

THE KARNATAKA PAWNBROKERS ACT, 1961

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STATEMENT OF OBJECTS AND REASONS

I

Act 13 of 1962.—The Madras Pawnbrokers Act, 1943 is in force in the Madras Area, Pawnbrokers in other areas are regulated by the existing Money-Lenders Acts in force in the respective areas. After a careful consideration, it was, however, noticed that provisions to be made for pawnbrokers are not the same as those for money-lenders and hence, it has been considered desirable to enact a separate legislation for regulation and control of pawnbrokers in this State.

Hence this Bill.

(Obtained from L.C. No. 3221 dated 21st March, 1959. Published in PART IV—2-A at page 141.)

II

Amending Act 29 of 1979.—The Karnataka Pawnbrokers Act 1961, which was brought into force from 29th day of March, 1962 has revealed in the course of working that certain Pawnbrokers are in the habit of pledging with Commercial Banks the articles pledged with them for securing monetary accommodation and that the money so taken is being utilised by them in their money lending transactions for which high rate of interest are being charged. It has become, therefore necessary to amend the relevant provision of the Act, so that the said practice adopted by the Pawnbrokers could be brought within the purview of the provisions of the Act.

Hence the Bill.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A, dated 3rd February 1979 at page. 5.)

III

Amending Act 40 of 1985.—Persons who obtain credit from the licensed Pawn Brokers, pledge costly gold ornaments and other articles. It is considered necessary to insist security deposit from such licensed Pawn Brokers to safeguard the interests of the Pawnners.

In order to meet the increasing cost of administration of the Act, it is also proposed to increase the license fee.

As the matter was very urgent, the Karnataka Pawn Brokers (Amendment Ordinance, 1985 (Karnataka Ordinance No. 12 of 1985) was issued.

This Bill seeks to replace the said Ordinance.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A, dated 25th July 1985 as No. 398 at page 6.)

IV

Amending Act 9 of 1998.—It is considered necessary to amend the Karnataka pawn Brokers Act, 1961 (Karnataka Act 13 of 1962), for the following reasons, namely:—

- (i) To enhance the duration of licence from one year to five years;
- (ii) To provide for calculating the amount of security deposit on the amounts invested and not on the amounts lent.

(iii) Since, the Karnataka High Court in writ petition No. 8912/85 and other connected matters directed the Government to pay interest on security deposit, as there is no specific provision prohibiting payment of interest, appropriate provisions are made to remove the lacuna retrospectively from 31st May 1985 and to validate the section.

Hence the Bill.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A, dated 2nd September 1997 as No. 990 at page. 4.)

V

Amending Act 11 of 2016.- It is considered necessary to amend the Karnataka Pawn Brokers Act, 1961 (Karnataka Act No 13 of 1962) to,-

- (i) simplify the licensing process for Pawn Broking and to avoid dual license.
- (ii) revise the minimum value for auction of pledged pawn or articles according to present money value.

Hence, the Bill.

[L.A. Bill No.06 of 2016, File No. Samvyashae 10 Shasana 2016]
[entry 54 of List II of the Seventh Schedule to the Constitution of India.]

1[KARNATAKA ACT]1 No. 13 OF 1962

(First published in the 1[Karnataka Gazette]1 on the Twenty-ninth day of March, 1962.)

THE 1[KARNATAKA]1 PAWNBROKERS ACT, 1961.

(Received the assent of the President on the Eighth day of March, 1962)

(As amended by Karnataka Acts 29 of 1979, 40 of 1985, 9 of 1998 and 11 of 2016)

An Act to regulate and control the business of Pawnbrokers in the 1[State of Karnataka]1.

WHEREAS it is expedient to make provision for the regulation and control of the business of pawnbrokers in the 1[State of Karnataka]1;

BE it enacted by the 1[Karnataka State]1 Legislature in the Twelfth Year of the Republic of India as follows:—

1. Adapted by the Karnataka Adaptations of Laws Order 1973 w.e.f. 1.11.1973

1. Short title, extent and commencement.—(1) This Act may be called the 1[Karnataka]1 Pawnbrokers Act, 1961.

(2) It extends to the whole of the 1[State of Karnataka]1.

(3) It shall come into force,-

(a) at once in the 1[Mangalore and Kollegal Area]1; and

(b) in such other area of the State on such 2[date]2 as the State Government may by notification specify.

