

## ORISSA REGULATION 2 OF 1968

THE ORISSA (SCHEDULED AREAS) MONEY-  
LENDERS' REGULATION, 1967

[ Received the assent of the President on the 22nd February 1968,  
published in an extraordinary issue of the Orissa Gazette  
dated the 8th April 1968 ]

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## REGULATION

TO CONTROL AND REGULATE THE BUSINESS OF MONEY-  
LENDING IN THE SCHEDULED AREAS OF THE  
STATE OF ORISSA

WHEREAS it is expedient to control and regulate the business  
of money-lending in the Scheduled Areas of the State of Orissa;

NOW, THEREFORE, in exercise of the powers conferred by  
sub-paragraph (2) of paragraph 5 of the Fifth Schedule to the Constitu-  
tion of India, the Governor of Orissa is pleased to promulgate the following  
Regulation made by him in the Eighteenth Year of the Republic of India:—

Short title,  
extent and  
commence-  
ment.

1. (1) This Regulation may be called the Orissa (Scheduled Areas)  
Money-Lenders' Regulation, 1967.

(2) It extends to all the Scheduled Areas of the State of Orissa.

(3) This section shall come into force at once and the remaining  
provisions of this Regulation shall come into force on such date as  
Government may, by notification, appoint in that behalf.

Definitions

2. In this Regulation, unless the context otherwise requires:—

(i) "appointed date" means the date appointed by notification  
under sub-section (3) of section 1;

(ii) "bank" means a banking company as defined in section 5  
of the Banking Regulation Act, 1949 and includes the State Bank of India constituted by the State Bank of India Act, 1955, a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 and any other financial institution notified in this behalf by the State Government;

(iii) "Co-operative Society" means a society registered or deemed  
to be registered under the Orissa Co-operative Societies Act, 1962;

(iv) "Court" includes a court exercising insolvency jurisdiction;

(v) "debtor" means person to whom a loan is advanced and  
includes his successor-in-interest or surety;

10 of 1949

23 of 1955

38 of 1959

Orissa Act  
2 of 1963.

- (vi) "Government" means the State Government of Orissa;
- (vii) "interest" includes any amount by whatever name called paid or payable to a money-lender in consideration of or otherwise in respect of a loan in excess of the principal, but does not include any sum lawfully charged by a money-lender in accordance with the provisions of this Regulation or any other law for the time being in force for or on account of costs, charges or expenses;
- (viii) "licence" means a money-lender's licence granted under this Regulation and "licensed" shall be construed accordingly;
- (ix) "loan" means an advance of money, articles, goods or materials for interest and includes any transaction which the Court finds in substance to amount to such an advance, but does not include:—
- (a) a deposit of money or other property in a Bank, Post Office, Savings Bank or Co-operative Society;
- (b) an advance made by the Government or by any person authorised by the Government to make advances in their behalf or by any local authority; and
- (c) an advance made by any person *bona fide*, carrying on any business, not having for its primary object the lending of money if such money is advanced in the regular courses of such business;
- (x) "money-lender" means a person whose business is that of advancing and realising loans and shall include a mandi merchant and a trader but does not include a bank or co-operative society and the expression "money-lending" shall be construed accordingly;

*Explanation*—Where a money-lender who is not a resident of the Scheduled areas carries on the business of money-lending through his agent who resides in such area, such agent shall be deemed to be the money-lender in respect of that business;

- (xi) "mandi merchant" means a person who advances money on the security of any standing crop or produce;
- (xii) "prescribed" means prescribed by rules made under this Regulation;
- (xiii) "principal" in relation to a loan means the amount actually lent to the debtor;
- (xiv) "trader" means a person who carries on the business of taking goods and chattels in security for a loan given by him;

*Explanation*—Every person who keeps a shop for the purchase or sale of goods or chattels or for taking goods or chattels by way of security for money advanced thereon and who purchases, receives or takes goods or chattels and pays, advances or lends thereon any sum of money, with an agreement or understanding, express or implied, that these goods or chattels may be afterwards redeemed or repurchased on any terms is a trader within the meaning of this clause;

(xv) "year" means the financial year or such other year as may be prescribed.

