

LAWS OF MALAYSIA

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Act 81

PAWNBROKERS ACT 1972

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PAWNBROKERS ACT 1972

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PAWNBROKERS ACT 1972

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LAWS OF MALAYSIA

Act 81

PAWNBROKERS ACT 1972

An Act for the regulation and control of the business of pawnbroking, the protection of pawners and pledges pawned in the course of such business, and matters connected therewith.

[*Throughout Malaysia—2 January 1973, P.U. (B) 535/1972*]

BE IT ENACTED by the Seri Paduka Baginda Yang di-Pertuan Agong with the advice and consent of the Dewan Negara and Dewan Rakyat in Parliament assembled, and by the authority of the same, as follows:

PART I

PRELIMINARY

Short title

1. This Act may be cited as the Pawnbrokers Act 1972.

Interpretation

2. In this Act unless the context otherwise requires—

"appointed date" means the date appointed by the Minister under section 1;

"Consolidated Revenue Account" means the Federal Consolidated Revenue Account maintained pursuant to paragraph 7*(a)* of the Financial Procedure Act 1957 [*Act 61*];

"Consolidated Trust Account" means the Federal Consolidated Trust Account maintained pursuant to paragraph 7*(c)* of the Financial Procedure Act 1957;

"Inspector" means the Inspector of Pawnbrokers appointed under subsection 3A(1);

"licence" means a licence granted under section 9;

"licensed auctioneer" means any person duly licensed to conduct sales under any law relating to sales by public auction;

"licensee" means any pawnbroker to whom a licence has been granted under section 9;

"pawnbroker" means a person who carries on pawnbroking business;

"pawnbroker's book" means the book referred to in section 14;

"pawnbroking business" includes the business of taking articles in pawn;

"pawner" means a person delivering an article for pawn to a pawnbroker;

"pledge" means any tangible personal property, other than choses-in-action, titles, securities or documents evidencing indebtedness, which is deposited or delivered into the possession of a pawnbroker;

"police officer" means a senior police officer as defined in the Police Act 1967 [*Act 344*];

"premises" means the place where a person carries on business as a pawnbroker;

"Registrar" means the Registrar of Pawnbrokers appointed under subsection 3A(1).

Persons to be deemed pawnbrokers

3. Any person who—

(a) receives or takes of or from any person whomsoever any article by way of security for the repayment of any sum of money, not exceeding ten thousand ringgit, advanced thereon; or

(b) purchases or receives or takes in articles and pays or advances or lends thereon any sum of money, not exceeding ten thousand ringgit, with or under an agreement or understanding expressed or implied or to be from the nature and character of the dealing reasonably inferred that those articles may afterwards be redeemed or repurchased on any terms,

shall be deemed to be a person carrying on the business of taking articles in pawn, and every such transaction, article, payment, advance and loan shall be deemed a pawning, pledge or loan respectively within this Act.

(2) (*Deleted by Act A1209*)

PART IA

ADMINISTRATION

Appointment of Registrar, Deputy Registrars, Inspectors and other officers and servants

3A. (1) For the purpose of this Act, the Minister may appoint a Registrar of Pawnbrokers and such numbers of Deputy Registrars of Pawnbrokers, Inspectors of Pawnbrokers and other officers and servants as the Minister may deem fit from amongst members of the public service.

(2) The Registrar and Deputy Registrars shall have and may exercise any of the powers conferred on an Inspector by or under this Act.

Delegation of powers of Registrar

3B. (1) The Registrar may, in writing, delegate all or any of his powers or functions under this Act, except his power of delegation, to any Deputy Registrar or Inspector appointed under subsection 3A(1).

(2) Without prejudice to subsection (1), the Registrar may, in writing, delegate any of his powers or functions under this Act in respect of the investigation of offences under this Act and the enforcement of the provisions of this Act to any public officer or officer of a local authority.

(3) Any delegation under subsection (1) or (2) may be revoked at any time by the Registrar and does not prohibit the Registrar from himself exercising the powers or performing the functions so delegated.

PART IB

EXTENSION OF LIABILITY OF PAWNBROKERS AND RIGHTS OF PAWNERS TO CERTAIN PERSONS

Application of the Act to executors, *etc.*, of pawnbrokers

4. The provisions of this Act relating to licensees shall extend to and include the executors or administrators of deceased licensees, except that an executor or administrator shall not be answerable for any penalty or forfeiture personally or out of his own estate, unless the same is incurred by his own act or neglect.

Liability of pawnbrokers for acts of agent or servant

5. (1) Whenever any licensee would be liable under this Act or of any regulations made thereunder to any punishment or penalty for any act, omission, neglect or default he shall be liable to the same punishment or penalty for every singular act, omission, neglect or default of any agent or servant employed by him in the course of his business as such licensee.

(2) Every agent or servant employed by any licensee in the course of his business as such shall also be liable in respect of any act, omission, neglect or default of his to every punishment or penalty described for acts, omissions, neglects or defaults contrary to this Act or of any regulations made thereunder as if such agent or servant had been the licensee.

Extensions of rights, *etc.*, of pawners to the assigns, executor, *etc.*

6. The rights, powers and benefits under this Act reserved to and conferred on pawners shall extend to, and be deemed to be reserved to and conferred on, the assignees of pawners, and to and on the executors or administrators of deceased pawners; but any person

representing himself to a licensee to be the assign, executor or administrator of a pawner shall, if required by the licensee, produce to the licensee the assignment, probate, letters of administration or other instrument under which he claims.

PART II

PAWNBROKER'S LICENCE

Licence to be taken out by pawnbroker

7. (1) No person shall carry on business as a pawnbroker unless he holds a valid licence granted under this Act.

(2) Any person who carries on business as a pawnbroker without a valid licence, or who continues to carry on such business after his licence has expired or been suspended or revoked commits an offence and shall on conviction be liable to a fine of not less than twenty thousand ringgit but not more than one hundred thousand ringgit or to imprisonment for a term not exceeding five years or to both and in the case of a second or subsequent offence shall also be liable to whipping in addition to such punishment.

Application for licence

8. (1) An application for a licence to carry on business as a pawnbroker shall be made in writing to the Registrar in the prescribed form, and accompanied by such documents or information as may be prescribed.

(2) The Registrar may in writing, at any time after receiving the application but before it is determined, require the applicant to provide within a specified time or any extension of time granted by the Registrar, such additional documents or information as may be considered necessary by the Registrar for the purpose of determining the suitability of the applicant for the licence.

(3) Where any additional document or information required under subsection (2) is not provided by the applicant within the time specified in the requirement or any extension of time granted by the Registrar, the application shall be deemed to be withdrawn and shall not be further proceeded with.

(4) Without prejudice to subsection (3), the applicant may submit a fresh application for a licence to the Registrar, but such application shall not be made while his application for a licence is still pending before the Registrar.

Circumstances under which licence shall not be granted

8A. (1) The licence applied for under section 8 shall not be granted—

(a) if—

(i) where the applicant is an individual person, the applicant;

(ii) where the applicant is a company, a director, general manager, manager or secretary of the company or any other person holding a similar office or position in the company;

(iii) where the applicant is a society, a president, vice-president, secretary or treasurer of the society or any other person holding a similar office or position in the society;

(iv) where the applicant is a firm or other body of persons, a partner or any member of the firm or body of persons or any other person holding a similar office or position,

is a person convicted of an offence involving fraud or dishonesty, or an offence under Chapter XVI or XVII of the Penal Code [*Act 574*], or is an undischarged bankrupt;

(b) if at the time the application is made—

(i) where the applicant is an individual person, the applicant;

(ii) where the applicant is a company, a director, general manager, manager or secretary of the company or any other person holding a similar office or position in the company;

(iii) where the applicant is a society, a president, vice-president, secretary or treasurer of the society or any other person holding a similar office or position in the society;

(iv) where the applicant is a firm or other body of persons, a partner or any member of the firm or body of persons or any other person holding a similar office or position,

has, due to a conviction for an offence under this Act, been sentenced to a fine exceeding ten thousand ringgit or to imprisonment (other than imprisonment in default of a fine not exceeding ten thousand ringgit);

(c) where the applicant is responsible for the management of any pawnbroking business, and the licence for that business has been revoked;

(d) where satisfactory evidence has been produced that—

(i) where the applicant is an individual person, the applicant;

(ii) where the applicant is a company, a director, general manager, manager or secretary of the company or any other person holding a similar office or position in the company;

(iii) where the applicant is a society, a president, vice-president, secretary or treasurer of the society or any other person holding a similar office or position in the society;

(iv) where the applicant is a firm or other body of persons, a partner or any member of the firm or body of persons or any other person holding a similar office or position,

is of bad character or is not a fit and proper person to hold a licence.