1. Adapted by the Karnataka Adaptations of Laws Order 1973 w.e.f. 1.11.1973

2. Act came into force w.e.f 1.10.1966 Vide notification No. DPC 271 CCC 66 dt. 26.8.1966

2. Definitions.—In this Act, unless the context otherwise requires,—

(1) “company” means a company as defined in the Companies Act, 1956 (Central Act 1 of 1956);

(2) “co-operative society” means a society registered or deemed to be registered under the 1[Karnataka]1 Co-operative Societies Act, 1959 1[Karnataka]1 Act 11 of 1959)

1. Adapted by the Karnataka Adaptations of Laws Order 1973 w.e.f. 1.11.1973

(3) “interest” includes any amount, by whatsoever name called, in excess of the principal, paid or payable to a pawnbroker in consideration of or otherwise in respect of a loan; but does not include any sum lawfully charged in accordance with the provisions of this Act by a pawnbroker for or on account of charges;

(4) “licence” means a licence granted under this Act;

(5) “loan” means an advance at interest whether of money or in kind and includes any transaction which the Court finds in substance to amount to such an advance but does not include,-

(i) a deposit of money or other property in a Government Post Office Savings Bank or Government Savings Bank or banking company or in a company or with a co-operative society;

1[(ii) an advance made by,—

(a) a banking company as defined in the Banking Regulation Act, 1949 (Central Act 10 of 1949); or

(b) the State Bank of India constituted under the State Bank of India Act, 1955 (Central Act 23 of 1955); or

(c) a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (Central Act 38 of 1959); or

(d) a corresponding new bank constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (Central Act 5 of 1970); or

(e) a corresponding new bank constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (Central Act 40 of 1980); or

(f) a regional rural bank constituted under the Regional Rural Banks Act, 1976 (Central Act 21 of 1976); or

(g) the National Bank for Agriculture and Rural Development established under the National Bank for Agriculture and Rural Development Act, 1981 (Central Act 61 of 1981); or

(h) the Agricultural Finance Corporation Limited, a company incorporated under the Indian Companies Act 1956m (Central Act 11 of 1956)

(i) a Co-operative society registered under the Karnataka Co-operative Societies Act, 1959 (Karnataka Act 11 of 1959;]₁

1. Substituted by Act 40 of 1985 w.e.f. 31.5.1985

(iii) an advance made by Government or by any person authorised by Government to make advances on their behalf, or by any local authority;

(iv) an advance made by any person bona fide carrying on any business not having for its primary object the lending of money, if such loan is advanced in the regular course of such business; and

(v) an advance made by a landlord to his tenant, for the purpose of carrying on agriculture;

(6) “notification” means a notification published in the Official Gazette;

(7) “pawn-broker” means a person who carries on the business of taking goods and chattels in pawn for a loan;

Explanation.—Every person who keeps a shop for the purchase or sale of goods or chattels and who purchases goods or chattels and pays or advances thereon any sum of money, with or under an agreement or understanding expressed or implied that the goods or chattels may be afterwards re-purchased on any terms, is a pawnbroker within the meaning of this clause;

(8) “pawner” means a person delivering an article for pawn to a pawnbroker;

(9) “pledge” means an article pawned with a pawnbroker;

(10) “prescribed” means prescribed by rules made under this Act;

(11) “principal” means in relation to a loan the amount actually lent to the pawner;

1[(12) “Year” means the year commencing on the first day of April.]₁

1. Substituted by Act 9 of 1998 w.e.f. 21.4.1998

3. Pawn-broker to obtain licence.—No person shall, after the expiry of six months from the date on which the provisions of this Act come into force in any area, carry on or continue to carry on business as a pawnbroker at any place in such area, unless he has obtained a pawn-broker's licence under this Act ¹[and after the commencement of the Karnataka Pawn Brokers (Amendment) Act, 1985, except on payment of security deposit as provided in section 4A.]¹

1. Inserted by Act 40 of 1985 w.e.f. 31.5.1985

Explanation 1.—Where a pawnbroker has more than one shop or place of business, whether in the same town or village or in different towns and villages he shall obtain a separate pawnbroker's licence in respect of each such shop or place of business.

Explanation 2.—Every pawn-broker's licence granted under this Act shall be valid ¹[for a term of five years, but may be renewed from term to term]¹.

