

CREDIT REGULATORY AUTHORITY ACT

An Act to provide for the regulation of the moneylending business and the microfinance business and to provide for matters connected therewith or incidental thereto, including protection of customers of said businesses

1. This Act may be cited as the Credit Regulatory Authority Act, No.... of 2019 and shall come into operation on a date as the Minister may appoint by Order published in the *Gazette*.

PART 1

ESTABLISHMENT OF THE CREDIT REGULATORY AUTHORITY

2.	(1)	An Authority called the Credit Regulatory Authority (hereinafter referred to as the “Authority”) is hereby established which shall consist of the persons who are for the time being members of the Authority under Section 3(1).	Establishment of The Credit Regulatory Authority
	(2)	The Authority shall, by the name assigned to it by subsection (1), be a body corporate and shall have perpetual succession and a common seal and may sue and be sued in such name.	
3.	(1)	<p>The Authority shall consist of the following members –</p> <ul style="list-style-type: none"> a) Secretary to the Treasury or his representative, as the Chairman of the Authority; Provided that the representative to the Secretary to the Treasury referred in this Section shall not be a person below the rank of a Deputy Secretary to the Treasury. b) The Deputy Governor of the Central Bank of Sri Lanka in charge of financial system stability; c) The Registrar of Voluntary Social Service Organizations; d) 2 persons nominated by the Minister of Finance, who are qualified and experienced in the areas of banking, finance, accounting, law, or administration or any other relevant discipline; e) 2 persons nominated by the Governor of the Central Bank of Sri Lanka, who are qualified and with experience in the 	Members of the Authority

		areas of banking, finance, accounting, law, or administration or any other relevant discipline.	
	(2)	The members of the Authority, appointed under paragraphs (d) and (e) of subsection 1 (hereinafter referred to as the “appointed members”) – a) shall hold office for a period of three (3) years, and shall be entitled to reappointment and such term of office shall not exceed nine (9) years; b) may resign from such office by giving a notice in writing to the Minister or the Governor, as the case may be; c) may be removed by the Minister or the Governor, as the case may be. Provided that the Minister or the Governor is not required to give reasons, therefor.	
	(3)	In the event of the vacation of office by an appointed member before the expiration of his term of office, another person shall be appointed in his place to hold office during the unexpired part of the term of office of such member.	
	(4)	The Authority shall meet at least once in every quarter of each financial year.	
	(5)	The quorum for a meeting of the Authority shall be five (5) and to constitute a valid meeting of the Authority, the Secretary to the Treasury or his representative and the Deputy Governor of the Central Bank of Sri Lanka shall be present at such meeting.	
	(6)	The Authority may invite any relevant person or official to attend its meetings, but such person shall not have the right to vote on any question.	
	(7)	The members of the Authority shall be paid an allowance for each day on which he attends a meeting of the Authority and the amount of such allowance shall be fixed by the Minister, in line with the criteria applicable in the public sector.	
4.		The Authority may establish any number of branch offices within Sri Lanka	Branches of the Authority

5.		The Authority may enter in to any agreement or arrangement with any government institution or agency on exchange of information.	Agreements with other Government Institutions
6.		The Authority shall appoint a Director General who shall function as – a) the Chief Executive officer of the Authority; and b) the Secretary to the Authority.	Director General of the Authority
7.		The Authority may recruit such staff as may be necessary to carry out its powers and functions under this Act.	Staff of the Authority
8.		The Monetary Board may at any time assign any officer of the Central Bank of Sri Lanka to the Authority, for a period as may be decided by the Monetary Board.	Assigning of Central Bank officers to the Authority
9.	(1)	The Authority may delegate any of its powers and functions relevant to licensing, collection of any fee or charge levied under the Act, and supervision of licensees, to any public servant, including the District Secretaries and Divisional Secretaries, as the case may be, in consultation with the respective Ministers.	Delegation of Powers of the Authority
	(2)	The Authority may outsource any of the functions permitted under this Act. Provided that the Authority shall continue to remain responsible for such function.	
10.		The objects of the Authority shall be as follows – a) Regulation and supervision of licensed moneylenders; b) Regulation and supervision of licensed microfinance institutions; c) coordination with regulatory authorities of Co-operatives, Samurdhi community development banks and entities formed under the Agrarian Development Act and issue appropriate guidelines on their regulation, supervision and consumer protection; d) Protection of customers of licensees.	Objects of the Authority
11.		In the exercise of powers, duties, functions and responsibilities under this Act or any other written law, the Authority shall have power to –	Powers, duties, functions and responsibilities of the Authority

		<ul style="list-style-type: none"> a) licence and regulate persons engaged in the business of moneylending and the business of microfinance; b) supervise persons engaged in the business of moneylending and the business of microfinance; c) determine suitable policies for market conduct, supervision and regulations of licensees in line with market developments; d) coordinate with other regulators, Credit Information Bureau of Sri Lanka, and other stakeholders to implement a responsible lending culture among the licensees; e) conduct credit counseling for general public; f) conduct financial literacy and awareness programmes for the general public; g) establish a mechanism to handle complaints from customers of licensees and maintain a database on such complaints; h) maintain a database on licensed moneylenders, licensed microfinance institutions and any other entity from which collection of information is enabled by this Act; i) conduct surveys and research on moneylending and microfinance activities; j) publish reports, survey results and any other material required for carrying out its functions, in any media, as it may consider necessary; k) outsource any of its functions, as may be determined by the Authority, from time to time; l) Any other powers which are ancillary and incidental, thereto. 	
12.	(1)	The Authority shall have its own fund.	Funds of the Authority
	(2)	The Parliament shall allocate a sum of Rs... (Minister to decide) from the Consolidated Fund as the initial capital of the Authority and such sum shall be credited to the fund established under subsection (1), hereof.	

	(3)	There shall be credited to the fund of the Authority – a) All such sums of money as may be voted upon from time to time by the Parliament for the use of the Authority; b) All such sums of money received as fees or charges imposed in respect of functions exercised by the Authority; c) All such sums of money received by the authority by the way of an administrative charge imposed by the Authority; d) All such sums of money as may be received by the authority by way of contributions, loans, and grants or from any legitimate source whatsoever.	
	(4)	There shall be paid out of the fund of the Authority all such sums of money required to defray expenditure incurred by the authority in the exercise performance and discharge of its powers, duties, and functions by or under this Act.	
13.		The Authority shall maintain proper accounts, and submit its annual financial statement for the preceding financial year, to the Auditor General on or before 31st day of March of the succeeding year.	Accounts of the Authority
14.	(1)	Every member of the Authority, the Director General or any officer authorized by the Authority shall deemed to be – a) public officers within the meaning of Section 136 of the Code of Criminal Procedure Act. No. 15 of 1979, for the purpose of instituting proceedings in respect of offences under this Act; and b) public servants for the purposes of the Penal Code (Chapter19).	Officers of the Authority deemed to be Public Officers and Public servants
	(2)	The Authority shall be deemed to be a Scheduled Institution within the meaning of the Bribery Act and the provisions of that Act shall be construed, accordingly.	
15.	(1)	Subject to and in accordance with such rules, if any, as may be made by the Authority on that behalf, the Authority may in writing authorize any officer of the Authority to represent the Authority for any of the purposes of this Act, so however, that the Authority shall remain and continue to remain to be responsible for any act or thing	Representation of the authority by appointed persons

		done or omitted to be done by such officer in representing the Authority under such authorization.	
	(2)	The Authority may in writing delegate to any officer of the Authority, any of its powers under this Act, so however, that the Authority shall remain and continue to remain responsible for any act or thing done or omitted to be done by such officer in the exercise of such powers delegated to him.	
16.	(1)	No prosecution shall be instituted in any court against the Authority or any member thereof, the Director General or any officer or servant of the Authority or any other person authorized by the Authority under this Act, to carry out any duty or function by reason of any act done or purported to be done, or omitted to be done by such person under this Act or any direction, rule, order or requirement made thereunder, unless the prior written sanction of the Attorney General has been first obtained for such prosecution.	Immunity from prosecution
	(2)	Any expenses incurred by a member of the Authority, the Director General or any officer or servant of the Authority or any other person authorized by the Authority, in any suit or prosecution brought against such person before any court in respect of any act which is done or purported to be done or omitted to be done by such person under this Act or any direction, rule, order or requirement made or imposed thereunder, as the case may be, shall, if the court holds that such act was done in good faith, be paid out by the Authority, unless such expenses are recovered by him in such suit or prosecution.	
PART 2			
LICENSING OF MONEYLENDERS			
17.	(1)	No person, other than a person licensed to carry on business of Moneylending under this Act shall carry on the business of Moneylending.	Licensed persons to carry out the business of moneylending
	(2)	Provisions of subsection (1) shall not apply to following entities;	