Money-lender to obtain licence.

3. No person shall after the appointed date carry on business of money-lending at any place in the Scheduled areas, unless he has obtained a licence.

*Explanation I*—Where a person has more than one shop or place of business whether in the same place, town or village or in different places, towns or villages, he shall obtain a separate licence in respect of each such shop or place of business.

*Explanation II*—Where the business of money-lending is done by—

- (a) a registered firm, the licence shall be obtained in the name of the manager described as such in the licence;
- (b) an undivided Hindu family, the licence shall be obtained in the name of the manager described as such in the licence; or
- (c) any other association of individuals, not required to be registered under section 11 of the Companies Act, 1956 a<sup>1 of 1956</sup> separate licence shall be obtained by each such individual in his name describing himself as a member of the association:

Provided that nothing contained in this Explanation shall affect the operation of section 69 of the Indian Partnership Act, 1932.

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Grant and renewal of licence.

4. (1) An application for a licence shall be filed before the prescribed licensing authority and shall be accompanied by such fee, not exceeding twenty-five rupees, as the Government may, from time to time, by notification determine.

(2) The fee payable under sub-section (1) shall be paid in the manner prescribed.

(3) Where the licence applied for is refused, the fee paid therefor shall be refunded in full and where the application for licence is withdrawn by the applicant before the licence is actually granted the fee paid less ten per cent thereof shall be refunded.

(4) Every licence shall be granted in such form and subject to such conditions as may be prescribed.

(5) The licensing authority may, by order in writing refuse to grant a licence if he is satisfied that—

- (a) the applicant has not complied with the provisions of this Regulation or the rules made thereunder in respect of an application for the grant of a licence ;

- (b) the applicant has knowingly acted in contravention of any requirement of this Regulation ;
- (c) the applicant 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) been found guilty of any offence under Chapter XVII or Chapter XVIII of the Indian Penal Code :

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Provided that before passing an order refusing a licence on any of the grounds specified above other than the ground specified in sub-clause (ii) of clause (c), the applicant shall be given a reasonable opportunity of being heard.

(6) The licensing authority shall, in the grant or refusal of a licence, be subject to the control and direction of the Government or any other prescribed authority.

(7) Any person aggrieved by an order of the licensing authority under sub-section (5) may, within one month from the date of communication of such order to him, appeal to the prescribed authority.

(8) Every licence granted under this Regulation shall, subject to the provisions of sub-section (9), expire on the last day of the year for which it was granted.

(9) A licence granted under sub-section (4) may be renewed from year to year and the provisions of sub-sections (1) to (8) shall apply in relation to the renewal of a licence, as they apply in relation to the grant of a licence.

Change of place of business by money-lender.

5. No money-lender shall change his place of business without previous notice to the licensing authority.

Signboard to be exhibited by money-lender.

6. Every money-lender shall keep exhibited over the outer door of his shop or place of business a board containing in Oriya language the equivalents of the words "licensed money-lender" and the name of the debt collector, if any, authorised under section 14.

Interest and charges allowed to money-lenders.

7. (1) No money-lender shall charge interest on any loan advanced by him at a rate exceeding—

- (a) nine per cent per annum simple interest, where the loan is secured ; and
- (b) twelve per cent per annum simple interest, where the loan is not secured.

(2) No money-lender shall demand and take from the debtor on account of charges any amount in excess of such amount as may be prescribed.

Duties of money-lender to keep accounts and furnish copies.

