

Approved for Reprint 13 March 1981.

Door to Door (Sales) Act 1964-1980.

ARRANGEMENT.

Section.

1. Short title and commencement.
2. Interpretation.
3. Credit purchase agreement to be in writing, etc.
- 3A. Credit purchase agreements to be made during certain hours.
4. Power to terminate certain credit purchase agreements.
- 4A. Confirmation of agreement.
5. Rights and obligations of parties where agreement terminated or unenforceable.
6. Act not to be applicable to agreements initiated at the request of the purchaser or bailee.
7. Avoidance of certain provisions.
- 7A. Door to door selling prohibited during certain hours.
- 7B. Identification card to be carried and shown.
8. Regulations.

Schedules.

- First Schedule.
 - Second Schedule.
-

Approved for Reprint 13 March 1981.

WESTERN AUSTRALIA.

DOOR TO DOOR (SALES).

13° Elizabeth II., No. CVII.

No. 107 of 1964¹

(Affected by Act No. 113 of 1965.)

[As amended by Acts:

No. 98 of 1973, assented to 27 December 1973;

No. 68 of 1975,² assented to 7 November 1975;

No. 49 of 1980,³ assented to 19 November 1980,

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 23 December 1964.]

BE it enacted—

1. (1) This Act may be cited as the *Door to Door (Sales) Act 1964-1980*.

Short title and commencement.
Amended by No. 49 of 1980, s. 1.
Cf. Act No. 7091. (Victoria.)

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

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

² Came into operation on 19 December 1975; See *Gazette* 19/12/75, p. 4564.

³ Came into operation on 1 January 1981; See *Gazette* 24/12/80, p. 4350.

Interpretation.
Amended by No.
98 of 1973, s. 2;
No. 68 of 1975, s.
3.

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

“agreement to which this Act applies” means any agreement for or with respect to the sale or bailment of goods or the provision of services 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 goods are sold or bailed or agreed to be sold or bailed, or services are provided or agreed to be provided, in the course of or for the purpose of a trade or business carried on by the purchaser or bailee;
- (d) any agreement under which the total consideration payable is less than twenty dollars or such other higher amount as is prescribed;

“credit purchase agreement” means any agreement to which this Act applies 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 or is payable not later than the end of the month next following the month in which the agreement is made;

“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;

“exempted goods” means—

- (a) flowers or things of a perishable nature; or
- (b) any goods, or the goods included in any class or description of goods, for the time being declared pursuant to subsection (3) of this section to be exempted goods for the purposes of this Act;

“exempted institution” means a religious or charitable institution, society, body or association for the time being declared pursuant to subsection (4) of this section to be an exempted institution for the purposes of this Act;

“exempted services” means any services, or the services included in any class or description of services, for the time being declared pursuant to subsection (3) of this section to be exempted services for the purposes of this Act;

“goods” includes anything that is the subject of trade, manufacture or merchandise but (except in section seven A of this Act) does not include exempted goods;

“hiring agreement” means any agreement for the letting of goods but does not include a hire-purchase agreement, or rental agreement, within the meaning of Part IVC of the Stamp Act 1921;

“permitted hours” means—

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

Door to Door (Sales) Act 1964-1980.

“services” means services provided for fee or reward by a person in the carrying on of an industrial, commercial, business, profitmaking, or remunerative undertaking but (except in section seven A of this Act) does not include exempted services;

“the bailee” in relation to any agreement means the person to whom goods are bailed or agreed to be bailed under the agreement;

“the purchaser” in relation to any agreement means the person to whom goods are sold or agreed to be sold, or to whom services are provided or agreed to be provided, 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 or agreed to be bailed or sold, or by whom or on whose behalf services are provided, or agreed to be provided, 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) The Minister may by notice published in the *Government Gazette* declare any goods or services or class or description of goods or class or description of services to be exempted goods or exempted services (as the case may require) for the purposes of this Act and may by notice so published revoke or vary any such declaration.