	<ul style="list-style-type: none"> a) The Government of Sri Lanka, Provincial Council or a local authority b) The Central Bank of Sri Lanka c) A licensed commercial bank or a licensed specialized bank within the meaning of the Banking Act, No. 30 of 1988 d) A licensed finance company within the meaning of the Finance Business Act, No. 42 of 2011 e) A co-operative society registered under the Co-operative Societies Law No.5 of 1972 and a co-operative society registered under a Statute of a Provincial Council f) A Samurdhi community based bank or a Samurdhi community based banking society established under the Samurdhi Act, No.1 of 2013 g) An entity formed in terms of the Agrarian Development Act, No.46 of 2000; h) Any insurance company registered under the Regulation of Insurance Industry Act, No. 43 of 2000; i) Any pawnbroker licensed under the Pawnbrokers Ordinance, No.13 of 1942 (as amended); j) Any registered leasing establishment registered under the Finance Leasing Act, No. 56 of 2000 (as amended); k) Anybody corporate incorporated by a special enactment empowered to lend money in accordance with such special enactment; l) Any company lending money to related companies m) Any company which lends money to its directors, officers or employees as a benefit accorded to such persons; n) A foreign Government or any agency or institution acting on behalf of a foreign government o) The International bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Asian 	
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		<p>Development bank, or any other multilateral lending institution;</p> <p>p) Any stock broker registered under the Securities and Exchange Commission</p> <p>q) Any person prescribed for the purposes of this subsection by the Minister by order published in the Gazette.</p>	
	(3)	<p>Provisions of subsection (1) shall not apply to following transactions;</p> <p>a) Any lending done to entities specified in paragraphs (a), (b), (c), (d), (h), (j), and (n) of subsection (2) above,</p> <p>b) A sum of money lent to a person only on particular instances.</p> <p>c) A sum of money paid as subscription to debt instruments including, bonds or debentures or hybrid debt instruments;</p> <p>d) Any class or category of transactions prescribed for the purposes of this subsection by the Minister by order published in the Gazette.</p>	
18.	(1)	Any person who carries on or advertises or announces himself or holds himself out in any way as carrying on the business of moneylending without a valid licence, shall be guilty of an offence under this Act.	Carrying out the business of moneylending without a licence to be an offence
	(2)	The Authority may determine whether a person is engaged in the business of moneylending, having regard to the frequency of transactions by such persons and the characteristics thereof.	
19.	(1)	A licensed moneylender may carry on such forms of business as set out in the Schedule 1 to this Act, subject to such conditions as may be imposed under this Act or under any other written law or specified in the licence issued to such licensed moneylender.	Forms of business to be carried out by a licensed moneylender
	(2)	Any moneylender who carries on a business not set out in the Schedule 1 may be required to pay a sum of money as an administrative charge by the Authority not exceeding Rs....	
20.	(1)	An application for a licence to carry on business as a moneylender shall be made in writing to the Director General in such form, and	Application for a licence

		accompanied by such documents or information as may be set out in Rules made in that behalf.	
	(2)	<p>Subject to Section 17(2), the following entities shall be eligible to apply for a licence under subsection (1) –</p> <p>a) A company incorporated under the Companies Act, No.7 of 2007, and such company is not a company limited by guarantee, an offshore company or an overseas company within the meaning of the Companies Act, No.7 of 2007; Provided that a non-governmental organization registered under the Voluntary Social Service Organizations Act No.31 of 1980 and incorporated as a company limited by guarantee under the Companies Act, No.7 of 2007 shall be able to apply for a licence under this Section.</p> <p>b) A partnership registered under the Partnership Ordinance ..., or any statute of a Provincial Council;</p> <p>c) A society registered under the Societies Ordinance..., or incorporated under an Act of Parliament.</p>	
	(3)	The Director General may on receipt of an application make such enquiries and call for such further information and documents, as he considers necessary, and examine any place or places of business of the applicant.	
	(4)	Where any additional documents or information required under subsection (3) is not provided by the applicant within the time specified in such enquiry, the application shall be deemed to be withdrawn and shall not be further proceeded with.	
	(5)	The Director General after considering the information given in the application and as obtained upon an enquiry or examination made under subsection (3) shall recommend to the Authority to either grant the licence or reject the application.	
21.	(1)	The Authority having considered the recommendations made by the Director General under subsection (5) of Section 20, and any other matter in the opinion of the Authority is relevant, may;	Issue of licence

		<p>a) issue a licence to the applicant to carry on the business of moneylending, subject to such terms and conditions as the Authority may think fit, or</p> <p>b) reject the application, subject to such directions as the Authority may think fit.</p>	
	(2)	At any time during the duration of the licence, the Authority may, add to, revoke or vary any of the conditions of licence.	
22.		Unless cancelled earlier, the licence shall be valid for a period not exceeding one (1) year from the date on which the licence is to come in to force, and the Authority shall specify in the licence the date of expiry thereof.	Period of validity of a licence
23.	(1)	An application for the renewal of a licence shall be submitted to the Director General by the licensee at least sixty (60) days before the date of expiry of the licence, and the application shall be in such form, and accompanied by such documents or information as set out in Rules made in that behalf.	Renewal of licence
	(2)	An application made after the time specified in the subsection (1) may be accepted by the Director General up to thirty (30) days before the date of expiry of the licence, subject to an administrative charge not exceeding Rs....., and no renewal shall be permitted where the application is made at least thirty (30) days before the date of expiry of the licence.	
	(3)	Where a licensed moneylender fails to apply for renewal of a licence as stated in sub-sections (1) and (2) above, such moneylender shall be prohibited from applying for a new licence within a period of one (1) year from the date of expiry of the licence issued to him.	
24.		A licensed moneylender shall at all times display the original licence, issued to him by the Authority, in a conspicuous place at the principle place of business and a copy of such licence at all other places of business.	Display of licence at places of business
25.	(1)	The Authority shall not issue a licence under this Act if –	Instances where licence shall not be issued

		<p>a) the Authority is of the opinion that the issue of a licence to an applicant would be detrimental to the interest of its creditors or other stakeholders;</p> <p>b) Issuing of a licence would be detrimental to the social, economic and financial environment and circumstances of the country;</p> <p>c) the applicant has not complied with any of the requirements, laid down by the Authority by rules made in that behalf;</p> <p>d) the Authority is of the opinion that the applicant is not capable of complying with any direction, rule, or determination, that has been issued to moneylenders under this Act;</p> <p>e) Any of the key management personnel, where the applicant is a company, any office bearer where the applicant is a society or any partner, where the applicant is a partnership, is subject to any of the disqualifications set out in Section 38 of this Act.</p>	
	(2)	For the purpose of subsection (1)(f) above, where the director general determines that a person referred therein is not a fit and proper person he shall inform the applicant in writing of that fact, and that the licence may not be issued due to that fact, within thirty (30) days of such finding.	
	(3)	Nothing contained in the provisions of subsection (2) shall be construed so as to restrict issuing of licence to any applicant if a person determined under subsection (2) is removed from such office, prior to issue of such licence.	
26.	(1)	<p>If a licensed moneylender –</p> <p>a) Has failed to commence business within nine months of the issue of the licence;</p> <p>b) Has failed to comply with any condition imposed at the time of issuing the licence;</p> <p>c) is being liquidated or being wound up or otherwise</p>	Cancellation of licence

