

Chapter:	163	MONEY LENDERS ORDINANCE	Gazette Number	Version Date
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		Long title		30/06/1997
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To provide for the control and regulation of money lenders and money-lending transactions, the appointment of a Registrar of Money Lenders and the licensing of persons carrying on business as money lenders; to provide protection and relief against excessive interest rates and extortionate stipulations in respect of loans; to provide for offences and for matters connected with or incidental to the foregoing; and to repeal the Money-lenders Ordinance 1911.

[12 December 1980] *L.N. 347 of 1980*

(Originally 29 of 1980)

Part:	I	PRELIMINARY		30/06/1997
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Section:	1	Short title and application		30/06/1997
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- (1) This Ordinance may be cited as the Money Lenders Ordinance.
- (2) This Ordinance shall have effect notwithstanding any agreement to the contrary.

Section:	2	Interpretation	L.N. 163 of 2013	03/03/2014
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- (1) In this Ordinance, unless the context otherwise requires-
 - "company" (公司) means a body corporate-
 - (a) incorporated under the Companies Ordinance (Cap 622); (Amended 28 of 2012 ss. 912 & 920)
 - (ab) incorporated under a former Companies Ordinance as defined by section 2(1) of the Companies Ordinance (Cap 622); (Added 28 of 2012 ss. 912 & 920)
 - (b) incorporated by any other Ordinance; or
 - (c) incorporated or established outside Hong Kong; (Added 69 of 1988 s. 2)
 - "disqualified person" (被取消資格的人) means a person in respect of whom there is in force an order made by a court under section 32(2);
 - "effective rate" (實際利率), in relation to interest, means the true annual percentage rate of interest calculated in accordance with Schedule 2; (Amended 69 of 1988 s. 2)
 - "firm" (商號) means an unincorporate body of 2 or more individuals, or 1 or more individuals and 1 or more companies, or 2 or more companies, who have entered into partnership with one another with a view to carrying on business for profit; (Amended 69 of 1988 s. 2)
 - "interest" (利、利息) does not include any sum lawfully agreed to be paid in accordance with this Ordinance on account of stamp duty or other similar duty, but save as aforesaid includes any amount (by whatever name called) in excess of the principal, which amount has been or is to be paid or payable in consideration of or otherwise in respect of a loan;
 - "licence" (牌照) means a money lender's licence granted under section 11 or renewed under section 13, and "licensed" (領有牌照) and "licensee" (持牌人) have corresponding meanings; (Amended 69 of 1988 s. 2)
 - "licensing court" (牌照法庭) means a magistrate sitting alone; (Replaced 13 of 1995 s. 37)
 - "loan" (貸款) includes advance, discount, money paid for or on account of or on behalf of or at the request of any person, or the forbearance to require payment of money owing on any account whatsoever, and every agreement (whatever its terms or form may be) which is in substance or effect a loan of money, and also an agreement to secure the repayment of any such loan, and "lend" (貸出) and "lender" (貸款人) shall be construed accordingly;
 - "money lender" (放債人) means every person whose business (whether or not he carries on any other business) is that of making loans or who advertises or announces himself or holds himself out in any way as carrying on that

business, but does not include-

- (a) a person specified in Part 1 of Schedule 1; or
- (b) as respects a loan specified in Part 2 of Schedule 1, any person who makes such loan; (Amended 69 of 1988 s. 2)

"prescribed" (訂明) means prescribed by regulations made under section 34;

"principal" (本金), in relation to a loan, means the amount actually lent;

"register" (登記冊) means the register kept by the Registrar under section 4;

"Registrar" (註冊處處長) means the Registrar of Money Lenders appointed under section 4;

"subsidiary" (附屬公司) has the meaning given by section 15 of the Companies Ordinance (Cap 622) for the purposes of that Ordinance. (Added 69 of 1988 s. 2. Amended 28 of 2012 ss. 912 & 920)

(2) For the purposes of this Ordinance, where by an agreement for the loan of money the interest charged on the loan is not expressed in terms of a rate, any amount paid or payable to the lender under the agreement (other than simple interest charged in accordance with the proviso to section 22) shall be appropriated to principal and interest in the proportion that the total amount of principal bears to the total amount of the interest, and the rate per cent per annum represented by the interest charged as calculated in accordance with Schedule 2 shall be deemed to be the rate of interest charged on the loan. (Amended 69 of 1988 s. 2)

(3) For the purpose of determining the amount of the principal of a loan, any amount thereof which is not shown to have been lent except for the purpose of treating it as an instalment paid by the borrower in repayment of the loan and which is so treated by the lender shall be disregarded.

(4) (Repealed 13 of 1995 s. 37)

Section:	3	Ordinance not to apply to authorized institutions		30/06/1997
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This Ordinance shall not apply to-

- (a) an authorized institution within the meaning of the Banking Ordinance (Cap 155); or
- (b) as respects a loan made to such an authorized institution, any person who makes such loan.

(Replaced 69 of 1988 s. 3)

Section:	4	Registrar of Money Lenders and supervisory functions of Registrar	23 of 1999	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 23 of 1999 s. 3

(1) The Chief Executive shall appoint a public officer to be the Registrar of Money Lenders. (Amended 23 of 1999 s. 3)

(2) The Registrar shall establish and maintain a register in which he shall cause to be kept particulars, other than specified particulars, of-

- (a) applications for the grant or renewal of licences; (Amended 69 of 1988 s. 4)
- (b) licences which are in force or have been revoked or suspended;
- (c) such other matters, if any, as he thinks fit.

(3) In this section "specified particulars" (指明詳情) means particulars furnished under section 8 which are specified in regulations made under section 34 as particulars which shall not be entered in the register.

Section:	5	Official secrecy	L.N. 106 of 2002	01/07/2002
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(1) Except as may be necessary for the exercise or performance of any function or duty under this Ordinance or for carrying into effect the provisions of this Ordinance, the Registrar and every person employed in carrying out or in assisting any person to carry out the provisions of this Ordinance-

- (a) shall preserve and aid in preserving secrecy with regard to all matters relating to the affairs of any person that may come to his knowledge in the exercise or performance of any function or duty under this Ordinance;
- (b) shall not communicate any such matter to any person other than the person to whom such matter

relates; and

(c) shall not suffer or permit any person to have access to any records in the possession, custody or control of any person to whom this subsection applies.

(2) Subsection (1) does not apply-

(a) to the disclosure of information in the form of a summary of similar information provided by a number of persons if the summary is so framed as to prevent particulars relating to the business of any particular person being ascertained from it;

(b) to the disclosure of information with a view to the institution of, or otherwise for the purposes of, any criminal proceedings; (Replaced 69 of 1988 s. 5)

(c) in connection with any civil proceedings arising out of, or relating to, section 22, 23, 24, 25, 27, 33, 33B or 36; or (Added 69 of 1988 s. 5)

(d) to the disclosure of information to the Financial Secretary, or any public officer authorized by the Financial Secretary for the purposes of this paragraph where, in the opinion of the Registrar, it is desirable or expedient that information should be disclosed in the public interest. (Added 69 of 1988 s. 5. Amended L.N. 96 of 1993; L.N. 106 of 2002)

(3) Any person who-

(a) contravenes subsection (1); or

(b) aids, abets, counsels or procures any person to contravene subsection (1),

commits an offence and shall be liable to a fine of \$100000 and to imprisonment for 2 years.