(2) Any person aggrieved by the refusal of the Registrar to issue a licence may appeal to the Minister in the prescribed manner and the decision of the Minister shall be final.

Grant of a licence

9. (1) Notwithstanding subsection 8(2) or (3), the Registrar may, upon receiving an application for a licence under subsection 8(1), grant or refuse to grant the licence to the applicant, and the Registrar shall inform the applicant of his decision.

(2) The licence shall be in such form as may be prescribed.

(3) The applicant shall pay the prescribed application fee for the licence to the Registrar upon being informed by the Registrar of the approval of his application for the licence.

Duration of licence

10. (1) Subject to section 11C and subsection (3), a licence shall, unless sooner revoked, be valid for a period not exceeding two years.

(2) When a licence is granted, the Registrar shall specify in the licence the date on which the licence is to come into force and the date of its expiry.

(3) Where on the date of expiry of the licence an application for the renewal of the licence under section 10B is pending before the Registrar, that licence shall remain in force until the application is disposed of, or sixty days after the date of expiry of the licence, whichever is the earlier.

Conditions may be attached to licence

10A. (1) The Registrar may stipulate in the licence such conditions as he may think fit and he may, at any time during the duration of the licence, add to, revoke or vary any of the conditions.

(2) Any person who fails to comply with any of the conditions of the licence commits an offence and shall on conviction be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding two years or to both.

Renewal of licence

10B. (1) An application by a licensee for the renewal of his licence shall be made at least sixty days before the date of expiry of the licence, and the application shall be accompanied by such documents and information as may be required by the Registrar.

(2) Notwithstanding subsection (1), the Registrar may, subject to the payment by the licensee of a penalty not exceeding three hundred ringgit, allow an application for the renewal of a licence made less than sixty days before the date of expiry of the licence, but no application for such renewal shall be allowed where the application is made after the date of expiry of the licence.

(3) Where the licensee fails to apply for the renewal of the licence before the date of expiry of the licence, he shall not be entitled to make a new application for a licence within a period of two years from the date of expiry of the licence.

(4) The licensee shall pay the prescribed fee for the renewal of the licence to the Registrar upon being informed by the Registrar of the approval of his application for such renewal.

Requirement to display licence

10C. (1) A licensee shall at all times display his licence in a conspicuous part of the premises where he carries on his pawnbroking business.

(2) Any person who contravenes subsection (1) commits an offence.

Revocation and suspension of licence

11. (1) If a licensee—

(a) has been carrying on his pawnbroking business, in the opinion of the Registrar, in a manner detrimental to the interest of a pawner or to any member of the public;

(b) being—

(i) an individual, has been declared a bankrupt;

(ii) a company, has been wound up or dissolved by a court;

(iii) a partnership, firm or body of persons, has been dissolved;

(c) has contravened any provision of this Act or any regulation made under this Act;

(d) has been licensed as a result of a fraud or a mistake or misrepresentation in any material particular; or

(e) has failed to comply with any of the conditions stipulated by the Registrar,

the Registrar may, subject to section 11A, revoke the licence issued to the licensee or suspend the licence for such period as the Registrar thinks fit.

(2) A revocation or suspension of a licence under this section shall not affect any pawning transaction made before such revocation or suspension, other than a transaction in respect of which such revocation or suspension is made.

(3) Where a licence has been revoked or suspended, the licence shall have no effect from the date of revocation of the licence or during the period of suspension of the licence, as the case may be.

Opportunity of being heard

11A. (1) Before revoking or suspending a licence under section 11, the Registrar shall give the licensee a notice in writing of his intention to do so and require the licensee to submit reasons as to why the licence should not be revoked or suspended.

(2) After considering the reasons submitted by the licensee, the Registrar shall decide whether to revoke or suspend the licence, or to take no further action, and the Registrar shall notify the licensee of his decision.

Appeal to Minister

11B. Any person who aggrieved by any decision taken by the Registrar under section 11 may, within fourteen days after having been notified of the decision, appeal against that decision to the Minister whose decision is final and shall not be questioned in any court.

Validity of licence extended in successful appeal

11C. Where the Minister allows an appeal against the revocation or suspension of a licence under this Act, the validity of the licence shall be extended by a period corresponding to that during which the licence had no effect and such extended period shall be specified by the Registrar in the licence.

Prohibition of similar application when earlier application still pending appeal

11D. (1) Where an applicant appeals against the refusal of the Registrar to grant a licence to him, or a licensee appeals against the revocation of his licence by the Registrar, he shall not subsequently make an application for a licence until the appeal against the Registrar's decision has been determined by the Minister.

(2) In the event that any licence is granted as a result of a subsequent application made in the circumstances specified in subsection (1), the licence so granted shall be void and shall have no effect.

(3) Any person who contravenes subsection (1) commits an offence and shall on conviction be liable to a fine not exceeding twenty thousand ringgit or to imprisonment for a term not exceeding twelve months or to both.

Surrender of licence

11E. (1) Upon the revocation of the licence under section 11, or if there is an appeal, upon the rejection of an appeal against the revocation of the licence under section 11B, the pawnbroker shall, within fourteen days from the date of the notice of the revocation, or the notice of rejection of the appeal against revocation, being served on him, surrender his licence to the Registrar.

(2) Any person who fails to surrender his licence as required under subsection (1) commits an offence and shall on conviction be liable to a fine not exceeding twenty thousand ringgit or to imprisonment for a term not exceeding twelve months or to both.

Transfer or assignment of licence prohibited

11F. (1) Subject to subsections (2) and (3), a licensee shall not transfer or assign his licence to any other person, or cause or permit any other person to use his licence or provide the services authorized in the licence.

(2) A licensee may, with the prior consent of the Registrar, appoint any person for the purpose of exercising any of the rights conferred on him under the licence, or cause or permit any such person to exercise any such right.

(3) The Registrar may authorize the transfer of a licence where—

(a) the licensee—

(i) being a company, is liquidated and a receiver or manager is appointed in relation to the pawnbroking business of the company; or

(ii) being a society, firm or other body of persons, is dissolved and a receiver or manager is appointed in relation to the pawnbroking business of the society, firm or other body of persons; or

(b) for any other reason the Registrar is satisfied that it would be just to authorize such transfer.

(4) Except where the Registrar has given his consent or authorization under subsection (2) or (3), a licensee who purports to transfer or assign his licence to any other person, or causes or permits any other person to use his licence or to provide the services authorized in the licence, commits an offence and shall on conviction be liable to a fine not exceeding twenty thousand ringgit or to imprisonment for a term not exceeding twelve months or to both.

Duty of pawnbroker on expiry of licence

11G. (1) Every pawnbroker to whom a licence has been granted under section 9 shall, upon the expiry of his licence—

(a) send a notice to each and every pawner of the fact that his licence has expired; and

(b) send a report to the Registrar stating the number of pawners whose pledges are still in his custody and particulars of such pledges.

(2) Any person who contravenes this section commits an offence.

Pawn premises to keep open after expiration of licence for redemption of pledges

12. (1) Upon the expiration or sooner determination of any licence the pawnbroker shall keep open the licensed premises daily from 8.00 a.m. to 6.00 p.m. for the redemption of pledges and for all purposes of this Act, except taking of pledge in pawn, shall continue to exercise the rights and privileges and be subject to the duties and liabilities of a licensee until the whole of the pledges held by him in pawn have been redeemed or the latest period of redemption for any of such pledges has expired.

