



Western Australia

Hire-Purchase Act 1959

Hire-Purchase (General) Regulations 1975

Reprint 2: The regulations as at 22 January 2009

Guide for using this reprint

What the reprint includes



Endnotes, Compilation table, and Table of provisions that have not come into operation

1. Details about the original regulations and legislation that has amended its text are shown in the Compilation table in endnote 1, at the back of the reprint. The table also shows any previous reprint.
2. Transitional, savings, or other provisions identified in the Compilation table may be important. The table may refer to another endnote setting out the text of these provisions in full.
3. A table of provisions that have not come into operation, to be found in endnote 1a if it is needed, lists any provisions of the regulations being reprinted that have not come into operation and any amendments that have not come into operation. The full text is set out in another endnote that is referred to in the table.

Notes amongst text (italicised and within square brackets)

1. If the reprint includes a regulation that was inserted, or has been amended, since the regulations being reprinted were made, editorial notes at the foot of the regulation give some history of how the regulation came to be as it is. If the regulation replaced an earlier regulation, no history of the earlier regulation is given (the full history of the regulations is in the Compilation table).

Notes of this kind may also be at the foot of Schedules or headings.

2. The other kind of editorial note shows something has been —
 - removed (because it was repealed or deleted from the law); or
 - omitted under the *Reprints Act 1984* s. 7(4) (because, although still technically part of the text, it no longer has any effect).

The text of anything removed or omitted can be found in an earlier reprint (if there is one) or one of the written laws identified in the Compilation table.

Reprint numbering and date

1. The reprint number (in the footer of each page of the document) shows how many times the regulations have been reprinted. For example, numbering a reprint as “Reprint 3” would mean that the reprint was the 3rd reprint since the regulations were published. Reprint numbering was implemented as from 1 January 2003.
2. The information in the reprint is current on the date shown as the date as at which the regulations are reprinted. That date is not the date when the reprint was published by the State Law Publisher and it is probably not the date when the most recent amendment had effect.

Western Australia

Hire-Purchase (General) Regulations 1975

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Defined Terms



Western Australia

Reprinted under the
Reprints Act 1984 as
at 22 January 2009

Hire-Purchase Act 1959

Hire-Purchase (General) Regulations 1975

1. Citation

These regulations may be cited as the *Hire-Purchase (General) Regulations 1975*¹.

2. Terms used

In these regulations —

Form means a form in Schedule 1;

section means a section of the Act.

[Regulation 2 inserted in Gazette 22 Sep 2006 p. 4116.]

3. Application by owner for consent to take possession (Form 1)

An application pursuant to section 12A by an owner for the consent of the Commissioner for the taking of possession of goods the subject of a hire-purchase agreement shall be in the form of Form 1.

4. Application for relief on the grounds of sickness or unemployment (Form 2)

- (1) An application pursuant to section 36A for relief by reason of sickness or unemployment of a hirer against the consequences of a breach of a hire-purchase agreement shall be in the form of Form 2.
- (2) In considering an application referred to in subregulation (1) the commissioner shall have regard to —
 - (a) the likely duration of the sickness of the hirer;
 - (b) the likely duration of the period of unemployment of the hirer;
 - (c) the financial circumstances of the hirer;
 - (d) the effect that a refusal of relief under section 36A would have on the financial circumstances of the hirer;
 - (e) where the goods the subject of the hire-purchase agreement are necessary for the livelihood of the hirer, the effect a breach of the agreement would have on the financial circumstances of the hirer;
 - (f) the extent of the hirer's equity in the goods the subject of the hire-purchase agreement;
 - (g) the obligations of the hirer in the event of a breach of the hire-purchase agreement; and
 - (h) the consequences of a breach of the hire-purchase agreement for any guarantor of the hire-purchase agreement.
- (3) For the purpose of considering an application referred to in subregulation (1) the commissioner may require the hirer and any guarantor of the hire-purchase agreement to produce such information as the Commissioner considers necessary.

