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**MONEY LENDERS (AMENDMENT) ACT 1993****ACT NO. 6 OF 1993****[Date of Assent: 16 December 1993]****An Act to amend the Money Lenders Order 1989<sup>1</sup>.****Enacted by the Parliament of Lesotho.****Short title and commencement**

1. This Act may be cited as the Money Lenders (Amendment) Act 1993 and shall come into operation on the date of its publication in the Gazette.

**Short title**

2. The title of the principal law is amended by omitting "Order" and substituting "Act".

**Interpretation**

3. Section 2 of the principal law is amended by adding at the end the following subsection:

"(2) In this Act, unless the context otherwise requires, words shall have the same meaning as in the Financial Institutions Act 1973<sup>2</sup>."

4. The principal law is amended in Part II by adding the following section after section 4:

**"Revocation of money lender's licence**

4A. (1) The Commissioner may revoke the licence of any money lender if the holder,

- (a) fails to commence operations as a money lender within a period of 1 year following the grant of the licence;
- (b) fails to comply with the conditions of the licence or the measures required by the Commissioner under section 9D(1);
- (c) is in breach of any provision of this Act; or
- (d) ceases to carry on the money lending business for which he is licensed.

(2) Subject to subsection (3), before revoking the licence of any money lender, the Commissioner shall give the money lender notice of his intention to do so, and shall give the money lender a reasonable opportunity to show cause why the licence should not be revoked.

(3) A licence shall not be revoked earlier than 28 days after the notice of intention to revoke the licence is served on the money lender but the Commissioner, upon application to the court after the notice has been served, may obtain an interdict for the suspension of all or any part of the business being conducted by the money lender.

(4) As soon as possible after the revocation of a licence the Commissioner shall publish notice of the revocation in the Gazette and take other steps to inform the public of the revocation in a newspaper of general circulation in each of the places where the money lender carried on business."

5. The principal law is amended by adding the following part after Part IV,

**"PART IVA - RETURNS, EXAMINATIONS  
AND ACCOUNTS**

**Returns**

- 9A. (1) Every person whose business is that of money lending shall send to the Commissioner in duplicate,
- (a) not later than the twenty-first day of each month, a statement in such form as the Commissioner may require showing the assets and liabilities of his places of business in Lesotho at the close of business on the last business day of the preceding month together with such other information that the Commissioner may require; and

- (b) not later than 40 days after the last day of each quarter ending on 31st March, 30th June, 30th September and 31st December, a statement in such form as the Commissioner may require, giving an analysis of the assets and liabilities of the business in Lesotho at the close of the last business day of the relevant quarter.

(2) Notwithstanding subsection (1), the Commissioner may from time to time call for any additional information which he may require for the purpose of the administration of this Act from any person whose business is that of money - lending.

### **Examinations**

9B. (1) The Commissioner may, from time to time, cause an examination to be made of any money lender in order to determine whether the requirements of this Act have been complied with.

(2) For the purpose of determining whether the requirements of this Act have been complied with, the Commissioner may cause an examination to be made of any of the affiliates of the money lender in Lesotho.

(3) The Commissioner shall also cause such an examination of a money lender to be made where an application together with such evidence as is necessary to justify an examination, is made by one fifth of the total number of borrowers from the money- lender.

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**Production of records and information for examination**

9C. (1) Every money lender and any affiliate shall, pursuant to an examination conducted under section 9B, produce for the inspection of any examiner at such times and in such places as the examiner may specify (being times and places which, in the opinion of the examiner, would not be detrimental to the conduct of the normal daily business of the money lender), all books, minutes, accounts, cash, securities, documents and vouchers in the possession or custody of the money lender, relating to his business in Lesotho and shall supply all information concerning his business as may reasonably be required by the examiner within such time as the examiner may specify.

(2) If any books, minutes, accounts, cash, securities, documents and vouchers are, or any information is not produced and supplied in accordance with subsection (1), the defaulting money lender or his affiliate or both, as the case may be, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding M200 in respect of every day during which the default continues. If any information supplied or item produced is false in any material particular, the money lender or his affiliate or both, as the case may be, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding M5,000.

