

A STATUTE TO PROVIDE FOR THE REGULATION AND CONTROL OF THE BUSINESS OF PAWNBROKERS WITHIN PROVINCE AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO

This Statute is inconsistent with the Pawnbrokers Ordinance (Chapter 90) enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka.

BE it passed by the Provincial Council of the ... Province of the Democratic Socialist Republic of Sri Lanka.

Short title, application and date of operation.

1. (1) This Statute may be cited as the Province Pawnbrokers Statute , No. of 2019.
- (2) It extends to the whole of theProvince.
- (3) It shall come into operation, upon receiving the assent of the Governor.

Pawnbroker to obtain licence annually.

2. (1) No person shall, after the expiry of three month from the date on which this Statute come into operation carry on or continue to carry on business as a pawnbroker at any place with in province, unless he has obtained a pawnbroker's licence under this Statute.
- (2) Where a pawnbroker has more than one place of business within the province he shall obtain a separate pawnbroker's licence in respect of each such place of business.
- (3) Every pawnbroker's licence granted under this Statute shall expire on the last day of the year for which it was granted, but may be renewed from year to year.

Grant and
refusal of
licence.

3. (1) Every application for a pawnbroker's licence shall be in writing and shall be made to the licensing authority prescribed under this Statute.

(2) The licence shall not be refused except on any one of the following grounds, namely-

(a) that the applicant is of bad character:

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

(b) that the place of business or the proposed place of business or any adjacent home or shop or place owned or occupied by him is frequented by thieves or persons of bad character:

Provided, that the licence shall not be refused under this subsection unless the applicant has had a reasonable opportunity of making his representation.

(3) Any person aggrieved by an order of the licensing authority refusing to grant a licence under this section may, within months appeal to the Secretary to the Ministry of the Minister of the Board of Ministers and such appeal may be disposed of by the Secretary in such manner as may be prescribed.

(4) Every licence shall be granted in such form and subject to such conditions as may be prescribed and on payment of such fee not exceeding..... rupees as the Minister of the Board of Ministers may from time to time, by notification in the *Gazette* determine.

4. Every pawnbroker shall-

(a) always keep exhibited in large character over the outer door of his shop or place of business his name with the word pawnbroker, in the language of administration of the province and in English; and

(b) Always keep placed in a conspicuous part of his shop of

place of business so as to be legible to all persons resorting thereto the information required to be printed on pawn-tickets by rules made under this Statute, in the language of administration of the province and in English.

5.(1) No pawnbroker shall charge interest in respect of a loan on a pledge at a rate exceeding..... per cent per annum simple interest.

Pawnbrokers to exhibit their names over shops etc.

(2) A pawnbroker may demand and take from a pawner such charge 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 subsection (2).

6. Every pawnbroker shall on taking a pledge in pawn give to the pawner a pawn-ticket in the prescribed form, and shall not take a pledge in pawn unless the pawner takes the pawn-ticket.

7. (1) In the absence of a decree or an order of a civil court, or an order of a Magistrate or an officer of police not below the rank of Inspector prohibiting the delivery by the pawnbroker, of the pledge, to the pawner, the pawner shall, on production of the pawn-ticket and on payment of the sum legally payable in respect thereof, be entitled to the delivery of the pledge.

Interest and charges allowed to pawnbrokers.

(2) A person other than the pawner shall be entitled to redeem a pledge if such person surrenders to the pawnbroker the pawn-ticket relating to that pledge duly endorsed with the signature of the pawner and if such person signs that pawn-ticket in the presence of the pawnbroker.

(3) (a) Where the pawner is dead and a person produces the pawn-ticket claiming to be the legal representative of the pawner and offers to redeemed the pledge, the pawnbroker shall allow such redemption, after obtaining from such person-

Pawn-ticket to be given to pawnner.

Conditions relating to redemption of pledge.

- (i) a declaration in the prescribed form duly made by such person before any Magistrate or Judge; and
- (ii) a bond duly executed by such person with a surety to the satisfaction of the pawnbroker 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.