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

(2) Every money-lender shall—

- (i) deliver or cause to be delivered to the debtor and to the authority prescribed in that behalf within thirty days from the date on which a loan is made, a statement in the Oriya language showing in clear and distinct terms the amount and date

of the loan and the date 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 charged :

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 in the prescribed form containing an up-to-date account of the transactions with the debtor ; and

(ii) upon repayment of a loan in full, mark indelibly every paper signed by the debtor with words indicating payment or 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) A money-lender shall grant a receipt containing the prescribed particulars to the debtor for every payment made by him on account of the loan.

(4) No money-lender shall accept from a debtor any article as a pawn, pledge or security for a loan without giving him a receipt for the same with its description, estimated value, the amount of loan advanced against the article and such other particulars as may be prescribed.

Delivery of statement of accounts and copies thereof by money-lender.

9. (1) Every money-lender shall deliver or cause to be delivered every year to each of his debtors and to the authority prescribed in this behalf a statement of such debtor's accounts signed by the money-lender or his agent showing therein :—

(a) the amount of principal and the amount of interest due to the money-lender;

(b) the amount of every payment received by the money-lender in respect of the loan during the year together with the date on which each payment was made;

(c) 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 in the alternative such of the payments credited first in the account of principal as the money-lender may determine and the remaining payments credited in the account of interest calculated on the basis of the decreased balance of principal and when the balance of interest is fully discharged the residue of the payments, if any, further credited in the account of principal ; and

(d) the amount of principal and interest remaining unpaid.

(2) The statement shall be in such form and shall be delivered on or before such date 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 in the prescribed form containing an up-to-date account of the transactions with the debtor.

(3) A money-lender shall, on demand in writing being made by the debtor at any time during the subsistence of any loan advanced by him whether before or after the appointed date and on payment of the prescribed fee, supply to the debtor, or to any other person specified in that

behalf in the notice of demand, a statement in respect of such loan signed by the money-lender or his agent, and containing the particulars specified in sub-section (1).

(4) A money-lender shall, on demand in writing made by the debtor and on payment of the prescribed sum on account of expenses, supply to the debtor or to any other person specified in that behalf in the notice of demand, a copy of any document relating to any loan advanced by him to such debtor or relating to any security therefor.

Debtor not bound to admit correctness of accounts.

10. A debtor to whom a statement of accounts or a pass-book has been furnished under section 9 shall not be bound to acknowledge or deny its correctness and his failure to do so shall not by itself be deemed to be an admission of the correctness of the accounts.

Procedure in suits regarding loans.

11. Notwithstanding anything contained in any law for the time being in force, in any suit to which this Act applies:—

(a) the Court shall, before deciding the claim on merits, frame and decide the issue whether the money-lender has complied with the provisions of sections 8 and 9,

(b) if the Court finds that the aforesaid provisions have not been complied with by the money-lender, it may, in case the plaintiff's claim is established in whole or in part, disallow the whole or any portion of the interest found due, as may seem reasonable to it in the circumstances of the case and may disallow costs.

*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 deemed to have complied with the provisions of section 8 or 9, as the case may be, in spite of any error or omission, if the Court is of the opinion that such error or omission is not material or not made fraudulently.

Power of Court to order payment in instalments.

12. Notwithstanding anything contained in the Code of Civil Procedure, 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 appointed date in respect of a loan shall be paid in such number of instalments and subject to such condition, and payable on such dates, as, having regard to the circumstances of the judgment-debtor and the amount of decree, it considers fit.

Maximum amount of interest which may be decreed.

13. Notwithstanding anything contained in any agreement or any law for the time being in force, no Court shall, in respect of any loan whether advanced before or after the appointed date, pass a decree, on account of interest, a sum greater than the principal of the loan due on the date of the decree.

Employment of debt collectors.

14. (1) No person shall be employed by any money-lender for the purpose of demanding or recovering any loan due to him unless such person is in possession of a certificate authorising him to act as a debt collector granted under this section.

(2) The certificate shall be in such form and for such period and shall contain such particulars, as may be prescribed.

Appointment of Inspectors and their powers.