Section:	6	Inspection of register		30/06/1997
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(1) Any person shall be entitled on payment of the prescribed fee-

(a) to inspect the register during ordinary office hours and take copies of any entry; or

(b) to obtain from the Registrar a copy, certified by or under the authority of the Registrar to be correct, of any entry in the register.

(2) The Registrar shall give public notice, in such manner as he may deem fit, of the place where and the times when the register may be inspected.

Section:	6A	Documents admissible in evidence		30/06/1997
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A document purporting to be a copy, certified by or under the authority of the Registrar to be true and correct, of any entry in the register shall be admissible in evidence in criminal or civil proceedings before any court on its production without further proof and, until the contrary is proved, the court shall presume that-

(a) the signature and certification to the document is that of the Registrar or a person authorized by him in that behalf; and

(b) the document is a true and correct copy.

(Added 69 of 1988 s. 6)

Part:	II	LICENSING OF MONEY LENDERS		30/06/1997
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Section:	7	Restriction on carrying on of business of money lender		30/06/1997
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(1) No person shall carry on business as a money lender-

(a) without a licence;

(b) at any place other than the premises specified in such licence; or

(c) otherwise than in accordance with the conditions of a licence.

(2) A licence shall be in the prescribed form.

Section:	8	Application for licence and public notification of application		30/06/1997
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(1) An application for a licence shall be made to the Registrar in the prescribed form and in the prescribed

manner, and shall be accompanied by the prescribed fee and a statement in writing containing the prescribed particulars in respect of the application.

(2) An application made under this section in respect of a company may be made by any person authorized in that behalf by such company. (Amended 69 of 1988 s. 7)

(3) An application made under this section in respect of partners in a firm may be made by any such partner.

(4) The Registrar shall, in such manner as may be prescribed, give public notice of every application made under this section.

Section:	9	Investigation and lodgement of applications	30/06/1997
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(1) Where an application is made under section 8, the applicant shall at the same time send a copy of the application to the Commissioner of Police, and the Commissioner of Police may cause an investigation to be carried out in respect of the application for the purpose of determining whether, in the opinion of the Commissioner of Police, there are grounds for objecting to the application under section 11.

(2) For the purpose of carrying out an investigation under this section, the Commissioner of Police may in writing require the applicant to produce for inspection such books, records or documents or to furnish such information relating to the application or any business carried on or intended to be carried on by him as the Commissioner of Police may specify.

(3) In respect of an application made under section 8, no step other than the registration of such application shall be taken by the Registrar prior to-

- (a) the date on which a period of 60 days after the date on which the application is made expires; or
- (b) the date on which the Commissioner of Police notifies the Registrar that any investigation carried out under this section in respect of the application has been completed,

whichever is the earlier (in this section referred to as "the material date").

(4) Where the Registrar or the Commissioner of Police intends to object under section 11 to any application for a licence, he shall, not later than 7 days after the material date, serve notice on the applicant of his intention to object and of the grounds of such objection; and where such notice is served by the Commissioner of Police, he shall send a copy thereof to the Registrar.

(5) Upon the expiration of a period of 7 days after the material date in respect of any application made under section 8, the Registrar shall lodge the application with such magistrate as he deems fit, together with a copy of any notice served on the applicant under subsection (4). (Replaced 69 of 1988 s. 8)

(6) The Registrar shall give notice to the Commissioner of Police of any lodgement made under subsection (5).

Section:	10	Licensing court	30/06/1997
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(1) Where an application is lodged under section 9(5), the licensing court shall hear and determine the application in accordance with section 11.

(2)-(4) (Repealed 13 of 1995 s. 38)

(5) The Registrar shall be provided with a copy of each decision of the licensing court.

(Replaced 69 of 1988 s. 9)

Section:	10A	(Repealed 13 of 1995 s. 39)	30/06/1997
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Section:	10B	Powers of licensing court	30/06/1997
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Subject to this Ordinance, the licensing court may determine its own procedure and in particular may-

- (a) receive and consider any material, whether by way of oral evidence, written statements, documents or otherwise, notwithstanding that such material would not be admissible in evidence in civil or criminal proceedings;
- (b) by notice in writing signed by the presiding magistrate, require any person to attend before it at any hearing and to give evidence and produce documents;
- (c) administer oaths and affirmations;
- (d) examine on oath, affirmation or otherwise any person attending before it at any hearing and require

- such person to answer all questions put by or with its consent;
- (e) determine the manner in which the material referred to in paragraph (a) shall be received; and
 - (f) adjourn any hearing from time to time as it may deem fit,
- and may do all things-

- (i) ancillary to the powers conferred by this section; or
- (ii) reasonably necessary for the discharge of its functions under this Ordinance.

(Added 69 of 1988 s. 9)

Section:	10C	Immunity		30/06/1997
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Any-

- (a) member of the licensing court; and
 - (b) witness, party to any proceedings, representative or other person appearing before the licensing court,
- shall have the same privileges and immunities in any proceedings before the licensing court or in the exercise of the licensing court's functions as he would have before a court in civil proceedings.

(Added 69 of 1988 s. 9)

Section:	11	Determination of application for licence		30/06/1997
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(1) The licensing court shall fix a date for the hearing of an application lodged under section 9(5) and shall give 14 clear days' notice of such date to the applicant, the Registrar and the Commissioner of Police. (Amended 69 of 1988 s. 10)

(2) Subject to subsection (3), the licensing court shall grant a licence upon the hearing of an application lodged under section 9(5) except where-

- (a) the Registrar or the Commissioner of Police has served notice under section 9 of his intention to object to the application and, at the hearing of the application, objection to the application is made by or on behalf of the Registrar or, as the case may be, the Commissioner of Police; or
- (b) objection to the application is made by any other person appearing at the hearing in person or by counsel who-
 - (i) has served notice of his intention to object and the grounds of such objection on the applicant, the Registrar and the Commissioner of Police and lodged a copy of such notice in the office of the licensing court, not later than 4 days prior to the date fixed for the hearing under subsection (1); or (Amended 69 of 1988 s. 10)
 - (ii) is granted leave by the licensing court to make such objection,

and for the purposes of this section "counsel" (大律師) means a person qualified to practise as a barrister or solicitor under the Legal Practitioners Ordinance (Cap 159).

(3) The licensing court shall not grant a licence to a person who is a disqualified person.

(4) The licensing court shall, in considering an application to which subsection (2)(a) or (b) applies, hear any evidence given by the applicant or any witnesses called on his behalf and any evidence adduced by or on behalf of the Registrar or the Commissioner of Police or any other person who appears at the hearing under subsection (2)(b).

(5) Subject to subsection (3), the licensing court shall not grant a licence upon an application to which subsection (2)(a) or (b) applies unless the court is satisfied-

- (a) that the applicant, or in the case of a firm every partner thereof, is a fit and proper person to carry on business as a money lender;
- (b) in the case of a company, that any person who controls such company or in accordance with whose directions or instructions the directors thereof are accustomed to act is a fit and proper person to be associated with the business of money-lending; (Amended 69 of 1988 s. 10)
- (c) that as respects the carrying on of business as a money lender, any person responsible or proposed to be responsible for the management of the business or any part thereof, or in the case of a company any director or secretary or other officer thereof, is a fit and proper person to be associated with the business of money-lending; (Amended 69 of 1988 s. 10)
- (d) that the name under which the applicant applies to be licensed is not misleading or otherwise undesirable;
- (e) that as respects any of the premises to which the application relates, such premises and the situation

thereof are suitable for the carrying on of the business of money-lending;

- (f) that the applicant has complied with the provisions of this Part and any regulations relating to the application; and
- (g) that in all the circumstances the grant of such licence is not contrary to the public interest.

