

DOOR TO DOOR (SALES).

13° Elizabeth II., No. CVII.

No. 107 of 1964.

**AN ACT to make Provision with respect to certain
Credit Purchase Agreements and for other
purposes.**

[Assented to 23rd December, 1964.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title.
Cf. Act No.
7091.
(Victoria).

1. (1) This Act may be cited as the *Door to Door (Sales) Act, 1964.*

Commence-
ment.

(2) This Act shall come into operation on a date to be fixed by proclamation.

2. (1) In this Act unless inconsistent with the context or subject-matter—

Interpretation.

“credit purchase agreement” means any agreement for or with respect to the sale or bailment of goods not being an agreement under which the whole of the purchase price rent or other consideration is paid by the purchaser or bailee in cash or by cheque at or before the time at which the agreement is made but does not include—

Credit purchase agreement.

- (a) any hiring agreement;
- (b) any agreement under which the purchaser or bailee is a body corporate;
- (c) any agreement under which the purchaser or bailee is a person whose trade or business is the trade or business of buying and selling goods of the same nature or description as the goods to which the agreement relates;

“goods” means any books or parts of a book, or engravings, lithography or pictures or any other like matter whether illustrated or not and includes any articles prescribed to be goods for the purposes of this Act;

Goods.

“hiring agreement” means any agreement for the letting of goods which is not a hire-purchase agreement within the meaning of section seventy-six of the Stamp Act, 1921-1963;

Hiring agreement.

“technical school” means a school for technical instruction whether under the control of the State Department of Education or otherwise, at which the purchaser or bailee is a student and includes a University, Government school, within the meaning of the Education Act, 1928, and a school registered as an efficient school under that Act, at which the purchaser or bailee is a student;

“the bailee” in relation to a credit purchase agreement means the person to whom goods are bailed under the agreement;

“the purchaser” in relation to a credit purchase agreement means the person to whom goods are sold or agreed to be sold under the agreement;

Vendor.

“vendor” means the person by whom or on whose behalf goods are bailed or sold or agreed to be bailed or sold under a credit purchase agreement.

(2) For the purposes of this Act where an offer to make a credit purchase agreement is made by any person the agreement shall be deemed to have been made at the time and at the place at which the offer to enter into the credit purchase agreement was made.

Credit purchase agreement to be in writing, etc.

3. Where a credit purchase agreement is made by the purchaser or bailee (as the case may be) at his place of residence, at his place of employment or at any technical school the agreement shall be unenforceable by the owner unless—

- (a) the agreement or offer is in writing;
- (b) a copy of the agreement or offer (as the case requires) is given to the purchaser or bailee at the time at which the agreement or offer is made by the purchaser or bailee; and
- (c) a statement in the form of the Schedule to this Act duly completed by the vendor in accordance with the instructions contained in the said Schedule is given to the purchaser or bailee at the time at which the agreement is made by the purchaser or bailee.

Power to terminate certain credit purchase agreements.

4. (1) Where a credit purchase agreement is made by the purchaser or bailee at his place of residence, at his place of employment or at any technical school the agreement may be terminated by the purchaser or the bailee, as the case may

require, by giving personally or by post as hereinafter provided to the person named as vendor in the statement given to the purchaser or bailee pursuant to the provisions of paragraph (c) of the last preceding section a notice in or to the effect of the notice set out in the Appendix in the Schedule to this Act.

(2) Notice pursuant to the last preceding subsection may be given by delivering it personally to the address shown in the notice set out in the Appendix to the Schedule to this Act within seven days of the date upon which the agreement was made or by properly addressing pre-paying and posting a letter containing the notice to that address within seven days of the date upon which the agreement was made.

5. (1) Where a notice of termination is given pursuant to the provisions of the last preceding section the agreement shall be deemed to have been rescinded by mutual consent and there shall also be deemed to have been a total failure of consideration in respect of the agreement and the vendor shall forthwith repay to the purchaser or bailee all moneys paid under or with respect to the agreement and redeliver any goods or other property given by the purchaser or bailee pursuant to the agreement.

As to effect of termination of certain credit purchase agreements.

(2) Any vendor who fails to pay any moneys paid by the purchaser or bailee as aforesaid or to redeliver any goods or other property given as aforesaid after a notice of termination has been given pursuant to section four of this Act shall be guilty of an offence against this Act and (without prejudice to the right of the purchaser or bailee to recover such moneys goods or other property by action in a court of competent jurisdiction) liable to a penalty of not more than One hundred pounds.

Offence.

(3) Where a notice of termination is given pursuant to the provisions of section four of this Act the purchaser or bailee shall deliver up forthwith on demand being made by the vendor any goods delivered to him pursuant to the agreement.

(4) A purchaser or bailee who fails to deliver up any goods delivered to him pursuant to an agreement on demand being made pursuant to the last preceding subsection shall be guilty of an offence against this Act and without prejudice to the right of the vendor to recover such goods by action in a court of competent jurisdiction liable to a penalty of not more than One hundred pounds.

