



Isle of Man

Ellan Vannin

**MONEYLENDERS (AMENDMENT) BILL
2012**

MONEYLENDERS (AMENDMENT) BILL 2012

Explanatory Memorandum

1. This Bill is promoted by the Treasury. If enacted, it will amend the Moneylenders Act 1991 to widen the powers of exemption from the requirement to register under that Act and to amend the definition of “exempt person” under that Act.
2. *Clause 1* states the short title of the Bill.
3. *Clause 2* provides for the Bill to commence by appointed day order made by the Treasury.
4. *Clause 3* specifies the amendments to be made to the Moneylenders Act 1991 (see paragraphs 5 to 7 below).
5. Section 1 of the Act is to be amended so as to enable transactions as well as persons to be exempted. An offence will be committed if a person carries on in the Island a business of lending money unless the person is an exempt person or the lending is an exempt transaction.
6. Section 17 of the Act is to be amended to widen the powers of exemption under the Act in order to facilitate the amendment mentioned in paragraph 5.
7. Section 18 of the Act is to be amended to reflect a change of terminology.
8. The Bill is not expected to have any significant effect on public revenue, expenditure or personnel.
9. In the opinion of the member moving the Bill its provisions are compatible with the Convention rights within the meaning of the Human Rights Act 2001.



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MONEYLENDERS (AMENDMENT) BILL 2012

- 1 A **BILL** to amend the Moneylenders Act 1991 to widen the powers of
 2 exemption from the requirement to register under that Act and to amend the
 3 definition of “exempt person” under that Act.

BE IT ENACTED by the Queen’s Most Excellent Majesty, by and with the advice and consent of the Council and Keys in Tynwald assembled, and by the authority of the same, as follows:—

4 **1 Short title**

5 The short title of this Act is the Moneylenders (Amendment) Act 2012.

6 **2 Commencement**

- 7 (1) This Act (other than *section 1* and this section) comes into operation on
 8 the day appointed by the Treasury and different days may be appointed
 9 for different provisions and different purposes.
 10 (2) An order under subsection (1) may make transitional and saving
 11 provisions which the Treasury considers necessary or expedient.

12 **3 Amendments to the Moneylenders Act 1991**

- 13 (1) The *Moneylenders Act 1991*¹ is amended as follows.
 14 (2) In *section 1* (registration of money lenders) —
 15 (a) for subsection (4) substitute —
 16 | “(4) A person who carries on in the Island a business of lending
 17 | money without being registered commits an offence unless —
 18 | (a) the person is an exempt person; or
 19 | (b) the lending is an exempt transaction.
 20 | (4A) A person guilty of an offence under subsection (4) is liable —
 21 | (a) on conviction on information, to a fine;

¹ c.6

(b) on summary conviction, to a fine not exceeding £5,000.”;
and

(b) at the end of the section insert —

“(6) In subsection (4)(b), “**exempt transaction**” means a money lending transaction of a prescribed description.”.

(3) In *section 17* (regulations), after subsection (1) insert —

“(1A) Subsections (1B) to (1F) do not limit —

(a) subsection (1); or

(b) the operation of *section 26 of the Interpretation Act 1976*² (construction of provisions as to exercise of powers and duties).

(1B) Regulations may prescribe the following as exempt persons —

(a) named persons or classes of persons;

(b) persons or classes of persons described in the regulations by reference to a characteristic, activity or other matter specified in the regulations.

(1C) Regulations may prescribe the following as exempt transactions —

(a) named transactions or classes of transaction;

(b) generic transactions or classes of transaction described in the regulations by reference to a characteristic, activity, value or other matter specified in the regulations.

(1D) Without limiting subsection (1B), a person may be prescribed as an exempt person —

(a) for an unlimited or limited period of time;

(b) in relation to all money lending; or

(c) in relation only to money lending specified in the regulations.

(1E) Without limiting subsection (1C), a transaction may be prescribed as an exempt transaction —

(a) for an unlimited or limited period of time;

(b) by reference only to the transaction; or

(c) by reference to the persons carrying out the transaction.

(1F) Regulations may contain such consequential, incidental, saving, transitional and transitory provisions as the Board considers necessary or appropriate.”.

² c.20

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(4) In *section 18* (interpretation: general), in the definition of “**exempt person**”, for paragraph (d) substitute –

“(d) the holder of a licence under *section 7 of the Financial Services Act 2008*³ in respect of the regulated activity of deposit taking;”.

³ c.8

IN THE KEYS

MONEYLENDERS (AMENDMENT) BILL 2012

A **BILL** to amend the Moneylenders Act 1991 to widen the powers of exemption from the requirement to register under that Act and to amend the definition of “exempt person” under that Act.

Approved by the Council of Ministers
for introduction in the House of Keys.

MR HENDERSON

MAY 2012