(6) A licence granted under this section shall be subject to such conditions as the licensing court may impose.

(7) A licence granted under this section shall not be issued and shall not enter into force except on payment to the licensing court of the prescribed fee.

Section:	12	Effect and duration of licence	30/06/1997
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Every licence shall authorize the person named therein to carry on business as a money lender for a period of 12 months from-

- (a) in the case of a licence granted under section 11, the day on which it is so granted; and
- (b) in the case of a licence renewed under section 13, irrespective of whether the renewal of the licence was made prior to, upon or after its expiration, and notwithstanding section 13(5), the day immediately following the day on which it would have, but for its renewal, or has, as the case may be, expired.

(Replaced 69 of 1988 s. 11)

Section:	13	Renewal	30/06/1997
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(1) A licensee may apply for the renewal of his licence within a period of 3 months prior to the expiration thereof.

(2) This section does not apply to a licensee whose licence is revoked.

(3) An application for renewal made under this section shall be made in the prescribed manner and shall be accompanied by the prescribed fee.

(4) Sections 8, 9, 10 and 11 shall apply to an application for renewal made under this section as they apply to an application made under section 8.

(5) Any licence in respect of which an application for renewal is made under this section and which expires prior to the determination of such application shall, unless such application is withdrawn, or the licence is revoked or suspended under section 14, be deemed to continue in force until the determination of such application.

Section:	14	Revocation and suspension	30/06/1997
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(1) On the application of the Registrar or the Commissioner of Police, a licensing court may make an order revoking or suspending any licence granted by the licensing court if, in the opinion of the licensing court- (Amended 69 of 1988 s. 12; 13 of 1995 s. 40)

- (a) the licensee has ceased to be a fit and proper person to carry on business as a money lender; or
- (b) the premises specified in the licence or any of such premises have, or the situation thereof has, ceased to be suitable for the carrying on of the business of money-lending; or
- (c) the licensee has been in serious breach of any condition of the licence or has ceased to satisfy any other condition relating to his business as a money lender in respect of which the licensing court is required to be satisfied under section 11(5); or
- (d) the business of the licensee has been carried on at any time or on any occasion since the date on which the licence was granted by recourse to the use of any methods, or in any manner, contrary to the public interest.

(2) The licensing court shall fix a date for the hearing of an application under this section, and shall give 14 clear days' notice of such date to the Registrar and the Commissioner of Police and the licensee; such notice shall call on the licensee to show cause as to why such application ought not to be granted and an order for the revocation or suspension of his licence ought not to be made.

(3) In this section "licence" (牌照) includes a licence deemed to continue in force under section 13(5).

Section:	15	Transfer of licence and addition or substitution of new premises		30/06/1997
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(1) Except as provided in this section, a licence shall not be transferable.

(2) Where a licensed money lender dies, the widow or widower or any member of the family of the deceased money lender of the age of 21 years or upwards, or any person on behalf of the family, may apply to the licensing court to have his or her name endorsed on the licence. (Amended 69 of 1988 s. 13)

(3) Where a licensee intends to carry on business as a money lender at any premises in addition to the premises specified in his licence, he may apply to the licensing court to have such additional premises endorsed on his licence. (Amended 69 of 1988 s. 13)

(4) Where a licensed money lender intends to transfer his business as a money lender from any premises specified in his licence to any premises not so specified, he may apply to the licensing court to have the premises to which he intends to transfer such business endorsed on his licence in substitution for such first-mentioned premises. (Amended 69 of 1988 s. 13)

(5) Every application under this section shall be made to the Registrar in the prescribed manner and accompanied by the prescribed fee and notice of the application shall be given to the Commissioner of Police. (Replaced 69 of 1988 s. 13)

(6) The Registrar and the Commissioner of Police shall be entitled to appear and be heard at the hearing of any application under this section and to object to the granting of any such application.

(6A) Where the Registrar or the Commissioner of Police intends to object under subsection (6) to the granting of any application under this section, he shall, not later than one month after such application is made under subsection (5), serve notice on the applicant of his intention to object specifying the grounds of objection; and where such notice is served by the Commissioner of Police, he shall send a copy thereof to the Registrar. (Added 69 of 1988 s. 13)

(6B) Upon the expiration of a period of one month after any application under this section is made under subsection (5), the Registrar shall lodge the application with such magistrate as he deems fit, together with a copy of any notice served on the applicant under subsection (6A). (Added 69 of 1988 s. 13)

(7) The licensing court shall not grant an application under this section unless the court is satisfied that-

- (a) notice of the application has been given to the Registrar and the Commissioner of Police;
- (b) in the case of an application under subsection (2), the applicant is a fit and proper person to carry on the business of the deceased money lender;
- (c) in the case of an application under subsection (3), the additional premises and the situation thereof are suitable for the carrying on of the business of money-lending;
- (d) in the case of an application under subsection (4), the premises to which the money lender intends to transfer his business and the situation thereof are suitable for the carrying on of the business of money-lending;
- (e) in the case of an application in respect of any premises under subsection (3) or (4), any person responsible or proposed to be responsible for the management of the business carried on at such premises is a fit and proper person to be associated with the business of money-lending.

(8) Where the licensing court grants an application for an endorsement under this section, the endorsement shall be made in the office of the licensing court upon payment of the prescribed fee.

(9) A licence endorsed under subsection (2) shall have effect in all respects as if the licence had been issued to the person whose name is endorsed thereon and this Ordinance shall apply accordingly to such person as it applies to a licensee.

(10) (Repealed 13 of 1995 s. 41)

Section:	16	Appeals	25 of 1998	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 25 of 1998 s. 2

Any person aggrieved by a decision of a licensing court under section 11, 13, 14 or 15 may appeal to the Court of First Instance and the decision of the Court of First Instance shall be final.

(Amended 25 of 1998 s. 2)

Section:	17	Duty to notify changes of particulars	L.N. 163 of 2013	03/03/2014
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(1) Where any change takes place in any particulars entered in the register in respect of any licensee (including any change of name by law), or a change takes place-

- (a) in the case of a firm, in the membership thereof whether by reason of an amalgamation or the reduction of the number of partners or otherwise;
- (b) in the case of a company-
 - (i) in the officers thereof;
 - (ii) in the control thereof by any person;
 - (iii) in the number of shares, or shares of a prescribed class, held by any person whereby the number of those shares exceeds the prescribed proportion of the number of issued shares or of the number of shares of that class (as the case may be); (Amended 28 of 2012 ss. 912 & 920)
- (c) in the persons responsible for the management of his business as a money lender at any premises where the business is carried on,

the licensee shall give notice in writing of such change to the Registrar within 21 days after the change takes place and the Registrar may in respect of any such change enter such particulars, or alter any particulars entered, in the register as he thinks fit. (Amended 69 of 1988 s. 14)

(2) Where notice of any change is given to the Registrar under subsection (1), the Registrar may by notice in writing require the licensee to furnish him with such information, verified in such manner, as the Registrar may specify with respect to such change.