5. Explanation of hirer's rights to statutory rebate

The explanation of a hirer's right to a rebate of terms charges pursuant to section 11 on payment of the net balance due to the owner to be given to the hirer pursuant to the provisions of the First Schedule of the Act and to be printed in type known as 10 Point Roman capitals as specified therein is as follows: —

UNDER SECTION 11 OF THE ACT, THE HIRER UNDER A HIRE-PURCHASE AGREEMENT IS ENTITLED TO COMPLETE THE PURCHASE OF THE GOODS BY PAYING OR TENDERING TO THE OWNER THE NET BALANCE DUE TO THE OWNER UNDER THE AGREEMENT. WHEN DOING SO THE HIRER WILL BE ENTITLED TO A "STATUTORY REBATE" OF THE TERMS CHARGES, CALCULATED IN ACCORDANCE WITH THE DEFINITION OF THAT TERM IN SECTION 2 OF THE ACT AS FOLLOWS.

THE AMOUNT OF STATUTORY REBATE SHALL BE CALCULATED IN ACCORDANCE WITH THE FOLLOWING FORMULA —

$$\frac{C \times N \times (N + 1)}{T \times (T + 1)}$$

WHERE (IN EACH CASE)

"C" = THE AMOUNT OF TERMS CHARGES

"N" = THE NUMBER OF COMPLETE MONTHS OF THE AGREEMENT STILL TO GO

"T" = THE TOTAL NUMBER OF MONTHS IN THE AGREEMENT

INSTALMENTS IN THE EARLY STAGES OF REPAYMENT CONTAIN A LARGER PROPORTION OF THE TERMS CHARGES THAN INSTALMENTS PAID LATER ON TOWARDS THE COMPLETION OF AN AGREEMENT. THIS IS BECAUSE THE GREATER PART OF THE PRINCIPAL AMOUNT IS OWING IN THE EARLY STAGES OF AN AGREEMENT. THIS IS DEMONSTRATED IN THE FOLLOWING EXAMPLES WHERE, FOR EXAMPLE, \$260 TERMS CHARGES ARE INCLUDED IN AN AGREEMENT TO

BE PAID IN 12 MONTHS BUT THE AGREEMENT IS COMPLETELY PAID OFF WITH

- (A) 9 MONTHS STILL TO GO — $\frac{260 \times 9 \times 10}{12 \times 13} =$ \$150 REBATE
(PAY \$110
TERMS
CHARGES)
- (B) 6 MONTHS STILL TO GO — $\frac{260 \times 6 \times 7}{12 \times 13} =$ \$70 REBATE
(PAY \$190
TERMS
CHARGES)
- (C) 3 MONTHS STILL TO GO — $\frac{260 \times 3 \times 4}{12 \times 13} =$ \$20 REBATE
(PAY \$240
TERMS
CHARGES)

6. Infringement notices

- (1) The offences specified in Schedule 2 are offences for which an infringement notice may be issued under Part 2 of the *Criminal Procedure Act 2004*.
- (2) The modified penalty specified opposite an offence in Schedule 2 is the modified penalty for that offence for the purposes of section 5(3) of the *Criminal Procedure Act 2004*.
- (3) The Commissioner may, in writing, appoint persons or classes of persons to be authorised officers or approved officers for the purposes of Part 2 of the *Criminal Procedure Act 2004*.
- (4) The Commissioner is to issue to each authorised officer a certificate, badge or identity card identifying the officer as a person authorised to issue infringement notices.
- (5) For the purposes of the *Criminal Procedure Act 2004* —
 - (a) an infringement notice is to be in the form of Form 3; and
 - (b) a withdrawal of infringement notice is to be in the form of Form 4.

[Regulation 6 inserted in Gazette 22 Sep 2006 p. 4116.]

Schedule 1 — Forms

[r. 3, 4, 6]

[Heading inserted in Gazette 22 Sep 2006 p. 4116.]

Form 1

HIRE-PURCHASE ACT 1959

(Section 12A)

APPLICATION BY OWNER FOR CONSENT OF COMMISSIONER TO TAKE POSSESSION OF GOODS UNDER A HIRE-PURCHASE AGREEMENT WHEN 75% OF TOTAL AMOUNT PAYABLE HAS BEEN PAID

Commissioner for Consumer Protection,

.....
.....

Owner's name and address

Hirer's name and address

Guarantor's name and address (if applicable)

Short description of goods

Total Amount payable under agreement \$.....
Amount so far paid \$.....