		<p>dissolved;</p> <p>d) Has ceased to carry on the business of moneylending</p> <p>e) Is carrying on his business, in a manner detrimental to the interest of its borrowers and any other stakeholder;</p> <p>f) Has contravened any of the provisions of this Act or any direction, requirement, rule, order, determination, issued, imposed or made under this Act;</p> <p>g) has furnished false, misleading or inaccurate information or is concealing or failing to disclose material facts to the Authority;</p> <p>h) Has failed to pay any administrative charge imposed under this Act;</p> <p>i) Has been licensed as a result of submission of fraudulent information, misrepresentation in any material fact or a mistake;</p> <p>j) Has a–</p> <ul style="list-style-type: none"> i. key management personnel; ; ii. any office bearer; or; iii. Any partner, <p>who is subject to any disqualification set out in Section 38 of this Act,</p> <p>the Authority may, subject to section 27(1), cancel the licence issued to such moneylender, subject to such directions as the Authority may consider necessary.</p>	
	(2)	<p>Cancellation of a licence under subsection (1), Section 28(1) or non-renewal of licence under subsections (1) and (2) of Section 23 shall not affect any moneylending agreement entered into, before such cancellation and shall not affect any such moneylender from recovering any loan granted during the tenure of the licence.</p>	
	(3)	<p>Part VI of this Act shall continue to be applicable to any moneylending agreement entered in to by a moneylender before</p>	

		cancellation of licence or failure to renew licence by a moneylender, after cancellation or failure to renew such licence.	
27.	(1)	Any moneylender aggrieved by the cancellation of licence by the Authority, under section 26(1) may, within fourteen (14) days after having been notified of the decision, tender objections in writing to the Authority against such decision, submitting reasons why the licence should not be cancelled.	Appeal against cancellation of licence
	(2)	The Authority shall, after considering the objections made by the moneylender, and such other matters which in its opinion merit inquiry, decide whether the decision of cancellation should be confirmed or not.	
	(3)	Where the Authority decides that a cancellation should not be confirmed under subsection (2), the licence shall be effective from the date of such decision and shall continue to be effective subject to provisions in Section 23.	
28.	(1)	A licensed moneylender may request the Authority, at any time, to cancel the licence issued to such licensee.	Voluntary cancellation of licence
	(2)	The Authority shall consider such request and, if there is no reason to refuse the request by such moneylender, shall cancel the licence of the moneylender.	
29.	(1)	Whenever, a licence has been cancelled by the Authority under Sections 26(1) and 28(2) the licensee shall forthwith surrender the licence issued to the licensee to the Director General, and remove any material in its places of business which advertises that such licensee is a licensed moneylender.	Upon cancellation moneylender to surrender the licence
	(2)	The Authority may, from time to time, publish a notice, in at least one Sinhala, Tamil and English daily newspaper circulating in Sri Lanka, a list of licensees whose licence has been cancelled under Sections 26(1) and 28(2) of this Act.	

PART 3

LICENCE TO CARRY ON MICROFINANCE BUSINESS

30.	(1)	No person, other than a person licensed to carry on business of microfinance under this Act or a person exempted under paragraphs (c), (d), (e), (f), and (g) of Section 17(2), shall carry on the business of microfinance.	Licensed persons to carry on microfinance business
	(2)	Any person who carries on or advertises or announces himself or holds himself out in any way as carrying on the business of microfinance without a valid licence, shall be guilty of an offence under this Act.	
	(3)	<p>A person shall not be eligible to be licensed as a microfinance institution unless such person is a licensed moneylender under this Act, and such person shall be either –</p> <p style="margin-left: 40px;">a) A company registered under the Companies Act No.7 of 2007, and such company is not a company, limited by guarantee, a private company, an offshore company or an overseas company within the meaning of the Companies Act, No.7 of 2007; or</p> <p style="margin-left: 40px;">b) A Non-Governmental Organization registered under the Voluntary Social Service Organizations (Registration and Supervision) Act, No.31 of 1980 and registered as a company limited by guarantee under the Companies Act, No.7 of 2007.</p>	
	(4)	A person as specified in subsection (3) may apply for a licence to carry on business of microfinance, which shall be made in writing to the Director General in such form, and accompanied by such documents or information as may be set out in Rules made in that behalf.	
	(5)	Subsections (3), (4), (5) of Section 20 and subsection (1) of Section 25 shall <i>mutatis mutandis</i> apply to any application made under subsection (5).	
	(6)	The Authority after considering whether –	

	<ul style="list-style-type: none"> a) The conduct of such applicant during the period it was licensed as a moneylender, warrants granting a licence, b) Any other matter in the opinion of the Authority is relevant, may; <ul style="list-style-type: none"> a) issue a licence to the applicant to carry on the business of microfinance, subject to such terms and conditions as the Authority may think fit; or b) reject the application, subject to such directions as the Authority may think fit. 	
(7)	At any time during the duration of the licence, the Authority may, add to, revoke or vary any of the conditions of licence.	
(8)	<p>Upon a licence under subsection (7) being granted to a licensed moneylender, the licence granted to such moneylender to carry on the business of moneylending under Section 21(1) shall be deemed cancelled and such moneylender shall –</p> <ul style="list-style-type: none"> a) surrender to the Authority the licence granted by the Authority to carry on the business of moneylending, immediately upon issuing a licence under subsection (6), and shall not display such licence or a copy thereof at any of its places of business; and b) at all times display the licence issued under subsection (6), in a conspicuous place at the principle place of business and a copy of such licence at all other places of business. 	
(9)	Provisions of Sections 22, 23, 26, 27, 28 and 29 shall <i>mutatis mutandis</i> apply to a licensed microfinance institution.	
(10)	A licensed microfinance institution may carry on such forms of business as set out in the Schedule 2 of this Act, subject to such conditions as may be imposed under this Act or under any other written law or specified in the licence issued to such licensed microfinance institution.	
(11)	Provisions of the;	

		<p>a) Regulation of Insurance Industry Act, No. 43 of 2000, only for the purpose of providing micro-credit insurance to borrowers; and</p> <p>b) Finance Leasing Act No. 56 of 2000, only for the purpose of providing micro-leasing facilities to borrowers</p> <p>shall not apply to licensed microfinance institutions, and licensed microfinance institutions shall carry on such business, subject to such directions issued by the Authority for the purpose.</p>	
31.	(1)	<p>The Authority may, subject to provisions of Section 35(1), issue directions to licensed microfinance institutions or for reasons to be stated in writing, to any one or more of them, regarding the manner in which any aspect of the business and corporate affairs of such institutions are to be conducted, including –</p> <p>a) deposits accepted as collaterals (hereinafter referred to as “collateral deposits”) and persons, from whom such deposits may be accepted;</p> <p>b) the terms and conditions under which collateral deposits may be accepted, the maximum rates of interest payable on such deposits, the maximum amount that may be deposited per depositor;</p> <p>c) the terms and conditions under which investments may be made and the maximum permissible maturities of such investments;</p> <p>d) the establishment of a reserve fund, minimum percentage of annual after-tax profit that shall be transferred to such fund and other operational aspects of such fund;</p> <p>e) The minimum capital requirement;</p> <p>f) The minimum ratio which the outstanding accommodation granted to low-income persons and to micro-enterprises by a licensee shall bear to the total outstanding accommodation granted by such licensee.</p>	Specific Directions for microfinance institutions
	(2)	Any licensed microfinance institution which fails to comply with any direction issued under subsection (1) may be required to pay	

		an administrative charge as may be determined by the Authority not exceeding Rs...	
PART 4			
REGULATION OF LICENSED ENTITIES			
32.	(1)	Any licensee shall not – a) open any new place of business b) outsource its debt collection function, factoring or similar arrangement c) in the case of a company, i. establish a subsidiary ii. amend its Articles of Association iii. appoint new members to the board of directors iv. reduce its capital d) in the case of a Society change the office bearers e) in the case of a partnership, change a partner without prior approval of the Director General.	Regulatory approval
	(2)	Any licensee which fails to obtain prior approval from the Director General as required under subsection (1), may be required to pay a sum of money as an administrative charge, as may be determined by the Authority, not exceeding Rs....	
	(3)	The Director General may issue any directions to a licensee, if considers necessary, when granting approval under subsection (1).	
33.		All licensees shall forthwith inform the Director General of the following events – a) Being unable to meet its obligations or is about to become insolvent; b) Any action being filed in court for liquidation of the licensee, in case of a company; c) Any bankruptcy filing by a licensee in a court of law; d) In case of a society, Winding-up; e) In case of a partnership, Dissolution.	Informing certain events to the Director General