1. Substituted by Act 9 of 1998 w.e.f. 21.4.1998

¹[**Explanation 3.**—Where a licence has been granted in the middle of a year, for the purpose of computing the term of licence, the remaining part of the year shall be deemed to be a year.]¹

1. Inserted by Act 9 of 1998 w.e.f. 21.4.1998

4. Grant and renewal of licences.—(1) Every application for the grant or renewal of a pawnbroker's licence shall be in writing and shall be made to the prescribed licensing authority.

(2) The grant or renewal of a licence shall not be refused except on any of the following grounds, namely:—

(a) that the applicant is of bad character;

Explanation.—If any evidence of bad character is adduced against the applicant, he shall be given an opportunity of rebutting such evidence;

(b) that the shop or place at which he intends to carry on the business of a pawnbroker or any adjacent house or shop or place, owned or occupied by him, is frequented by persons of bad character, or

(c) ¹[XXX]¹

1. Omitted by the Act 11 of 2016 w.e.f 26.04.2016

(3) Any person aggrieved by an order refusing the grant or renewal of a licence may, within the prescribed time, appeal to the prescribed authority.

(4) Every licence shall be granted or renewed in such form and ¹[subject to the conditions specified in section 4A and such other conditions]¹ as may be prescribed.

1. Substituted by Act 40 of 1985 w.e.f. 31.5.1985

¹[(5) Every application for the grant or renewal of a licence, shall be accompanied by a fee at the following rates:—

(a) if the place at which the business is to be	² [Rupees five thousand] ²
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carried on is not more than one.	
(b) if the business is to be carried on at more than one place.	² [Rupees five thousand] ² for the principal place of business and ² [Rupees two thousand five hundred] ² for each of the other places.] ¹

Provided that where an application is made after the expiry of the period prescribed by rules in respect of such application, it shall be accompanied ²[by an additional license fee at fifty percent of the rate specified above. However, application submitted after expiry of the Licence shall not be entertained]².

1. Substituted by Act 9 of 1998 w.e.f. 21.4.1998
2. Substituted by Act 11 of 2016 w.e.f 26.04.2016.

(6) The fee payable under this section shall be paid in the manner prescribed and shall not be refunded, notwithstanding the fact that the grant or renewal of the licence is refused or the application is withdrawn.

¹[**4A. Conditions of licence.**—²[(1) Every person making an application for grant of a licence under section 4 shall, at the time of making such application, pay security deposit as provided under sub-section (2) and in the case of an application for renewal of such licence the security deposit shall be paid two months before the expiry of such licence.]]²

1. Inserted by Act 40 of 1985 w.e.f. 31.5.1985
2. Substituted by Act 9 of 1998 w.e.f. 21.4.1998

(2) Every licensee specified in column (1) of the Table below shall in the prescribed manner deposit in the Government Treasury the amount specified in the corresponding entry in column (2) of the said Table by way of security for the due observance of the conditions of the licence.

TABLE

1	2
1. A licensee who ¹ [invests] ¹ less than one lakh rupees in a year.	Five thousand rupees.
2. A licensee who ¹ [invests] ¹ one lakh rupees and above but less than five lakh rupees in a year.	Ten thousand rupees
3. A licensee who ¹ [invests] ¹ five lakh rupees and above but less than ten lakh rupees in a year.	Twenty five thousand rupees.
4. A licensee who ¹ [invests] ¹ ten lakh rupees and above in a year.	Fifty thousand rupees

1. Substituted by Act 9 of 1998 w.e.f. 21.4.1998

(3) For the purposes of sub-section (2), the amount of security payable by a licensee in a year shall be determined on the basis of ¹[the amount invested by him in the business during the previous year]¹ ²[and such security deposit shall not carry any interest]²

1. Substituted by Act 9 of 1998 w.e.f. 21.4.1998

2. Inserted by Act 9 of 1998 w.e.f. 31.5.1998

Provided ¹[xxx]¹

1. Omitted by Act 11 of 2016 w.e.f. 26.04.2016.

³[Provided further that in the case of a new licensee or a person who has a licence only for a portion of the preceeding year the amount of security shall be determined on the basis of a declaration in the prescribed form as to the amount which he is likely to invest during the year.] ³ ¹]

1. Inserted by Act 9 of 1998 w.e.f. 31.5.1998

¹**[4B. Forfeiture of security.**—(1) The licensing authority may, at any time, by order in writing, forfeit to the Government the whole or any portion of the security deposit paid or deemed to have been paid under sub-section (2) of section 4A, if the licensee,—

(a) carries on the business of money lending in contravention of any of the provisions of this Act or the rules made thereunder or the conditions of licence; or

(b) is convicted of an offence under sub-section (3) of section 9, section 15, section 16 or section 16A or section 18; or

(c) maintains false accounts.

