

Moneylenders (Amendment) Bill

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Bill No: 23/2009

Read the first time: 23rd November 2009

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Explanatory Statement

Expenditure of Public Money

Moneylenders (Amendment) Bill

Bill No. 23/2009

Read the first time on 23rd November 2009.

An Act to amend the Moneylenders Act 2008 (Act 31 of 2008) and to make related amendments to the Banking Act (Chapter 19 of the 2008 Revised Edition), the Immigration Act (Chapter 133 of the 2008 Revised Edition) and the National Registration Act (Chapter 201 of the 1992 Revised Edition).

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

Short title and commencement

1. This Act may be cited as the Moneylenders (Amendment) Act 2009 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

Amendment of section 2

2. Section 2 of the Moneylenders Act 2008 is amended by inserting, immediately after the definition of “Authority”, the following definition:

“ “bank” means —

- (a) a bank licensed under the Banking Act (Cap. 19); or
- (b) a merchant bank that is approved as a financial institution under section 28 of the Monetary Authority of Singapore Act (Cap. 186),

and includes a finance company licensed under the Finance Companies Act (Cap. 108);”.

Amendment of section 5

3. Section 5 of the Moneylenders Act 2008 is amended by inserting, immediately after subsection (1), the following subsection:

“(1A) For the purposes of subsection (1), a person who wholly or partly carries on, from a place outside Singapore, the business of moneylending in Singapore shall be taken to have carried on that business in Singapore.”.

Amendment of section 14

4. Section 14 of the Moneylenders Act 2008 is amended —

(a) by deleting subsection (1) and substituting the following subsections:

“(1) Subject to subsection (1A), any person who contravenes, or who assists in the contravention of, section 5(1) shall be guilty of an offence and —

- (a) in the case where the person is a body corporate, shall on conviction be punished with a fine of not less than \$50,000 and not more than \$500,000; or
- (b) in any other case —
 - (i) shall on conviction be punished with a fine of not less than \$30,000 and not more than \$300,000 and with imprisonment for a term not exceeding 4 years; and
 - (ii) in the case of a second or subsequent offence, shall on conviction be punished with a fine of not less than \$30,000 and not more than \$300,000 and with imprisonment for a term not exceeding 7 years.

(1A) Subject to section 231 of the Criminal Procedure Code (Cap. 68) —

- (a) a person who is convicted for the first time of an offence under subsection (1) shall also be liable to be punished with caning with not more than 6 strokes; or
- (b) a person who is convicted of a second or subsequent offence under subsection (1) shall also be liable to be punished with caning with not more

than 12 strokes.”; and

(b) by inserting, immediately after subsection (3), the following subsections:

“(3A) Without prejudice to the generality of subsection (1), a person assists in a contravention of subsection (1) if —

- (a) he collects or demands payment of a loan on behalf of a person whom he knows or has reasonable grounds to believe is carrying on a business in contravention of section 5(1);
- (b) he receives, possesses, conceals or disposes of any funds or other property, or engages in a banking transaction relating to any funds, on behalf of any person knowing or having reasonable grounds to believe that —
 - (i) the person is carrying on a business in contravention of section 5(1); and
 - (ii) either the funds are (or are intended to be) disbursed as a loan by that person, or the funds or property is repayment of a loan made by the person;
- (c) being the owner or person having management or control of any premises, he allows the premises to be used to carry on a business knowing or having reasonable grounds to believe that the carrying on of such business contravenes section 5(1);
- (d) he lends or provides funds, or lends, sells or provides any pre-paid subscriber identification module (SIM) card or other property to a person, knowing or having reasonable grounds to believe that the funds or property will be used for the carrying on of a business in contravention of section 5(1);
- (e) he keeps the records and accounts of a business knowing or having reasonable grounds to believe that the carrying on of such business contravenes section 5(1); or
- (f) he promotes or advertises a business knowing or having reasonable grounds to believe that the

carrying on of such business contravenes section 5(1).

(3B) In subsection (3A), “funds” and “property” have the meanings given to those words in section 15A.”.

New Part IIA

5. The Moneylenders Act 2008 is amended by inserting, immediately after section 15, the following Part:

“PART IIA

FREEZING OF PROCEEDS OF UNLICENSED MONEYLENDING

Interpretation of this Part

15A. In this Part, unless the context otherwise requires —

“account” means any deposit or current account opened with a bank;

“deal with” means —

(a) in respect of property comprising funds —

(i) use, alter, move, allow access to or transfer; or

(ii) deal with in any other way that would result in any change in volume, amount, location, ownership, possession, character or destination; and

(b) in respect of any other property, use to obtain funds in any way, including (but not limited to) by selling, hiring or mortgaging the property;

“funds” includes cheques, bank deposits and other financial resources;

“property” means property of every kind, whether tangible or intangible, movable or immovable, and whether situated within or outside Singapore, and includes funds.

Proceeds of unlicensed moneylending

15B.—(1) In this Part, property is proceeds of unlicensed moneylending if it is wholly or partly derived or realised, whether directly or indirectly, from a