Part:	III	MONEY LENDERS' TRANSACTIONS		30/06/1997
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Section:	18	Form of agreement		30/06/1997
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(1) No agreement for the repayment of money lent by a money lender or for the payment of interest on money so lent, and no security given to any money lender in respect of any such agreement or loan, shall be enforceable unless-

- (a) within 7 days after the making of the agreement, a note or memorandum in writing of the agreement is made in accordance with subsection (2) and signed personally by the borrower, and a copy of such note or memorandum is given to the borrower at the time of signing; and
- (b) there is included in or attached to such copy a summary, in such form as may be prescribed, of such provisions of this Part and Part IV as may be prescribed,

and no such agreement or security shall be enforceable if it is proved that the note or memorandum was not signed by the borrower before the money was lent or the security was given.

(2) The note or memorandum shall contain all the terms of the agreement and in particular shall set out-

- (a) the name and address of the money lender;
- (b) the name and address of the borrower;
- (c) the name and address of the surety, if any;
- (d) the amount of the principal of the loan in words and figures;
- (e) the date of the making of the agreement;
- (f) the date of the making of the loan;
- (g) the terms of repayment of the loan;
- (h) the form of security for the loan, if any;
- (i) the rate of interest charged on the loan expressed as a rate per cent per annum, or the rate per cent per annum represented by the interest charged as calculated in accordance with Schedule 2; and (Amended 69 of 1988 s. 15)
- (j) a declaration as to the place of negotiation and completion of the agreement for the loan.

(3) Notwithstanding subsection (1), if the court before which the enforceability of any agreement or security comes in question is satisfied that in all the circumstances it would be inequitable that any such agreement or security which does not comply with this section should be held not to be enforceable, the court may order that such agreement or security is enforceable to such extent, and subject to such modifications or exceptions, as the court considers equitable. (Amended 69 of 1988 s. 15)

Section:	19	Duty of money lender to give information to borrower	30/06/1997
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(1) In respect of every agreement, whether made before or after the commencement of this Ordinance, for the repayment of money lent by a money lender, the money lender shall, on demand in writing being made by the borrower at any time during the continuance of the agreement and on tender by the borrower of the prescribed fee for expenses, supply to the borrower or, if the borrower so requires, to any person specified in that behalf in the demand, a statement (consisting of the original and a copy) signed by the money lender or his agent showing- (Amended 69 of 1988 s. 16)

- (a) the date on which the loan was made, the amount of the principal of the loan and the rate per cent per annum of interest charged;
- (b) the amount of any payment already received by the money lender in respect of the loan and the date on which it was made;
- (c) the amount of every sum due to the money lender but unpaid, and the date on which it became due, and the amount of interest accrued due and unpaid in respect of every such sum;
- (d) the amount of every sum not yet due which remains outstanding, and the date on which it will become due; and
- (e) the following words, in both English and Chinese, prominently and legibly on its face-

"THE BORROWER OR OTHER PERSON TO WHOM THIS STATEMENT IS SUPPLIED IS REQUIRED UNDER SECTION 19(1A) OF THE MONEY LENDERS ORDINANCE TO ENDORSE ON THE COPY OF THE STATEMENT THAT HE HAS RECEIVED THE ORIGINAL OF THE STATEMENT AND TO RETURN THE COPY AS SO ENDORSED TO THE MONEY LENDER.

借款人或其他獲得供給此結算書的人須依照放債人條例第19(1A)條的規定,在結算書的副本上簽註已經收到結算書正本,以及將經如此簽註的副本回放債人。".
(Added 69 of 1988 s. 16)

(1A)The borrower or other person to whom the original and a copy of a statement referred to in subsection (1) is supplied under that subsection by a money lender shall, as soon as practicable after being so supplied-

- (a) endorse on the copy of that statement words to the effect that he has received the original of that statement; and
- (b) return the copy of that statement as so endorsed to that money lender, who shall then retain it during the continuance of the agreement to which that statement relates. (Added 69 of 1988 s. 16)

(2) A money lender shall, on demand in writing by the borrower, supply a copy of any document relating to a loan made by him or any security therefor to the borrower or, if the borrower so requires and on payment by the borrower to the lender of the prescribed fee, to any person specified in that behalf in the demand. (Amended 69 of 1988 s. 16)

(3) Subsection (1) or (2) does not apply to a request made by a borrower less than 1 month after a previous request thereunder relating to the same agreement was complied with.

(4) If a money lender to whom a demand has been made under this section fails without reasonable excuse to comply therewith within 1 month after the demand has been made, he shall not, so long as the default continues, be entitled to sue for or recover any sum due under the agreement on account either of principal or interest, and interest shall not be chargeable in respect of the period of default.

Section:	20	Duty of money lender to give information to surety	30/06/1997
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(1) A money lender who makes any agreement for the loan of money in relation to which security is provided shall within 7 days after the making of the agreement give to the surety (if a different person from the borrower)-

- (a) a copy of the note or memorandum in writing made under section 18(1);
- (b) a copy of the security instrument, if any; and
- (c) a statement in writing signed by or on behalf of the money lender showing-
 - (i) the total sum payable under the agreement by the borrower;
 - (ii) the various amounts comprised in that total sum with the date, or the mode of determining the date, when each becomes due.

(2) Without prejudice to subsection (1), a surety may at any time during the continuance of an agreement (whether made before or after the commencement of this Ordinance) in relation to which the security is provided

require the money lender by notice in writing to furnish him with a statement in writing signed by or on behalf of the money lender showing-

- (a) the total sum paid under the agreement by the borrower;
- (b) the total sum which has become payable under the agreement by the borrower but remains unpaid, and the various amounts comprised in that total sum, with the date when each became due; and
- (c) the total sum which is to become payable under the agreement by the borrower, and the various amounts comprised in that total sum, with the date, or the mode of determining the date, when each becomes due.

(3) Subsection (2) does not apply to a request made by a surety less than 1 month after a previous request under that subsection relating to the same agreement was complied with.

(4) If a money lender fails to comply with subsection (1) or a request to which subsection (2) applies he shall not be entitled, while the default continues, to enforce the security so far as provided in relation to the agreement.

Section:	21	Early payment by borrower	30/06/1997
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(1) A borrower under any agreement for the loan of money by a money lender shall be entitled at any time by notice in writing to the money lender and the payment to the money lender of all amounts payable as principal by the borrower which are outstanding under the agreement, together with interest computed up to the date of such payment, to discharge his indebtedness under the agreement:

Provided that the effective rate of such interest shall not exceed the effective rate at which interest would have been payable under the agreement if the borrower had not exercised his right under this section to discharge his indebtedness. (Amended 69 of 1988 s. 17)

(2) (Repealed 69 of 1988 s. 17)

Section:	22	Illegal agreements	30/06/1997
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(1) Any agreement made for the loan of money by a money lender shall be illegal if it provides directly or indirectly for-

- (a) the payment of compound interest;
- (b) prohibiting the repayment of the loan by instalments; or
- (c) the rate or amount of interest being increased by reason of any default in the payment of sums due under the agreement:

Provided that provision may be made by any such agreement that if default is made in the payment upon the due date of any sum payable to the money lender under the agreement, whether in respect of principal or interest, the money lender shall be entitled, subject to Part IV, to charge simple interest on that sum from the date of the default until the sum is paid at an effective rate not exceeding the effective rate payable in respect of the principal apart from any default, and any interest so charged shall not be reckoned for the purposes of this Ordinance as part of the interest charged in respect of the loan.