(2) *(a)* Such pawnbroker may, with the written consent of the Registrar, enter into a contract with any person to undertake the duties and liabilities imposed and to exercise the rights and privileges conferred upon him by subsection (1) and, with such consent and upon such conditions as the Registrar may see fit to impose for the protection of pawners, may transfer to that person the possession of all pledges held by him in pawn, and that person shall thereafter be deemed to be the pawnbroker in respect thereof.

(b) (*Deleted by Act 1209*).

(3) A notice of every such transfer shall be posted on the premises of the transferor and the transferee and at every court-house, police station and district and land offices in the district in which the premises is situated. Such notice shall also be published in a newspaper to be approved by the Registrar.

(4) The Registrar may authorize the person to whom such transfer has been made to deal with the pledges held in pawn in any specified place other than the licensed premises, and to remove the pledges.

(5) Nothing in this section shall relieve the transferor from any liability under this Act for any act done or omitted to be done before the date of such transfer.

Registrar may issue order to licensee to deliver pledges, books and accounts on expiration of licenses, *etc.*

13. (1) Upon the expiration or sooner determination of any licence granted under this Act, the Registrar may, if he so thinks fit in the interest of the persons who have pledged articles with the licensee whose licence has expired or been determined, issue an order to the licensee to deliver up to an officer named in such order all pledges held in pawn by the licensee and all books and accounts kept by him in connection with his business of pawnbroking.

(2) Such officer may take possession of all the pledges, books and accounts and, if necessary, may enter upon the premises used by the licensee and take possession of all the pledges, books and accounts and may remove the same to a place of safety.

(3) Such officer shall hold the pledges subject to redemption in like manner in all respects as if the same were held by the licensee.

(4) Upon redemption of, or the expiration of the period of redemption for, all the pledges in pawn such officer shall, upon payment by the licensee of all reasonable expenses incurred, hand over to the licensee the amount of all sums received from pawners as payment of moneys borrowed and profit due and all the pledges which have not been redeemed within due term and all the books and accounts.

(5) Such officer may, with the written consent of the Registrar, enter into a contract with sureties with any person to hold the pledges upon the terms which he himself is entitled to hold them, as set out in the two preceding subsections, and may, subject to such terms, transfer the possession of the pledges, books and accounts to that person.

Book, account or document to be submitted

13A. (1) Every pawnbroker shall submit to the Registrar—

(a) any book, account or document, including computerized data, which contains the pawnbroking transactions of the pawnbroker at his principal premises and at each of his other premises within such time as the Registrar may specify; and

(b) such other information as the Registrar may specify.

(2) Any information received from a pawnbroker under this section shall be treated as secret.

(3) Any person who contravenes subsection (1) commits an offence and shall on conviction be liable to a fine not exceeding twenty thousand ringgit or to imprisonment not exceeding twelve months or to both.

PART IIA

ADVERTISEMENT

Advertisement by licensee

13B. (1) No advertisement regarding the business of pawnbroking carried on by a licensee shall be issued or published or caused to be issued or published by the licensee, unless an advertisement permit in respect of that advertisement has been granted by the Registrar.

(2) Any person who contravenes subsection (1) commits an offence and shall on conviction be liable to a fine not exceeding twenty thousand ringgit or to imprisonment for a term not exceeding twelve months or to both.

Application for advertisement permit

13C. An application for an advertisement permit by a licensee shall be made in writing to the Registrar in the prescribed form and accompanied by such particulars and document as may be prescribed.

PART III

PAWNING AND REDEMPTION

Entry of pawning transaction in books and issue of pawn-tickets

14. (1) Every licensee on taking any article in pawn shall enter in a book, the particulars of the transaction, the pledge and the pawner, including his name and address, to be prescribed by regulations and deliver to the pawner a pawn-ticket in the prescribed form.

(2) Any person who contravenes subsection (1) commit an offence and shall on conviction be liable to a fine not exceeding twenty thousand ringgit or to imprisonment for a term not exceeding twelve months or to both.

Pawner to give true information to licensee

15. (1) Every pawner, on depositing any article in pawn, shall give to the licensee on demand such true information as may be required for the purposes of section 14.

(2) Any person who contravenes subsection (1) commit an offence and shall on conviction be liable to a fine not exceeding twenty thousand ringgit or to imprisonment for a term not exceeding twelve months or to both.

Business hours and restrictions as to receiving articles in pawn and carrying other business

16. (1) No licensee shall receive in pawn—

(a) any article between the hours of 6 p.m. and 8 a.m.;

(b) any article from any person who is under the age of eighteen years;

(ba) any article from any person who appears to be intoxicated or of unsound mind;

(c) any article bearing any mark or sign denoting it to be the property of the Government of Malaysia or of any State;

(d) any article which he may have reasonable cause to believe, whether from the nature of the article or from the person of the pawner or from the circumstances of the transaction or otherwise, to be offered for pawning without the consent of the lawful owner thereof.

(2) No licensee shall conduct or transact any part of his business of pawnbroking or keep any pledge in pawn in any place other than the licensed premises.

(3) No licensee shall use the licensed premises for the conduct or transaction of any business other than that of pawnbroking.

(4) Any person who contravenes this section commits an offence.

Rate of profit

17. (1) A licensee may take profit on a loan on any pledge in pawn by way of charges at such rates as may be prescribed by regulations made under this Act, and shall not demand or take any profit in excess of the prescribed rate, or demand or take any sum whatever in respect of any pawning other than such profit.

(2) Any person who contravenes subsection (1) commits an offence.

Period for and conditions of redemption

18. (1) Subject to this Act every pawnbroker at any time within six months from the pawning of any article to him or within such longer period as may have been agreed upon by him with the pawner shall deliver up the pledge to any person who may present the pawn-ticket issued by him in respect thereof and may tender payment of the sum borrowed thereon, and shall give to that person a receipt for all such moneys received from that person and shall record the particulars of that person in the pawnbroker's book.

(2) Any person who contravenes subsection (1) commits an offence.

Extension of time for redemption

19. Upon presentation by any person of the pawn-ticket issued by the licensee in respect of a pledge and payment of the amount of profit chargeable in respect of such pawning, the licensee shall on demand by that person extend the term within which the pledge may be redeemed for a further period of not less than three months. A note of every such extension shall be made in the pawnbroker's book and an endorsement made on the pawn-ticket.

Pawnbroker may refuse to deliver up pledge

20. (1) Notwithstanding anything contained in section 18, a pawnbroker who may have received notice not to deliver up any pledge in pawn from any police officer or from the owner of the pledge or of the pawn-ticket issued by him in respect thereof, or

who may have reasonable cause to suspect that any pledge or any pawn-ticket issued by him in respect of the pledge has been dishonestly obtained, shall immediately report the matter to the nearest police station and shall retain the pledge in his possession until authorized to deliver it up by the officer in charge of the station or by a Magistrate.

(2) Any person who contravenes subsection (1) commits an offence.

Procedure when pawn-ticket lost

21. Any person claiming to be entitled to hold any pawn-ticket issued by any pawnbroker and alleging that the same has been lost, destroyed or fraudulently obtained from him, may apply to the pawnbroker for a copy of the entry in his book concerning the pledge, and the pawnbroker shall furnish such copy free of charge and without delay; and notwithstanding section 18, during a period of seven days from the date of the application, shall refuse to deliver up the article to any person presenting the pawn-ticket:

Provided that upon the application of any person, it shall be lawful for a Magistrate to give such order to the pawnbroker as to the delivery of the pledge or the issue of a new pawn-ticket in respect thereof, as the Magistrate may seem fit and the pawnbroker shall give effect to the order.

Pawnbroker's responsibility with regard to pledge

22. (1) Every pawnbroker shall exercise the same care and diligence in the custody of pledge as a prudent owner would exercise in the custody of his own property.