(4) The Minister may by notice published in the *Government Gazette* declare any religious or charitable institution, body, society or association to be an exempted institution for the purposes of this Act and may by notice so published revoke or vary any such declaration.

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

Credit purchase agreement to be in writing, etc. Amended by No. 98 of 1973, s. 3; No. 68 of 1975, s. 4; No. 49 of 1980, s. 3.

- (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 First 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.

(2) A vendor or dealer who fails to give to the purchaser or bailee (as the case may be) a statement in the form of the First Schedule to this Act duly completed by the vendor or dealer in accordance with the instructions contained in the said Schedule at the time at which a credit purchase agreement is made by the purchaser or bailee at the place of residence of the purchaser or bailee is guilty of an offence against this Act.

Penalty: One thousand dollars.

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—

Credit purchase agreements to be made during certain hours. Inserted by No. 98 of 1973, s. 4. Amended by No. 68 of 1975, s. 5.

- (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 a request that the vendor or dealer should

Door to Door (Sales) Act 1964-1980.

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; No. 68 of 1975, s. 6.

4. (1) Where a credit purchase agreement is made by the purchaser or bailee at his place of residence 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 to that statement.

(2) Notice pursuant to the last preceding subsection may be given by delivering it personally to the address shown in the Appendix referred to in that subsection 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.

Confirmation of agreement.
Inserted by No. 68 of 1975, s. 7.

4A. (1) At any time after the day on which a credit purchase agreement is made at the place of residence of the purchaser or bailee, the vendor or dealer may post to the purchaser or bailee a statement in the form of the Second Schedule to this Act together with, if the person posting the statement thinks fit, an explanatory letter in or to the effect of a form prescribed for that purpose.

(2) Subject to subsection (3) of this section, where a statement is posted to a purchaser or bailee pursuant to and in accordance with subsection (1) of this section and the purchaser or bailee confirms the credit purchase agreement by completing and posting a notice in or to the effect of the notice set out in the Appendix to that statement to the address shown in that Appendix, the purchaser or bailee shall not thereafter be entitled under section four of this Act to terminate the agreement.

(3) If, at any time after a credit purchase agreement has been made at the place of residence of the purchaser or bailee, the vendor or dealer contacts the purchaser or bailee in any manner (other than by posting a statement, or a statement with an explanatory letter, pursuant to and in accordance with subsection (1) of this section) to suggest that the purchaser or bailee confirm the credit purchase agreement, the provisions of subsection (2) of this section do not apply.

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. Substituted by No. 98 of 1973, s. 6. Amended by No. 65 of 1975, s. 8; No. 49 of 1980, s. 4.

(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.

(2a) If a vendor has provided services under a credit purchase agreement prior to the termination of that agreement pursuant to section four of this

Door to Door (Sales) Act 1964-1980.

Act he shall be entitled to make a reasonable charge for those services and may sue for and recover such a charge.

(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 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, without reasonable excuse, 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 five 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 five hundred dollars.

6. Nothing in this Act shall render a credit purchase agreement unenforceable or authorize the termination of any such agreement if it is proved that the agreement was made at the residence of the purchaser or bailee as a result of a request made by the purchaser or bailee to the vendor or dealer to attend at his place of residence 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; No. 68 of 1975, s. 9.

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

Door to Door (Sales) Act 1964-1980.

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 authorized 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—

(a) for the purpose of—

- (i) soliciting an offer to enter into an agreement to which this Act applies; or

- (ii) taking part in any negotiation, transaction or dealing relating to, or intended to lead to, the making of an agreement to which this Act applies; 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;

Door to door selling prohibited during certain hours.

Inserted by No. 98 of 1973, s. 9.

Substituted by No. 68 of 1975, s. 10.

Amended by No. 49 of 1980, s. 5.

Door to Door (Sales) Act 1964-1980.