(2) Before forfeiting to the Government the whole or any portion of the security deposit under sub-section (1), the licensing authority shall give the licensee a notice in writing stating the grounds for 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) Every order of the licensing authority under this section shall be communicated to the licensee in such manner as may be prescribed.

(4) Every person aggrieved by an order under sub-section (1) may, within a period of one month from the date on which the order was communicated to him, prefer an appeal to the prescribed authority whose decision shall be final.

(5) The licensing authority may, out of the amount forfeited, direct payment of such amount and at such rates as may be prescribed to the borrowers affected by the acts of the licensee.]¹

1. Inserted by Act 9 of 1998 w.e.f. 31.5.1998

5. Pawn-brokers to exhibit their names over shops, etc.—Every pawn-broker shall,-

(a) always keep exhibited in large characters over the outer door of his shop or place of business his name with the word pawnbroker in English and its equivalent in Kannada, and

(b) always keep placed in a conspicuous part of his shop or place of business so as to be clearly visible to all persons resorting thereto the information required to be printed on pawn-tickets by rules made under this Act, in the Kannada language.

6. Interest and charges allowed to pawn-brokers.—(1) No pawn-broker shall charge interest in respect of a loan on a pledge at a rate exceeding nine per cent per annum simple interest or at such other rate as the State Government may by notification fix from time to time.

(2) A pawnbroker may demand and take from the pawner such charges and in such cases as may be prescribed.

(3) A pawnbroker shall not demand or take from the pawner any profit, interest, charge or sum whatsoever, other than the interest due to him and the charges, if any, referred to in sub-section (2).

7. Pawn-ticket to be given to pawner.—Every pawnbroker shall on taking a pledge in pawn give to the pawner a pawn-ticket in the prescribed form signed by the pawner and the pawnbroker, and shall not take a pledge in pawn unless the pawner takes the pawn-ticket.

8. Person producing pawn-ticket presumed to be entitled to redeem the pledge.—(1) The holder for the time being of a pawn-ticket shall be presumed to be the person entitled to redeem the pledge, and subject to the provisions of this Act, every pawnbroker shall on payment of the principal and interest, deliver the pledge to the person producing the pawn-ticket, and he is hereby indemnified for so doing.

(2) Except as otherwise expressly provided in this Act, a pawnbroker shall not be bound to deliver back a pledge unless the pawn-ticket for it is delivered to him.

9. Protection of owners and of pawners not having pawn tickets.—(1) The following provisions shall have effect for the protection of owners of articles pawned, and of pawners not having their pawn-tickets to produce:—

(a) Any person claiming to be the owner of a pledge but not holding the pawn-ticket or any person claiming to be entitled to hold a pawn-ticket, but alleging that the same has been lost, mislaid, destroyed or stolen, or fraudulently obtained from him, may apply to the pawnbroker for a printed form of declaration (which shall be in the prescribed form), which the pawnbroker shall deliver to him:

Provided that an application shall not be made under this clause where the loan exceeds two hundred and fifty rupees unless the applicant has caused a public notice of his claim, containing such particulars as may be prescribed, to be published in the prescribed manner not less than the prescribed number of days before the date of the application.

(b) If the applicant delivers back to the pawn-broker the declaration duly made before any Magistrate or Judge by the applicant and by a person identifying him, the applicant shall have, as between himself and the pawn-broker, all the same rights and remedies as if he had produced the pawn-ticket:

Provided that such a declaration shall not be effectual for that purpose,-

(i) in cases where the loan exceeds two hundred and fifty rupees, unless the applicant executes a bond with two sureties, to the satisfaction of the pawn-broker or of such authority or person as may be prescribed in this behalf, agreeing to indemnify the pawnbroker in respect of any liability which may be incurred by him by

reason of delivering the pledge or otherwise acting in conformity with the declaration; and

(ii) in all cases, unless the declaration is duly made and delivered back to the pawnbroker within such period after the delivery of the form to the applicant, as may be prescribed;

(c) The pawnbroker is hereby indemnified for not delivering the pledge to any person until the expiration of the period aforesaid.