(2) The pawnbroker shall be responsible for the loss or damage of any pledge, whether such loss or damage be caused by or in consequence of fire, negligence, omission, theft, robbery or otherwise.

(3) In the case of any pledge destroyed or damaged by or in consequence of fire, negligence, omission, theft, robbery or otherwise, the value of the pledge shall for the purposes of the compensation of the pawner, be assumed to be one quarter more than the amount of the loan.

(4) Upon complaint by any person that any pledge held by a pawnbroker, which the person is entitled to redeem, has not been delivered to him on due demand or has become or been rendered of less value than it was at the time of pawning by or through the default, neglect or misbehaviour of the pawnbroker, a Magistrate may, if he so thinks fit, order reasonable compensation to be paid by the pawnbroker to the person; and any sum so ordered to be paid may, if the Magistrate so directs, be recoverable from the pawnbroker as a fine.

Pledges not redeemed within time

23. (1) If any pledge shall not have been redeemed before the expiration of six months from the date of pawning, or of such longer period as may have been agreed between a pawnbroker and the pawner, or as may have been required in accordance with section 19, the pledge—

(a) if pawned for a sum not exceeding two hundred ringgit shall become the property of the pawnbroker; or

(b) if pawned for a sum exceeding two hundred ringgit shall when disposed of by the pawnbroker be disposed of by sale by auction to be conducted by a licensed auctioneer.

(2) A pawnbroker may bid for and purchase at a sale by auction under this section a pledge pawned with him; and on such purchase he shall be deemed the absolute owner of the pledge purchased.

(3) A pawnbroker shall send to the Registrar on the first day of every calendar month a list in the prescribed form together with such number of copies as the Registrar may require showing the result of the sales of the pledges during the preceding month. The Registrar shall keep the list affixed at his office and such public places as he may deem necessary for three months.

(4) Any person who contravenes subsection (3) commits an offence.

Right of holder of pawn-ticket to inspect sale book

24. At any time within four months after the auction at which a pledge pawned for a sum exceeding two hundred ringgit is sold, the pawnbroker shall on demand allow the holder of the

pawn-ticket to inspect the entry of the sale in the pawnbroker's book and in the filled-up catalogue of the auction authenticated by the signature of the licensed auctioneer or in either of them.

Obligation on pawnbroker to account for surplus within four months subject to set-off

25. (1) Where a pledge pawned for a sum exceeding two hundred ringgit is sold, and it appears from the pawnbroker's book to have been sold for more than the amount of the loan and profit due under section 17 at the time of sale, the pawnbroker shall within seven days after the sale forward by registered post to the pawner at the address of the pawner entered in the pawnbroker's book under section 14 a statement in the prescribed form and a notice that the surplus will be paid to the pawner if a claim is made by the pawner within four months from the date the notice is served on the pawner.

(2) The pawnbroker shall pay the surplus to the pawner if a claim is made by the pawner within the period of four months as specified in subsection (1).

(3) Any person who contravenes this section commits an offence.

Disposal of unclaimed surplus

26. (1) If no claim for the surplus is made within four months in accordance with subsection 25(2), the pawnbroker shall pay the surplus to the Accountant General within fourteen days after the expiration of that period of four months. Such payment shall be accompanied by a statement containing such particulars as may be prescribed by the Minister.

(2) The Accountant General shall pay the amount paid under subsection (1) to the Consolidated Trust Account.

(3) Any unclaimed surplus paid to the Consolidated Trust Account (to the extent to which it has under section 27 not been paid out of the Consolidated Trust Account) shall on the lapse of six years from the date of payment thereof to the Consolidated Trust Account, be paid into the Consolidated Revenue Account.

(4) Any pawnbroker who fails to pay any unclaimed surplus to the Accountant General commits an offence and shall on conviction be liable to a fine not exceeding five thousand ringgit and shall also be liable to a further fine of not less than one hundred ringgit and not more than two hundred ringgit for every day during which that failure continues after conviction.

Treasury to pay lawful claimant

27. (1) If any claimant makes any demand against the Treasury for any unclaimed surplus paid to the Consolidated Trust Account pursuant to section 26, the Treasury upon being satisfied that the claimant is the owner of the surplus, shall authorize payment thereof to be made to him out of the Consolidated Trust Account or, if the unclaimed money had been paid into the Consolidated Revenue Account, the Minister of Finance may direct payment of a like amount to be made to him; and such amount shall be charged upon the Consolidated Fund and be payable out of the Consolidated Revenue Account.

(2) Where any unclaimed surplus paid to any claimant is afterwards claimed by any other person, that other person shall not be entitled to the payment thereof but may have recourse against the claimant to whom the surplus has been paid.

PART IV

PREVENTION OF UNLAWFUL DEALINGS

Unlawful pawning

28. (1) No person shall pawn or attempt to pawn the article of any person without being duly authorized or employed in that behalf.

(2) Any person who contravenes subsection (1) commits an offence and shall on conviction be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding two years or to both.

Duty of licensee to enquire when proposed transaction is suspicious

29. (1) Whenever any person shall under suspicious circumstances offer to pawn any article or to redeem any pledge or whenever any person shall offer to pawn any article or redeem any pledge corresponding to the description given to any pawnbroker by any police officer of any article lost or fraudulently or dishonestly disposed of or acquired, the pawnbroker shall enquire of such person how he came into possession of the article or of the pawn-ticket, as the case may be: and if such person shall not satisfactorily account for his possession thereof or shall give false information as to the possession or as to the name and place of abode of himself or of the owner of the article or pawn-ticket, or if there be any other reason to suspect any dishonest dealings in respect of the article or pawn-ticket, the pawnbroker shall immediately report such proposed transaction to the nearest police station.

(2) Any person who contravenes subsection (1) commits an offence.

Presumption on possession of pawn-ticket

30. Any person found in possession of a pawn-ticket shall until proven otherwise be presumed to have been in possession of the pledge to which the pawn-ticket refers.

Stolen property

31. (1) Information as to property lost, stolen or otherwise fraudulently disposed of shall be given by the police to the licencees as soon as possible after the loss or fraud has been reported, together with lists and description thereof.

(2) If any property answering the lists and description is in the possession of any pawnbroker or is thereafter offered to or shown to any pawnbroker, he shall without unnecessary delay give information to that effect at the nearest police station or to any police officer, with the name and address of the person in whose possession the property was seen.

(3) Any person who contravenes subsection (2) commits an offence.

Police officer may arrest persons under suspicious circumstances

32. Any police officer having reason to suspect that any person in or loitering about any pawn premises has with him any article dishonestly obtained, may detain such person and require him to produce any article he may have with him; and if such person shall refuse to comply with such requirement or shall produce any article which the police officer has reason to suspect to have been unlawfully obtained, he may take such person to the nearest police station there to be dealt with according to the law.

33. (*Deleted by Act A1209*).

Restoration to the owner by pawnbroker of pledge dishonestly obtained

34. If any proceedings before any court or Magistrate it shall appear that any article which has been lost or dishonestly or fraudulently obtained or acquired is held in pawn by any pawnbroker, the court or Magistrate may take evidence as to the circumstances of such pawning, and if the court or Magistrate so thinks fit may order the delivery of the article to the owner either on payment to the pawnbroker of the amount lent and of the profit due, or on payment to any part of such loan or profit, or without payment, as to the court or Magistrate may seem just and proper according to the conduct of the owner and the pawnbroker and the circumstances of the case.

PART IVA

INVESTIGATION, SEARCH AND ARREST

Power to investigate complaints and inquire into information

34A. (1) Every complaint relating to the commission of an offence under this Act may be made orally or in writing to an Inspector or police officer.

(2) Where a complaint is made orally, it shall be reduced into writing and read over to the person making the complaint.

(3) Every complaint, whether in writing or reduced into writing, shall be signed by the person making the complaint.

(4) Every complaint, whether in writing or reduced into writing, shall be entered in a book kept at the office of the Registrar or recorded on any other medium so long as the information recorded on that other medium capable of being reproduced in legible form.

