

Western Australia

## **Hire-Purchase (General) Regulations 1975**

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## **Hire-Purchase (General) Regulations 1975**

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## **Hire-Purchase (General) Regulations 1975**

**1. Citation**

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

**2. Interpretation**

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

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.
<b>Infringement notice</b>		
<b>Alleged offender</b>	Name: Family name	
	Given names	
	or Company name	ACN
	Address	Postcode

<b>Alleged offence</b>	Description of offence _____
	<i>Hire-Purchase Act 1959 s.</i>
	Date            /            /20                      Time                      a.m./p.m.
	Modified penalty \$
<b>Officer issuing notice</b>	Name
	Signature
	Office
<b>Date</b>	Date of notice            /            /20
<b>Notice to alleged offender</b>	<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><b>How to pay</b></p> <p><b>By post:</b> 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              Locked Bag 14 Cloisters Square              Perth WA 6850</p> <p><b>In person:</b> Pay the cashier at:              Department of Consumer and Employment Protection              219 St George's Terrace, Perth WA</p> <p><b>If you do not pay</b> 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><b>If you need more time</b> 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><b>If you want this matter to be dealt with by prosecution in court</b>, 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.]

Form 4

<i>Hire-Purchase Act 1959</i>		Withdrawal no.
<b>Withdrawal of infringement notice</b>		
<b>Alleged offender</b>	Name: Family name	
	Given names	

	or Company name _____ ACN _____
	Address _____ Postcode _____
<b>Infringement notice</b>	Infringement notice no. _____ Date of issue     /     /20
<b>Alleged offence</b>	Description of offence _____ <i>Hire-Purchase Act 1959 s.</i> Date     /     /20                      Time     a.m./p.m.
<b>Officer withdrawing notice</b>	Name _____ Signature _____ Office _____
<b>Date</b>	Date of withdrawal     /     /20
<b>Withdrawal of infringement notice</b>  [*delete whichever is not applicable]	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 Locked Bag 14 Cloisters Square Perth WA 6850 Signature _____ /     /20

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

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

**Schedule 2 — Prescribed offences and modified penalties**

[r. 6]

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

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

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



**Notes**

- <sup>1</sup> This is a compilation 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**

<b>Citation</b>	<b>Gazettal</b>	<b>Commencement</b>
<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)
<b>Reprint 1: The <i>Hire-Purchase (General) Regulations 1975</i> as at 5 Dec 2003</b> (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))