(4) Where the pawnner alleges that the pawn-ticket has been lost or destroyed and claims redemption of the pledge, the pawnbroker shall, after obtaining from the pawnner, a declaration in the prescribed form allow such redemption unless the pawnbroker has received intimation from any other person that he is in possession of the pawn-ticket and is entitled to redeem the pledge:

Provided that before allowing such redemption, the pawnbroker may insist on security to his satisfaction, as may be prescribed in that behalf, against any possible claim by any other person.

8.(1) Every pawnbroker shall-

- (a) regularly record and maintain or cause to be recorded and maintained, electronically or manually in a pledge ledger in the prescribed form, account showing for each pawnner 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;
 - (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;

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

(vi) such other particulars as may be prescribed;

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

(c) on requisition in writing made by the pawner a statement of account signed by himself showing the particulars referred to in paragraph (a) and also the amount which remain outstanding on account of the principal and of interest;

(2) All records or entries made in the ledgers maintained electronically or manually referred to in subsection (1) shall be either in English or in the language of administration of the province.

Pawnbrokers to keep and maintain books, receipt etc. Electronically or otherwise.

(3) A pawner to whom a statement of account has been furnished under paragraph (c) of subsection (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.

9. Every pawnbroker shall ordinarily keep every pledge in the shop or place of business for which the licence has been granted. If in any case, the pawnbroker keeps the pledge in any other place, he shall within a period of five days from the date on which the holder of a pawn-ticket intimates his desire to inspect the pledge concerned, produce such pledge at the shop or place of business aforesaid for such inspection.

10. (1) The Provincial Council or the Secretary of the Ministry of the Minister or an officer empowered by him may, by notification appoint one or more person to be Inspectors for the purpose of this Statute and specify in such notification the local limits of their jurisdiction.

(2) A Magistrate of a judicial district may, on receiving a report from an Inspector or from any police officer not below the rank of sub-inspector of the relevant district, that-

(i) any person carries on business as a pawnbroker without a licence at any place within the jurisdiction of such Magistrate; or

(ii) any pawnbroker carries on business in contravention of the provision of this Statute or rules made thereunder or the conditions of the licence, at any place within the jurisdiction of such Magistrate, issue a warrant empowering the Inspector or such police officer, as the case may be, to enter such place and inspect the ledgers, books, accounts or records, files, documents maintained electronically or manually, safes, vaults and pledges in such premises. On receiving such warrant, the Inspector or the police officer may enter the place and inspect the ledgers, books, accounts, records, files documents, safes vaults and pledges in such premises and take print out or copies of relevant pages of the ledgers, books, accounts, records, files and documents upon signing and handing over an acknowledgement therefor.

(3) An Inspector may apply for assistance to an officer-in-charge of a police station and take police officers to accompany and assist the Inspector in performing his duties under this Statute.

11. (1) Every pledge shall be redeemable within one year from the date of pawning, exclusive of that day and there shall be added to that year of redemption seven days of grace within which every pledge shall continue to be redeemable.

Pawnbroker to keep pledge in his shop or place of business.

(2) A pledge shall further continue to be redeemable until it is disposed of as provided for in this Statute although the period of redemption and days of grace have expired.

12. (1) A pledge pawned shall not be disposed by the pawnbroker otherwise than by sale at a public auction, conducted in accordance with such rules as may be prescribed.

Appointment of
Inspectors and
their powers.

(2) Where the highest bid at the sale by auction is the bid of the pawnbroker, the sale shall not take effect unless the bid is for a sum exceeding the sum payable on the pawn inclusive of interest and prescribed charges.

(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) Where a pledge has been sold for more than the amount of the loan and the interest and prescribed 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 cost and prescribed charges of the sale.

13.(1) Where a pledge is lost by theft or any whichever way, 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.

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

14. If a person entitled and offering to redeem a pledge shows to the satisfaction of the court 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, carelessness, neglect or wilful misbehaviour of the pawnbroker, the court may, if it thinks fit, award reasonable compensation to the owner of the pledge in respect of the damage.