(5) There shall be appended to every complaint entered or record under subsection (4) the date and hour on which such complaint was made.

(6) Where an Inspector or police officer has reason to suspect the commission of an offence under this Act following a complaint made under subsection (1) or information otherwise received by him, he shall cause an investigation to be made and for such purpose may exercise all the powers of investigation provided for under this Act.

Powers of Inspector or police officer in investigation

34B. (1) Every Inspector or police officer making an investigation under this Act shall have the power to require information, whether orally or in writing, from any person acquainted or supposed to be acquainted with the facts and circumstances of the case under investigation.

(2) Any person who, on being required by an Inspector or police officer to give information under this section, refuses to comply with such requirement or furnishes as true any information which he knows or has reason to believe to be false commits an offence.

(3) Where any information furnished by a person to an Inspector or police officer is proved to be untrue or incorrect in whole or in part, it shall be no defence to allege that the information or any part of the information was misinterpreted, or furnished inadvertently or without criminal or fraudulent intent.

Power to examine persons

34C. (1) An Inspector or police officer investigating an offence under this Act may—

(a) order any person to attend before him for the purpose of being examined orally in relation to any matter which may, in his opinion, assist in the investigation into the offence;

(b) order any person to produce before him any book, document or any certified copy of such book or document, or any other article which may, in his opinion, assist in the investigation into the offence; or

(c) by written notice require any person to furnish a statement in writing made on oath or affirmation, setting out in the notice all such information which may be required, being information which, in the opinion of the Inspector or police officer, would be of assistance in the investigation into the offence.

(2) A person to whom an order under paragraph (1)*(a)* has been given shall—

(a) attend, in accordance with the terms of the order, to be examined and shall continue to attend from day to day as directed by the Inspector or police officer until the examination is completed; and

(b) during such examination, disclose all information which is within his knowledge, or which is available to him, or which is capable of being obtained by him, in respect of the matter in relation to which he is being examined, whether or not any question is put to him with regard to such matter, and where any question is put to him he shall answer the question truthfully and to the best of his knowledge and belief.

(3) A person to whom an order has been given under paragraph (1)*(b)* shall not conceal, destroy, alter, remove from or send out of Malaysia, or deal with, expend, or dispose of, any book, document or article specified in the order, or alter or deface any entry in any such book or document, or cause such act to be done, or assist or conspire to do such act.

(4) A person to whom a written notice has been given under paragraph (1)*(c)* shall, in his written statement made on oath or affirmation, furnish and disclose truthfully all information required under the notice which is within his knowledge, or which is available to him, or which is capable of being obtained by him.

(5) A person to whom an order or a notice is given under subsection (1) shall comply with such order or notice and with subsection (2), (3) or (4) in relation to the order or notice, but nothing contained in subsection (2), (3) or (4) shall be construed as compelling the person who is being examined under this section to disclose any information, book, document or article which may incriminate him for any offence under this Act or any other written law.

(6) An Inspector or police officer examining a person under paragraph (1)*(a)* shall record in writing any statement made by the person and the statement so recorded shall be signed by the person being examined or affixed with his thumbprint as the case may be, after it has been read to him in the language in which he made it and after he has been given an opportunity to make any corrections he may wish, and if such person refuses to sign the record, the Inspector or police officer shall endorse on the record under his hand the fact of such refusal and the reasons for such refusal, if any, stated by the person being examined.

(7) The record of an examination under paragraph (1)*(a)*, or a written statement on oath or affirmation made pursuant to paragraph (1)*(c)*, or any book, document or article produced under paragraph (1)*(b)* or in the course of an examination under paragraph (1)*(a)* or under a written statement on oath or affirmation made pursuant to paragraph (1)*(c)* shall, notwithstanding any written law or rule of law to the contrary, be admissible in evidence in any proceedings in any court for an offence under this Act, regardless whether such proceedings are against the person who was examined, or who produced the book, document or article, or who made the written statement on oath or affirmation, or against any other person.

(8) Any person who contravenes subsection (2), (3), (4) or (5) commits an offence and shall on conviction be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding two years or to both.

Search by warrant

34D. (1) If it appears to a Magistrate, upon written information and after such inquiry as he considers necessary, that there is reasonable cause to believe that an offence under this Act has been committed or is being committed on or in respect of any premises, the Magistrate may issue a warrant authorizing an Inspector or police officer named in that warrant to enter such premises with such assistance as may be required, and if necessary by force.

(2) An Inspector or police officer may, in the premises entered under subsection (1), inspect—

(a) any book, account or document, including computerized data, which contains or is reasonably suspected to contain any information regarding any offence suspected to have been committed under this Act; and

(b) any mark, signboard, card, letter, pamphlet, item, thing, article or goods that are reasonably believed to furnish evidence regarding the commission of such offence,

and may seize such book, account, document or data or any copy or extract of such book, account, document or data, or such mark, signboard, card, letter, pamphlet, item, thing, article or goods.

(3) An Inspector or police officer conducting a search under subsection (1) may, if in his opinion it is reasonably necessary to do so for the purpose of investigating the offence, search any person who is in, or on, such premises and detain such person and remove him to such place as may be necessary to facilitate such search.

(4) An Inspector or police officer making a search of a person under subsection (3) may seize or take possession of any book, account, document, card, letter, pamphlet, item, thing, article or goods found on the person for the purpose of the investigation being carried out by the Inspector or police officer.

(5) Where, by reason of their nature, size or amount, it is not practicable to remove any book, account, document, mark, signboard, card, letter, pamphlet, item, thing, article or goods seized under this section, the Inspector or police officer making the seizure shall, by any means, seal such book, account, document, mark, signboard, card, letter, pamphlet, item, thing, article or goods in the premises or container in which they are found.

(6) A person who, without lawful authority, breaks, tampers with or damages the seal referred to in subsection (5) or removes any book, account, document, mark, signboard, card, letter, pamphlet, item, thing, article or goods under seal, or attempts to do so shall be guilty of an offence and shall on conviction be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding two years or to both.

(7) Whenever it is necessary so to do, an Inspector or police officer exercising any power under subsection (1) may—

(a) break open any outer or inner door or window of any premises and enter into the premises, or otherwise forcibly enter into the premises and every part of the premises;

(b) remove by force any obstruction to such entry, search, seizure, detention or removal as he is empowered to effect; or

(c) detain any person found on any premises searched under subsection (1) until such premises have been searched.

(8) No person shall be searched under this section except by an Inspector or police officer who is of the same gender as the person to be searched.

Search without warrant

34E. If the Inspector or police officer in any of the circumstances referred to in section 34D has reasonable cause to believe that by reason of delay in obtaining a search warrant under that section the investigation would be adversely affected or the evidence of the commission of the offence is likely to be tampered with, removed, damaged or destroyed, the Inspector or police officer may enter the premises and exercise in, and in respect of the premises, all the powers referred to in section 34D in as full and ample a manner as if he were authorized to do so by a warrant issued under that section.

Seizure of movable property

34F. (1) In the course of an investigation into an offence under this Act, an Inspector or police officer may seize any movable property which he has reasonable grounds to suspect to be the subject matter of an offence under this Act or evidence relating to the commission of an offence under this Act.

(2) The occupant of the place searched, or any person on his behalf, shall in every instance be permitted to attend during the search and a list of all movable property seized pursuant to subsection (1) and of the places in which such property are respectively found shall be prepared by the Inspector or police officer effecting the seizure and signed by him.

(3) A copy of the list referred to in subsection (2) shall be served on the owner of such property or on the person from whom the property was seized as soon as possible and shall be signed by such owner or person.

Further provisions relating to seizure of movable property

34G. (1) Where any movable property is seized under this Act, the seizure shall be effected by removing the movable property from the possession, custody or control of the person from whom it was seized and placing it under the custody of such person or authority and at such place as an Inspector or police officer may determine.