Instalment arrangements under agreement

No. of Instalments	Frequency	Amount of each Instalment	Number of Instalments and date of last Instalment
.....
.....

Reasons for request

.....
.....

.....
Date

.....
Signature

NOTE: An owner aggrieved by a decision of the Commissioner not to give consent may apply to the State Administrative Tribunal for a review of the decision.

[Form 1 amended in Gazette 30 Dec 2004 p. 6922.]

Form 2

HIRE-PURCHASE ACT 1959

(Section 36A)

APPLICATION FOR RELIEF AGAINST THE CONSEQUENCES OF
BREACH OF A HIRE-PURCHASE AGREEMENT BY REASON OF
SICKNESS OR UNEMPLOYMENT

To COMMISSIONER FOR CONSUMER PROTECTION,
.....

I/We
(full name in block letters)

of
(full postal address)

Telephone No. *apply for relief

with respect to moneys due and payable under a hire-purchase agreement with
.....
(full name and address of owner)

because of sickness/unemployment the details of which are set out hereunder.

Details of Hire-Purchase Agreement (attach copy).

Short description of goods.....

Details of instalments

Last payment made on the day of
20..... Amount \$

Next payment due on the day of
20..... Amount \$

Remaining payments to be made —

Number	Amounts	Frequency

Name and address of guarantor (if applicable)

.....

* State what relief is sought

*** SICKNESS**

- (i) I ceased work on the day of 20.....
- (ii) Give details of sickness and likely duration
-
-
- (iii) My employer is
-
- (full name and address)
- (iv) I registered for sickness benefit with the Department of Social Security at
- on the day of 20.....
- (v) Give details of any other application for sickness benefits
-
-
- (vi) Give details of any benefits being received
-
-

*** UNEMPLOYMENT**

- (i) I am unemployed and have been from the day of
- 20.....
- (ii) My employer was
-
- (full name and address)

(iii) I registered for unemployment benefits with the Commonwealth Employment Service at on the day of 20.....

(iv) The details of unemployment benefits being received by me are as follows

(* Complete whichever is applicable.)

Financial position and income of applicant

Financial commitments of applicant

Details of family

Table with 5 columns: Name, Husband, wife, de facto partner or child, Age, Whether financially dependent upon applicant, Weekly income

If the default is due to sickness what is the likely duration of the sickness?

If the default is due to unemployment what is the likely duration of the unemployment?

What effect would a refusal of relief have on your financial circumstances?

Are the goods the subject of the hire-purchase agreement necessary for your livelihood?

If the goods the subject of the hire-purchase agreement are necessary for your livelihood what effect would a breach of the agreement have on your financial circumstances?

What is the extent of your equity in the goods the subject of the hire-purchase agreement?

What obligations would arise in the event of a breach of the hire-purchase agreement?

What would be the consequences of a breach of the hire-purchase agreement for any guarantor of the hire-purchase agreement?

.....
Date Signature

NOTE:

1. A copy of this application must be served on the owner and every guarantor.
2. The decision of the Commissioner has effect according to its terms and where relief is granted the hire-purchase agreement and any contract of guarantee relating to it are varied to the extent necessary.
3. A grant or refusal of relief by the Commissioner shall be by instrument in writing signed by him and served on the hirer, owner and every guarantor.
4. An owner, hirer or guarantor aggrieved by the decision of the Commissioner may apply to the State Administrative Tribunal for a review of the decision.

[Form 2 amended in Gazette 30 Jun 2003 p. 2604; 30 Dec 2004 p. 6922.]

