) the nature of the security, if any, to be given for or in respect of the loan.

(b) If the money is to be lent for a term of less than twelve months, and the total amount charged by way of interest is shown in the note or memorandum, the money lender is not required to show therein the interest to be charged in terms of a rate per centum per annum.

(3) Where the money lender has delivered to the borrower the note or memorandum and true copy of the document of security, if any, as required by this section, he shall obtain a receipt signed by the borrower, acknowledging the receipt by him of the note or memorandum and true copy of the document of security. ; and

- (d) by adding after the word, "contract" being the last word in subsection (5), the words, "for interest in excess of the maximum rate."

S. 11A  
amended.

4. Section eleven A of the principal Act is amended by repealing and re-enacting the proviso to subsection (1) as follows—

For the purposes of this section the Governor may make regulations prescribing the maximum rate of interest (not exceeding twelve pounds ten shillings per centum per annum) and until so prescribed the maximum rate of interest is fifteen pounds per centum per annum.

S. 20A  
added.

5. The principal Act is amended by adding after section twenty the following section—

Advertising  
willingness  
to borrow  
money  
prohibited.

20A. A person who in or by any newspaper or writing or by means of radio or television or by means of canvassing from door to door or place to place—

(a) advertises or holds out that he is willing to borrow money at a rate of interest exceeding twelve and one-half per centum per annum; or

(b) invites a person to lend him money at a rate of interest exceeding twelve and one-half per centum per annum,

is guilty of an offence.

Penalty: Two hundred and fifty pounds.

S. 21  
amended.

6. Section twenty-one of the principal Act is amended by substituting for the word, "fifty" in the last line, the words, "two hundred and fifty."

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