(2) Where it is not practicable, or it is otherwise not desirable, to effect the removal of any property under subsection (1), the Inspector or police officer may leave it at the premises in which it is seized under the custody of such person as he may determine for the purpose.

Release of property seized

34H. (1) Where any property has been seized under this Act, an Inspector or police officer superior in rank to the police officer who effected the seizure may, if there is no prosecution for an offence under this Act, or upon the completion of proceedings for such offence, or if it is not otherwise required for the purpose of any proceedings under this Act, release the property to its owner, or to the person from whose possession, custody or control it was seized, or to such person who may be entitled to the property, and in such event the officer effecting the seizure, the Government, or any person acting on behalf of the Government, shall not be liable to any proceedings by any person if the seizure of the property and the release of the property had been effected in good faith.

(2) A record in writing shall be made by the officer effecting any release of the property under subsection (1) in respect of such release specifying in detail the circumstances of and the reasons for such release.

Obstruction of inspection and search

34I. (1) Any person who—

(a) refuses any Inspector or police officer access to any premises or any part of such premises, or fails to submit to a search of his person by a person authorized to search him under this Act;

(b) assaults, obstructs, hinders or delays an Inspector or police officer in the execution of his duty under this Act;

(c) fails to comply with any lawful demand, notice, order or requirement of an Inspector or police officer in the execution of his duty under this Act;

(d) omits, refuses or neglects to give to an Inspector or police officer any information which may reasonably be required of him and which he is empowered to give;

(e) fails to produce to, or conceals or attempts to conceal from, an Inspector or police officer any book, account, document, data, mark, signboard, card, letter, pamphlet, item, thing, article or goods in relation to which such Inspector or police officer has reasonable grounds for suspecting that an offence under this Act has been or is being committed, or which is liable to seizure under this Act;

(f) rescues or endeavours to rescue or causes to be rescued any thing which has been duly seized; or

(g) destroys any thing to prevent the seizure or the securing of the thing,

commits an offence and shall on conviction be liable to a fine not exceeding twenty thousand ringgit or to imprisonment for a term not exceeding twelve months or to both.

(2) Any person who abets the commission of any offence under subsection (1) shall be guilty of an offence and shall be liable to a fine not exceeding twenty thousand ringgit or to imprisonment for a term not exceeding twelve months or both.

(3) Any person who, while committing or abetting the commission of any offence under subsection (1) or (2), causes hurt to an Inspector or police officer or any public officer who is carrying out the enforcement of this Act shall, in addition to the punishment as specified in subsection (1) or (2), be liable to whipping.

Seizable offence

34J. (1) Every offence punishable under this Act shall be a seizable offence.

(2) An Inspector may arrest without warrant any person committing an offence under this Act.

Authority to act

34K. An Inspector when acting under this Part shall on demand declare his office and produce to the person against whom he is acting such written authorization as the Registrar may direct to be carried by such Inspector.

PART IVB

EVIDENCE

Evidence of accomplice and *agent provocateur*

34L. (1) Notwithstanding any written law or rule of law to the contrary, in any proceedings against any person for an offence under this Act—

(a) no witness shall be regarded as an accomplice by reason only of such witness having—

(i) accepted, received, obtained, solicited, agreed to accept or receive, or attempted to obtain any sum of money from a pawnbroker; or

(ii) been in any manner concerned in the commission of such offence or having knowledge of the commission of the offence;

(b) no *agent provocateur*, whether or not he is an Inspector or a police officer, shall be presumed to be unworthy of credit by reason only of his having attempted to commit or having abetted the commission of, or having abetted or having been engaged in a criminal conspiracy to commit, such offence if the main purpose of the attempt to commit, abetment in the commission of, or abetment or engagement in the criminal conspiracy to commit, the offence was to secure evidence against such person; and

(c) any statement, whether oral or written, made to an *agent provocateur* by such person shall be admissible as evidence at his trial.

(2) Notwithstanding any written law or rule of law to the contrary, a conviction for any offence under this Act solely on the uncorroborated evidence of any accomplice or *agent provocateur* shall not be illegal and no such conviction shall be set aside merely because the court which tried the case has failed to refer in the grounds of its judgment to the need to warn itself against the danger of convicting on such evidence.

Protection of informers and information

34M. (1) Except as provided in this Part, no complaint as to an offence under this Act shall be admitted in evidence in any civil or criminal proceedings, and no witness shall be obliged or permitted to disclose the name and address of any person who gave the information, or the substance and nature of the information received from him, or state any matter which might lead to his discovery.

(2) If any application, particular, return, account, document or written statement which is given in evidence or liable to inspection in any civil or criminal proceedings contains any entry in which any person who gave the information is named or described, or which might lead to his discovery, the court before which the proceedings are held shall cause all such entries to be concealed from view or to be obliterated so far as may be necessary to protect such person from discovery, but no further.

(3) If in any proceedings relating to any offence under this Act the court, after full inquiry into the case, is of the opinion that the person who gave the information wilfully made in his complaint a material statement which he knew or believed to be false or did not believe to be true, or is of the opinion that justice cannot be fully done between the parties to the proceedings without the discovery of the person who gave the information, the court may require the production of the original complaint, if in writing, and permit inquiry and require full disclosure concerning that person.

Admissibility of statements by accused persons

34N. (1) In any trial or inquiry by a court into an offence under this Act any statement, whether the statement amounts to a confession or not or is oral or in writing, made at any time, whether before or after the person is charged and whether in the course of an investigation or not and whether or not wholly or partly in answer to questions, by an accused person to or in the hearing of any Inspector or police officer, whether or not interpreted to him by any other Inspector or police officer or any other person, whether concerned or not in the arrest of that person, shall, notwithstanding any written law or rule of law to the contrary, be admissible at his trial in evidence and, if that person tenders himself as a witness, any such statement may be used in cross-examination and for the purpose of impeaching his credit.

(2) No statement made under subsection (1) shall be admissible or used as provided for in that subsection if the making of the statement appears to the court to have been caused by any inducement, threat or promise having reference to the charge against the person, proceeding from a person in authority and sufficient in the opinion of the court to give that person grounds which would appear to him reasonable for supposing that by making it he would gain any advantage or avoid any evil of a temporal nature in reference to the proceedings against him.

(3) Where any person is arrested or is informed that he may be prosecuted for any offence under this Act, he shall be served with a notice in writing, which shall be explained to him, to the following effect:

"You have been arrested/informed that you may be prosecuted for ..... (the possible offence under this Act). Do you wish to say anything? If there is any fact on which you intend to rely

in your defence in court, you are advised to mention it now. If you hold it back till you go to court, your evidence may be less likely to be believed and this may have a bad effect on your case in general. If you wish to mention any fact now, and you would like it written down, this will be done.".

(4) Notwithstanding subsection (3), a statement by any person accused of any offence under this Act made before there is time to serve a written notice under that subsection shall not be rendered inadmissible in evidence merely by reason of no such written notice having been served on him if such written notice has been served on him as soon as is reasonably possible after the statement was made.

(5) No statement made by an accused person in answer to a written notice served on him pursuant to subsection (3) shall be construed as a statement caused by any inducement, threat or promise as is described in subsection (2), if it is otherwise voluntary.

(6) Where in any criminal proceedings against a person for an offence under this Act, evidence is given that the accused, on being informed that he might be prosecuted for it, failed to mention any such fact, being a fact which in the circumstances existing at the time he could reasonably have been expected to mention when so informed, the court, in determining whether the prosecution has made out a *prima facie* case against the accused and in determining whether the accused is guilty of the offence charged, may draw such inferences from the failure as appear proper; and the failure may, on the basis of those inferences, be treated as, or as capable of amounting to, corroboration of any evidence given against the accused in relation to which the failure is material.

(7) Nothing in subsection (6) shall in any criminal proceedings—

(a) prejudice the admissibility in evidence of the silence or other reaction of the accused in the face of any thing said in his presence relating to the conduct in respect of which he is charged, in so far as evidence thereof would be admissible apart from that subsection; or

(b) be taken to preclude the drawing of any inference from any silence or other reaction of the accused which could be drawn from that subsection.

