



Isle of Man

Ellan Vannin

AT 6 of 1991

MONEYLENDERS ACT 1991



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**Isle of Man***Ellan Vannin*

MONEYLENDERS ACT 1991

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AN ACT to make new provision for the regulation of moneylenders and consumer credit; and for connected purposes.

GENERAL NOTE: The maximum fines in this Act are as increased by the *Criminal Justice (Penalties, Etc.) Act 1993* s 1.

PART I – MONEYLENDERS

1 Registration of money lenders

- (1) The Isle of Man Office of Fair Trading shall maintain a register of persons carrying on the business of lending money.¹
- (2) The register shall be maintained at the principal office of the Board, and shall be open to inspection by any person free of charge during ordinary office hours.
- (3) The register shall contain the following particulars relating to any registered person –
 - (a) his full name and address or, in the case of a company, its name, the address of its registered office and the full names and addresses of its controller and directors;
 - (b) his principal place of business in the Island;
 - (c) the full name and address of his resident manager (if any);
 - (d) any name under which he carries on any business (including any business other than that of lending money) in the Island;
 - (e) such other particulars as are required by this Act or are prescribed.
- (4) A person who carries on in the Island a business of lending money without being registered commits an offence unless –

- (a) the person is an exempt person; or
 - (b) the lending is an exempt transaction.²
- (4A) A person guilty of an offence under subsection (4) is liable —
- (a) on conviction on information, to a fine;
 - (b) on summary conviction, to a fine not exceeding £5,000.³
- (5) Where it is shown that a person has at any time in the Island —
- (a) lent money or agreed to lend money in consideration of any benefit, or
 - (b) negotiated with a view to lending money in consideration of any benefit, or
 - (c) published any advertisement indicating that he is prepared to lend money or to negotiate with a view to lending money,
- it shall be presumed for the purposes of this section, unless the contrary is shown, that at that time he was carrying on in the Island a business of lending money.
- (6) In subsection (4)(b), “exempt transaction” means a money lending transaction of a prescribed description.⁴

2 Applications for registration

- (1) An application for registration shall be made in writing to the Board and shall be accompanied by such fee as may be prescribed under the *Fees and Duties Act 1989*.
- (2) The applicant shall provide the Board with such documents and information as may be prescribed or as may be required by the Board.
- (3) The Board may refer an application for registration to the Chief Constable and to any other person appearing to the Board to be appropriate, and in determining the application may have regard to any comments made by the Chief Constable or such other person on the application.
- (4) Subject to subsections (5) and (7), the Board shall register an applicant for registration if it is satisfied —
 - (a) that he is a fit and proper person to carry on the business of lending money;
 - (b) in the case of a person who is not resident in the Island, or who is a firm or a company, that he has a resident manager who is a fit and proper person;
 - (c) in the case of a firm, that the partners in the firm are fit and proper persons;
 - (d) in the case of a company, that the controller, directors and executives of the applicant are fit and proper persons; and

- (e) that the applicant has a permanent place of business in the Island.
- (5) The Board shall not register an applicant if within the last 10 years –
- (a) he or, where appropriate, any of the persons mentioned in subsection (4)(b), (c) and (d) has been convicted (whether in the Island or elsewhere) of an offence involving fraud or other dishonesty or violence; or
 - (b) his registration or, where appropriate, that of any of those persons has been cancelled (otherwise than under section 4(1)(b)); or
 - (c) any licence to carry on a consumer credit business issued to him or, where appropriate, to any of those persons under Part III of the Consumer Credit Act 1974 (an Act of Parliament) has been revoked, or an application to renew the licence has been refused.
- (6) Subsection (5)(b) does not prevent the Board registering an applicant where his registration was cancelled because of the conviction, cancellation or registration or revocation of a licence of a person who in relation to the applicant was then, but is no longer, a person mentioned in subsection (4)(b), (c) or (d).
- (7) The Board may refuse to register an applicant if within the last 10 years he or, where appropriate, any of the persons mentioned in subsection (4)(b), (c) and (d) has been convicted of an offence –
- (a) under this Act or regulations made under this Act, or
 - (b) under the said Act of 1974.
- (8) Registration may be effected subject to such conditions in accordance with which the registered person may carry on the business of lending money as the Board may consider appropriate; and those conditions shall be entered in the register.
- (9) The Board shall notify the applicant of its decision on an application for registration and of the reasons for its decision.
- (10) Any person who in or in connection with an application for registration makes a statement which he knows to be false in a material particular, or recklessly makes a statement which is false in a material particular, is guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding 6 months or to a fine not exceeding £5,000 or to both.