34.		The board of directors, partners or office bearers of a company, partnership or a society, as the case may be, shall continue to be subject to provisions of any order, rule, determination or direction made under this Act, as the Authority may consider necessary, during the process of liquidation, dissolution or winding-up.	Act continue to apply in case of liquidation, dissolution or winding-up
35.	(1)	<p>Notwithstanding the provisions of any other written law, and in addition to powers vested with the Authority under Section 31, to the manner in which any aspect of the business and corporate affairs of such licensee are to be conducted, and in particular –</p> <ul style="list-style-type: none"> a) The terms and conditions under which any loan or any other type of financial accommodation may be granted, the maximum rates of interest that may be charged on such loans, or any other types of financial accommodation, and the maximum periods for which any such loan or any other type of financial accommodation may be granted; b) The maximum rates or amounts which may be paid to, or charged by way of commissions, discounts, fees penalties or other receipts or payments whatsoever; c) The nature and amount of the security that may be required or permitted for various types of loan or any other type of financial accommodation; d) The minimum amount of capital or net assets to be maintained; e) Internal controls, risk management or principles of corporate governance to be adopted; f) Implementation of a code of conduct; g) Criteria to assess the fitness and propriety of; <ul style="list-style-type: none"> (i) the directors, key management personnel and shareholders, in the case of a company; (ii) the office bearers, in case of a society; (iii) partners, in the case of a partnership. h) Restrictions on structural changes to corporate and business affairs; 	Directions to licensees

		<ul style="list-style-type: none"> i) The forms and manner in which books and accounts or other records of documents are to be maintained; j) Form and manner of which information should be disclosed to customers; k) Minimum requirements for educational and professional competence of personnel of licensed entities engaged in credit, recovery, marketing, complaints handling, customer services and any other activity which involve interaction with the customers; l) The maximum ratio the total debt of a borrower should bear to the total income of such borrower; m) Publication of any data, information, report including credit rating, financial statements, advertisement or any other marketing material in any print or electronic media; n) Regulation of market conduct, including use of agents and representatives, and loan recoveries; o) Establishing credit counseling centers, to provide counseling and advisory services; p) Handling of customers complaints; q) Regulation of moneylending and microfinance businesses carried out using any electronic means. 	
	(2)	Any licensee which fails to comply with any direction issued under subsection may be required to pay a sum of money as an administrative charge, as may be determined by the Authority not exceeding Rs....	
36.	(1)	The Authority may from time to time, make rules on any matter in respect of which rules are authorized or required to be made under this Act.	Issue of Rules under the Act
	(2)	Without prejudice to the generality of the powers conferred by subsection (1), the Authority may, in particular, make rules in respect of all or any of the following matters –	

		<ul style="list-style-type: none"> a) Criteria for licensing under the Act, as a licensed moneylender or as a microfinance institution, as the case may be; b) Evaluation fee for an application for a licence; c) Annual licence fee payable to the Authority by a moneylender or a microfinance institution; d) Forms to be used for the purposes of the Act. 	
	(3)	Every rule made by the Authority under this Act shall be published in the Gazette.	
37.	(1)	<p>Where Director General is of the opinion that a licensee –</p> <ul style="list-style-type: none"> a) is carrying on or is in the process of carrying on its business following unsound or improper financial practices which are detrimental to the interest of its creditors and other stakeholders; or b) has contravened or failed to comply with any provisions of this Act or any direction, rule, order or requirement made or imposed thereunder, <p>the Director General shall, take any one or more of the following action –</p> <ul style="list-style-type: none"> a) Direct such licensee to cease such practice; b) Direct such licensee to, forthwith or within such period as may be specified by the Director General, comply with the provisions of this Act, direction, rule, order or requirement made or imposed thereunder, which such licensee has failed to comply with; c) direct such licensee to take necessary action to correct the negative conditions resulting from such practice or contravention; d) restrain any director, manager, employee, partner, office bearer or controller of the licensee from carrying out any function in or in relation to the licensee; 	Resolution action

		<p>e) remove any director, manager, partner, office bearer or employee of the licensee;</p> <p>f) Impose an administrative charge not exceeding a sum of rupees, on the licensee, any member of the board of directors, manager, employee, partner or office bearer, as the case may be;</p> <p>g) review any contract entered into by a customer with the licensee and vary the terms of such contract, including the terms relating to repayment, interest rates and charges where it considers that such contract has been entered into without due regard to the interests of borrowers and any other stakeholders;</p> <p>h) review any agreement or contract entered into by the licensee, with any person and if upon such review, it appears to the Authority that the agreement or contract has been entered into without due regard to the interest of the borrowers of the licensee or without due regard to prudent commercial practice, vary the terms of such agreement or contract;</p> <p>i) Publish the name of the licensee as a moneylender or microfinance institution, as the case may be, regarding which the Authority has serious supervisory concerns.</p>	
	(2)	Any person who fails to comply with an order or direction issued or pay any penalty imposed under subsection...shall be guilty of an offence under this Act.	
	(3)	Any person aggrieved by any order or direction issued under subsection (1), may, before the expiry of twenty one (21) days from the date of the issue of such order or direction, appeal in writing to the Authority, and the Authority shall render its decision within twenty eight (28) days of receipt of such appeal.	
38.		A person shall be disqualified from being appointed or elected, as a key management personnel, partner, or an office bearer, of a	Disqualification for holding office in a licensee

	<p>licensee, as the case may be, or from holding such post, if such person –</p> <ul style="list-style-type: none"> a) is a person convicted of an offence involving fraud deceit, dishonesty, or any other improper conduct; b) has been declared an undischarged insolvent or a bankrupt, by any court in Sri Lanka or abroad; c) has been convicted by any court for an offence involving financial management or moral turpitude; d) has been convicted by any court for any offence, under this Act, the Finance Business Act, No. 42 of 2011, the Companies Act, No.7 of 2007, and the Banking Act No. 30 of 1988; e) is being subject to any investigation or inquiry in respect of an act of fraud, deceit, dishonesty or other similar criminal activity, by any regulatory or supervisory authority, professional association, commission of inquiry, tribunal, or any other body established by law, in Sri Lanka or abroad; f) has been found guilty in respect of an act of fraud, deceit, dishonesty or other similar criminal activity, by any regulatory or supervisory authority, professional association, commission of inquiry, tribunal, or any other body established by law, in Sri Lanka or abroad, at any time prior to being so appointed or elected; g) is being subject to court proceedings for an offence involving an act of fraud, deceit, dishonesty or other similar criminal activity; h) has been convicted by any court for an offence involving an act of fraud, deceit dishonesty or other similar criminal activity at any time prior to being so appointed or elected; i) has been removed or suspended by a regulatory or supervisory authority from serving as a director, chief 	
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		<p>executive officer or other officer in any bank, finance company or corporate body in Sri Lanka or abroad;</p> <p>j) has been removed or suspended by any bank, finance company or corporate body in Sri Lanka or abroad, on the grounds of fraud, deceit, dishonesty, or other similar criminal offence, from serving as a director, chief executive officer or other officer in any bank, finance company or corporate body in Sri Lanka or abroad;</p> <p>k) has been declared by a court of competent jurisdiction to be of unsound mind;</p> <p>l) has been a key management personnel of a licensed bank, a licensed finance company, any registered leasing establishment, or any licensed insurance company, whose licence has been cancelled;</p> <p>m) has been as director, chief executive or held any other position of authority in anybody corporate or in any unincorporated body which the Monetary Board has determined as contravening subsections 2(1) and 2(2) of the Finance Business Act, No.42 of 2011, or similar determination under Finance Companies Act, No.78 1988;</p> <p>n) Has been a, key management personnel, an office bearer, partner of any licensed moneylender, as the case may be, of which the licence has been cancelled by the Authority;</p> <p>o) that such person has failed, to satisfy any judgment or order of any court whether in Sri Lanka or abroad, or to repay a debt.</p>	
<p>PART 5</p> <p>EXAMINATION OF A LICENSEE</p>			
39.	(1)	The Director General may with a view to ascertaining the manner in which business and corporate affairs of a licensee are being conducted or for any other specified purpose, require any licensee to submit documents and/or information in the manner, in such	Licensees to provide documents or information