Provisions as to evidence

34o. (1) A copy of a licence, certified by the Registrar to be a true copy of such licence, shall be admissible as evidence for all purposes for which the original of such copy would have been admissible had such original been produced and admitted as evidence, without proof of the signature or authority of the person signing the licence or the copy of the licence.

(2) When in any proceedings for an offence under this Act it is necessary to prove that a person was, or was not, the pawnbroker, a certificate purporting to be signed by the Registrar and certifying that the person was or was not, the pawnbroker, shall be admissible as evidence and shall constitute *prima facie* proof of the facts certified in such certificate, without proof of the signature or the authority of the Registrar to issue the certificate.

PART V

TRIALS AND PROCEEDINGS

Magistrate of the First Class to have jurisdiction under this Act

35. Notwithstanding the provisions of any written law to the contrary, a court of a Magistrate of the First Class shall have jurisdiction to try summarily any offence under this Act and to award a full punishment for any such offence.

Reward to informers

36. A Magistrate may adjudicate any portion of a fine imposed under this Act to the informer or to any person whom the Magistrate may deem to have suffered loss in consequence of any action on the part of the person upon whom such fine is imposed.

Public notice

37. A Magistrate may order that public notice as he deems fit shall be given calling upon all persons claiming an interest in any article forfeited under this Act to make claim within a specified period and may adjudicate upon any claim made; and after the expiry of such period all articles not so claimed shall become the property of the Government and may be disposed of by public auction or otherwise as the Magistrate may direct.

38. *(Deleted by Act A1209).*

PART VI

PENALTIES AND FORFEITURE

False statements or representations to induce pawning an offence

39. Any person—

(a) who is a pawnbroker or an employee of a pawnbroker;

(b) where a pawnbroker is a company, who is a director, general manager, manager or other officer of the company;

(c) where a pawnbroker is a society, who is the president, vice-president, secretary, treasurer or other officer of the society; or

(d) where the pawnbroker is a firm or other body of persons, who is a partner or member, or other officer of the firm or body of persons,

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 any person to pawn any article or to agree to the terms on which an article is or is to be pawned, commits an offence and shall on conviction be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding two years or to both.

General offences

40. (1) Any person who—

(a) for the purpose of the grant of a licence to himself or to any other person, or for preventing the imposition of any condition in relation to such licence, makes any statement or declaration which to his knowledge is false or incorrect, either in whole or in part, or is misleading in any material respect;

(b) furnishes any particulars or documents in relation to an application for the grant of a licence which to his knowledge are false or incorrect or misleading in any material respect;

(c) makes any entry in a register, record, return, account or any other document required to be kept, maintained or furnished under this Act, which is false or incorrect or misleading in any material respect;

(d) alters, tampers with, defaces or mutilates any licence or other document which is required to be exhibited on a pawnbroker's premises, or lends or allows such licence or document to be used by any other person;

(e) forges, or has in his possession with intent to deceive a document that so closely resembles a licence, record, return, account or any other document that is required to be kept, maintained, or furnished under this Act;

(f) alters any entry made in a register, licence, record, return, account or any other document required to be kept, maintained or furnished under this Act;

(g) exhibits on a pawnbroker's premises a licence or any other document that is required to be exhibited on those premises, where such licence or document has been altered, tampered with, defaced or mutilated;

(h) exhibits on a pawnbroker's premises an imitation of a licence or other document that is required to be exhibited on those premises;

(i) prepares, maintains or authorizes the preparation or maintenance of false records, returns, accounts or any other documents that are required to be furnished under this Act; or

(j) falsifies or authorizes the falsification of records, returns, accounts or any other documents that are required to be furnished under this Act,

commits an offence and shall on conviction be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding two years or to both.

(2) In any prosecution under this section, when it has been proved that any application, statement, declaration, particular, return, account, record or other document is false or incorrect in whole or in part, or is misleading in any material respect, it shall be presumed, until the contrary is proved, that such application, statement, declaration, particular, return, account, record or other document was false or incorrect, or misleading in any material respect, to the knowledge of the person making, preparing, maintaining, signing, delivering or supplying it.

(3) Notwithstanding paragraph (1)*(g)* or *(h)*, a person shall not be found guilty of an offence if he proves that he had acted in good faith and had no reasonable grounds for supposing that the licence or any other document exhibited on his premises had been altered, tampered with, defaced or mutilated, or that such licence or document was an imitation.

(4) If an Inspector or police officer has reasonable cause to believe that a licence or any other document exhibited on a pawnbroker's premises, or a licence, record, account, return or any other document produced to him in pursuance of this Act by the person in charge of those premises is a licence, record, account, return or document in relation to which an offence under this section has been committed, he may seize the licence, record, account, return or document.

Offence by public

41. Any person who—

(a) pawns or attempts to pawn to a pawnbroker any article for the possession of which he is unable to satisfactorily account;

(b) redeems or attempts to redeem any pledge by means of a pawn-ticket for the possession of which he is unable to satisfactorily account;

(c) purchases or attempts to purchase any pawn-ticket or;

(d) wilfully gives any false information to a pawnbroker concerning any pawn-ticket alleged to have been lost, destroyed or fradulently obtained,

shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding twenty thousand ringgit or to imprisonment for a term not exceeding twelve months.

General penalty

41A. Any person convicted of an offence under this Act for which no penalty is expressly provided shall on conviction be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding six months or to both.

Forfeiture of articles

42. All articles in respect of which an offence has been committed against this Act or any regulations made thereunder may, subject to any right possessed them by any person who has not been a party to such offence, be forfeited.

PART VII

GENERAL

Prosecution

43. No prosecution for an offence under this Act shall be instituted except by or with the consent in writing of the Public Prosecutor.

Offences by companies, firms, societies or other body of person

43A. (1) Where an offence under this Act has been committed by a pawnbroker and—

(a) that pawnbroker is a company, any person who at the time of the commission of the offence was a director,

general manager, manager, secretary or other similar officer of the company, or was purporting to act in any such capacity;

(b) that pawnbroker is a society, any person who at the time of the commission of the offence was a president, vice-president, secretary, treasurer or other similar officer of the society, or was purporting to act in any such capacity;

(c) that pawnbroker is a firm or other body of persons, any person who at the time of the commission of the offence was a partner or member or other similar officer of the firm or other body of persons, or was purporting to act in any such capacity,

shall be deemed to have committed the offence, unless he proves that the offence was committed without his knowledge, consent or connivance, and that he took reasonable precautions and had exercised due diligence to prevent the commission of the offence.

(2) The prosecution of any person under subsection (1) for an offence shall not prevent the prosecution of the company, society, firm or other body of persons for that offence.

(3) Unless expressly provided otherwise, any act or omission by an employee of a pawnbroker shall, for the purpose of any prosecution or proceeding under this Act, be deemed to be the act or omission of the pawnbroker, unless the court is satisfied that the act or omission was committed without the pawnbroker's knowledge, or that all reasonable steps and precautions had been taken to prevent the commission of such act or omission.

(4) If any act or omission by an employee of a pawnbroker would have been an offence under this Act if committed by the pawnbroker, that employee of the pawnbroker shall be deemed to have committed the offence.

Service of notification or document

43B. (1) Any notification or document required to be given or served under this Act may be sent by prepaid registered post to the person to or upon whom the notification or document is required to be given or served.

(2) Subject to subsection (1), where a notification or document is served by prepaid registered post, it shall be deemed to have

been served on the person to whom it is addressed on the day succeeding the day on which the notification or document would have been received in the ordinary course of post, if the notification or document is addressed to the authorized address of the person to whom the notification or document is intended to be sent.

Power to compound

43C. (1) The Registrar or any Inspector specifically authorized in writing by name or by office in that behalf by the Registrar may, with the consent of the Public Prosecutor, compound any offence under this Act which is prescribed to be a compoundable offence by accepting from the person reasonably suspected of having committed the offence and to whom an offer to compound has been made a sum of money not exceeding fifty per centum of the amount of the maximum fine for that offence.