3 Duration and renewal of registration

- (1) Subject to subsection (2), any registration shall expire at the end of such period (not being less than one year or more than 5 years) after the date of registration as may be prescribed; and the date of expiry shall be entered in the register.

- (2) A registered person may, within the prescribed period before the expiry of his registration, apply for renewal of the registration; and where an application for renewal is made in accordance with this subsection, the registration shall continue in force —
 - (a) until the application is determined, or
 - (b) if the application is refused, until the expiration of 14 days from the date on which notification of the Board's decision is given to the applicant or, where an appeal is made under section 6, until the appeal is determined.
- (3) Section 2 applies with any necessary modifications to an application under subsection (2) as it applies to an application for registration.

4 Termination etc of registration

- (1) The Board may at any time cancel the registration of a person —
 - (a) on any ground which would entitle it to refuse an application for registration of that person; or
 - (b) at the request of that person.
- (2) The Board shall cancel the registration of a person in any circumstances in which it would be required to refuse registration under section 2(5).
- (3) The Board may at any time suspend the registration of a person, for a period or periods not exceeding one year in all, on any ground which would entitle it to refuse an application for registration of that person, and may at any time terminate the suspension.
- (4) The Board may at any time vary or revoke a condition subject to which a person is registered, or impose a new condition.
- (5) Where the Board exercises any of the powers conferred by subsections (1) to (4), it shall amend the register accordingly, and (except in the case of the variation or revocation of a condition) shall give public notice thereof in such manner as appears to the Board to be appropriate.
- (6) The registered person shall notify the Board whenever —
 - (a) any entry relating to him in the register is incorrect, or
 - (b) a new entry relating to him requires to be made in the register;and if he fails to do so, he is guilty of an offence and liable on summary conviction to a fine not exceeding £5,000.
- (7) If it appears to the Board, in relation to any registered person —
 - (a) that any entry in the register is incorrect, or
 - (b) that a new entry requires to be made in the register,the Board shall, at the request of the registered person or of its own motion, amend the register accordingly.

- (8) The Board shall notify the registered person of any decision to cancel or suspend his registration, to vary, revoke or impose a condition or to amend or insert an entry in the register, and of the reasons for its decision.

5 Certificate of registration

- (1) On granting an application for registration or renewal of registration the Board shall issue a certificate of registration.
- (2) The certificate shall state —
- (a) the full name and address of the registered person or, in the case of a company, its name, the address of its registered office and the full names and addresses of its controller and directors;
 - (b) the principal place of business in the Island of the registered person;
 - (c) in the case of a person mentioned in section 2(4)(b), the full name and address of his resident manager;
 - (d) the date on which the registration expires;
 - (e) any conditions subject to which the registration has effect.
- (3) The registered person shall display the certificate in a prominent place at his principal place of business in the Island, except when it is returned to the Board under subsection (4).
- (4) Where the Board notifies the registered person of any amendment of the register, it shall require him to return the certificate to it for amendment or cancellation, as the case may be.
- (5) If a person fails to comply with subsection (3) or with a requirement under subsection (4), he is guilty of an offence and liable on summary conviction to a fine not exceeding £500.

6 Appeals

- (1) Subject to subsection (3), an applicant for registration or renewal of registration may appeal to the Treasury against the refusal.
- (2) Subject to subsection (3), a registered person may appeal to the Treasury against —
- (a) the imposition or variation of a condition of registration;
 - (b) the cancellation or suspension of registration; or
 - (c) a direction under subsection (5).
- (3) Subsections (1) and (2) do not apply where the Board is required by section 2(5) to refuse the application or by section 4(2) to cancel the registration, as the case may be.

