

DOOR TO DOOR (SALES).

No. 68 of 1975.

AN ACT to amend the Door to Door (Sales) Act,
1964-1973.

[Assented to 7th November, 1975.]

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 *Door to Door (Sales) Act Amendment Act, 1975*. Short title and citation

(2) In this Act the Door to Door (Sales) Act, 1964-1973 is referred to as the principal Act. Reprinted as approved for reprint 26th April, 1974.

(3) The principal Act as amended by this Act may be cited as the Door to Door (Sales) Act, 1964-1975.

Commence-
ment.

2. The provisions of this Act shall come into operation on such date or dates as is or are, respectively, fixed by proclamation.

Section 2
amended.

3. Section 2 of the principal Act is amended—

(a) by repealing subsection (1) and re-enacting that subsection as follows—

(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;

“services” means services provided for a fee or reward by a person in the carrying on of an industrial,

commercial, business, profit-making, 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. ; and

(b) by adding after subsection (2) subsections as follows—

(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. .

Section 3
amended.

4. Section 3 of the principal Act is amended—

- (a) by deleting the passage “, at his place of employment or at any technical school” in lines three and four; and
- (b) by inserting before the word “Schedule” in line one of paragraph (c) the word “First”.

Section 3A
amended.

5. Section 3A of the principal Act is amended by deleting the words “an unsolicited” in lines two and three of paragraph (c), and substituting the word “a”.

Section 4
amended.

6. Section 4 of the principal Act is amended—

- (a) by deleting the passage “, at his place of employment or at any technical school” in lines three and four of subsection (1);
- (b) by deleting the words “in the Schedule to this Act” in the last line of subsection (1), and substituting the words “to that statement”; and
- (c) by deleting the words “notice set out in the Appendix to the Schedule to this Act” in lines three and four of subsection (2), and substituting the words “Appendix referred to in that subsection”.

Section 4A
added.

7. The principal Act is amended by adding after section 4 a section as follows—

Confirmation
of agreement.

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.

8. Section 5 of the principal Act is amended—

Section 5
amended.

(a) by adding after subsection (2) a subsection as follows—

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

(b) by deleting the words "damage arising from the normal use of the goods or" in lines four and five of paragraph (d) of subsection (3); and

(c) by adding after the word "who" in line one of subsection (4), the passage " , without reasonable excuse,".

Section 6
amended.

9. Section 6 of the principal Act is amended—

- (a) by deleting the passage “, his place of employment or at a technical school, as the case may be,” in lines five and six;
- (b) by deleting the words “an unsolicited” in line seven, and substituting the word “a”; and
- (c) by deleting the passage “, his place of employment or at any technical school, as the case may be,” in lines nine and ten.

Section 7A
repealed and
re-enacted.

10. The principal Act is amended by repealing section 7A and re-enacting that section as follows—

Door to door
selling
prohibited
during
certain
hours.

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;
- (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: Two hundred dollars.

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

11. The principal Act is amended by adding after section 7A a section as follows—

Section 7B added.

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—

Identification card to be carried and shown.

- (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") showing 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: Two hundred dollars. .

Section 8
repealed and
re-enacted.

12. The principal Act is amended by repealing section 8 and re-enacting that section as follows—

Regulations.

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. .

13. The principal Act is amended by deleting the heading "SCHEDULE." after section 8, and substituting headings as follows—

Heading substituted.

SCHEDULES.

FIRST SCHEDULE.

14. The Schedule to the principal Act is amended—

Schedule amended.

- (a) by deleting the passage "to purchase (or hire)" in the statement, and substituting the words "with respect to";
- (b) by adding after the words "Insert concise description of goods" in the statement, the words "or services";
- (c) by deleting the word "Schedule" in line two of footnote ‡ to the statement, and substituting the word "statement";
- (d) by deleting the heading "NOTICE." in the Appendix and substituting the heading "NOTICE OF TERMINATION."; and
- (e) by deleting the passage "to purchase (or hire) the abovementioned goods" in the notice in the Appendix, and substituting the words "with respect to the above-mentioned goods or services".

15. The principal Act is amended by adding at the end thereof a schedule as follows—

Second Schedule added.

SECOND SCHEDULE.

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.
