

HIRE-PURCHASE AGREEMENTS (AMENDMENT) ACT.

Act No. 26, 1955.

Elizabeth II, An Act to amend the minimum-deposit provisions
No. 26, 1955. of the law relating to hire-purchase agreements; for this and other purposes to amend the Hire-purchase Agreements Act, 1941, and certain other Acts in certain respects; and for purposes connected therewith. [Assented to, 27th April, 1955.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title,
citation and
commencement.

1. (1) This Act may be cited as the "Hire-purchase Agreements (Amendment) Act, 1955."

(2) The Hire-purchase Agreements Act, 1941, as amended by subsequent Acts and by this Act, may be cited as the Hire-purchase Agreements Act, 1941-1955.

(3) This Act shall commence upon the first day of May, one thousand nine hundred and fifty-five.

Amendment
of Act No.
56, 1941.

2. (1) The Hire-purchase Agreements Act, 1941-1946, is amended—

Sec. 30.
(Defini-
tion.)

(a) by inserting at the end of section thirty the following new subsections:—

(2) In this Part—

"Banker" means—

(a) the Rural Bank of New South Wales;

(b)

(b) any body corporate authorised to ~~No. 26, 1955.~~
carry on banking business under
the Commonwealth Bank Act 1945
(as amended by subsequent Acts)
of the Parliament of the Common-
wealth of Australia; or

(c) any body corporate for the time
being specified in the First
Schedule to the Banking Act 1945
(as amended by subsequent Acts)
of the Parliament of the Common-
wealth of Australia.

“Hire-purchase agreement” includes— <sup>cf. 25
Geo. V. No.
33, s. 26</sup>

(a) any agreement for the bailment ^(Qld.)
of goods with or without ex-
pressly giving to the bailee an
option of purchase of the goods
whereby the vendor agrees to let
to the bailee the goods for a
defined or ascertainable period
as set forth or provided for in
the agreement during which
period prescribed instalments
are therein payable by the bailee
(the total of which, including any
deposit, amount approximately
to the value of the goods so let)
and at the termination of which
period the agreement allows the
bailee of the goods to continue
the bailment thereof subject to
the payment of a nominal rent
only;

(b) any scheme or device wholly or
partly in writing on or in connec-
tion, directly or indirectly, with
the sale or agreement for sale of
goods or with the intended or
future sale of goods which in the
opinion

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opinion of the court in which any proceedings under this Part are taken is intended to give to the vendor security for the payment of the purchase-price or any part or instalment thereof (whether referred to as rent or hire or otherwise) by retaining or attempting to retain the property in the goods in the vendor until due and full payment of such purchase-price or part or instalment thereof or until any later time.

cf. Act
No. 67,
1941, s. 3
(1).

“Loan” includes advance, discount, money paid for or on account of or on behalf of or at the request of any person, and includes every contract (whatever its terms or form may be) which is in substance or effect a loan of money, and “lend” and “lending” have corresponding interpretations.

“Prescribed” means prescribed by this Part or by any regulation made thereunder.

(3) Except to the extent provided in subsection one of this section, nothing in this section shall be construed as limiting the application of section two of this Act to and in respect of the provisions of this Part.

Subst. secs.
31 and 32
and new
secs. 33-38.

(b) by omitting sections thirty-one and thirty-two and by inserting in lieu thereof the following sections:—

Minimum
deposits.

31. (1) A vendor who enters into a hire-purchase agreement without having first obtained from the purchaser or proposed purchaser thereunder in current coin or bank notes or

or by cheque drawn by a banker or by the pur- ^{No. F26, 1955.} chaser or proposed purchaser or the spouse of the purchaser or proposed purchaser on a banker a deposit of—

- (a) where the minimum amount of the deposit is not prescribed under paragraph (b) of this subsection, not less than one-tenth of the purchase price of the goods the subject of the agreement; or
- (b) where the minimum amount of the deposit is prescribed under this paragraph, not less than such amount as may for the time being be prescribed,

shall be guilty of an offence against this Part.

A regulation may prescribe—

- (i) that the amount referred to in paragraph (b) of this subsection shall be at such rate or rates or shall be calculated on such basis or bases (whether by reference to the purchase-price of the goods the subject of the agreement or otherwise) as may be specified in the regulation;
- (ii) rates or bases varying in accordance with different amounts of purchase-price, different durations of hire-purchase agreements or otherwise.

(2) Notwithstanding anything contained in subsection one of this section the deposit required by or under that subsection may include the value of any goods (not being goods acquired by the purchaser or proposed purchaser for the purpose of enabling the value of the goods so acquired to be included in that deposit) provided or required to be provided by the purchaser or proposed purchaser to purchase the goods under the hire-purchase agreement.

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Offence
to carry
on business
of lending
deposits.