- (4) Subject to subsection (5), a decision referred to in subsection 2(a) or (b), except the imposition of a condition under section 2(8) made otherwise than on renewal of registration, shall not have effect —
- (a) until the expiration of the time within which an appeal may be made;
 - (b) where an appeal is made, until the appeal is determined.
- (5) If it appears to the Board that there are exceptional circumstances which make it expedient that such a decision should have effect without delay, it may direct that subsection (4) shall not apply and that the decision shall have effect as soon as it is notified to the registered person, and the Board shall notify the registered person and the Treasury of the direction and of its reasons for giving it.
- (6) Schedule 1 shall have effect in relation to appeals under this section.

7 Interpretation of Part I

- (1) In this Part —

“**associate**”, in relation to any person, means —

- (a) his spouse or civil partner, son, daughter, stepson or stepdaughter, or⁵
- (b) any company of which he is a director, or
- (c) any employee or partner of his, or
- (d) in the case of a body corporate, any director of that body, any subsidiary of that body (as defined in the *Companies Act 1974*) or any director or employee of any such subsidiary;

“**certificate**” means a certificate of registration issued under section 5(1);

“**controller**”, in relation to a company, means a person —

- (a) in accordance with whose directions or instructions the directors of the company are accustomed to act, or
- (b) who either alone or with any associate is entitled to exercise, or control the exercise of, one third or more of the voting power at any general meeting of the company;

“**executive**”, in relation to a company, means an employee of the company who, either alone or with others, is responsible for the conduct of the company’s business of lending money;

“**notice**” means notice in writing;

“**notify**” means notify in writing, and “**notification**” has a corresponding meaning;

“**the register**” means the register maintained under section 1(1);

“**registered**” (except in “**registered office**”) means entered in the register, and “**registration**” has a corresponding meaning;

“**resident manager**”, in relation to a person, means an employee of that person or, in the case of a firm or a company, a partner in the firm or a director of the company, who is —

- (a) resident in the Island, and
 - (b) responsible for the conduct in the Island of that person’s business of lending money.
- (2) Any notice or notification required by this Part to be given to a registered person may be given by sending it by post to him at the place of business entered in the register under section 1(3)(b).
 - (3) For the purposes of this Part, a business of lending money includes the collection of money due under a transaction involving the lending of money, or a transaction connected with such a transaction, but a person who is not registered shall not be regarded as contravening section 1(4) by reason only of collecting money due under a transaction entered into by him at a time when he was registered.
 - (4) For the purposes of this Part a person shall not be regarded as carrying on a business of lending money by reason only of bona fide carrying on a business not having for its primary object the lending of money, in the course of which and for the purposes of which he lends money to a body or bodies corporate.

PART II – CREDIT TRANSACTIONS

8 Regulation of certain credit transactions

- (1) The Board may make regulations —
 - (a) enabling any person entering into a personal credit agreement of a kind specified in the regulations, or a related transaction, to withdraw from the agreement or transaction within such time, and subject to such conditions, as may be prescribed;
 - (b) requiring any document embodying or evidencing a personal credit agreement of a kind so specified, or a related transaction, to be in such form, and to contain such particulars as to the rights and obligations of the parties under the agreement or transaction, and under this Act and any regulations under this Act, as may be prescribed;
 - (c) requiring any such document to contain prescribed information on facilities available to debtors under personal credit agreements for obtaining advice and counselling on their financial problems;