15.(1) The licensing authority specified in subsection (1) of section 4 may, at any time, during the term of any licence, cancel it by an Order in writing-

- (a) if the licensee carries on the business in contravention of any of the provision of this Statute or the rule made thereunder or of the conditions of the licence; or
- (b) if any reason for which such authority could have refused to grant the licence to the pawnbroker under subsection (2) of section 4 is brought to the notice of that after the grant of the licence; or
- (c) if the licensee is convicted for an offence under subsection (1) of section 18; or
- (d) if the licensee maintains false accounts.

Redemption of
pledge.

(2) Before canceling a licence under subsection (1), the licensing authority shall give the licensee a notice in writing stating the grounds on 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) Any person aggrieved by an Order of the licensing authority canceling a licence under subsection (1) may, within such time as may be prescribed, appeal to such authority as the Provincial Council may specify in that behalf and such authority may make such Order in the case as it may think fit.

Sale of pledge. 16.(1) Every Order of cancellation of a licence under section 15 shall be notified in the gazette and also on the notice board of the office of the licensing authority.

(2) A pawnbroker whose licence is cancelled shall not be entitled to any compensation in respect of such cancellation or to the refund of any fee paid in respect of such licence.

17. (1) Any pawnbroker who actually advances an amount less than that shown in the pawn-ticket or in his accounts, ledger or entry or who takes or receives interest or any other charge at a rate higher than that shown in the pawn-ticket or his accounts, ledger or

entry shall be liable on conviction to a fine not exceeding ...rupees.

(2) If a pawnbroker is convicted of an offence under subsection (1) after having been previously convicted of such offence, the Court convicting him may Order his licence as a pawnbroker to be cancelled.

18. A pawnbroker, who-

- (a) takes an article in pawn from any person appearing to be under the age of eighteen years, or to be of unsound mind; or
- (b) purchases or takes in pawn or exchanges a pawn-ticket issued by another pawnbroker; or
- (c) under any pretence purchases, except at a public auction any pledge while in pawn with him; or
- (d) sells or otherwise disposes of any pledge pawned with him except at such time and in such manner as is authorized by or under this Statute,

Liability of
pawnbroker in
case of theft.

shall be guilty of an offence and on conviction to imprisonment for a term not exceeding one year or with a fine not exceeding ... rupees or with both.

19. Any person who-

- (a) offers to a pawnbroker an article by way of pawning 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 a pledge, attempts or endeavours to redeem the same,

Compensation
for damage.

Power to cancel
licence etc.

shall be guilty of an offence and on conviction to a fine not exceeding rupees or with both.

20. Whoever contravenes any of the provisions of this Statute 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 Statute for such contravention, be liable to a fine not exceeding five thousand rupees.

21. (1) The Provincial Council may make rules to carry out the purposes of this Statute.

(2) In particular, without prejudice to ;the generality of the foregoing powers, such rules may provide for-

- (a) all matters expressly required or authorized by this Statute to be prescribed;
- (b) the forms of, and the particulars to be contained in, an application for a pawnbroker's licence under this Statute; and
- (c) the form in which ledgers, books, entries, account and document specified in this Statute shall be electronically or manually recorded, maintained, kept or used.

(3) All rules under the Statute shall be published in the Gazette and unless they are expressed to come into operation on a particular day, shall come into operation on the day on which they are so published.

(3) Every rule made under this Statute shall as soon as possible be placed before the Provincial Council.

22. In this Act, unless the context otherwise requires-

Publication of
Order of
cancellation.

“citizen of Sri Lanka” means any individual who is a citizen of Sri Lanka under any law for the time being in force relating to such citizenship;

“month” means a period of thirty days for the purpose of charging profit or interest;

“pawnbroker” includes every person who carries on the business of taking goods in pawn;

Pawnbroker
giving less
amount or
receiving higher
interest than
that specified in
accounts
punishable.

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

“pledge” means an article pawned with a pawnbroker:

“shop” includes a dwelling house, warehouse, place of business and any place where business is transacted.

Certain other
acts of
pawnbrokers
punishable.

Certain acts of
pawners to be
punished.

General
penalty.

Power to make
rules.

Interpretation.