(5) The purchaser or bailee shall be liable to pay compensation to the vendor for any damage done to the goods whilst the goods have been in the custody of the purchaser or bailee other than damage arising from the normal use of the goods or loss or damage arising from circumstances beyond his control.

Act not to be applicable to agreements initiated at the request of the purchaser or bailee.

6. Nothing in this Act shall render a credit purchase agreement unenforceable or authorise the termination of any such agreement if it is proved that the agreement was made at the residence of the purchaser or bailee, his place of employment or at a technical school, as the case may be, as a result of an unsolicited request made by the purchaser or bailee to the vendor to attend at his place of residence, his place of employment or at any technical school, as the case may be, to negotiate the particular transaction which resulted in the agreement.

Avoidance of certain provisions. See Act No. 58 of 1959, s. 28.

7. (1) A provision, term, condition, or covenant in an agreement to which this Act applies, or in any offer to enter into or make, or relating to the entering into or making of, such an agreement, or in any other document to which the purchaser or bailee under such an agreement is a party, is void if—

- (a) it excludes, limits, modifies, or restricts the right to terminate the agreement conferred by this Act on the purchaser or bailee;
- (b) it provides or declares that the agreement or offer—
 - (i) was, or is to be treated as having been; or

- (ii) was not, or is to be treated as not having been,
entered into, made, signed, or accepted at any particular place;
- (c) it provides that a dealer, or any person acting, or purporting to act, on behalf of the vendor in connection with or in the course of any negotiation, transaction, or dealing leading to the entering into or making of the agreement or the making of the offer is or is not, or is or is not to be treated as, or declares a dealer or any such person to be or not to be, the agent or servant of the vendor or to be acting under the authority of the vendor;
- (d) it provides or declares that a dealer, or any person acting, or purporting to act on behalf of the vendor in connection with or in the course of any negotiation, transaction, or dealing leading to the entering into or making of the agreement or the making of the offer—
 - (i) called on the purchaser or bailee or carried out, effected, or took part in any such negotiation, transaction, or dealing at the request of the purchaser or bailee; or
 - (ii) is, or shall be treated as being, the agent of the purchaser or bailee, or authorised by the purchaser or bailee to make to the vendor any offer on behalf of the purchaser or bailee;
- (e) it relieves the vendor from liability for any act or default of the vendor or any other person acting in connection with or in the course of any negotiation, transaction, or dealing leading to the entering into, making, signing, or acceptance of the agreement or offer;

- (f) it provides or declares that the agreement or offer—
 - (i) is, or is not; or
 - (ii) is or is not to be treated as being, subject to, or enforceable in accordance with, the law of any particular State or Territory of the Commonwealth or of any place outside the Commonwealth;
- (g) it provides or declares (either expressly or impliedly) that any warranty, privilege, right, or protection to the benefit of which the purchaser or bailee would or might otherwise be entitled by virtue of the provisions, effect, or operation of any law (other than this Act) or of any rule of law is waived, abridged, abandoned, excluded, limited, modified, or restricted; or
- (h) it excludes, limits, modifies, or restricts the effect or operation of all or any of the provisions of this Act.

(2) Where any agreement, offer, or document referred to in subsection (1) of this section contains a provision, term, condition, or covenant that is void under that subsection, the vendor under the agreement is guilty of an offence against this Act.
Penalty: Two hundred pounds.

Regulations.

8. The Governor may make any regulations necessary or convenient for carrying this Act into effect and in particular may make regulations for all or any of the following purposes—

- (a) prescribing any articles to be goods for the purposes of this Act;
- (b) exempting from the provisions of this Act any goods or any goods the purchase price of which is not in excess of an amount prescribed;
- (c) imposing penalties not exceeding fifty pounds for breach of any regulation.

SCHEDULE.
STATEMENT.

To
(Insert name and address of purchaser or bailee)

Take notice that you are entitled to terminate the agreement made by you on the day of 19..... to purchase (or hire) ‡ by
(Insert concise description of goods)

giving to the vendor notice in the form of the Appendix to this statement addressed to the address of the vendor shown in the said Appendix at any time within seven days of the date upon which the agreement was made by you.

APPENDIX.
NOTICE.

To
(Insert name and address of vendor)

Take notice that I hereby terminate the agreement made by me to purchase (or hire) the abovementioned goods and require you to repay all moneys paid by me under or with respect to such agreement and to deliver all goods or other property given to you by me pursuant to such agreement forthwith.

Dated this day of 19.....

*(Signed)

* To be signed by the purchaser or bailee.

‡ The notice may be given by delivering it personally to the address shown in the notice set out in the Appendix to this Schedule within seven days of the date upon which the agreement was made or by properly addressing prepaying and posting a letter containing the notice to that address within seven days of the date upon which the agreement was made.

Note.—If posting this notice you are recommended to send this notice by registered post in order to facilitate proof of the giving of the notice.