- (d) requiring any person with whom a person carrying on a credit business negotiates for the provision of credit under a personal credit agreement of a kind so specified to be supplied with such documents, containing such particulars as to the rights and obligations of the parties under the agreement or any related transaction, and under this Act and any regulations under this Act, as may be prescribed;
 - (e) requiring any advertisement published in connection with a credit business, and any document referred to in paragraphs (b) and (d), to contain such indication of the true rate of interest and of any other charge which may become payable under or in relation to any transaction in the course of that business, as may be prescribed;
 - (f) defining the expression “true rate of interest” for the purposes of paragraph (e);
 - (g) requiring a person carrying on a credit business, and a creditor under a personal credit agreement, and any servant or agent of such a person or creditor, when calling at the residence of any person in connection with a personal credit agreement or a related transaction, to produce if requested a document in the prescribed form identifying him and the person (if any) on whose behalf he acts.
- (2) Regulations under this section –
- (a) shall not apply to a personal credit agreement or a related transaction which is entered into outside the Island unless the agreement or transaction is governed by the law of the Island;
 - (b) may provide that, in any proceedings relating to a personal credit agreement or a related transaction, it shall be presumed unless the contrary is shown that the agreement is of a kind specified in the regulations, or that the agreement or transaction was entered into within the Island, or is governed by the law of the Island, as the case may be;
 - (c) may provide that any person contravening a prescribed requirement of the regulations shall be guilty of an offence and liable on summary conviction to a fine not exceeding such amount (which shall not exceed £5,000) as may be prescribed;
 - (d) without prejudice to paragraph (c), may provide that a personal credit agreement or a related transaction in respect of which a prescribed requirement of the regulations is contravened shall be unenforceable to such extent as may be prescribed.
- (3) Regulations under this section may repeal or amend any of the following enactments which appear to the Board to be unnecessary, or to require amendment, in consequence of any provision of the regulations –

- (a) the Hire-Purchase Acts 1939 to 1973;
- (b) the *Advertisements (Hire-Purchase) (Isle of Man) Act 1966*;

and such regulations may make such consequential, supplemental and transitional provisions as appear to the Board to be necessary or expedient for the purposes of the repeal or amendment.⁶

- (4) Where the Board proposes to make regulations under this section it shall consult the Treasury and such organisations as appear to the Board to be representative of interests substantially affected by the proposals.⁷

[S 8 not in operation.]

9 Canvassing off trade premises

[P1974/39/48 and 49]

- (1) Any person, other than an exempt person or a person employed under a contract of employment by an exempt person, who solicits the entry of an individual (otherwise than as creditor) into a personal credit agreement or a related transaction by making oral representations to him or another individual during a visit by that person to any premises (other than premises excluded by subsection (2)) which —
 - (a) was not made in response to a request made on a previous occasion, or
 - (b) was made in response to a request made otherwise than in writing, signed by or on behalf of the person by whom it was made,is guilty of an offence.
- (2) Subsection (1) does not apply to premises where a business is carried on by —
 - (a) any person referred to in that subsection;
 - (b) a creditor under the personal credit agreement; or
 - (c) the supplier of goods or services under any related transaction.
- (3) Subsection (1) does not apply to a personal credit agreement of a prescribed kind, or a related transaction.
- (4) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding £5,000.

10 Harassment of debtors

[P1970/31/40]

- (1) Any person who, with the object of coercing another person to pay money claimed from the other as a debt due under a contract —
 - (a) harasses the other with demands for payment which, in respect of —

- (i) their frequency or the manner or occasion of making any such demand, or
 - (ii) any threat or publicity by which any demand is accompanied,
- are calculated to subject him or members of his family or household to alarm, distress or humiliation;
- (b) falsely represents, in relation to the money claimed, that criminal proceedings lie for failure to pay it;
 - (c) falsely represents himself to be authorised in some official capacity to claim or enforce payment; or
 - (d) utters a document falsely represented by him to have some official character or purporting to have some official character which he knows he has not;
- is guilty of an offence.
- (2) Subsection (1)(a) does not apply to anything done by a person which is reasonable (and otherwise permissible in law) for the purpose of —
 - (a) securing the discharge of an obligation due, or believed by him to be due, to himself or to persons for whom he acts, or protecting himself or them from future loss; or
 - (b) the enforcement of any liability by legal process.
 - (3) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding 6 months, or a fine not exceeding £5,000 or to both.