(2) Notwithstanding subsection (1), if the court before which the legality of any agreement comes in question is satisfied that in all the circumstances it would be inequitable that any such agreement which does not comply with this section should be held to be unenforceable, the court may order that such agreement is enforceable to such extent, and subject to such modifications or exceptions, as the court considers equitable. (Added 69 of 1988 s. 18)

Section:	23	Loan etc. not recoverable unless money lender licensed	30/06/1997
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No money lender shall be entitled to recover in any court any money lent by him or any interest in respect thereof or to enforce any agreement made or security taken in respect of any loan made by him unless he satisfies the court by the production of his licence or otherwise that at the date of the loan or the making of the agreement or the taking of the security (as the case may be) he was licensed:

Provided that if the court is satisfied that in all the circumstances it would be inequitable if a money lender who did not satisfy it that he was licensed at the relevant time was thereby not entitled to so recover such money or interest or to enforce such agreement or security, the court may order that the money lender is entitled to recover such money or interest or to enforce such agreement or security to such extent, and subject to such modifications or exceptions, as the court considers equitable. (Added 69 of 1988 s. 19)

Part:	IV	EXCESSIVE INTEREST RATES	30/06/1997
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Section:	24	Prohibition of excessive interest rates	30/06/1997
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(1) Any person (whether a money lender or not) who lends or offers to lend money at an effective rate of interest which exceeds 60 per cent per annum commits an offence.

(2) No agreement for the repayment of any loan or for the payment of interest on any loan and no security given in respect of any such agreement or loan shall be enforceable in any case in which the effective rate of interest exceeds the rate specified in subsection (1).

(3) The Legislative Council may by resolution alter the rate specified in subsection (1):

Provided that in relation to any agreement for the repayment of any loan or for the payment of interest on any loan which is in force at the date when such rate is so altered, the rate so specified as at the coming into force of such agreement shall continue to apply.

(4) Any person who commits an offence under this section shall be liable-

(a) on summary conviction to a fine of \$500000 and to imprisonment for 2 years;

(b) on conviction on indictment to a fine of \$5000000 and to imprisonment for 10 years. (Amended 82 of 1994 s. 33)

(5) Nothing in this section shall apply to-

(a) a loan specified in paragraph 12 in Part 2 of Schedule 1; or

(b) as respects such loan, any person who makes such loan. (Replaced 69 of 1988 s. 20)

Section:	25	Reopening of certain transactions	30/06/1997
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(1) Subject to section 24(2), where-

(a) proceedings are taken in any court by any person (whether a money lender or not) for the recovery of any money lent or the enforcement of any agreement or security in respect of any loan; and

(b) subject to subsection (3), there is evidence which satisfies the court that the transaction is extortionate, the court may reopen the transaction so as to do justice between the parties having regard to all the circumstances, and, for that purpose, make such orders and give such directions in respect of the terms of the transaction or the rights of the parties thereunder as the court may think fit.

(2) For the purposes of this section, a transaction is extortionate if-

(a) it requires the debtor or a relative of his to make payments (whether unconditionally or on certain contingencies) which are grossly exorbitant; or

(b) it otherwise grossly contravenes ordinary principles of fair-dealing.

(3) Any agreement for the repayment of a loan or for the payment of interest on a loan in respect of which the effective rate of interest exceeds 48 per cent per annum shall, having regard to that fact alone, be presumed for the purposes of this section to be a transaction which is extortionate; but except where such rate exceeds the rate specified in section 24(1), the court may declare that any such agreement is not extortionate for the purposes of this section if, having regard to all the circumstances relating to the agreement, the court is satisfied that such rate is not unreasonable or unfair.

(4) In determining whether a transaction is extortionate for the purposes of this section, regard shall be had to such evidence as is adduced concerning-

(a) interest rate prevailing at the time it was made;

(b) the factors mentioned in subsections (5) and (6); and

(c) any other relevant considerations.

(5) Factors applicable under subsection (4)(b) in relation to the debtor include-

(a) his age, experience, business capacity and state of health; and

(b) the degree to which, at the time of entering into the transaction, he was under financial pressure, and the nature of that pressure.

(6) Factors applicable under subsection (4)(b) in relation to the lender or other person by whom the proceedings are taken include-

(a) the degree of risk accepted by the lender, having regard to the nature and value of any security provided;

(b) his relationship to the debtor;

- (c) whether or not a specious cash price was quoted for any goods or services included in the transaction; and
- (d) where one or more other transactions are to be taken into account, the question how far any such other transaction was reasonably required for the protection of the debtor or the lender, or was in the interest of the debtor.

(7) Any court in which proceedings might be taken for the recovery of any loan or security in respect of a loan shall have and may at the instance of the debtor or any surety exercise the like powers as may be exercised under this section where proceedings are taken for the recovery of a loan; and the court may entertain any application under this subsection by the debtor or surety notwithstanding that the time for repayment of the loan or any instalment thereof has not arrived.

(8) On any application relating to the admission or amount of a proof by a money lender in any bankruptcy proceedings, the court may exercise the like powers as may be exercised under this section where proceedings are taken for the recovery of money.

(9) The Legislative Council may by resolution alter the rate specified in subsection (3) but, in relation to any agreement referred to in that subsection which is in force at the date when such rate is so altered, the rate so specified as at the coming into force of such agreement shall continue to apply.

(9A) Nothing in this section shall apply to-

- (a) a loan specified in paragraph 12 in Part 2 of Schedule 1; or
- (b) as respects such loan, any person who makes such loan. (Added 69 of 1988 s. 21)

(10) In this section "debtor" (債務人) means any person primarily liable for the repayment of a loan or for the payment of interest in respect of a loan.

Part:	V	GENERAL		30/06/1997
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Section:	26	Restriction on money-lending advertisements		30/06/1997
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(1) A money lender shall not for the purpose of his business as a money lender issue or publish or cause to be issued or published any advertisement, circular, business letter or other similar document which does not show the name of the money lender as specified in his licence in such manner as to be not less conspicuous than any other name. (Amended 69 of 1988 s. 22)

(2) Where any advertisement, circular, business letter or other similar document issued or published by or on behalf of a money lender purports to indicate the terms of interest on which he is willing to make loans or any particular loan, such advertisement, circular, business letter or other document shall show the interest proposed to be charged-

- (a) subject to section 24(1), as a rate per cent per annum; and
- (b) in such manner as to be not less conspicuous than any other matter mentioned therein.

(3) A money lender or any other person shall not for the purpose of the money lender's business as a money lender issue or publish or cause to be issued or published any advertisement which does not clearly show the words "Money Lender's Licence No." immediately followed by the number of the licence of the money lender. (Replaced 69 of 1988 s. 22)

(4) For the purposes of subsection (1) and section 29(9), the name of the money lender as specified in his licence shall be deemed to include any change by law of the name of the money lender, irrespective of whether his licence specifies the new name. (Added 69 of 1988 s. 22)

Section:	27	Charges for expenses etc. not recoverable		30/06/1997
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(1) Any agreement entered into between a money lender and a borrower or intending borrower for the payment by the borrower or intending borrower to the money lender of any sum for or on account of costs, charges or expenses (other than stamp duties or similar duties) incidental to or relating to the negotiations for or the granting of the loan or proposed loan or the guaranteeing or securing of the repayment thereof shall be illegal. (Amended 69 of 1988 s. 23)

(2) (Repealed 69 of 1988 s. 23)

(3) Subject to section 33A(5), it shall not be lawful for any money lender or his partner, employer, employee, principal or agent or any person acting for or in collusion with any money lender to charge, recover or receive any

sum as for or on account of any such costs, charges or expenses (other than stamp duties or similar charges) or to demand or receive any remuneration or reward whatsoever from a borrower or intending borrower for or in connection with or preliminary to procuring, negotiating or obtaining any loan made or guaranteeing or securing the repayment thereof. (Amended 69 of 1988 s. 23)

(4) If any money or money's worth is directly or indirectly paid or allowed to or received by any person in contravention of this section, the amount or value thereof, to the extent of such contravention and notwithstanding any agreement to the contrary, may be recovered by the borrower from such person or, if such person is the money lender or a partner, employer, employee, principal or agent of the money lender or is in any way acting for or in collusion with him, may be set off against the amount actually lent (and that amount shall be deemed to be reduced accordingly) or may be recovered by the borrower from such person or from the money lender.