- (iii) taking orders for goods or requests for the demonstration or delivery on approval of goods;
- (iv) providing or offering to provide any services;
- (v) demonstrating any services that he can provide or for which he will take orders; or
- (vi) taking orders for services or requests for the demonstration of services,

is guilty of an offence against this Act unless—

- (c) he is the holder of a licence under the Charitable Collections Act 1946;
- (d) he is acting on behalf of and with the authority of the holder of a licence under the Charitable Collections Act 1946;
- (e) he is acting on behalf of and with the authority of an exempted institution; or
- (f) he called at, entered or attempted to enter that place of residence as a result of a request that he should do so made by a person who resided there.

Penalty: Five hundred dollars.

(2) In this section “goods” includes exempted goods and “services” includes exempted services.

Identification card to be carried and shown.
 Inserted by No. 68 of 1975, s. 11.
 Amended by No. 49 of 1980, s. 6.

7B. (1) This section applies in any case where a person (in this section referred to as “the caller”) calls at or enters the place of residence of another person (in this section referred to as “the resident”) for the purpose of—

- (a) soliciting an offer to enter into an agreement to which this Act applies; or

- (b) taking part in any negotiation, transaction or dealing relating to, or intended to lead to, the making of an agreement to which this Act applies.

(2) The caller shall carry a card (in this section referred to as "the identification card") measuring not less than seventy-five millimetres by forty-five millimetres, separate from any agreement to which this Act applies, and which clearly shows his full name and full business address and the full name and full business address of the person (if any) on whose behalf he is acting.

(3) The caller shall produce the identification card to the resident immediately upon calling at or entering the place of residence and at any time thereafter when so requested by the resident.

(4) If whilst the caller is at or in the place of residence the resident enters into or offers to enter into an agreement to which this Act applies the caller shall leave the identification card with the resident.

(5) Where the caller fails to comply with the provisions of subsection (3) or (4) of this section he is guilty of an offence against this Act unless he called at or entered the place of residence as a result of a request that he should do so made by the resident.

Penalty: Five hundred dollars.

8. (1) The Governor may make regulations prescribing any matter which by this Act is required or permitted to be prescribed and may make such other regulations as are, in his opinion, necessary or convenient for carrying this Act into effect.

(2) Regulations made under subsection (1) of this section may impose penalties not exceeding one hundred dollars for offences against the regulations.

Door to Door (Sales) Act 1964-1980.

Heading substituted by No. 68 of 1975, s. 13.

First Schedule amended by No. 68 of 1975, s. 14.

SCHEDULES.

FIRST 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..... with respect to† by (Insert concise description of goods or services)

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 statement 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 OF TERMINATION.

To..... (Insert name and address of vendor)

Take notice that I hereby terminate the agreement made by me with respect to the abovementioned goods or services 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.

SECOND SCHEDULE.

Second Schedule
Inserted by
No. 68 of 1975,
s. 15.

STATEMENT.

To.....
(Insert name and address of purchaser or bailee.)

You may, by completing a notice in the form of the Appendix to this statement and posting it to the address shown in that Appendix, confirm the agreement made by you on the day of 19..... with respect to
(Insert concise description of goods or services.)

Under the Door to Door (Sales) Act 1964 (as amended) you also have the right to terminate the agreement within seven days of its making.

If you did not receive a statement of your rights to terminate the agreement at the time you made the agreement you should seek advice.

NOTE.—If you complete and post a notice in the form of the Appendix to this statement you will lose any rights you may have had under the Door to Door (Sales) Act 1964 (as amended) to terminate the agreement.

APPENDIX.

NOTICE OF CONFIRMATION.

To.....
(Insert name and address of person who has sent statement.)

Take notice that I hereby confirm the agreement made by me on the day of 19..... with respect to
(Insert concise description of goods or services.)

I understand that in completing and posting this notice I lose any rights that I might have to terminate the agreement under section four of the Door to Door (Sales) Act 1964 (as amended).

Dated this day of 19.....

*(Signed)

*To be signed by the purchaser or bailee.