Form 3

<i>Hire-Purchase Act 1959</i>		Infringement notice no.
Infringement notice		
Alleged offender	Name: Family name _____	
	Given names _____	
	or Company name _____	
	ACN _____	
Address _____		Postcode _____
Alleged offence	Description of offence _____	
	<i>Hire-Purchase Act 1959 s.</i> _____	
	Date _____ / _____ /20	Time _____ a.m./p.m.
	Modified penalty \$ _____	
Officer issuing notice	Name _____	
	Signature _____	
	Office _____	
Date	Date of notice _____ / _____ /20	
Notice to alleged offender	<p>It is alleged that you have committed the above offence. If you do not want to be prosecuted in court for the offence, pay the modified penalty within 28 days after the date of this notice.</p> <p>How to pay</p> <p>By post: Send a cheque or money order (payable to 'Approved Officer — <i>Hire-Purchase Act 1959</i>') to: Approved Officer — <i>Hire-Purchase Act 1959</i> Department of Consumer and Employment Protection ² Locked Bag 14 Cloisters Square Perth WA 6850</p> <p>In person: Pay the cashier at: Department of Consumer and Employment Protection ² 219 St George's Terrace, Perth WA</p> <p>If you do not pay the modified penalty within 28 days, you may be prosecuted or enforcement action may be taken under the <i>Fines, Penalties and Infringement Notices Enforcement Act 1994</i>. Under that Act your driver's licence and/or vehicle licence may be suspended.</p> <p>If you need more time to pay the modified penalty, you can apply for an extension of time by writing to the Approved Officer at the above postal address.</p> <p>If you want this matter to be dealt with by prosecution in court, sign here _____ and post this notice to the Approved Officer at the above postal address within 28 days after the date of this notice.</p>	

[Form 3 inserted in Gazette 22 Sep 2006 p. 4117.]

<i>Hire-Purchase Act 1959</i>		Withdrawal no.
Withdrawal of infringement notice		
Alleged offender	Name: Family name _____	
	Given names _____	
	or Company name _____	
	ACN _____	
Address _____		Postcode _____
Infringement notice	Infringement notice no. _____	
	Date of issue / /20	
Alleged offence	Description of offence _____	
	<i>Hire-Purchase Act 1959 s.</i> _____	
	Date / /20	Time a.m./p.m.
Officer withdrawing notice	Name _____	
	Signature _____	
	Office _____	
Date	Date of withdrawal / /20	
Withdrawal of infringement notice	The above infringement notice issued against you has been withdrawn.	
	If you have already paid the modified penalty for the alleged offence you are entitled to a refund. * Your refund is enclosed. <i>or</i> * If you have paid the modified penalty but a refund is not enclosed, to claim your refund sign this notice and post it to: Approved Officer — <i>Hire-Purchase Act 1959</i> Department of Consumer and Employment Protection ² Locked Bag 14 Cloisters Square Perth WA 6850	
<i>[*delete whichever is not applicable]</i>	Signature _____ / /20	

[Form 4 inserted in Gazette 22 Sep 2006 p. 4117-18.]

Schedule 2 — Prescribed offences and modified penalties

[r. 6]

[Heading inserted in Gazette 22 Sep 2006 p. 4118.]

Offences under <i>Hire-Purchase Act 1959</i>	Modified penalty
s. 3 Entering into contract not containing required provisions or not complying with requirements as to form	\$1 000

[Schedule 2 inserted in Gazette 22 Sep 2006 p. 4118.]

Notes

- ¹ This reprint is a compilation as at 22 January 2009 of the *Hire-Purchase (General) Regulations 1975* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

Compilation table

Citation	Gazettal	Commencement
<i>Hire-Purchase (General) Regulations 1975</i>	30 Jan 1975 p. 235-9	30 Jan 1975
<i>Equality of Status Subsidiary Legislation Amendment Regulations 2003</i> Pt. 14	30 Jun 2003 p. 2581-638	1 Jul 2003 (see r. 2 and <i>Gazette</i> 30 Jun 2003 p. 2579)
Reprint 1: The Hire-Purchase (General) Regulations 1975 as at 5 Dec 2003 (includes amendments listed above)		
<i>Hire-Purchase (General) Amendment Regulations 2004</i>	30 Dec 2004 p. 6922	1 Jan 2005 (see r. 2 and <i>Gazette</i> 31 Dec 2004 p. 7130)
<i>Hire-Purchase (General) Amendment Regulations 2006</i>	22 Sep 2006 p. 4115-18	22 Sep 2006 (see r. 2(a))
Reprint 2: The Hire-Purchase (General) Regulations 1975 as at 23 Jan 2009 (includes amendments listed above)		

- ² Under the *Public Sector Management Act 1994* the names of departments may be changed. At the time of this reprint the former Department of Consumer and Employment Protection is called the Department of Commerce.

Defined Terms

*[This is a list of terms defined and the provisions where they are defined.
The list is not part of the law.]*

Defined Term	Provision(s)
Form.....	2
section	2