Section:	28	Power of Registrar and police to enter premises and inspect books, etc.	L.N. 307 of 1998	04/09/1998
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(1) Where-

- (a) the Registrar or any other person authorized in writing for the purposes of this section by the Registrar; or
- (b) a police officer of or above the rank of superintendent or any other police officer authorized in writing for the purposes of this section by a police officer of or above such rank,

has a reasonable suspicion that a money lender has committed an offence against this Ordinance (in this section referred to as the "suspected offence"), he may enter any premises where the business of the money lender is being carried on and may demand the production of and inspect the money lender's licence or any books, accounts, documents or writings relating to any loan made by the money lender or relating to his business as a money lender, and may take notes, copies or extracts thereof or therefrom.

(2) Where pursuant to subsection (1) a police officer has entered any premises where the business of a money lender is being carried on, he may seize any books, accounts, documents or writings relating to any loan made by the money lender or relating to his business as a money lender that the police officer reasonably believes to be related to the suspected offence. (Amended L.N. 307 of 1998)

(3) Any books, accounts, documents or writings seized under subsection (2) shall, as soon as practicable after such seizure, be delivered to the Commissioner of Police, or to some person nominated by him in that behalf, by the police officer who seized them.

(4) Where any books, accounts, documents or writings seized under subsection (2) are delivered in accordance with subsection (3) to the Commissioner of Police, or to some person nominated by him in that behalf, the Commissioner of Police or that person, as the case may be, shall, if no prosecution is instituted within 3 months after such delivery in respect of the suspected offence to which they relate, return, or arrange for the return of, such books, accounts, documents or writings to the money lender from whom they were so seized.

(Replaced 69 of 1988 s. 24)

Section:	29	Offences by money lenders		30/06/1997
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(1) Any person who carries on business as a money lender-

- (a) without a licence; or
- (b) at any place other than the premises specified in his licence; or
- (c) otherwise than in accordance with the conditions of his licence; or
- (d) during any period when his licence is suspended,

commits an offence.

(2) Any person who makes any false or misleading statement or furnishes any false or misleading information in connection with any application for a licence or the renewal of a licence or in connection with any application for an exemption under section 33B commits an offence. (Amended 69 of 1988 s. 25)

(3) Any person who, being a licensee, fails to give notice under section 17(1) of any change in respect of such licensee, or who, having been required by the Registrar under section 17(2) to furnish any information in respect of such change, fails to furnish such information or furnishes any false or misleading information, commits an offence.

(4) Any money lender who-

- (a) fails to make a note or memorandum in writing of an agreement in compliance with section 18;
- (b) fails to give a copy of such note or memorandum to the borrower in compliance with section 18(1)(a);

or

(c) fails to include in or attach to such copy a summary in writing in compliance with section 18(1)(b), commits an offence.

(5) Any money lender who demands or accepts security for a loan in any form prohibited by regulations made under section 34 commits an offence.

(6) Any money lender who fails to comply with any demand in writing made by a borrower under section 19 to supply any statement or copy of any document to the borrower or any person specified in the demand commits an offence.

(6A) Any money lender who fails to retain a copy of a statement referred to in section 19(1) supplied to him under section 19(1A) during the continuance of the agreement to which that statement relates commits an offence. (Added 69 of 1988 s. 25)

(7) Any money lender who fails to give a surety any information to which the surety is entitled under section 20(1) or in respect of which the surety has made a request by notice in writing under section 20(2) commits an offence.

(8) Any money lender who issues or publishes, or causes to be issued or published, any advertisement, circular, business letter or other similar document which contravenes section 26(1) or (2) commits an offence. (Amended 69 of 1988 s. 25)

(8A) Subject to subsection (8B), any money lender or other person who issues or publishes, or causes to be issued or published, any advertisement which contravenes section 26(3) commits an offence. (Added 69 of 1988 s. 25)

(8B) Where a person is charged with an offence under subsection (8A) relating to an advertisement, it shall be a defence for such person to show-

- (a) that he carries on the business of issuing or publishing or causing to be issued or published advertisements;
- (b) that he received the advertisement for issuing or publishing or causing to be issued or published in the ordinary course of business; and
- (c) that at the time he issued or published or caused to be issued or published the advertisement he believed upon reasonable grounds that the advertisement clearly showed the words "Money Lender's Licence No." immediately followed by the number of the licence of the money lender concerned. (Added 69 of 1988 s. 25)

(9) Any money lender who for any of the purposes of his business uses any name other than the name specified in his licence commits an offence. (Amended 69 of 1988 s. 25)

(10) Any money lender or his partner, employer, employee, principal or agent or any person acting for or in collusion with any money lender who charges, recovers or receives any sum as for or on account of any costs, charges or expenses (other than stamp duties or similar charges) referred to in section 27(3) or demands or receives any remuneration or reward whatsoever from a borrower or intending borrower for or in connection with or preliminary to procuring, negotiating or obtaining any loan made or guaranteeing or securing the repayment thereof commits an offence. (Added 69 of 1988 s. 25)

Section:	30	Offences of fraudulent inducement and obstruction	30/06/1997
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(1) Any person who by any false, misleading or deceptive statement, representation or promise, or by any dishonest concealment of material facts, fraudulently induces or attempts to induce-

- (a) any money lender to lend money to any person or to agree to the terms on which money is or is to be borrowed;
- (b) any person to borrow money from a money lender or to agree to the terms on which money is or is to be lent,

commits an offence.

(2) Any person who-

- (a) wilfully obstructs an authorized person in the performance of his functions under section 28; or
- (b) without reasonable cause fails to give an authorized person such assistance or information as he may require in the performance of such functions,

commits an offence. (Replaced 69 of 1988 s. 26)

(3) For the purposes of subsection (2), "authorized person" (獲授權的人) means-

- (a) the Registrar or any other person authorized by him in writing under section 28; or

- (b) a police officer of or above the rank of superintendent or any other police officer authorized by him in writing under section 28. (Added 69 of 1988 s. 26)

Section:	30A	Offences relating to licensing court	30/06/1997
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Any person who-

- (a) refuses or fails to comply with any lawful order, requirement or direction of the licensing court; or
 (b) disturbs or otherwise interferes with the proceedings of the licensing court,

commits an offence.

(Added 69 of 1988 s. 27)

Section:	31	Liability for offences by companies	30/06/1997
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Where at any time a company commits an offence under this Ordinance with the consent or connivance of, or because of neglect by, any individual, the individual commits the like offence if at that time-

- (a) he is a director, manager, secretary or similar officer of the company; or
 (b) he is purporting to act as such officer; or
 (c) the company is managed by its members, of whom he is one.