Deposits
not to be
by way
of loan.

Certain
transactions
prohibited.

32. Any person, other than a banker, who (whether or not he carries on any other business) carries on the business of lending or making loans to other persons for the purpose of enabling those other persons to pay the deposits required by or under subsection one of section thirty-one of this Act upon the purchase of goods under hire-purchase agreements shall be guilty of an offence against this Part.

33. Any person who accepts as a deposit upon the purchase of goods under a hire-purchase agreement any money or other consideration that he has reasonable cause to believe or suspect was lent to the purchaser by any person (other than the Rural Bank of New South Wales or any body corporate authorised to carry on banking business under the Commonwealth Bank Act 1945 or the Banking Act 1945 of the Parliament of the Commonwealth of Australia or under any amendment of those Acts) shall be guilty of an offence against this Part.

34. Any person (in this section referred to as the "seller") who knowingly—

- (a) enters into an agreement for the bailment of goods to any person (in this section referred to as the "buyer"), which agreement does not by itself constitute a hire-purchase agreement; or
- (b) takes from any person (in this section referred to as the "buyer") an offer in writing that, if accepted, will constitute an agreement for the bailment of goods but will not by itself constitute a hire-purchase agreement,

in association, directly or indirectly, with the making by the buyer to the seller or to any person associated, directly or indirectly, in business with the seller of an offer in writing to

to purchase the goods the subject of the agreement referred to in paragraph (a), or of the offer referred to in paragraph (b), of this section on terms and conditions that, if the offer in writing to purchase the goods is accepted, will constitute a hire-purchase agreement, shall be guilty of an offence against this Part.

35. (1) Any person who inserts or causes to be inserted in any newspaper any advertisement, or in any other manner publishes or displays an advertisement, that—

(a) expressly or impliedly offers or purports to offer; or

(b) in the opinion of the court in which any proceedings under this section are taken is likely or intended to convey to any person the impression that it offers,

possession of goods on terms that do not, as a condition precedent to delivery of possession thereof, require any payment to be made by a person to whom possession is to be given or that require payment of a deposit less than the minimum deposit that would be required by or under subsection one of section thirty-one of this Act if the goods were to be made the subject of a hire-purchase agreement, shall be guilty of an offence against this Part.

(2) The proprietor, editor, master printer and publisher of any newspaper in which is published an advertisement of the nature referred to in subsection one of this section shall be guilty of an offence against this Part.

(3) Nothing in this section shall make guilty of an offence any person who inserts or causes to be inserted in any newspaper an advertisement, or who in any other manner publishes or displays an advertisement, offering possession of goods on terms and conditions that, if made the subject of a contract, would not constitute a hire-purchase agreement.

No. 26, 1955.Contracts
to evade
this Part.

36. Any person who—

- (a) enters into any transaction, or makes any contract or arrangement purporting to do whether presently or at some future time or upon the happening of any event or contingency anything that contravenes or will contravene the provisions of this Part; or
- (b) enters into any transaction, or makes any contract or arrangement, whether orally or in writing, for the purpose of or which has the effect of, in any way, whether directly or indirectly, defeating, evading, avoiding or preventing the operation of this Part in any respect,

shall be guilty of an offence against this Part.

Transactions
not
invalidated.

37. (1) Where after the commencement of the Hire-purchase Agreements (Amendment) Act, 1955, any transaction is entered into, or any contract or arrangement is made, in contravention of this Part, the transaction, contract or arrangement shall not be invalidated, and the rights, powers and remedies of any person thereunder shall be the same as if this Part had not been enacted.

(2) Nothing in this section affects the liability of any person to any penalty in respect of any contravention of this Part.

Penalty.

38. Any person guilty of an offence against this Part shall be liable on summary conviction—

- (a) if a company—to a penalty not exceeding two hundred pounds;
- (b)

(b) if any other person—to a penalty not exceeding one hundred pounds, or to imprisonment not exceeding three months, or to both such penalty and imprisonment.

39. (1) The Governor may make regulations, **Regulations.** not inconsistent with this Part, prescribing all matters that are permitted to be prescribed by this Part or that are necessary or convenient to be prescribed for carrying out or giving effect to this Part.

(2) The regulations shall—

- (a) be published in the Gazette;
- (b) take effect from the date of publication or from a later date to be specified in the regulations; and
- (c) be laid before both Houses of Parliament within fourteen sitting days after publication thereof if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease* to have effect. *Sic.

(2) Notwithstanding anything contained in subsection one of this section, the provisions of section thirty-two of the Hire-purchase Agreements Act, 1941-1946, shall continue in force as respects any hire-purchase agreement entered into before the commencement of this Act in contravention of Part IV of the Hire-purchase Agreements Act, 1941-1946.