15. (1) The Government or any authority or officer empowered by them may, by notification, appoint one or more persons to be Inspectors for the purposes of this Regulation and may specify in such notification the local limits of their jurisdiction.

(2) Every Inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

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(3) An Inspector may, at any time, with such assistance as he thinks necessary, enter any premises within his jurisdiction in which any person carries on business as a licensed money-lender and inspect the books, accounts, records, files, documents, safes, vaults and pledges in such premises.

(4) A Magistrate of the first class on receiving a report from an Inspector that he has reason to believe that a person is carrying on the business of money-lending without a licence at any place within the jurisdiction of such Magistrate, may issue a warrant empowering the Inspector to enter such place with such assistance as such Magistrate considers necessary and to inspect the books, accounts, records, files, documents, safes, vaults and pledges in such place.

(5) While making an inspection made under sub-section (3) or sub-section (4) the Inspector may take to his office for further investigation, such books, accounts, records, files and documents as he considers necessary.

(6) If the Inspector removes from the premises any books, accounts, records, files and documents he shall give to the person in charge of the place from whose custody they were removed, a receipt describing the books, accounts, records, files and documents so removed by him.

(7) The Inspector shall, within twenty-four hours of the removal of the books, accounts, records, files and documents from the premises,—

(a) where the inspection is made under sub-section (3) return them to the person from whose custody they were removed ;  
or

(b) where the inspection is made under sub-section (4) produce them in the Court of the Magistrate who may return the books, accounts, records, files and documents, or any of them to the person from whose custody they were removed by the Inspector, after taking from such person such security as the Magistrate considers necessary for the production of the books, accounts, records, files and documents when required whether by the Inspector or by the Court, or may pass such other orders as to their disposal as appear just or necessary.

(8) An Inspector shall have authority to require any person whose testimony he may require regarding any loan or any money-lending business, to appear before him or to produce or cause to be produced any document and to examine such person on oath.

(9) An Inspector may apply for assistance to an officer-in-charge of a police-station and take police aid in performing his duties under this Regulation.

16. (1) The licensing authority may, by an order in writing at any time during the term of a licence, suspend it for such period as he may deem fit or cancel it if—

(a) the licensee contravenes any of the provisions of this Regulation or the rules made thereunder or the conditions of the licence ; or

- (b) circumstances under which the licensing authority could have refused to grant the licence under sub-section (5) of section 4, is brought to his notice after the grant of the licence; or
- (c) the licensee is convicted for an offence involving moral turpitude; or
- (d) the licensee maintains false accounts; or
- (e) the licensee obstructs or wilfully refuses facilities to an Inspector appointed under section 15 or any other authority appointed under this Regulation in the performance of his duties under this Regulation or the rules made thereunder.

(2) Before suspending or cancelling a licence under sub-section (1) the licensing authority shall give the licensee a notice in writing stating the grounds on which it is proposed to take action and requiring him to show cause against it within such time as may be specified in the notice.

(3) Any person aggrieved by an order of the licensing authority suspending or cancelling a licence may, within one month of the date of communication of such order to him prefer an appeal before the prescribed authority.

Publication of order of suspension or cancellation.

17. Every order of suspension or cancellation of a licence under this Regulation shall be notified in the Gazette and at the police-station having jurisdiction over the area to which the licence relates and also on the notice board of the office of the licensing authority.

No compensation for suspension or cancellation of licence.

18. A person whose licence is suspended or cancelled under section 17 shall not be entitled to any compensation in respect of such suspension or cancellation or to the refund of any fee paid in respect of such licence.

Punishment for charging higher interest and advancing loan of a lesser amount than that shown in the papers.

19. (1) Any money-lender, whether licensed or not—

- (a) who actually advances an amount less than the amount shown in his accounts, registers, pawn-tickets or other documents relating to the loan, or
- (b) who receives interest or other charges at a rate higher than the rate mentioned in section 7,

shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to one thousand and five hundred rupees or with both.