(Amended 69 of 1988 s. 28)

Section:	32	Penalties and disqualification	30/06/1997
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(1) Any person who commits an offence under this Ordinance shall be liable-

- (a) in the case of an offence under section 29, to a fine of \$100000 and to imprisonment for 2 years;
 (b) in the case of any other offence for which no penalty is provided, to a fine of \$10000 and to imprisonment for 6 months.

(2) Where any person is convicted of an offence under this Ordinance, the magistrate may order that such person shall be disqualified from holding a licence for such period not exceeding 5 years from the date of such conviction as may be specified in the order.

(3) A licence held by any person against whom an order is made under subsection (2) shall, as from the date of the order, cease to have effect for the purposes of this Ordinance.

Section:	32A	Time limitation for instituting certain prosecutions	30/06/1997
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Proceedings for an offence under section 29(3) shall be instituted within 2 years of the commission of the offence.

(Added 69 of 1988 s. 29. Amended 82 of 1994 s. 34)

Section:	33	Burden of proof	30/06/1997
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(1) When in any proceedings under this Ordinance against any person it is alleged that such person is not the holder of a licence, it shall in the absence of proof to the contrary be presumed that such person is not licensed.

(2) When in any proceedings under this Ordinance against any person it is alleged that-

- (a) such person is not a person specified in Part 1 of Schedule 1; or
 (b) that a loan alleged to have been made by such person is not a loan specified in Part 2 of Schedule 1,

the fact so alleged shall in the absence of proof to the contrary be presumed. (Amended 69 of 1988 s. 30)

Section:	33A	General exemptions	30/06/1997
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(1) The Registrar may, after consultation with the Financial Secretary, by notice in the Gazette-

- (a) exempt a class of persons (whether money lenders or not) specified in the notice from all or any of the provisions of this Ordinance specified in the notice; or
 (b) exempt a loan, or class of loans, by a class of persons (whether money lenders or not), specified in the notice from all or any of the provisions of this Ordinance specified in the notice.

- (2) An exemption under subsection (1) shall be subject to such conditions, if any, as are specified in the notice.
- (3) The Registrar may at any time by notice in the Gazette-
 - (a) revoke an exemption under subsection (1); or
 - (b) revoke, vary, or add to any condition subject to which such exemption is granted.
- (4) Notwithstanding any other provision of this Ordinance, any notice-
 - (a) under section 21(2) or 27(2) of this Ordinance as in force at any time before the commencement* of the Money Lenders (Amendment) Ordinance 1988 (69 of 1988); and
 - (b) in force immediately before that commencement,

shall remain in force and continue to have effect as if section 17 or 23(a) and (b), as the case may be, of the Money Lenders (Amendment) Ordinance 1988 (69 of 1988) had never come into operation but the Registrar may, after consultation with the Financial Secretary, by notice in the Gazette, revoke any such notice.

(5) Where, at any time before the commencement of the Money Lenders (Amendment) Ordinance 1988 (69 of 1988), section 27(1) did not apply in relation to an agreement referred to in section 27(2) of this Ordinance as in force at any time before that commencement, then section 27(3) shall, in the like manner-

- (a) be deemed never to have applied in relation to that agreement; and
- (b) not apply in relation to that agreement in so far as section 27(1) does not apply in relation to that agreement by virtue of subsection (4) of this section.

(Added 69 of 1988 s. 31)

Note:

* 1 October 1988-L.N. 257 of 1988

Section:	33B	Specific exemptions	30/06/1997
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- (1) A person (whether a money lender or not) may make an application-
 - (a) in the prescribed form; and
 - (b) accompanied by the prescribed fee,
 to the Registrar to be exempted from all or any of the provisions of this Ordinance.
- (2) Where the Registrar receives an application under subsection (1) he shall, after consultation with the Financial Secretary, by notice in writing served on the person who made the application-
 - (a) grant the exemption subject to such conditions, if any, as he may deem fit; or
 - (b) refuse to grant the exemption.
- (3) Without limiting the generality of the Registrar's power under subsection (2)(a) to impose conditions on an exemption granted under that subsection-
 - (a) such conditions may include a condition that the exemption shall apply to a loan, or class of loans, specified in the exemption; and
 - (b) the Registrar may, by notice in writing served on the person to whom the exemption is granted, revoke, vary, or add to any condition subject to which the exemption is granted.
- (4) An exemption granted under subsection (2)(a) shall be in the prescribed form and-
 - (a) may be revoked at any time by the Registrar by notice in writing served on the person to whom the exemption is granted; and
 - (b) unless sooner revoked under paragraph (a), shall remain in force for a period of 3 years, or such lesser period as may be specified by the Registrar after consultation with the Financial Secretary, commencing on the date on which the exemption is so granted or, if the exemption specifies a later date, that later date, and that exemption may be renewed from time to time by further applications made under subsection (1).

(Added 69 of 1988 s. 31)

Section:	33C	Legislative Council may amend Schedule 1	30/06/1997
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The Legislative Council may by resolution amend Schedule 1.

(Added 69 of 1988 s. 31)

Section:	34	Regulations	23 of 1999	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 23 of 1999 s. 3

The Chief Executive in Council may make regulations- (Amended 23 of 1999 s. 3)

- (a) prescribing anything required or permitted to be prescribed under this Ordinance;
- (b) specifying any particulars furnished under section 8 as particulars which shall not be entered in the register under section 4;
- (c) imposing restrictions in relation to the form in which security for any loan may be demanded or accepted by a money lender;
- (d) for the better carrying into effect of this Ordinance.

Section:	35	Saving		30/06/1997
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(1) (Omitted as spent)

(2)-(3) (Repealed 69 of 1988 s. 32)

(4) The Registrar shall take possession of the register and any documents relating thereto kept at the office of the Registrar of Companies under the Money-lenders Ordinance 1911*, and such register and other documents shall be deemed to form part of the records kept by the Registrar under this Ordinance and shall be available for inspection in the same manner as the register kept under this Ordinance.

Note:

* See Cap 163, 1977 Ed.

Section:	36	Existing loans		30/06/1997
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(1) This section applies to any agreement made before the commencement of this Ordinance for the payment of any loan or for the payment of interest on any loan, and to any security given (whether given before or after the commencement of this Ordinance) in respect of any such agreement or loan.

(2) Nothing in this Ordinance shall render any agreement or security to which this section applies void or unenforceable, but no such agreement or security shall be enforceable as against the borrower or surety or any other person except to the extent that-

- (a) any benefit accruing to the lender by virtue thereof is not more favourable; and
- (b) any obligation or liability incurred by the borrower or surety or other person by virtue thereof is not more onerous,

than it would have been if such agreement had been made or, as the case may be, such security had been given on terms consistent with the requirements of this Ordinance.

(3) Where proceedings are taken in any court for the enforcement of any agreement or security to which this section applies, the court may make such orders and give such directions in respect of the terms thereof or the rights and obligations of the parties in respect thereof as the court may deem necessary or desirable having regard to the requirements of this Ordinance relating to an agreement or security of the kind in question.

Schedule:	1		L.N. 163 of 2013	03/03/2014
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[sections 2, 24, 25, 33 & 33C]

PART 1

EXEMPTED PERSONS

1. Any subsidiary of on authorized institution within the meaning of the Banking Ordinance (Cap 155).
2. A co-operative society registered under the Co-operative Societies Ordinance (Cap 33).