(d) The pawnbroker is hereby further indemnified for delivering the pledge or otherwise acting in conformity with the declaration unless, he has had notice within the meaning of the Transfer of Property Act, 1882 (Central Act IV of 1882), that the declaration was fraudulent or was false in any material particulars.

(2) Notwithstanding anything contained in sub-section (1), but without prejudice to his liability to account for the pledge to the owner of the pledge or the person entitled to hold the pawn ticket, the pawnbroker may deliver the pledge to any person claiming to be the owner of the pledge but not holding the pawn-ticket, if the pawnbroker is satisfied that such person is the owner of the pledge and is entitled to the delivery of the pledge, either after obtaining a bond from the claimant or otherwise.

(3) Any person making a declaration under sub-section (1), either as an applicant or as identifying an applicant knowing the same to be false in any material particular, shall, on conviction be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

10. Pawnbrokers to keep books, give receipts, etc.—(1) Every pawnbroker shall,-

(a) regularly record and maintain or cause to be recorded and maintained in a pledge book in the prescribed form an account showing for each pawner separately,-

(i) the date of the loan, the amount of the principal of the loan and the rate of interest charged on the loan per cent per annum or per rupee per mensem or per rupee per annum;

(ii) the amount of every payment received by the pawnbroker in respect of the loan, and the date of such payment;

(iii) a full and detailed description of the article or of each of the articles taken in pawn;

(iv) the time agreed upon for the redemption of the pawn; and

(v) the name and address of the pawner, and where the pawner is not the owner of the article or of any of the articles pawned, the name and address of the owner thereof;

(b) keep and use in his business the following documents and books (which shall be in the prescribed form) and enter therein from time to time, as occasion requires, in a fair and legible manner such particulars and in accordance with such directions as may be prescribed:—

(i) pawn-ticket;

(ii) sale book of pledges;

(iii) declaration where pledge is claimed by owner;

(iv) declaration of pawn-ticket lost; and

(v) receipt on redemption of pledge;

(c) give to the pawner or his agent a receipt for every sum paid by him, duly signed and, if necessary, stamped at the time of such payment; and

(d) on requisition in writing made by the pawner furnish to the pawner or, if he so requires to any person mentioned by him in that behalf in his requisition, a statement of account signed by himself or his agent, showing the particulars referred to in clause (a) and also the amount, which remains outstanding on account of the principal and of interest, and charge such sum as the State Government may prescribe as fee therefor.

(2) All records or entries made in the books, accounts and documents referred to in sub-section (1) shall be either in English or in Kannada as may be prescribed:

Provided that the State Government may by notification permit the use of any other language in any area for such period, not exceeding three years, as may be specified in the notification.

(3) All books, accounts and documents referred to in sub-section (1), and all pledges taken by the pawnbroker shall be open to inspection at any time by the licensing authority or an officer subordinate to the licensing authority authorised by that authority.

(4) Notwithstanding anything contained in the Indian Evidence Act, 1872 (Central Act I of 1872), a copy of the account referred to in clause (a) of sub-section (1), certified in such manner as may be prescribed, shall be admissible in evidence in the same manner and to the same extent as the original account.

(5) A pawner to whom a statement of account has been furnished under clause (d) of sub-section (1) and who fails to object to the correctness of the account shall not, by such failure alone, be deemed to have admitted the correctness of such account.

(6) In the pawn-ticket furnished to the pawner, in the receipt given under clause (c) of sub-section (1) and in the statement of account furnished under clause (d) of that sub-section, the figures shall be entered only in Arabic numerals.

11. Redemption of pledge.—(1) Every pledge shall be redeemable within one year from the day of pawning exclusive of that day; and there shall be added to that year of redemption fifteen days of grace within which every pledge (if not redeemed within the period of redemption) shall continue to be redeemable.

(2) A pledge pawned for a sum not exceeding ¹[two thousand rupees]¹, if not redeemed within the period of redemption and days of grace, shall at the end of the days of grace become the pawnbroker's absolute property.

(3) A pledge pawned for a sum exceeding ¹[two thousand rupees]¹ shall further continue to be redeemable until it is disposed of as provided in this Act, although the period of redemption and days of grace have expired.