		form and at such intervals or at such times as may be specified from time to time.	
	(2)	Any licensee who fails to submit information under subsection (1), may be required to pay a sum of money, as an administrative charge, as may be determined by the Authority not exceeding Rs....	
40.	(1)	<p>The Director General or any officer of the Authority authorized by him, or any other person authorized by the Director General with the approval of the Authority, may at any time examine the books of accounts and records of any licensee and for that purpose may do one or more of the following –</p> <p>a) Require any licensee or a director, secretary, manager, employee, auditor, agent, contractor, partner office bearer of a licensee to furnish him all such information as he may consider necessary, within such period and in a manner or form as may be specified by the Director General, and to produce for inspection books, records, files, registers and such other documents, maintained in print or electronic form, of such licensee and to provide authenticated copies in any form as required of such books, records, files, registers and such other documents;</p> <p>b) enter any premises or storage area or any property of such licensee, or any director, secretary, manager, employee, auditor, agent, contractor, partner, office bearer of such licensee, or at any other place not specified above, and notwithstanding anything to the contrary in any other law, examine books, records, files, registers, and such other documents, maintained in print or electronic form, of such licensee and may obtain copies, authenticated or otherwise, in any form, of such books, records, files, registers and such other documents;</p> <p>c) require any licensee or a director, manager, employee, agent, contractor, partner, office bearer or secretary of any licensee to submit the accounts of such licensee, furnish</p>	Examination of Licensees

	<p>such information and produce such books, records, files, registers, and such other documents, maintained in print or electronic form, for audit by an auditor authorized by the Director General;</p> <p>d) Call for information by written notice, question and record statements of or, if necessary, direct any director, shareholder, secretary, manager, employee, agent, auditor, partner, office bearer or contractor of any licensee or of any other person who may be acquainted with or is aware of or is in possession of, information regarding the business or corporate affairs of such licensee, to submit information or if necessary, administer oath or affirmation in accordance with the Oaths and Affirmation Ordinance (Chapter 17);</p> <p>e) require any related party of a licensee to furnish information as the Director General may consider necessary and to produce for inspection books, records, files, registers and such other documents maintained in print or electronic form, of such related party and to provide authenticated copies in any form as required of such books, records, files, registers and such other documents.</p> <p>For the purposes of this paragraph “related party” means, in the case of a company, holding company, any subsidiary or associate company of any licensee, or any subsidiary or associate company of the holding company of any licensee, in the case a partnership a partner, or in the case of a society an office bearer, or any other licensee or individual that in the view of the Director General has a substantial financial interest or significant management interest in any licensee.</p> <p>f) take any other action which he may deem necessary to ascertain the true condition of affairs of such licensee during such examination.</p>	
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	(2)	The Authority may, if considered necessary, direct the Director General to cause an examination on any licensee for the purpose of enabling the true condition of the affairs of such licensee to be ascertained.	
	(3)	The Director General shall upon conclusion of each examination conducted in terms of subsection (1) and (2) submit a report to the Authority on such examination.	
	(4)	If the Director General, through documents and/or information received under subsection (1) of Section 39, or in any other manner whatsoever, ascertains that a licensee has failed to comply with any direction, rule, order or determination issued under this Act, he shall report such fact to the Authority unless any guidelines are issued under Section 35(2) to the contrary.	
	(5)	Upon receipt of a report under subsection (3) or (4), the Authority may take any one or more of the regulatory action specified in Section 37(1).	
41.		<p>It shall be the duty of every person to comply with any requirement imposed on him under this Chapter and any person who –</p> <ul style="list-style-type: none"> a) fails to provide any information or produce for inspection any book, record, file, register or such other document, material or object required under this section; b) fails to attend in person when summoned for an interview; c) provides false, incomplete or incorrect or misleading information, book, record, file, register or such other document, material or object; or d) obstructs the Director General or any other person authorized by the Director General under subsection (1) of Section 39, <p>shall be guilty of an offence under this Act.</p>	Duty to comply with any requirement imposed under this Chapter

PART 6

CUSTOMER PROTECTION

42.	<p>No licensee shall issue, publish or demonstrate any advertisement, circular or any other material used for the purpose of marketing of its businesses, containing expressions which may imply or give an inference to the public that it carries on banking business, finance business or, except for licensed microfinance institutions, the business of microfinance.</p>	<p>Not to engage in banking business, finance business or microfinance business</p>
43.	<p>Every licensee shall formulate a policy on customer protection and market conduct, approved by the Board of Directors, the partners, or the office bearers, as the case may be and such policy shall be communicated to all employees of the licensee.</p> <p>Provided however, provisions of this section shall not apply to any licensee who does not employ more than 10 employees or agents.</p>	<p>Formulation of a policy in customer protection</p>
44.	<p>A Licensee shall –</p> <ul style="list-style-type: none"> a) enter in to a loan agreement with all customers, which shall be in writing, before granting a loan; b) ensure that the customers to whom loans are granted have the ability to repay such loans, in order to prevent over-indebtedness; c) calculate interest based on the reducing balance method ; d) provide a loan statement or status of account to any customer on his request, subject to a fee as may be prescribed by the Authority; and <p>In carrying out routine collection of loan installments and recovery of loans, ensure treating its customers fairly and respectfully, without any harassment, threatening, intimidation or humiliation exerting to such customers.</p>	<p>Obligations of a licensee</p>
45.	<p>A licensee shall not enter in to any loan agreement with a person who has not reached the legal age of majority.</p>	<p>No loan agreement to be entered with a minor</p>

46.	<p>A licensee shall not include any terms and conditions in to any loan agreement, which are unfair, misrepresent, exclude or restricts the liability of such entity, excludes or restricts any rights of the customer, or discriminates any segment of population or prevents applicability of any provision of this Act or any direction or rule issued thereunder or any other written law, for the time being in force.</p>	Prohibition of certain terms and conditions in the loan agreement
47.	<p>Any loan agreement entered into by a licensee with its customer shall –</p> <ul style="list-style-type: none"> a) be concise, easy to understand, and accurate; b) be available in Sinhala, Tamil or English languages to the customer in his/her preferred language; c) include all terms and conditions subject to which money is lent to the customer, into the agreement and any amendment, modification made to such conditions shall not be enforceable before a court of law, unless the customer is notified in writing of such amendment or modification and such customer agrees in writing to the same; d) be explained to the customers by the licensee before entering into the agreement, on its contents and financial implications, in his preferred language. 	The loan agreement
48.	<p>A licensee, in carrying out the business of moneylending or business of microfinance, as the case may be, shall not –</p> <ul style="list-style-type: none"> (a) obtain the consent or signature of any person to a blank, incomplete or altered loan agreement for the purpose of lending money or obtaining any security against any loan granted; (b) recover an amount as the interest accrued at any time in excess of the sum then due as the principle amount lent; (c) make any false, misleading or deceptive statement to any customer or conceal any material fact from a customer; 	Actions prohibited by a licensee