3. A credit union registered under the Credit Unions Ordinance (Cap 119) and the Credit Union League of Hong Kong incorporated under Part XI of that Ordinance.
4. A trade union registered under the Trade Unions Ordinance (Cap 332).
5. An insurer, within the meaning of the Insurance Companies Ordinance (Cap 41), authorized under that Ordinance to carry on a class, or classes, of insurance business specified in Part 2 of the First Schedule to that Ordinance.
6. (Repealed L.N. 140 of 1991)
7. University Grants Committee. (Amended L.N. 35 of 1995)
8. A bank which is-
 - (a) incorporated or established outside Hong Kong;
 - (b) recognized as a bank by the relevant banking supervisory authority (within the meaning of section 2(9) of the Banking Ordinance (Cap 155)) which has been declared in writing by the Monetary Authority appointed under section 5A of the Exchange Fund Ordinance (Cap 66) to be a banking supervisory authority in respect of which he is of the opinion that it exercises adequate prudential supervision for the purposes of this paragraph; and (Replaced 49 of 1995 s. 53)
 - (c) carrying on banking business in the place where that banking supervisory authority is located. (Replaced 49 of 1995 s. 53)
9. An organization-
 - (a) which is a member of the International Union of Credit and Investment Insurers ("The Berne Union"); or
 - (b) in respect of which the Registrar has declared in writing that he is satisfied that it was established by one or more national governments with the object of financing, or guaranteeing the financing of, the export of a country's goods or services.
10. A corporation licensed to carry on a business in securities margin financing under Part V of the Securities and Futures Ordinance (Cap 571). (Replaced 5 of 2002 s. 407)
11. A corporation licensed to carry on, or an authorized financial institution registered for carrying on, a business in dealing in securities under Part V of the Securities and Futures Ordinance (Cap 571) who engages in securities margin financing in order to facilitate acquisitions or holdings of securities by the corporation or institution for its client. (Replaced 5 of 2002 s. 407)

PART 2

EXEMPTED LOANS

1. A loan made bona fide by an employer to his employee.
2. A loan made to a company secured by a mortgage, charge, lien or other encumbrance-
 - (a) registered, or to be registered, under the Companies Ordinance (Cap 622); (Replaced 28 of 2012 ss. 912 & 920)
 - (ab) registered, or to be registered, under a provision of the Companies Ordinance (Cap 32) as in force from time to time before the commencement date* of section 2 of Schedule 9 to the Companies Ordinance (Cap 622), having a continuing effect under Schedule 11 to the Companies Ordinance (Cap 622); (Added 28 of 2012 ss. 912 & 920)
 - (ac) registered under a former Companies Ordinance as defined by section 2(1) of the Companies Ordinance (Cap 622); or (Added 28 of 2012 ss. 912 & 920)
 - (b) which would, in the case of a company referred to in paragraph (b) or (c) of the definition of "company" (公

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- (i) where the mortgage, charge, lien or encumbrance was created before the commencement date* of section 2 of Schedule 9 to the Companies Ordinance (Cap 622), be able to be registered under a former Companies Ordinance as defined by section 2(1) of the Companies Ordinance (Cap 622) if the company were incorporated under that former Companies Ordinance; or
 - (ii) where the mortgage, charge, lien or encumbrance is created on or after that commencement date*, be able to be registered under the Companies Ordinance (Cap 622) if the company were incorporated under that Ordinance. (Amended 28 of 2012 ss. 912 & 920)
3. A loan made by a company under a bona fide credit-card scheme operated by the company to any holder of a credit-card issued under that scheme.
4. A loan made bona fide for the purchase of immovable property on the security of a mortgage of that property and a loan made bona fide to refinance such a mortgage.
5. A loan made by a company or a firm or individual whose ordinary business does not primarily or mainly involve the lending of money, in the ordinary course of that business.
6. A loan made by a licensed pawnbroker under the Pawnbrokers Ordinance (Cap 166), being a loan to which that Ordinance applies.
7. A loan made by any statutory body under any power conferred by law in that behalf.
8. A loan made from-
 - (a) a fund established by resolution of the Legislative Council or by or under an Ordinance;
 - (b) any superannuation or provident fund.
9. A loan made from any chit-fund operated under the Chit-Fund Businesses (Prohibition) Ordinance (Cap 262).
10.
 - (a) A loan made by a holding company to its subsidiary or by a subsidiary to its holding company or another subsidiary company of the same holding company.
 - (b) Sections 13, 14 and 15 of the Companies Ordinance (Cap 622) shall apply to the interpretation of this paragraph as it applies to the interpretation of that Ordinance. (Amended 28 of 2012 ss. 912 & 920)
11. A loan made to a company where the loan-
 - (a) forms part of a transaction involving the export from, or the import into, Hong Kong of goods or services; and
 - (b) is for the purpose of facilitating that export or import, as the case may be, of those goods or services.
12.
 - (a) A loan made to a company that has a paid up share capital of not less than \$1000000 or an equivalent amount in any other approved currency.
 - (b) For the purposes of this paragraph "approved currency" (認可貨幣) means a currency-
 - (i) freely convertible into Hong Kong dollars; or
 - (ii) approved in writing by the Registrar for the purposes of this paragraph.
13. A loan upon terms involving the issue by a company of debentures or other securities in respect of which a prospectus has been registered under the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap 32). (Amended 28 of 2012 ss. 912 & 920)
14. A loan made to a company the shares or debentures of which are listed on-
 - (a) a recognized stock market as defined in section 1 of Part 1 of Schedule 1 to the Securities and Futures Ordinance (Cap 571); or (Replaced 5 of 2002 s. 407)
 - (b) any other stock market declared in writing, by the Securities and Futures Commission referred to in section 3(1) of the Securities and Futures Ordinance (Cap 571), to be approved for the purposes of this paragraph.

(Amended 10 of 1989 s. 65; 5 of 2002 s. 407)

15. A loan made to the subsidiary of a company referred to in paragraph 14.

(Replaced 69 of 1988 s. 33)

Note:

* **Commencement date : 3 March 2014.**

Schedule:	2	CALCULATION OF TRUE ANNUAL PERCENTAGE RATE OF INTEREST		30/06/1997
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[sections 2 & 18]
(Amended 69 of 1988 s. 34)

1. Any amount paid or payable to the lender under the agreement (other than simple interest charged in accordance with the proviso to section 22(1)) shall be appropriated to principal and interest in the proportion that the total amount of principal bears to the total amount of the interest. (Amended 69 of 1988 s. 34)

2. The amount of principal outstanding at any time shall be taken to be the balance remaining after deducting from the principal the total of the portions of any payments appropriated to principal in accordance with paragraph 1.

3. The several amounts taken to be outstanding by way of principal during the several periods ending on the dates on which payments are made shall be multiplied in each case by the number of calendar months during which those amounts are taken to be respectively outstanding, and there shall be ascertained the aggregate amount of the sum so produced.

4. The total amount of the interest shall be divided by one-twelfth part of the aggregate amount mentioned in paragraph 3 and the quotient, multiplied by one hundred, shall be taken to be the rate of interest per cent per annum.

5. If having regard to the intervals between successive payments it is desired so to do, the calculation of interest may be made by reference to weeks instead of months, and in such a case the foregoing paragraphs shall have effect as though in paragraph 3 the word "weeks" were substituted for the words "calendar months", and in paragraph 4 the words "one-fifty-second" were substituted for the words "one-twelfth".

6. Where any interval between successive payments is not a number of complete weeks or complete months, the foregoing paragraphs shall have effect as though 1 day were one-seventh part of a week or one-thirtieth part of a month (as the case may be).