¹. Substituted by Act 11 of 2016 w.e.f 26.04.2016.

Explanation.—Where the contract between the parties provides a longer period for redemption than one year, the provisions of sub-sections (1), (2) and (3) shall be

read and construed as if references to such longer period had been substituted for the references to the period of one year therein.

12. Sale of pledge and inspection of sale book.—(1) A pledge pawned for a sum exceeding ¹[two thousand rupees]¹ shall, when disposed of by the pawnbroker, be disposed of by sale by auction and not otherwise, and the sale shall be conducted in accordance with such rules as may be prescribed.

1. Substituted by Act 11 of 2016 w.e.f 26.04.2016.

(2) A pawnbroker may bid for and purchase at a sale by public auction conducted under sub-section (1), a pledge pawned with him; and on such purchase he shall become the absolute owner of the pledge.

(3) At any time within three years after the public auction, the holder of the pawn-ticket may inspect the entry relating to the sale either in the pawnbroker's book or in such catalogue of the auction as may be prescribed.

(4) (a) Where on such inspection or otherwise the pledge appears to have been sold for more than the amount of the loan and the interest and charges due at the time of the sale, the pawnbroker shall pay to the holder of the pawn-ticket, on demand made within three years after the sale, the surplus after deducting therefrom the necessary costs and charges of the sale.

(b) If on such demand it appears that the sale of the pledge has resulted in a surplus but that within twelve months before or after such sale, the sale of another pledge or pledges of the same person has resulted in a deficit, the pawnbroker may set off the deficit against the surplus and shall be liable to pay only the balance, if any, after such set off.

13. Liability of pawnbroker in case of fire.—(1) Where a pledge is destroyed or damaged by or in consequence of fire, the pawnbroker shall nevertheless be liable on application made within the period during which the pledge would have been redeemable, to pay the value of the pledge, after deducting the amount of the principal and interest.

Explanation.—For the purpose of this sub-section, the value of the pledge shall be its estimated value (if any) entered in the pledge book at the time of the pawn together with interest on the amount of the principal and shall in no case be less than the aggregate of the amount of the principal and interest and twenty-five per cent on the amount of the principal.

(2) A pawnbroker shall be entitled to insure to the extent of the value so estimated.

14. Compensation for depreciation of pledge.—If a person entitled and offering to redeem a pledge shows to the satisfaction of a Civil Court having jurisdiction to entertain a suit for such redemption that the pledge has become or has been rendered of less value than it was at the time of pawning thereof by or through the default, neglect or wrongful act of the pawnbroker, the Court may, if it thinks fit, award reasonable compensation to the owner of the pledge in respect of the damage, and the amount awarded shall be deducted from the amount payable to the pawnbroker, or shall be paid by the pawnbroker (as the case requires) in such manner as the Court directs.

15. Pawnbroker advancing smaller amount or receiving higher interest than that specified in accounts to be punishable.—(1) Any pawnbroker who actually

advances an amount less than that shown in the pawn-ticket or in his accounts or registers or who takes or receives interest or any other charge at a rate higher than that shown in the pawn-ticket or in his accounts or registers shall, on conviction be punished with fine which may extend to five hundred rupees.

(2) If a pawnbroker is convicted of an offence under sub-section (1) after having been previously convicted of a similar offence, the Court convicting him may order his licence as a pawnbroker to be cancelled.

16. Certain other acts of pawnbrokers to be punishable.—A pawnbroker who,-

- (1) takes an article in pawn from any person appearing to be under the age of fourteen years or to be intoxicated; or
- (2) purchases or takes in pawn or exchange a pawn-ticket issued by another pawnbroker; or
- (3) employs any person under the age of sixteen years to take pledges in pawn; or
- (4) under any pretence purchases, except at a public auction, any pledge while in pawn with him; or
- (5) suffers any pledge while in pawn with him to be redeemed with a view to his purchasing it; or
- (6) makes any contract or agreement with any person pawning or offering to pawn any article, or with the owner thereof, for the purchase, sale, or disposition thereof within the time of redemption; or
- (7) sells ¹[hypothecates, pawns]¹ or otherwise disposes of any pledge pawned with him except at such time and in such manner as is authorised by or under the Act;

-shall on conviction be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

¹[Provided that for an act referred to in clause (7), the term of imprisonment shall not be less than one month and the fine shall not be less than five hundred rupees.]¹

1. Inserted by Act 29 of 1979 w.e.f 1.8.1979

¹[**16A. Pawnbroker to redeem pledges.**—(1) Where before the commencement of the Karnataka Pawnbrokers (Amendment) Act, 1979 any pawnbroker has pawned or hypothecated any pledge with any person, such pawnbroker shall, redeem the pledge within thirty days from the date of such commencement.