(2) An offer to compound under subsection (1) may be made at any time after the offence has been committed but before any prosecution for it has been instituted.

(3) Where the amount specified in the offer to compound is not paid within the time specified in the offer, or within such extended period as may be granted by the Registrar or an Inspector specifically authorized under subsection (1), prosecution for that offence may be instituted at any time after such period against the person to whom the offer to compound was made.

(4) Where an offence has been compounded under subsection (1), no prosecution shall, within the time specified in subsection (3), be instituted in respect of the offence against the person to whom the offer to compound was made.

(5) All moneys paid to the Registrar or to an Inspector specifically authorized under subsection (1) shall be paid into and form part of the Federal Consolidated Fund.

44. (*Deleted by Act A1209).*

Power to make regulations

45. (1) The Minister may make such regulations as may be expedient or necessary for the purpose of giving full effect to this Act, or for carrying out or achieving the objects and purposes of this Act.

(2) Without prejudice to the generality of subsection (1), the Minister may make regulations for or in respect of all or any of the following matters:

(a) the procedure to be followed in making an application for a licence, including the forms to be used, conditions to be complied with, and documents and information to be furnished in respect of such an application;

(b) the matters to be considered in respect of the granting of a licence to a person;

(c) the procedure regarding the surrender, suspension and revocation of licences;

(d) the procedure for the issuance of copies of a licence, where the licence is lost or destroyed;

(e) the offences which may be compounded and the procedure for compounding such offences;

(f) the fees to be paid, the manner for the payment of fees and the persons liable to pay the fees, the exemption of any person or classes of person from payment of such fees, or the reduction of such fees;

(g) the form of register and other records to be kept and maintained by the Registrar, the procedure and other matters relating to the opening, maintenance and closure of the register, the inspection and taking of extracts from the register or records, the supply of copies of the register or records and the fees to be paid for such inspection, extracts and copies;

(h) the form of pawn-ticket to be used by the pawnbroker and other matters relating to such pawn-ticket;

(i) the form to be used by the pawnbroker to forward the statement to the pawner under section 25.

(3) Any regulations made under this section may provide that any contravention of the provisions of such regulations shall be an offence and may provide for the imposition of a fine not exceeding ten thousand ringgit or a term of imprisonment not exceeding six months or to both.

Exemption

46. The following persons shall be exempted from the provisions of this Act—

(a) any bank licensed to carry on banking business in Malaysia;

(b) Bank Pertanian Malaysia established under the Bank Pertanian Malaysia Act 1969 [*Act 9*]; and

(c) any co-operative society registered under any written law in force in Malaysia relating to co-operative societies.

Power of the Minister to exempt

46A. (1) The Minister may—

(a) in consideration of the special circumstances relating to the nature of the business of any person and his financial standing; and

(b) if he is satisfied that it would not be contrary to the public interest to do so,

by notification published in the *Gazette*, exempt any pawnbroker from any provision of this Act, and such exemption shall be granted for such duration as may be specified in the notification, and may be made subject to such limitations, restrictions or conditions as the Minister may specify in the notification.

(2) The Minister may at any time revoke any exemption granted by him under subsection (1) if he is satisfied, after giving the pawnbroker concerned an opportunity to be heard, that the pawnbroker has failed to observe any limitation, restriction or condition subject to which the exemption was granted, or that it is otherwise no longer suitable to continue to be granted exemption.

Repeal

47. The Ordinances and Enactments set out in the Schedule are repealed.

Transitional and saving provisions

48. (1) The following transitional and saving provisions shall have effect notwithstanding section 47 or any other provisions of this Act.

(2) All orders, directions, appointments and rules made under the provisions of the Ordinances and Enactments repealed by this Act and in force immediately before the appointed date shall, insofar as they are not inconsistent with this Act, be deemed to have been made under this Act and shall continue in force until other provisions shall be made under this Act or until the date upon which they expire.

(3) Where any licence to any pawnbroker under an Ordinance or Enactment repealed by this Act has been granted or any contract executed thereunder, such licence or contract shall have effect until the date upon which it expires notwithstanding the repeal.

Continuance of criminal and civil proceedings

49. Subject to this Act, neither the repeal of the Ordinances and Enactments under section 47 nor anything contained in this Act shall affect any person's liability to be prosecuted or punished for offences committed under the said Ordinances and Enactments before the appointed date, or any proceedings (whether civil or criminal) brought or sentence imposed before that date in respect of such offence.

SCHEDULE

[Section 47]

Pawnbrokers Enactment F.M.S. Cap. 85.

Pawnbrokers Ordinance S.S. Cap. 216.

Pawnbrokers Ordinance Sabah Cap. 94.

Pawnbrokers Ordinance Sarawak Cap. 115.

Pawnbrokers Enactment Johore No. 36.

Pawnbrokers Enactment Kedah No. 71.

Pawnbrokers Enactment Perlis No. 5 of 1935.

Pawnbrokers Enactment Terengganu No. 42 of 1356.

Pawnbrokers Farm Enactment Kelantan No. 8 of 1910.

LAWS OF MALAYSIA

Act 81

PAWNBROKERS ACT 1972

LIST OF AMENDMENTS

Amending law	Short title	In force from
Act 160	Malaysian Currency (Ringgit) Act 1975	29-08-1975
Act A324	Criminal Procedure Code (Amendment and Extension) Act 1976	10-01-1976
Act A1209	Pawnbrokers (Amendment) Act 2003	01-01-2004

LAWS OF MALAYSIA

Act 81

PAWNBROKERS ACT 1972

LIST OF SECTIONS AMENDED

Section	Amending authority	In force from
Long title	Act A1209	01-01-2004
3	Act 160	29-08-1975
	Act A1209	01-01-2004
3A-3B	Act A1209	01-01-2004
4	Act A1209	01-01-2004
7	Act A1209	01-01-2004
8	Act A1209	01-01-2004
8A	Act A1209	01-01-2004
9	Act A1209	01-01-2004
10	Act A1209	01-01-2004
10A-10C	Act A1209	01-01-2004
11	Act A1209	01-01-2004
11A-11G	Act A1209	01-01-2004
12	Act A1209	01-01-2004
13	Act A1209	01-01-2004
13A-13C	Act A1209	01-01-2004
14	Act A1209	01-01-2004
15	Act A1209	01-01-2004
16	Act A1209	01-01-2004
17	Act A1209	01-01-2004

Section	Amending authority	In force from
18	Act A1209	01-01-2004
19	Act A1209	01-01-2004
20	Act A1209	01-01-2004
21	Act A1209	01-01-2004
22	Act A1209	01-01-2004
23	Act 160 Act A1209	29-08-1975 01-01-2004
24	Act 160 Act A1209	29-08-1975 01-01-2004
25	Act 160 Act A1209	29-08-1975 01-01-2004
26	Act 160 Act A1209	29-08-1975 01-01-2004
28	Act A1209	01-01-2004
29	Act A1209	01-01-2004
30	Act A1209	01-01-2004
31	Act 160 Act A1209	29-08-1975 01-01-2004
33	Act A1209	01-01-2004
34	Act A1209	01-01-2004
34A-34O	Act A1209	01-01-2004
38	Act A1209	01-01-2004
39	Act 160 Act A1209	29-08-1975 01-01-2004
40	Act 160 Act A1209	29-08-1975 01-01-2004
41	Act 160 Act A1209	29-08-1975 01-01-2004
41A	Act A1209	01-01-2004

Section	Amending authority	In force from
43	Act A324 Act A1209	10-01-1976 01-01-2004
43A-43C	Act A1209	01-01-2004
44	Act A1209	01-01-2004
45	Act A1209	01-01-2004
46A	Act A1209	01-01-2004

DICETAK OLEH
PERCETAKAN NASIONAL MALAYSIA BERHAD,
KUALA LUMPUR
BAGI PIHAK DAN DENGAN PERINTAH KERAJAAN MALAYSIA