		<p>(d) fraudulently induce or attempt to induce any person to enter in to a loan agreement or to agree to any term or condition;</p> <p>(e) discriminate any segment of population based on religion, gender, income or any other material factor relating thereto;</p> <p>(f) exert “undue influence” to lend sum of money to any person or recovering any such money from such person.</p>	
49.	(1)	The Authority shall carry out programmes to improve financial literacy of the general public, including enhancing knowledge, skills and confidence on using financial services.	Action to improve financial literacy of public
	(2)	The Authority may establish credit counselling centers at any of its branches and at any other place the Authority deems necessary.	
50.	(1)	The Authority shall appoint an officer or officers (hereinafter referred to as “inquiring officers”) to handle complaints received from customers of licensees.	Handling of customer complaints made to the Authority
	(2)	<p>For the purpose of subsection (1), the Authority shall have the power to –</p> <p>a) Inquire and request the licensee, the complainant and any other person to submit information as it may deem necessary;</p> <p>b) Conduct investigations under Part VII of this Act, and</p> <p>c) Summon a representative of the licensee or the complainant or both such licensee or complainant for any inquiry or investigation.</p>	
	(3)	No Attorney-at-law, shall be entitled or be permitted to make a representation on behalf of any party who are summoned by the Authority, for the purposes of subsection (2).	
	(4)	<p>The inquiring officers appointed under subsection (1) shall endeavor to bring the parties to an amicable settlement, and in the event of a failure to do so, the Authority on recommendation of inquiring officers may issue any direction –</p> <p>a) to the licensee under Section 37(1),</p> <p>b) to the customer, or</p>	

		<p>c) to both, such licensee under Section 37(1), and the customer.</p> <p>as the case may be, considering representation made by such parties to the Authority and such other matters which in its opinion merit consideration.</p>	
	(5)	The Authority shall maintain a database of complaints received by customers of licensees, and analyze such complaints to identify current and emerging issues in the moneylending and micro financing industries, patterns of such issues, recurrence of same issues and such other similar concerns as the Authority may consider necessary.	
	(6)	<p>The Director General may, at any time, direct a licensee to –</p> <p>a) correct any erroneous data, information or statements that such licensee has published; or</p> <p>b) to prohibit publishing a misleading advertisement and to make appropriate corrections to such advertisements;</p>	
	(7)	Any loan agreement or any guarantee or security to secure such loan, entered in contravention of provisions of this Act or any rule, directions, determination issued thereunder shall be null and void and shall not be enforceable before any court of law.	
51.	(1)	It shall be the duty of every licensee, to ensure all aspects of customer due diligence requirements as imposed by any other written law for the time being in force, in carrying out their businesses.	Customer due diligence requirements
	(2)	For the purpose of subsection (1), the provisions of the Financial Transactions Reporting Act, No.6 of 2006, the Prevention of Money Laundering Act, No.5 of 2006 and Convention on the Suppression of Terrorist Financing Act, No.25 of 2005 and any regulation, direction, rule, determination, guideline or circular issued thereunder shall apply to all such licensees.	
52.		<p>A customer shall –</p> <p>a) exercise reasonable due care in every transaction with a licensee;</p>	Responsibilities of customers

		<p>b) report forgeries / unauthorized transactions effected to his account or facility, to the licensee, as soon as he becomes aware of them;</p> <p>c) take reasonable measures to identify the purpose of the loan and obtain a sum of money as a loan to serve such purpose, which can be serviced without any default;</p> <p>d) provide all information that are necessary for a licensee to grant any loan or accepting a security against such loan without undue delay;</p> <p>e) inform the licensee of any financial difficulty that may hinder the due payment of any loan obtained as soon as possible;</p> <p>f) inform the licensee, at all times, of any changes made to his contact details during the servicing of any loan.</p>	
<p>PART 7</p> <p>INVESTIGATION OF OFFENCES</p>			
53.		Provisions of this Part of the Act shall be applicable, in addition to any powers given to the Director General under Part V of this Act, and shall not be construed so as to restrict the powers of the Director General given under the said Part V to examine any licensee.	Powers of investigation in addition to powers of examination
54.	(1)	Where the Authority has reasons to believe that any person commits or is connected with commission of any offence under this Act, whether on receipt of a complaint or not, the Authority shall cause the Director General or any other officer of the Authority authorized by him to conduct an investigation on such commission of an offence.	Investigation of offences
	(2)	Without prejudice to the powers of investigation conferred on the Director General to investigate an offence under this Act, the Director General may submit a certified copy of any complaint received by him to an officer not below the rank of Assistant Superintendent of police, and request such officer to conduct an	

		investigation on behalf of the Authority or assist in any investigation carried out by the Director General under subsection (1). It shall be the duty of such police officer to conduct an investigation or provide assistance as requested to do so by the Director General.	
	(3)	Notwithstanding subsection (1) and (2), where a police officer has reasonable grounds to believe that any person is involved in any activity relating to an offence under this Act, such officer, may investigate or cause an investigation on such commission of offence and may exercise all powers of investigation provided for in this Act or in any other written law.	
	(4)	The Authority shall provide any information, documents, books, records or computer generated transcripts obtained in the course of an investigation conducted under subsection (1) or otherwise, to a police officer under subsection (2) or (3), and shall cooperate with such officers in such investigations.	
	(5)	Director General may require the assistance of any public officer for the purpose of investigation under subsection (1) and it shall be the duty of such public officer to render the requested assistance, in such manner and within such time as the Director General may specify.	
	(6)	Upon conclusion of an investigation under subsection (1), the Director General shall submit a report on such investigation to the Authority, and upon considering such report the Authority shall take appropriate action, including any action under Section 37(1).	
55.		Where any person fails to provide any information, book, record, file, register or such other document or material or object or provides false, incorrect or incomplete information, book, record, file, register or such other document or material or object when required in terms of Section 54(1), the Director General or any person authorized by the Director General may make an application to a Magistrate for the issuance of an order –	Court order to obtain information

		<p>a) authorizing any person named in the application to inspect the books, records, files, registers and such other documents maintained in print, electronic or any other form, material or object of the person who has failed to comply with the requirement made under Section 52 (5); or</p> <p>b) requiring the person who has failed to comply with the requirement made in terms of subsection, or a director, partner, member, secretary, manager, employee, agent, contractor or auditor of such person as may be named in the order, to produce the books, records, files, registers and such other documents maintained in print, electronic or any other form, material or object of such person, to a person and at a place specified in the order.</p>	
56.	(1)	The Director General, may at any time where a person is investigated in terms of Section 54(1), in consultation with the Authority, make an application to a Magistrate to impound the passport of such person so investigated.	Impounding of Passports of persons investigated
	(2)	<p>In an event where the person investigated in terms of Section... is a body of persons, it shall be lawful for the Director General to make an application or applications, as may be necessary, to impound the passport,—</p> <p>a) if that body of persons is a body corporate, of any director, shareholder or manager of the body corporate; and</p> <p>b) if that body of persons is a partnership, of any partner of such partnership; and</p> <p>c) if that body of persons is an un-incorporated body other than a partnership, of any member of such body, or any officer of that body responsible for its management and control.</p>	
57.	(1)	The Director General may with the approval of the Authority and having regard to the circumstances in which an offence under this Act was committed, compound such offence for a sum of money not exceeding rupees five (5) million.	Compounding of offences

