

Approved for Reprint 26th April, 1974.

WESTERN AUSTRALIA.

DOOR TO DOOR (SALES).

13° Elizabeth II., No. CVII.

No. 107 of 1964.¹

(Affected by Act No. 113 of 1965.)

[As amended by Act:

No. 98 of 1973, assented to 27th December, 1973,
and reprinted pursuant to the Amendments Incorporation Act,
1938.]

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

[Assented to 23rd December, 1964.]

BE it enacted—

1. (1) This Act may be cited as the *Door to Door
(Sales) Act, 1964-1973.*

Short title.
Amended by
No. 98 of
1973, s. 1.
Cf. Act No.
7091.
(Victoria.)
Commence-
ment.

(2) This Act shall come into operation on a date
to be fixed by proclamation.¹

¹ Came into operation on 20th April, 1965. See *Gazette* 2/4/65, p. 945.

Interpre-
tation.Amended by
No. 98 of
1973, s. 2.

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

“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—

- (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;

“dealer” in relation to a credit purchase agreement means a person, not being the vendor under the agreement or an agent or servant of the vendor, by whom or on whose behalf any negotiation, transaction or dealing leading to the entering into or making of the agreement is carried on or arranged, and includes the servant or agent of that person;

“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;

“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;¹

¹ Now Stamp Act, 1921-1973.

“permitted hours” means—

- (a) the period between the hours of half past eight o'clock in the forenoon and noon on any day other than a Sunday or public holiday; and
- (b) the period between the hours of noon and half past five o'clock in the afternoon on any day other than a Saturday, Sunday or public holiday;

“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” in relation to a credit purchase agreement means the person by whom or on whose behalf goods are bailed or sold under the agreement, and includes the servant or agent of that person.

(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.

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

Credit purchase agreement to be in writing, etc. Amended by No.98 of 1973, s. 3.

or at any technical school the agreement shall be unenforceable 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 or dealer 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.

Credit purchase agreements to be made during certain hours.
Added by No. 98 of 1973, s. 4.

3A. Notwithstanding that the requirements of section three of this Act are complied with in relation to a credit purchase agreement made at the place of residence of the purchaser or bailee, that agreement shall be unenforceable unless it is made—

- (a) during the permitted hours;
- (b) in the course of an uninterrupted negotiation that commenced during the permitted hours; or
- (c) in the course of a negotiation that takes place as a result of the purchaser making an unsolicited request that the vendor or dealer should call at his residence for the purpose of entering into that negotiation or continuing a negotiation entered into within permitted hours.

Power to terminate certain credit purchase agreements.
Amended by No. 98 of 1973, s. 5.

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 section three of this Act 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 section four of this Act 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.

Rights and obligations of parties where agreement terminated or unenforceable. Repealed and re-enacted by No. 93 of 1973, s. 6.

(2) If a vendor or dealer has accepted or received from a purchaser or bailee any moneys or other property—

- (a) under or in relation to a credit purchase agreement that is, pursuant to section three or section three A of this Act, unenforceable; or
- (b) under or in relation to a credit purchase agreement that is terminated pursuant to section four of this Act,

the purchaser or bailee may demand that the vendor or dealer, as the case may be,—

- (c) repay or redeliver the moneys or other property to him; or
- (d) in the case of property other than money, pay to him an amount equivalent to the monetary value of the property as at the time it was accepted or received by the vendor or dealer, as the case may be,

and may sue for and recover the money, property or amount so demanded.

(3) If goods have been delivered to a purchaser or bailee by a vendor or dealer—

- (a) under a credit purchase agreement that is, pursuant to section three or section three A of this Act, unenforceable; or
- (b) under a credit purchase agreement that is terminated pursuant to section four of this Act whether those goods were so delivered before or after the agreement was so terminated,

the purchaser or bailee—

- (c) shall deliver up those goods to the vendor or dealer at the place where those goods were delivered to him upon demand by the vendor or dealer; and
- (d) shall be liable to pay compensation to the vendor for any damage done to the goods whilst the goods have been in his custody other than damage arising from the normal use of the goods or loss or damage arising from circumstances beyond his control,

and the goods so demanded, or that compensation, or both, may be sued for and recovered by the vendor.

(4) A vendor or dealer who fails to repay or redeliver any moneys, or property, or to pay any amount, when demanded to do so pursuant to subsection (2) of this section is guilty of an offence and, without prejudice to the right of the purchaser or bailee to recover the moneys, property or amount by action in a court of competent jurisdiction, liable to a penalty of not more than two hundred dollars.

(5) A purchaser or bailee who, without reasonable excuse, fails to deliver up any goods when demanded to do so pursuant to subsection (3) of this section is guilty of an offence and, without prejudice to the right of the vendor to recover the goods or compensation for their loss by action in a court of competent jurisdiction, liable to a penalty of not more than two hundred dollars.

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 or dealer 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.

Act not to be applicable to agreements initiated at the request of the purchaser or bailee.
Amended by No. 98 of 1973, s. 7.

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—

Avoidance of certain provisions.
Amended by No. 113 of 1965, s. 8; No. 98 of 1973, s. 8.
See Act No. 58 of 1959, s. 28.

- (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 or at any particular time or on any particular day;

- (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, dealer and every person who acts on behalf of the vendor in connection with or in the course of any negotiation, transaction or dealing leading to the making of the agreement is guilty of an offence against this Act.

Penalty: Four hundred dollars.

7A. (1) Any person who at any time other than a time during the permitted hours calls at, enters or attempts to enter the place of residence of another person—

Door to door selling prohibited during certain hours.
Added by No. 98 of 1973 s. 9.

- (a) for the purpose of—

- (i) soliciting an offer to enter into a credit purchase agreement; or
- (ii) taking part in any negotiation, transaction or dealing relating to, or intended to lead to the making of a credit purchase agreement; or

- (b) for the purpose of—

- (i) selling or bailing or offering to sell or bail any goods;
- (ii) displaying or exhibiting any goods which are available for sale or bailment or providing any information relating to any such goods; or
- (iii) taking orders for goods or requests for the demonstration or delivery on approval of goods,

shall be guilty of an offence against this Act.

Penalty: Two hundred dollars.

(2) In proceedings for an offence against subsection (1) of this section it is a defence for the defendant to prove that he called at, entered or attempted to enter the residence at which the offence is alleged to have taken place as a result of an unsolicited request that he should do so made by a person who resided there.

Regulations.
Amended by
No. 113 of
1965, s. 8.

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 one hundred dollars 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 of19..... to purchase (or hire)
.....
(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

‡ 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.

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.

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.