(3) As soon as possible after the conclusion of an examination under section 9B, the Commissioner shall forward a summary of the examiner's report to the money lender.

(4) Where, the regulations prescribe, expenses of an examination shall be paid by the money lender.

**Powers after examination**

9D. (1) If in the opinion of the Commissioner, an examination shows that the money lender concerned is conducting his business in an unlawful manner, the Commissioner may,

- (a) require the money lender to take such measures as he may consider necessary to rectify the situation;
- (b) appoint a person, who in his opinion has had proper training and experience, to advise the money lender on measures to be taken to rectify the situation.

(2) Where a person is appointed to advise a money lender under subsection (1)(b), the money lender shall pay that person such remuneration as may be fixed by the Commissioner.

**Audit and annual reports**

9E. (1) Every licensed money lender shall appoint an auditor approved by the Commissioner to audit the accounts of the money lender and report upon the Annual Balance Sheet and Profit and Loss Account and to report whether in his opinion the Balance Sheet and Profit and Loss Account are full and fair and properly drawn up, whether they exhibit a true and correct statement of the money lender's affairs, and if the auditor has called for explanations or information from the officers or agents of the money lender, whether such are satisfactory.

(2) Every person licensed as a money lender shall, within 3 months after the close of the financial year, submit to the Commissioner a copy of the audited Balance Sheet and Profit and Loss Account of his business.

(3) If a money lender fails to appoint an auditor in accordance with subsection (1), the Commissioner may appoint an auditor.

(4) The remuneration of the auditor appointed under subsection (3) shall be determined by the Commissioner and paid by the money lender.

### **Extension of time**

9F. At the request of any licensed money lender, the Commissioner may, in his discretion, extend any period within which the money lender is obliged to furnish any document or information.

### **Obstruction**

9G. Any money lender, officer, agent or employee of a money lender who,

(a) obstructs -

(i) the proper performance by an auditor of his duties in accordance with this Act; or

(ii) a lawful examination of the business of a money lender by an examiner duly authorised by the Commissioner; or

(b) \* with intent to deceive -

- (i) makes any false or misleading statement or entry; or
- (ii) omits any statement or entry that should be made in any book, account, report or statement of such money lending business,

shall be guilty of an offence and liable on conviction to a fine not exceeding M1,000 or to imprisonment for a term not exceeding one year, or both."

### **Secrecy**

9H. (1) Subject to section 9I(2), except for the purpose of performance of his duties or the exercise of his powers or when lawfully required to do so by a competent court or under any law, no Commissioner, officer, employee, or agent of the Commissioner's office, including a pay examiner duly appointed under section 9B shall disclose to any person any information he has acquired in the performance of his duties.

(2) Save as otherwise provided under any law or unless he is lawfully required to do so by a court of competent jurisdiction, no person shall disclose any information relating to the affairs of any person which he acquired in the performance of duties as a money lender or as an employee or agent of a money lender.

(3) A person who contravenes this section is guilty of an offence and is liable on conviction to a fine not exceeding M2,000 or to imprisonment for a period of 2 years or both.



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**Confidentiality and publication of information**

9I. (1) Nothing in this Act shall authorise the Minister or the Commissioner to inquire or cause an inquiry to be made into the affairs of any individual customer of a money lender.

(2) The Commissioner may publish any information or data furnished or collected under this Act provided that no information or data shall be published that might disclose the particular affairs of a money lender or of a customer of the money lender, as the case may be, unless the consent of the money lender or the customer has been obtained in writing prior to such publication.

**Commissioner's Report**

9J. Each year, the Commissioner shall submit to the Minister a report on all money lenders licensed under this Act and on all matters which have been dealt with by him during that year and the Minister shall present the report to Parliament."

**LETSIE III  
KING OF LESOTHO**

**NOTES**

**The explanatory memorandum to the Money Lenders (Amendment) Bill 1993 that was introduced into the National Assembly on 19 October 1993 is published as Government Notice No. 86 of 1993.**

1. Order 25 of 1989.
2. Act NO. 23 of 1973 as amended by Act NO. 12 of 1978.