

HIRE - PURCHASE.

No. 37 of 1980.

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

[Assented to 5 November 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 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.

Commence-
ment.

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

Section 2
amended.

3. Section 2 of the principal Act is amended in subsection (1)—

- (a) by deleting the definition of “Commissioner” and substituting the following definition—

“ “Commissioner” means the Commissioner for Consumer Affairs appointed under section fifteen of the Consumer Affairs Act 1971; ” ;

and

- (b) by inserting, in their appropriate alphabetical positions, the following definitions—

“ “default charge” in relation to an agreement means such amount as, subject to any relief granted under section thirty-six A of this Act, is payable under the agreement by the hirer where he fails to fulfil his obligations under the agreement;

“Deputy Commissioner” means the person holding or acting in the office of Deputy Commissioner for Consumer Affairs under the Public Service Act 1978; ” .

Section 3
amended.

4. Section 3 of the principal Act is amended in paragraph (e) of subsection (2)—

- (a) as to subparagraph (vii), by deleting “in the agreement to be called” and substituting the following—

“ in this Act called and in the agreement to be described as ” ;

- (b) by inserting, after subparagraph (vii), the following subparagraph—

“ (viiia) any amount included in the total amount payable to cover duty chargeable under the Stamp Act 1921 in respect of the agreement or a security relating to the agreement (in this Act called and in the agreement to be described as “stamp duty”); ” ;

and

- (c) as to subparagraph (viii), by deleting “(vi) and (vii)” and substituting the following—

“ (vi), (vii) and (viiia) ” .

5. Section 7 of the principal Act is amended in subsection (1)— Section 7 amended.

- (a) by deleting “request in writing” and substituting the following—

“ request, whether in writing or otherwise, ” ;

- (b) by deleting paragraphs (a), (b), and (c) and substituting the following paragraphs—

“ (a) each amount received under the agreement by the owner and the date on which it was received;

(b) each amount due under the agreement and payable to the owner that has not been received by the owner and the date on which it became due; and

(c) each amount payable under the agreement to the owner that has not become due and the date on which it becomes due, ” ;

and

(c) by deleting "agreement and a statement" and substituting the following—

" agreement and such a statement " .

Section 11
amended.

6. (1) Section 11 of the principal Act is amended in subsection (1) by deleting "in writing".

(2) Section 11 of the principal Act is amended—

(a) in subsection (1), by deleting "before the day specified for that purpose in the notice," and substituting the following—

" before—

(a) where a day is specified for that purpose in the notice, that day; or

(b) where no day is specified for that purpose in the notice, the day preceding the day on which the next instalment becomes due after the receipt, by or on behalf of the owner, of that notice, " ;

and

(b) by inserting after subsection (2) the following subsections—

" (2a) Where a hirer gives notice of his intention to complete the purchase of the goods under subsection (1) of this section, and in, or at the time of giving, that notice requests the owner to furnish him with particulars of the net balance due to the owner under the agreement to complete the purchase of the goods in accordance with that notice, the owner shall furnish him with a statement setting out particulars of the net balance due showing the amounts by reference to which the net balance due is to be calculated under subsection (2) of this

section as at the day specified pursuant to paragraph (a) of that subsection or on which, pursuant to paragraph (b) of that subsection, the notice has effect.

(2b) A person who, in furnishing the particulars required by or for the purposes of subsection (2a) of this section—

- (a) makes or authorizes the making of a statement that is false or misleading in a material particular; or
- (b) omits or authorizes the omission of any matter or thing without which the particulars are misleading in a material respect,

without having taken all reasonable steps to ensure that the statement was not false or misleading or to ensure that the particulars did not omit any matter or thing without which the particulars would be misleading, as the case may be, commits an offence against this Act.

(2c) A person who fails or refuses to comply with a request made under subsection (2a) of this section commits an offence against this Act. ” .

7. Section 18 of the principal Act is amended by repealing subsection (10) and substituting the following subsection—

Section 18
amended.

“ (10) For the purposes of subsection (9) of this section and in relation to persons and matters affected thereby the Director of the Department for Community Welfare may by writing signed by him delegate the power of approval conferred by that subsection to any

other officer of that Department, and a person to whom that power is so delegated—

- (a) may exercise the power in the same manner and with the same effect as if the power were directly conferred upon him by this Act and not by delegation; and
- (b) is presumed to exercise the power in accordance with the terms of the delegation in the absence of proof to the contrary,

but any such delegation may be revoked wholly or partly by the Director of the Department for Community Welfare at any time and does not prevent the Director from exercising the power. ” .

Section 23J
amended.

8. Section 23J of the principal Act is amended by deleting “Public Service Act, 1904” and substituting the following—

“ Public Service Act 1978 ” .

Section 32
amended.

9. Section 32 of the principal Act is amended by deleting “one thousand dollars” and substituting the following—

“ five thousand dollars ” .

Section 36A
amended.

10. (1) Section 36A of the principal Act is amended by inserting after subsection (1) the following subsection—

“ (1a) All the duties and powers conferred by this section upon the Commissioner devolve upon and are exercisable also by the Deputy Commissioner, and on and after the coming into operation of the Hire-Purchase Amendment Act 1980 any reference to the Commissioner in or

in relation to this section shall be deemed also to be a reference to the Deputy Commissioner. ” .

(2) Section 36A of the principal Act is amended by inserting after subsection (2) the following subsections—

“ (2a) Relief granted under this section may include a provision, where so requested at the time the application for relief is being considered by the Commissioner, authorizing the owner, in lieu of recovering the payment of any sum (whether or not it is described in the agreement as interest) in respect of any amount due under the agreement but not paid, to make a deferral charge in relation to any period in respect of which relief is granted of an amount—

- (a) which is approved by, and specified in the order made by, the Commissioner; and
- (b) which does not exceed the additional amount that would have been payable under the agreement had the agreement been entered into for the period as extended by the relief granted together with any insurance, agreement registration fees, and stamp duty that is payable in respect of a contract arising out of, and in relation to, the relief granted.

(2b) Where an owner makes a charge authorized by the Commissioner in respect of the deferral in accordance with this section of the payment of an amount payable under the agreement, a default charge is not payable to the owner by the hirer in respect of the amount deferred. ” .

11. Section 36C of the principal Act is amended by deleting “Consumer Protection Act, 1971,” and substituting the following—

“ Consumer Affairs Act 1971 ” .

Section 36C
amended.

Section 37A
inserted.

12. After section 37 of the principal Act, the following section is inserted—

Orders
dispensing
with service.

“ 37A. (1) Where this Act requires the service on a person of a notice, statement, or other document or requires that a specified time elapse after such service, a Local Court, if satisfied on an application made by or on behalf of the person required to effect service either that the person to be served is evading service or that for any other reason service has not been and cannot be promptly effected, may order that the requirement for service be dispensed with upon such terms and conditions, if any, as the court thinks fit.

(2) An order under subsection (1) of this section shall have effect, subject to observance of its terms and conditions, to permit any act or thing to which the order dispensing with service relates to be done as if service had been effected or the specified time had elapsed.

(3) An application under this section may be made whether or not the time for service has expired.

(4) In this section “serve” includes “give”, “deliver”, or other similar or cognate expressions. ” .