	(2) Compounding of any offence under subsection (1) shall have the effect of an acquittal of the accused.	
<p>PART 8</p> <p>OFFENCES AND PENALTIES</p>		
58.	<p>Any person, who being a director, secretary, chief executive officer, manager, officer, employee, partner, office bearer or auditor of a licensee –</p> <ul style="list-style-type: none"> a) fails to take all reasonable steps to secure compliance by that licensee with the requirements of this Act; b) fails to comply with any direction issued or rule made by the Authority under the provisions of this Act; c) fails to comply with any direction issued or requirement made by the Director General under the provisions of this Act; d) fails to take all reasonable steps to secure the accuracy of any statement submitted or published by such licensee, under the provisions of this Act; e) makes a false entry in any book, record, file, register or such other document or statement relating to the business affairs, transactions, conditions, assets or liabilities or accounts of such licensee or causes such entry to be made; f) omits to make an entry in any book, record, file, register or such other document or statement relating to the business affairs, transactions, conditions, assets or liabilities or accounts of such licensee or causes such entry to be omitted; g) alters, abstracts, conceals, erases or destroys any entry in any book, record, file, register or such other document, or statement relating to the business affairs, transactions, conditions, assets or liabilities or accounts of such licensee, or causes any such entry to be altered, abstracted, concealed, erased or destroyed; or 	Offences by employees

		<p>h) maintains multiple sets of books, records, files, registers, or such other documents for the purpose of concealing the true condition of such licensee,</p> <p>shall be guilty of an offence under this Act.</p>	
59.	(1)	<p>Any person who contravenes or fails to comply with any provisions of this Act, any rule, direction, order or requirement issued or imposed, or fails to pay any penalty imposed thereunder, shall be guilty of an offence under this Act and shall be liable on conviction after summary trial before a Magistrate to a fine not exceeding Rupees five million or to imprisonment of either description for a term not exceeding five years or to both such fine and imprisonment.</p>	Penalty for contravention of the Act
	(2)	<p>Where an offence under this Act is committed by a body of persons, then –</p> <p>a) if that body of persons is a body corporate, every director, manager, or secretary of that body corporate;</p> <p>b) if that body of persons is a partnership, every partner of such partnership; or</p> <p>c) if that body of persons is an unincorporated body other than a partnership, every member of such body,</p> <p>shall be deemed to be guilty of that offence:</p> <p>Provided however, that a director, manager or secretary of such body corporate or a partner of such partnership or a member of such unincorporated body, shall not be deemed to be guilty of such offence if he proves that such offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.</p>	
	(3)	<p>Any person who abets, conspires or attempts to commit an offence under this Act shall be guilty of an offence and shall be punishable in the same manner as punishable for the substantive offence under this Act.</p>	

	(4)	A director, manager or secretary of a body corporate or a partner or a member of an unincorporated body ordered to pay a fine by a Magistrate under this Act, such person shall be guilty of an offence if he applies any funds of such body corporate or unincorporated body, as the case may be, for the payment of such fine or part thereof.	
PART 9 GENERAL			
60.	(1)	<p>Every director, manager, officer, employee and agent of any licensee and of any body corporate authorized in terms of Section 40(1) shall observe strict secrecy in respect of all transactions of such licensed institution, its customers and the state of accounts of any person and all matters relating thereto and shall not reveal any such matter except –</p> <ul style="list-style-type: none"> a) when required to do so- <ul style="list-style-type: none"> i. by a court of law; ii. by the person to whom such matter relates; b) in the performance of the duties of such director, manager, officer, employee and agent; or c) in order to comply with any of the provisions of this Act or any other written law. 	Secrecy on transactions
	(2)	Subject to subsection (1), a licensee shall collect, store, view and use customer data in a manner that effectively protects the privacy of customer.	
61.		Where any notice is to be served on a licensee under this Act or where the Authority informs any regulatory measure taken under the Act to a licensee, proof of posting such notice or information to the address of the principle place of business of a licensee, addressed to the principal officer, shall be sufficient to prove that such notice has been served on such licensee.	Posting deemed to be proper notice

62.	(1)	Notwithstanding anything contrary in this Act or any other written law, the Monetary Board may in order to strengthen the stability of the financial system and to make qualitative improvements in the regulation and supervision of licensees issue guidelines to the Authority, and the Authority shall give effect to such guidelines issued by the Monetary Board by issuing appropriate rules or directions.	Monetary Board to issue guidelines to the Authority
	(2)	The Monetary Board may call for information from the Authority, from time to time, and it shall be the duty of the Authority to submit such information in a timely manner.	
63.		The Authority shall maintain separate registers for licensed moneylenders and licensed microfinance institutions	Register of licensed moneylenders and licensed microfinance institutions
64.		Every licensee, shall pay an annual licence fee in such amount as may be determined by the Authority, from time to time.	Annual licence fee
65.		The Authority may, from time to time, publish a notice, in at least one Sinhala, Tamil and English daily newspaper circulating in Sri Lanka, giving a list of licensees who have been issued a licence under this Act.	Notices for the public
66.		The provisions of the Pawnbrokers Ordinance (Chapter 99) shall not apply to any licensee and such licensee may carry on the business of pawn brokers subject to such directions issued by the Authority for the purpose.	Pawnbrokers Ordinance not to apply to a licensee
67.	(1)	No person other than a licensed moneylender, or an institution exempted under Section 17(2) shall use as part of its name or its description, any of the words “credit”, “microcredit” “lending” “lenders” “moneylenders” or any of their derivatives, or transliterations, or their equivalent in any other language whether alone or in combination with any other word, without the prior written approval of the authority.	Use of the words “credit”, “microcredit” “lending” “lenders” “moneylenders” in business names
	(2)	No person other than a licensed microfinance institution, or an entity exempted by Section 30(1) shall use as part of its name or its description in its name, the word, “microfinance” or any of its	Use of the word “microfinance” in the business name

		derivatives or its transliteration or its equivalent in any other language whether alone or in combination with any other word, without the prior written approval of the Authority.	
	(3)	Nothing in this section shall apply to – <ul style="list-style-type: none"> a) An association of licensed moneylenders or licensed microfinance institutions formed for the protection of their interest; b) A trade union registered under the Trade Union Ordinance (Chapter 138), which is an association or combination of workers who are employees of a licensed moneylender or licensed microfinance institution. c) An institution in respect of which such usage is established or recognized by law or international agreement; and 	
68.	(1)	Subject to Section 17(2), it shall be the duty of any media institution to verify from any person who offers to lend money, whether he is licensed under this Act, before publishing an advertisement or any business promotional publication relating to such activity.	Obligations of media institutions
	(2)	The Director General may send a notice to any media institution requiring such institution to refrain from publishing advertisements offering moneylending by a person not licensed under this act or exempted under Subsection...of section... of this Act.	
69.		The Minister may by way of a declaration published in the Gazette designate any one, group or a category of licensees to be ‘credit institutions’ for the purposes of the Credit Information Bureau of Sri Lanka Act, No. 18 of 1990 (as amended).	Power to declare ‘credit institutions’ for the purpose of CRIB Act
70.		Any copy of a document maintained by the Authority under this Act, certified by the Director General to be a true copy of such document, shall be admissible in any court of law as evidence of the original of such document.	Certified copies to be accepted as evidence of originals
71.		Except in the performance of his duties under this Act, every officer or servant of the Authority shall preserve and aid in	Secrecy of information

		preserving secrecy with regard to all matters relating to the affairs of any licensee, or any customer thereof or any matter relating to the affairs of any Government institution, and any such officer or servant who communicates any such matter to any person, other than the Authority, or permits any unauthorized person to have access to any books, papers, or other records relating to any licensee, its customers or Government institution, shall be guilty of an offence.	
72.		In any prosecution of any person for contravention of Sections 17(1) and 30 (1) of this Act, the burden of proving that such person has been granted a licence to carry on the business of Moneylending or the business of microfinance shall lie on such person.	Burden of proving licence under the Act
73.		Provisions of the Money Lending Ordinance (Chapter....) shall not apply to any licensee.	
<p>PART 10</p> <p>TRANSITIONAL PROVISIONS</p>			
74.	(1)	<p>Notwithstanding anything to the contrary in section 17(1), any person carrying on moneylending business on the day preceding the date of coming into operation of this Act –</p> <p>a) may from the date of coming into operation of this Act, continue to carry on such business for a period of twenty-four (24) months;</p> <p>b) shall comply with the provisions of this Act and apply for a licence to continue his business as a licensed moneylender, after such date as may be specified by the Board by notice published in the Gazette, calling for applications for licence under the Act: and</p>	Persons carrying on the business of moneylending to continue business for 24 months