(2) Any pawnbroker who fails to so redeem shall, on conviction, be punished with imprisonment for a term which may extend to six months and with fine which may extend to rupees one thousand:

Provided that the term of imprisonment shall not be less than one month and the fine shall not be less than rupees five hundred.]¹

1. Inserted by Act 29 of 1979w.e.f 1.8.1979

17. Certain acts of pawners to be punishable.—(1) Any person who,-

- (a) offers to a pawnbroker an article by way of pawn, being unable or refusing to give a satisfactory account of the means by which he became possessed of the article; or

- (b) wilfully gives false information to a pawnbroker as to whether an article offered by him in pawn to the pawnbroker is his own property or not, or as to his name and address, or as to the name and address of the owner of the article; or
- (c) not being entitled to redeem and not having any colour of title by law to redeem, a pledge, attempts or endeavours to redeem the same;

-shall, on conviction be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

(2) In every case falling under sub-section (1), and also in any case, where on an article being offered in pawn, for sale, or otherwise, to a pawnbroker he reasonably suspects that it has been stolen or otherwise illegally or clandestinely obtained, the pawnbroker shall, in the absence of reasonable excuse, inquire into the name and address of the person concerned, and seize and detain such person and the article, or either of them, and forthwith communicate to the nearest police station the facts of the case and shall deliver the person and the article, or either of them (as soon as may be) to the custody of the police.

(3) A list of properties believed to have been stolen may be delivered by the police to any pawnbroker licensed under this Act and thereupon it shall be the duty of such pawnbroker—

(a) if any article answering the description of any of the properties set forth in any such list is offered to him in pawn, for sale, or otherwise, to proceed in accordance with the provisions of sub-section (2); and

(b) if any such article is already in his possession, forthwith to communicate to the nearest police station the facts of the case (including full particulars as to the name and address of the person concerned in the delivery of the article to the pawnbroker) and also, if so required by the police, to deliver the article to them.

18. General penalty for contravention of Act, etc.—(1) Whoever contravenes any of the provisions of this Act or of any rule or of any terms or conditions of a licence made or granted thereunder shall, if no other penalty is elsewhere provided in this Act for such contravention, on conviction be punished with fine which may extend to fifty rupees and, if such person has been previously convicted whether under this section or any other provision contained in this Act, with fine which may extend to one hundred rupees.

(2) Any person who after having been convicted of the offence of carrying on, or continuing to carry on the business of pawnbroker in contravention of the provisions of section 3, continues to commit the same offence in the same year, shall in addition to the fine to which he is liable under sub-section (1), be punished with a further fine which may extend to ten rupees for each day after the previous date of conviction during which he continues so to offend.

(3) Any Court convicting a pawnbroker of contravention of the provisions of clause (d) of sub-section (1) of section 10, may direct him to furnish a statement of account in accordance with the provisions of that clause, and if the pawnbroker fails to comply with the direction, the Court may order his licence as a pawnbroker to be cancelled.

19. Jurisdiction to try offences.—No Court inferior to that of a Magistrate of the second class shall try any offence against this Act.

1[19A. Offences by Hindu undivided Family, Companies etc.—(1) If any of the provisions of this Act is contravened by a Hindu undivided Family, the person responsible for the management of the business of such Family shall be deemed to have contravened such provision.

(2) (a) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this clause shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(b) Notwithstanding anything contained in clause (a), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any director, manager, secretary, or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,-

(a) “company” means, a body corporate and includes a firm or other association of individuals, and

(b) “director” in relation to a firm means, a partner in the firm;]₁

1. Inserted by Act 29 of 1979 w.e.f 1.8.1979

1[20. Certain offence to be cognizable.—Offences punishable,-

(a) under section 16 for an act referred to in clause (7) thereof;

(b) under section 16A; and

(c) under section 18 for contravening the provision of section 3, -shall be cognizable.]₁

1. Substituted by Act 29 of 1979 w.e.f 1.8.1979

21. Contract of pawn to be void in certain cases and not to be void in certain other cases.—(1) If any pawnbroker not licensed under this Act, takes any article in pawn for a loan, the contract of pawn so far as it confers any right on the pawnbroker in respect of the article pawned shall be void and the retention of the article by such pawnbroker shall be wrongful.