(2) If a money-lender is convicted of an offence under sub-section (1) after having been previously convicted of such an offence, the Court convicting him on the subsequent occasion shall cancel his licence :

Provided that such cancellation shall not affect the right of a money-lender to realise loans advanced by him in accordance with the provisions of this Regulation prior to the cancellation of his licence.

Penalty for molestation of debtor.

20. (1) Whoever molests or abets the molestation of any debtor for recovery of any loan shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees or with both.



*Explanation*—For the purpose of this section a person who, with intent to cause another person to abstain 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, or hinders him in the use thereof,

shall be deemed to molest such other person.

Provided that a person who attends at or near any house, building or place for the purpose only of making a formal demand for repayment of a loan due or of obtaining or communicating information shall not be deemed to molest.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, an offence under this section shall be cognizable and 5 of 1898 bailable.

Penalty for carrying on business without licence.

21. Whoever carries on the business of money-lending without obtaining a licence or otherwise than in conformity with the terms and conditions of a licence shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

Other penalties.

22. (1) Whoever contravenes any of the provisions of this Regulation or of any rule made thereunder or of any terms or conditions of a licence or makes a claim or a statement or furnishes a declaration which is false or which he does not believe to be true shall, if no other penalty is elsewhere provided for in this Regulation for such contravention, be punishable with imprisonment for a term which may extend to one year or with fine which may extend to one thousand and five hundred rupees or with both.

*Explanation*—The suspension or cancellation of a licence under section 19 shall not be deemed to be a penalty for the purposes of this sub-section.

(2) Where a contravention of any of the provisions of this Regulation or of any rule made thereunder of which a person is convicted consists of an omission to do a thing, the Magistrate, may, while convicting the offender, direct him to do the thing before an appointed day and may on the failure of the offender to do the thing before the said day, pass an order suspending or cancelling his licence.

Cognizance of offences.

23. No Court shall take cognizance of an offence punishable under this Regulation except on a complaint in writing made by the Inspector appointed under section 15 or such other officer or authority as may be prescribed.

Jurisdiction to try offences.

24. No Court inferior to that of a Magistrate of the second class shall try any offence punishable under this Regulation.

Power to make rules.

25. (1) The Government may, after previous publication, make rules to carry out the purposes of this Regulation.

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

- (a) the form of and the particulars to be contained in an application for a licence and the authority to whom such application shall be made under sub-section (1) of section 4 ;
- (b) the manner in which the licence fee payable under section 4 shall be paid ;
- (c) the form of the licence, and the terms and conditions subject to which it may be granted ;
- (d) the other authority, referred to in sub-section (6) of section 4 subject to whose control and direction the licensing authority shall grant or refuse the licence ;
- (e) the authority referred to in sub-section (7) of section 4 to whom an appeal shall lie against the order of the licensing authority ;
- (f) the charges referred to in sub-section (2) of section 7 ;
- (g) the form in which books, accounts and documents specified in this Regulation shall be maintained ;
- (h) the authority to whom, the manner in which and the times at which the returns relating to the loans shall be submitted ;
- (i) the authority to whom an application shall be made for the grant of a certificate under section 14 ;
- (j) the form in which and the period for which the certificate referred to in section 14 may be granted and the particulars which such certificate shall contain ;
- (k) the procedure which shall be followed and the powers which may be exercised, by the authorities exercising functions, holding enquiries and hearing appeals under this Regulation ;
- (l) any other matter which is to be, or may be, prescribed under this Regulation.

Repeal

26. With effect from the appointed date the Orissa Money-Lenders, Act, 1939 shall, in its application to the Scheduled Areas of the State of Orissa, stand repealed.

Orissa Act  
3 of 1939.

Power to  
remove  
difficulties.

27. If any difficulty arises in giving effect to the provisions of this Regulation, the Government may, as occasion may require, by order, do anything which appears to them to be necessary or expedient for the purpose of removing such difficulty.