

HIRE-PURCHASE (No. 2).

No. 88 of 1980.

AN ACT to amend section 3 of the Hire-Purchase Act 1959-1976.

[Assented to 9 December 1980.]

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:—

1. (1) This Act may be cited as the *Hire-Purchase Amendment Act (No. 2) 1980*.

Short title and citation.

(2) In this Act the Hire Purchase Act 1959-1976 is referred to as the principal Act.

Reprinted as approved 3 December 1975 and amended by Act No. 82 of 1976.

(3) The principal Act as amended by this Act may be cited as the Hire-Purchase Act 1959-1980.

2. This Act shall come into operation on a day to be fixed by proclamation.

Commencement.

Section 3
amended.

3. Section 3 of the principal Act is amended—

- (a) by inserting after subsection (1) the following subsections—

“ (1a) A dealer shall not deliver, or cause or permit to be delivered, to a prospective owner any offer by or on behalf of a prospective hirer unless that offer—

(a) is made in writing; and

(b) was signed by the prospective hirer or a person authorized by him and on his behalf, after the dealer had given, or caused to be given, to the prospective hirer or that authorized person a statement in writing duly completed in accordance with the form in the First Part of the First Schedule.

(1b) It is a defence to a charge arising under subsection (1) or subsection (1a) of this section if the defendant proves that he acted honestly and that in all the circumstances the act or omission constituting the offence should be excused. ”;

- (b) in subsection (3), by adding at the end of the subsection the following—

“ Penalty: Five thousand dollars. ”;

- (c) in subsection (4), by inserting after “against this section,” the following—

“ but subject to subsection (4a) of this section, ”;

and

(d) by inserting after subsection (4) the following subsections—

“ (4a) Where a hirer alleges that the provisions of subsection (4) of this section apply, but the owner alleges that he acted honestly and that in all the circumstances the act or omission constituting a failure to comply with a provision of this section ought to be excused and that the provisions of subsection (4) of this section ought not to apply to or in relation to the hire-purchase agreement, the owner, by an application in writing to the Commissioner, a copy whereof is served on the hirer and every guarantor, may claim relief against the consequences of that act or omission.

(4b) All the duties and powers conferred by this section in relation to an application under subsection (4a) of this section upon the Commissioner devolve upon and are exercisable also by the Deputy Commissioner, and in respect of any such application any reference to the Commissioner in or in relation to this section shall be deemed also to be a reference to the Deputy Commissioner.

(4c) On an application to the Commissioner under subsection (4a) of this section, the Commissioner, after considering any submissions made by or on behalf of—

- (a) the owner;
- (b) guarantors; and
- (c) the hirer,

may grant the relief claimed upon such terms and conditions as will, in the opinion of the Commissioner, do justice

between the parties to the agreement and the parties to any contract of guarantee relating to the agreement.

(4d) In granting relief in respect of an application made under subsection (4a) of this section the Commissioner shall have regard to the extent to which the hirer was, or was not, prejudiced by the act or omission relied on by the hirer as constituting a failure to comply with a provision of this section.

(4e) A grant or refusal of relief by the Commissioner in respect of an application made under subsection (4a) of this section shall be by instrument in writing signed by him and served on the hirer, the owner, and every guarantor.

(4f) Subject to any order of a Local Court under subsection (4h) of this section, a decision of the Commissioner in respect of an application made under subsection (4a) of this section has effect according to its terms and, where relief is granted thereby, the operation of subsection (4) of this section, the hire-purchase agreement and any contract of guarantee relating to it are by virtue of this subsection varied to the extent necessary and as so varied are binding on the parties thereto.

(4g) An owner, hirer, or guarantor, who is a party to a hire-purchase agreement, or a contract of guarantee relating to it, in respect of which a decision has been given by the Commissioner in respect of an application made under subsection (4a) of this section and who is aggrieved thereby, may, within the period of seven days from the date of

service on him of the decision, apply to a Local Court for the decision to be varied or set aside.

(4h) On an application to a Local Court under subsection (4g) of this section the court may by order confirm, vary, or set aside the decision of the Commissioner.

(4j) There is no appeal against an order of a Local Court made under subsection (4h) of this section, and the order has effect according to its terms and, where relief is granted thereby, the operation of subsection (4) of this section, the hire-purchase agreement and any contract of guarantee relating to it are by virtue of this subsection varied to the extent necessary and as so varied are binding on the parties thereto. ” .