(2) Where a pawnbroker is guilty of an offence against this Act (not being an offence against any provision of this Act relating to licences), any contract of pawn or other contract made by him, in relation to his business of pawnbroker, shall nevertheless not be void by reason only of that offence, nor shall he by reason only of that offence, lose his lien on or right to the pledge or to the loan and the interest and other charges, if any, payable in respect thereof:

Provided that if a pawnbroker fails to deliver to the pawner a pawn-ticket as required by section 7 or fails to give to the pawner or his agent a receipt as required

by clause (c) of sub-section (1) of section 10 or to furnish on a requisition made under clause (d) of that sub-section, a statement of account as required therein within one month after such requisition has been made, the pawnbroker shall not be entitled to any interest for the period of his default:

Provided further that if in any suit or proceeding relating to a loan the Court finds that a pawnbroker has not maintained accounts as required by clause (a) or clause (b) of sub-section (1) of section 10, he shall not be allowed his costs.

22. Power to make rules.—(1) The State Government may after previous publication, by notification, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) all matters expressly required or allowed by this Act to be prescribed;

(b) the form of, and the particulars to be contained in, an application for a pawnbroker's licence under this Act; and

(c) the form in which books, accounts and documents specified in this Act shall be recorded, maintained, kept or used.

(3) Every rule made under this Act, shall be laid, as soon as may be after it is made before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

23. Savings.—(1) Nothing contained in this Act shall apply to any loan advanced on a pledge in any area in which this Act is brought into force by a notification under sub-section (3) of section 1 before the expiry of six months from the date appointed in such notification.

(2) The provisions of this Act shall be in addition to the provisions of the 1[Karnataka]1 Money-lenders Act, 1961.

1. Adapted by the Karnataka Adaptations of Law s Order 1973 w .e.f. 1.11.1973

24. Repeal.—The Madras Pawnbrokers Act, 1943 (Madras Act XXIII of 1943) as in force in the 1[Mangalore and Kollegal Area]1 is hereby repealed:

Provided that section 6 of the 1[Karnataka]1 General Clauses Act, 1899 1[Karnataka]1 Act III of 1899) shall be applicable in respect of the repeal of the said enactment and sections 8 and 24 of the said Act shall be applicable as if the repealed enactment had been repealed and re-enacted by this Act.

1. Adapted by the Karnataka Adaptations of Law s Order 1973 w .e.f. 1.11.1973

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NOTIFICATION

Bangalore, dated 26th August 1966 [No. DPC 271 CCC 66.]

In exercise of the powers conferred by Clause (b) of sub-section (3) of Section 1 of the Mysore Pawn-Brokers Act, 1961 (Mysore Act No. 13 of 1962), and in supersession of Notification No. AF/43/CCS/62, dated 19th July 1966, published as S.O. 4958 in Part IV Section 2-C (ii) of Mysore Gazette dated 28th July 1966, the Government of Mysore, hereby appoints the first day of October, 1966, as the date on which the said Act, shall come into force in Bombay Area, Hyderabad Area, Coorg District and Mysore Area of the State of Mysore.

By Order and in the name of the Governor of Mysore,
(R. BHARANIAH)
Secretary.

KARNATAKA ACT NO. 11 OF 2016

(First Published in the Karnataka Gazette Extra-ordinary on the Twenty sixth day of April, 2016)

THE KARNATAKA PAWN BROKERS (AMENDMENT) ACT, 2016

(Received the assent of the Governor on the Twenty fifth day of April, 2016)

An Act further to amend the Karnataka Pawn Brokers Act, 1961.

Whereas it is expedient further to amend the Karnataka Pawn Brokers Act, 1961. (Karnataka Act No 13 of 1962) for the purposes hereinafter appearing;

Be it enacted by the Karnataka State Legislature in the sixty seventh year of the Republic of India as follows:-

By Order and in the name of the Governor of
Karnataka,

K. DWARAKANATH BABU

Special Secretary to Government
Department of Parliamentary Affairs