11 Reopening of transactions

[P1974/39/137-139]

- (1) In any proceedings arising out of a personal credit agreement or a related transaction, (including proceedings on an application for the exercise of the Court's powers under this section), the High Court may, if it finds any such transaction extortionate, reopen the agreement and any related transaction, or any one or more of those transactions, so as to do justice between the parties.
- (2) A transaction is extortionate if under it any party (other than a party by whom money is lent or agreed to be lent) is or may be required to make payments which are exorbitant or unfair, having regard to —
 - (a) the general level of interest rates and other charges at the time the transaction is entered into;
 - (b) the age, experience, business capacity and state of health of that party;
 - (c) his financial state at the time of the transaction;

- (d) the value of any goods or services which he or any other party receives under the transaction or any other transaction referred to in subsection (1);
 - (e) the degree of risk undertaken by any other party to the transaction; and
 - (f) any other matters appearing to the Court to be material.
- (3) In reopening any agreement or transaction the Court may relieve a party from payment of any sum above that which is fairly due and reasonable, and for that purpose may —
- (a) direct accounts to be taken between any persons;
 - (b) set aside the whole or any part of an obligation imposed on that party;
 - (c) require any other party to repay any money paid under the agreement or transaction to that party or any other person;
 - (d) direct the return of any property provided under the agreement or transaction; or
 - (e) alter the terms of the agreement or transaction.

12 Interpretation of Part II

- (1) In this Part —

“**credit**” includes a loan of money in any form, and any other kind of financial accommodation;

“**credit business**” means a business which consists or includes the provision of credit under personal credit agreements, other than a business which is carried on by an exempt person;

“**personal credit agreement**” means an agreement between an individual (‘the debtor’) and any other person, not being an exempt person, by which that person (‘the creditor’) provides the debtor with credit;

“**related transaction**”, in relation to a personal credit agreement, means a transaction for the supply of goods or services or both which is connected with the agreement.

- (2) A reference in this section to an agreement or transaction includes a reference to a proposed agreement or transaction.

PART III – MISCELLANEOUS AND SUPPLEMENTAL

Enforcement

13 Powers of search etc

Schedule 2 shall have effect with respect to searches of premises for the purposes of this Act and the related matters mentioned therein.

14 Enforcement by injunction

- (1) If it appears to the Board in any particular case —
- (a) that an offence under this Act has been committed by any person; and
 - (b) that criminal proceedings for the offence are unlikely to discourage him from committing further offences under this Act,
- the Board may, with the consent of the Attorney General, apply to the High Court for an injunction restraining that person from doing such acts (being acts constituting an offence under this Act) as are specified in the application.
- (2) On an application under this section the Court may make such order, and grant such further relief, as appears to it to be just and equitable in all the circumstances of the case.

15 Offences by bodies corporate

- (1) Where a body corporate is guilty of an offence under this Act in respect of any act or default which is shown to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
- (2) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

16 Disclosure of information

- (1) Subject to subsection (2), any person who discloses any information which was —
- (a) supplied to the Board under section 2(2) (including that provision as applied by section 3(3)), or

- (b) obtained by the Board in consequence of the exercise by any person of any power conferred by Schedule 2,
shall be guilty of an offence.
- (2) Subsection (1) does not apply to a disclosure of information if —
 - (a) the information has been disclosed in any civil or criminal proceedings, or
 - (b) the disclosure is made for the purpose of facilitating the exercise of any function of the Board, the Treasury or the Financial Supervision Commission under any enactment (including this Act), or in connection with the investigation of any criminal offence or for the purposes of any civil or criminal proceedings.
- (3) A person committing an offence under this section is liable —
 - (a) on conviction on indictment to imprisonment for a term not exceeding 2 years or to a fine, or to both, or
 - (b) on summary conviction to imprisonment for a term not exceeding 6 months or to a fine not exceeding £5,000 or to both.