		c) The date specified by the Authority under subsection 1(b) shall not be later than six (06) months from the date the Act comes in to operation.	
75.	(1)	The Microfinance Act, No. 06 of 2016 is hereby repealed.	Repealing of the Microfinance Act
	(2)	Notwithstanding the repeal of the Microfinance Act, No. 06 of 2016, every regulation, notice, order, rule, guideline or direction issued, requirement imposed, determination or delegation made thereunder and in force on the day preceding the date of commencement of this Act shall in so far as such regulation, notice, order, rule, guideline, direction, requirement, determination or delegation is not inconsistent with the provisions of this Act, be deemed to be a regulation, notice, order, rule, guideline, direction, requirement, determination or delegation issued, imposed or made, as the case may be, under the provisions of this Act.	
	(3)	<p>a) Any microfinance company licensed under the Microfinance Act, No.6 of 2016</p> <p>b) Any microfinance Non-Governmental Organization registered under the Microfinance Act, No.6 of 2016</p> <p>which is carrying on microfinance business on the day preceding the date of commencement of this Act, shall, with effect from the date of commencement of this Act, deemed to be licensed microfinance institutions, licensed under Section of this Act.</p>	Institutions licensed under the Microfinance Act deemed to be licensed under this Act
	(4)	All actions, proceedings or matters instituted in terms of the Microfinance Act, No.6 of 2016, and pending in any court referred to therein, on the day preceding the date of commencement of this Act, shall from and after the date of commencement of this Act be heard and determined by the said Magistrate Court or District Court in terms of the provisions of that Act.	
76.		In this Act, unless the context otherwise requires –	Interpretations
		“Appointed member” shall a person appointed to the Authority under Section 3(1) of this Act;	

	<p>“Associate company” when used in relation to a particular company means a company in which such particular company holds not less than twenty per centum and not more than fifty per centum of the paid up ordinary share capital;</p>	
	<p>“Borrower” shall mean a person to whom money is lent by a licensee;</p>	
	<p>“Collateral deposits” – shall mean a savings deposit obtained as a collateral from a borrower against a lending facility granted to such borrower;</p>	
	<p>“Dependent child” shall mean a child who is under the age of eighteen years; or a child under the age of twenty five years who is unmarried and unemployed, or a child, irrespective of age, who suffers from a physical or mental disability that renders him incapable of earning his livelihood;</p>	
	<p>“Deposit” shall have the meaning assigned to it under the Finance Business Act, No. 42 of 2011 as may be amended from time to time;</p>	
	<p>“Director General” means the Director General appointed by the Authority under Section... of this Act and includes an acting or additional Director General;</p>	
	<p>“Financial year” shall mean the period from 1st day of January to 31st day of December each year;</p>	
	<p>“Holding company” shall have the same meaning assigned to it under the Companies Act, No. 7 of 2007;</p>	
	<p>“Key Management Personnel” means a person having authority and responsibility for planning directing and controlling the activities of any licensee directly or indirectly, including any director;</p>	
	<p>“Legal age of majority” shall have the meaning assigned to it under the Age of Majority Ordinance (Chapter 66);</p>	
	<p>“Licensee” means a licensed moneylender, licensed under Section...of the Act and a licensed microfinance institution licensed under Section... of the Act;</p>	

	<p>“Licensed Microfinance Institution” means –</p> <p>A company registered under the Companies Act No.7 of 2007 not being a company, limited by guarantee, a private company, or an overseas company within the meaning of the Companies Act, No.7 of 2007; or</p> <p>A Non-Governmental Organization registered under the Voluntary Social Service Organizations (Registration and Supervision) Act, No.31 of 1980 and registered as a company limited by guarantee under the Companies Act, No.7 of 2007</p> <p>Licensed under Section... of the Act to carry on the microfinance business;</p>	
	<p>“Licensed microfinance company” means a company licensed under the Microfinance Act, No. 6 of 2016 or a company licensed under Section... of this Act;</p>	
	<p>“Licensed Moneylender” means any moneylender who is licensed to carry on the business of moneylending under Section... of this Act;</p>	
	<p>“Microfinance Business” means business of lending money at interest with or without a security, and provision of other financial services, mainly to low income persons and micro enterprises;</p>	
	<p>“Minister” shall mean the minister to whom the subject of finance is assigned;</p>	
	<p>“Microfinance NGO” means a non-Governmental organization issued with a certificate of registration by the Registrar of Voluntary Social Service Organizations under the Microfinance Act, No.6 of 2016 or a non-Governmental organization issued with a licence under Section 30(6) of this Act;</p>	
	<p>“Monetary Board” means the Monetary Board of the Central Bank of Sri Lanka established under the Monetary Law Act, (Chapter 422);</p>	

	<p>“Moneylender” means any person who carries on or advertises or announces himself or holds himself out in any way as carrying on the business of moneylending whether or not he carries on any other business;</p>	
	<p>“Moneylending Agreement” - Means a written understanding between a licensee and a borrower which defines the terms and conditions applicable for sum of money lent by such licensee to such borrower, and includes any amendment, addendum, and supplemental, thereto;</p>	
	<p>“Moneylending Business” shall mean lending of money at interest, with or without security, by a moneylender to a borrower, whether or not such moneylender carries on any other business and shall include lending a sum of money in consideration of profit or loss arising from lending being shared between a moneylender and a borrower (Islamic principles);</p>	
	<p>“Office bearer” means, the president, vice-president, secretary or treasurer or any other person holding a similar office or position in a Society;</p>	
	<p>“related company” shall have the same meaning assigned to the term in the Companies Act, No. 7 of 2007; A company is related to another company if –</p> <ol style="list-style-type: none"> i. That company is the subsidiary or holding company of the other company; ii. The holding company of that company is also a holding company of the other; iii. That company is related to a company which is related to the other company; 	
	<p>“Significant management interest” –</p>	
	<p>“Society” shall mean a Society registered under the Societies Ordinance....or a society incorporated under an Act of Parliament;</p>	

	<p>“subsidiary company” shall have the same meaning assigned to the term in the Companies Act, No. 7 of 2007;</p>	
	<p>“Substantial Financial Interest” –</p> <ul style="list-style-type: none"> (a) in relation to a company, the holding of a beneficial interest by another company or an individual or his relative, whether singly or taken together, in the shares thereof, the paid up value of which exceeds ten per centum of the paid up capital of the company or the existence of a guarantee or indemnity for a sum not less than ten per centum of the paid up capital given by an individual or his relative or by another company on behalf of such company; (b) in relation to a partnership, the beneficial interest held therein by an individual or his relative, whether singly or taken together, which represents more than ten per centum of the total capital subscribed by all partners of the partnership or the existence of a guarantee or indemnity for a sum not less than ten per centum of that capital given by an individual or the spouse, parent or child of the individual on behalf of such partnership; <p>“Significant Management Interest” means the controlling power over –</p> <ul style="list-style-type: none"> (a) the control and management of a bank irrespective of shareholding by a; (b) director or a member of a senior/executive management directly or by; (c) general acceptance or through one or more of the following – <ul style="list-style-type: none"> (i) spouse (ii) child or spouse of a child (iii) grandchild or spouse of a grand child (iv) any parent (v) brother or sister and their spouses 	

	<p>“Undue Influence” a transaction is said to be induced by “undue influence” where the relations subsisting between the lender and the debtor or the close relations of the debtor are such that the lender is in a position to dominate the will of the lender and uses that position to obtain an unjust enrichment/unfair advantage over the other.</p>	
77.	<p>In the event of any inconsistency between the Sinhala and Tamil texts of this Act the Sinhala text shall prevail.</p>	