Supplemental

17 Regulations

- (1) The Board may make regulations prescribing anything which may be prescribed under this Act.
- (1A) Subsections (1B) to (1F) do not limit —
 - (a) subsection (1); or
 - (b) the operation of section 26 of the *Interpretation Act 1976*¹ (construction of provisions as to exercise of powers and duties).⁸
- (1B) Regulations may prescribe the following as exempt persons —
 - (a) named persons or classes of persons;
 - (b) persons or classes of persons described in the regulations by reference to a characteristic, activity or other matter specified in the regulations.⁹
- (1C) Regulations may prescribe the following as exempt transactions —
 - (a) named transactions or classes of transaction;
 - (b) generic transactions or classes of transaction described in the regulations by reference to a characteristic, activity, value or other matter specified in the regulations.¹⁰
- (1D) Without limiting subsection (1B), a person may be prescribed as an exempt person —

¹ c.20

- (a) for an unlimited or limited period of time;
 - (b) in relation to all money lending; or
 - (c) in relation only to money lending specified in the regulations.¹¹
- (1E) Without limiting subsection (1C), a transaction may be prescribed as an exempt transaction –
- (a) for an unlimited or limited period of time;
 - (b) by reference only to the transaction; or
 - (c) by reference to the persons carrying out the transaction.¹²
- (1F) Regulations may contain such consequential, incidental, saving, transitional and transitory provisions as the Board considers necessary or appropriate.¹³
- (2) Regulations under this Act shall not have effect unless they are approved by Tynwald.

18 Interpretation: general

In this Act –

“**the Board**” means the Isle of Man Office of Fair Trading;¹⁴

“**exempt person**” means –

- (a) an industrial and provident society or a building society registered under the *Industrial and Building Societies Act 1892*;
- (b) an agricultural credit society to which section 11 of the *Agricultural Credits Act 1924* applies;
- (c) a society registered under the Friendly Societies Act 1974 (an Act of Parliament);
- (d) the holder of a licence under section 7 of the *Financial Services Act 2008*² in respect of the regulated activity of deposit taking;¹⁵
- (e) a United Kingdom building society which is licensed to accept deposits under section 7 of the *Financial Services Act 2008*;¹⁶
- (f) an authorised insurer within the meaning of the *Insurance Act 2008*;¹⁷
- (g) any Department or Statutory Board;
- (h) any person prescribed for the purpose of this definition;

“**prescribed**” means prescribed by regulations under this Act;

“**transaction**” includes any agreement.

² c.8

19 Repeals and transitional provisions

- (1) The enactments specified in Schedule 3 are repealed to the extent specified in column 3 of that Schedule.
- (2) Notwithstanding the repeal of the *Money-Lenders Act 1908*, section 11 shall not apply, and section 2 of that Act shall continue to apply, to any proceedings pending at the commencement of section 11.
- (3) A person who is not registered shall not be regarded as contravening section 1(4) by reason only of collecting money due under a moneylending transaction or a related transaction entered into before the commencement of that section.

20 Short title and commencement

- (1) This Act may be cited as the Moneylenders Act 1991.
- (2) This Act shall come into operation on such day as the Board, after consultation with the Treasury, may by order appoint.¹⁸

SCHEDULE 1

[Section 6(6)]

APPEALS**1 Lodging of appeal**

- (1) An appeal against a decision mentioned in section 6(1) or (2)(a) or (b) shall be lodged by the appellant giving notice to the Treasury within 14 days of notification to him of the decision appealed against, stating —
 - (a) particulars of the decision,
 - (b) the grounds of the appeal, and
 - (c) whether the appellant wishes to make representations in writing only, or both in writing and oral, in support of his appeal.
- (2) An appeal against a direction under section 6(5) shall be lodged by the appellant giving notice to the Treasury within 14 days of notification to him of the direction, stating —
 - (a) particulars of the direction, and
 - (b) the grounds of the appeal;
and the notice may be accompanied by representations in writing in support of the appeal.
- (3) The appellant shall send to the Board a copy of the notice of appeal under sub-paragraph (1) or (2).

2 Determination of appeal against direction under s 6(5)

- (1) Within 14 days of receipt of a notice of appeal against a direction under section 6(5), the Treasury shall consider the Board's reasons for giving the direction, the grounds of the appeal and any representations made under paragraph 1(2) and shall quash the direction if it is satisfied that the Board was not justified in giving it, but shall otherwise confirm the direction.
- (2) The Treasury shall forthwith notify the Board and the appellant of its decision under sub-paragraph (1), and if the direction is quashed, section 6(4) shall thereupon apply to the decision of the Board as if no direction had been given in relation to it.

3 Written representations

- (1) The appellant shall, within 14 days of the date of the notice under paragraph 1(1), send to the Treasury any representations in writing in support of the appeal, and send a copy thereof to the Board.

- (2) The Board shall, within 14 days of receipt of the copy under sub-paragraph (1), send to the Treasury any observations in writing on the representations made by the appellant, and send a copy thereof to the appellant.
- (3) The Treasury may by notice to the appellant and the Board extend any time within which anything is required by this paragraph to be done, and may do so notwithstanding that the time has already expired.
- (4) Subject to sub-paragraph (3), where any party fails to comply with a requirement of this paragraph, the Treasury may proceed to determine the appeal.

4 Oral representations

- (1) Where the appellant states under paragraph 1(1)(c) that he wishes to make oral representations in support of his appeal, the Treasury shall appoint a person to consider the appeal, and shall give notice to the appellant and the Board of the time and place at which they may appear before the appointed person and make oral representations with respect to the appeal.
- (2) The time appointed under sub-paragraph (1) shall not be earlier than 7 days after the expiration of the period of 14 days referred to in paragraph 3(2).
- (3) The appellant may appear before the appointed person in person or by an advocate, and the Board may appear by any officer of the Board or by an advocate.
- (4) The appointed person shall hear any representations of the appellant and the Board with respect to the appeal, and either party may call and examine witnesses in connection with those representations.
- (5) The appointed person shall consider —
 - (a) any representations in writing made by the appellant and any observations in writing thereon made by the Board, and
 - (b) any oral representations made under sub-paragraph (4) and any statements made by witnesses in connection with them,
and shall make a report (including recommendations) to the Treasury about the appeal.

5 Determination of appeal

- (1) On an appeal against a decision mentioned in section 6(1) or (2)(a) or (b), the Treasury shall consider —
 - (a) any representations in writing made by the appellant and any observations in writing thereon made by the Board, and

- (b) where oral representations have been made under paragraph 4, the report of the appointed person.
- (2) On such an appeal the Treasury may either confirm the decision of the Board or direct —
- (a) that the decision of the Board shall not have effect;
 - (b) that any condition subject to which the registration has effect shall be so varied as may be directed;
 - (c) that any such condition shall cease to have effect;
 - (d) that the registration shall, instead of being cancelled, be suspended for such period as may be directed;
 - (e) that the registration shall have effect subject to any condition in accordance with which the person registered may carry on the business of lending money as may be directed;
- (3) The Treasury shall forthwith notify the Board and the appellant of its decision on the appeal; and the Board shall —
- (a) comply with any directions of the Treasury under this paragraph;
 - (b) make any necessary entries or amendments in the register; and
 - (c) notify the appellant of any such entries and amendments;
- and section 5(4) and (5) shall apply accordingly.

SCHEDULE 2

[Section 13]

POWERS OF SEARCH ETC**1 Powers of search**

- (1) Subject to the following provisions of this Schedule, a duly authorised officer of the Board may at any reasonable hour and on production, if required, of his credentials exercise any of the powers conferred by the following provisions of this paragraph.
- (2) The officer may, for the purpose of ascertaining whether there has been any contravention of any provision of this Act, or of regulations under this Act, enter any premises other than premises occupied only as a person's residence.
- (3) If the officer has reasonable grounds for suspecting that there has been any such contravention, he may —
 - (a) for the purpose of ascertaining whether there has been any such contravention, require any person carrying on a business, or employed in connection with a business, to produce any records relating to the business;
 - (b) take copies of, or of any entry in, any records so produced.
- (4) The officer may seize and detain any records which he has reasonable grounds for believing may be required as evidence in proceedings for an offence in respect of any such contravention, but shall inform the person from whom they are seized that the records have been so seized.

2 Search warrants

- (1) If a justice of the peace is satisfied by written information on oath that there are reasonable grounds for believing that any records which an officer has power to inspect under paragraph 1 are on any premises and that their inspection is likely to disclose evidence that there has been a contravention of any provision of this Act, or of regulations under this Act, and that —
 - (a) admission to the premises has been or is likely to be refused and notice of intention to apply for a warrant under this paragraph has been given to the occupier, or
 - (b) an application for admission, or the giving of such a notice, would defeat the object of the entry, or
 - (c) the premises are unoccupied, or
 - (d) the occupier is temporarily absent and it might defeat the object of the entry to await his return,

the justice may by warrant under his hand authorise any officer of the Board to enter the premises, if need be by force.

- (2) A warrant under this paragraph shall continue in force for a period of one month.

3 Supplemental provisions

- (1) An officer entering any premises by virtue of paragraph 1 or a warrant under paragraph 2 may take with him such other persons as may appear to him to be necessary.
- (2) On leaving any premises which a person is authorised to enter by paragraph 1 or a warrant under paragraph 2, that person shall, if the premises are unoccupied or the occupier is absent, leave the premises as effectively secured against trespassers as he found them.
- (3) If any person who is not an officer of the Board purports to act as such under paragraph 1 or 2, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £5,000.

4 Obstruction

- (1) Any person who —
- (a) intentionally obstructs any officer of the Board who is acting in pursuance of this Schedule, or
 - (b) intentionally fails to comply with any requirement made of him by an officer of the Board under paragraph 1(3), or
 - (c) without reasonable cause fails to give any officer of the Board who is so acting any other assistance or information which the officer may reasonably require of him for the purposes of the exercise of the officer's functions under this Schedule,
- shall be guilty of an offence and liable on summary conviction to a fine not exceeding £5,000.
- (2) Any person who, in giving any information which is required of him by virtue of sub-paragraph (1)(c) —
- (a) makes any statement which he knows is false in a material particular, or
 - (b) recklessly makes a statement which is false in a material particular,
- shall be guilty of an offence and liable on conviction on information to a fine, or on summary conviction to a fine not exceeding £5,000.

SCHEDULE 3

[Section 19(1)]

ENACTMENTS REPEALED

[Sch 3 repeals the following Acts wholly —

Money-Lenders Act 1908

Money-Lenders (Amendment) Act 1979

and the following Acts in part —

Agricultural Credits Act 1924

Treasury Act 1985.]

ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement

Table of Renumbered Provisions

Original	Current

Table of Endnote References

¹ Subs (1) amended by SD579/98.

² Subs (4) substituted by Moneylenders (Amendment) Act 2012 s 3.

³ Subs (4A) inserted by Moneylenders (Amendment) Act 2012 s 3.

⁴ Subs (6) inserted by Moneylenders (Amendment) Act 2012 s 3.

⁵ Para (a) amended by Civil Partnership Act 2011 Sch 14.

⁶ Subs (3) added by Supply of Goods and Services Act 1996 s 29.

⁷ Subs (4) added by Supply of Goods and Services Act 1996 s 29.

⁸ Subs (1A) inserted by Moneylenders (Amendment) Act 2012 s 3.

⁹ Subs (1B) inserted by Moneylenders (Amendment) Act 2012 s 3.

¹⁰ Subs (1C) inserted by Moneylenders (Amendment) Act 2012 s 3.

¹¹ Subs (1D) inserted by Moneylenders (Amendment) Act 2012 s 3.

¹² Subs (1E) inserted by Moneylenders (Amendment) Act 2012 s 3.

¹³ Subs (1F) inserted by Moneylenders (Amendment) Act 2012 s 3.

¹⁴ Definition of the “the Board” amended by SD579/98.

¹⁵ Para (d) substituted by Moneylenders (Amendment) Act 2012 s 3.

¹⁶ Para (e) amended by Financial Services Act 2008 Sch 6.

¹⁷ Para (f) amended by Insurance Act 2008 Sch 8.

¹⁸ ADO (whole Act except ss 8 and 9) 1/4/1992 (GC2/92).