



ANNO TRICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1982

No. 43 of 1982

An Act to amend the Consumer Credit Act, 1972-1980, and the Consumer Transactions Act, 1972-1980.

[Assented to 22 April 1982]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

PART I

PRELIMINARY

1. This Act may be cited as the "Statutes Amendment (Consumer Credit and Transactions) Act, 1982". Short title.

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

3. This Act is arranged as follows: Arrangement.

PART I—PRELIMINARY

PART II—AMENDMENT OF THE CONSUMER CREDIT ACT,
1972-1980

PART III—AMENDMENT OF THE CONSUMER TRANS-
ACTIONS ACT, 1972-1980

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PART II

AMENDMENT OF THE CONSUMER CREDIT ACT, 1972-1980

4. (1) The Consumer Credit Act, 1972-1980, is referred to in this Part as "the principal Act". Short titles

(2) The principal Act, as amended by this Part, may be cited as the "Consumer Credit Act, 1972-1982".

Amendment of
s. 5—
Interpretation.

5. Section 5 of the principal Act is amended—

- (a) by inserting in paragraph (a) of the definition of “principal” after the passage “actually lent by the credit provider” the passage “, or of which he forebears to require payment,”;
- and
- (b) by striking out from the definition of “the Commissioner” the passage “South Australian Commissioner for Prices and Consumer Affairs under the Prices Act” and substituting the passage “Commissioner for Consumer Affairs”.

Amendment of
s. 6—
Application
of this Act.

6. Section 6 of the principal Act is amended by striking out subsections (3) and (4) and substituting the following subsections:

(3) This Act does not apply to a credit contract—

(a) where the amount of the principal exceeds fifteen thousand dollars and the credit is not provided on the security of land;

(b) where—

(i) the amount of the principal exceeds fifteen thousand dollars;

(ii) the credit is provided on the security of land;

and

(iii) the consumer has made a statutory declaration that he does not use, or propose to use, the land or any part of the land as a place of dwelling for his own personal occupation;

or

(c) where the amount of the principal exceeds thirty thousand dollars.

(4) The Governor may, by proclamation—

(a) exempt, or provide for the exemption of—

(i) persons of a specified class from the provisions, or specified provisions, of this Act;

or

(ii) transactions of a specified class from the provisions, or specified provisions, of this Act,

and impose, or provide for the imposition of, conditions in respect of any such exemption;

or

(b) vary or revoke a proclamation previously made under this subsection.

Amendment of
s. 37—
Registered
address.

7. Section 37 of the principal Act is amended—

(a) by inserting in subsection (3) after the passage “commences to carry on business” the passage “as a credit provider”;

(b) by striking out from subsection (3) the passage “business at that address” and substituting the passage “the business of a credit provider at that address”;

- (c) by inserting in subsection (4) after the passage "ceases to carry on business" the passage "as a credit provider";
 - (d) by striking out from subsection (4) the passage "business at that address" and substituting the passage "the business of a credit provider at that address";
 - (e) by inserting the word "licensed" before the passage "credit provider" where it occurs for the first time in subsection (5);
- and
- (f) by inserting the word "licensed" before the passage "credit provider" in subsection (6).

8. Section 40 of the principal Act is amended—

- (a) by inserting the word "and" between subparagraphs (B) and (C) of subparagraph (iii) of paragraph (b) of subsection (1);
 - (b) by inserting the word "and" between subparagraphs (iv) and (v) of paragraph (b) of subsection (1);
- and
- (c) by striking out paragraph (a) of subsection (10) and substituting the following paragraph:
 - (a) that sets out in a clear and concise manner the nature and extent of the variation to the consumer's rights and obligations under the contract;

Amendment of
s. 40—
Form of
credit
contract.

9. Section 41 of the principal Act is amended—

- (a) by inserting the word "and" between subparagraphs (v) and (vi) of paragraph (f) of subsection (1);
- and
- (b) by striking out paragraph (a) of subsection (7) and substituting the following paragraph:
 - (a) that sets out in a clear and concise manner the nature and extent of the variation to the consumer's rights and obligations under the contract;

Amendment of
s. 41—
Form of
contract that is
a sale by
instalment.

10. Section 52 of the principal Act is amended by striking out the passage "any such appropriation" and substituting the passage "any such requirement".

Amendment of
s. 52—
Appropriation
of payments
under more
than one
credit
contract.

11. Section 54 of the principal Act is amended—

- (a) by striking out paragraph (b) of subsection (1) and the word "and" immediately preceding that paragraph;
- and
- (b) by inserting after subsection (3) the following subsection:
 - (3a) The Commissioner may, by notice published in the *Gazette*, make, vary or revoke stipulations for the purposes of this section.

Amendment of
s. 54—
Advertisements.

12. Section 58 of the principal Act is amended by striking out the passage "evidence to the contrary" and substituting the passage "proof to the contrary".

Amendment of
s. 58—
Proof of
licensing.

PART III

AMENDMENT OF THE CONSUMER TRANSACTIONS ACT,
1972-1980

Short titles.

13. (1) The Consumer Transactions Act, 1972-1980, is referred to in this Part as "the principal Act".

(2) The principal Act, as amended by this Part, may be cited as the "Consumer Transactions Act, 1972-1982".

Amendment of
s. 5—
Interpretation.

14. Section 5 of the principal Act is amended—

(a) by striking out from paragraph (b) of the definition of "consumer contract" the passage "ten thousand dollars" and substituting the passage "fifteen thousand dollars";

(b) by striking out from the definition of "consumer credit contract" the passage "ten thousand dollars" wherever it occurs and substituting, in each case, the passage "fifteen thousand dollars";

(c) by striking out from paragraph (b) of the definition of "consumer credit contract" the passage "twenty thousand dollars" and substituting the passage "thirty thousand dollars";

and

(d) by striking out from the definition of "the Commissioner" the passage "South Australian Commissioner for Prices and Consumer Affairs under the Prices Act" and substituting the passage "Commissioner for Consumer Affairs".

Amendment of
s. 20—
Information
to be
included in
consumer
lease.

15. Section 20 of the principal Act is amended by inserting after the word "payable" in paragraph (c) of subsection (1) the passage "by the consumer".

Amendment of
s. 29—
Consumer's
rights and
immunities
when goods
repossessed.

16. Section 29 of the principal Act is amended by striking out from paragraph (a) of subsection (2) the passage "net amount due" and substituting the passage "net balance due".

Amendment of
s. 36—
Bona fide
purchase
for value.

17. Section 36 of the principal Act is amended by striking out subsection (1) and substituting the following subsection:

(1) Subject to subsection (2), where a person, in good faith and for valuable consideration, purports to acquire title to goods subject to a consumer lease or consumer mortgage without actual notice of the interest of the lessor or mortgagee in the goods from—

(a) the lessee or mortgagor;

(b) a person who is, with the consent of the lessee or mortgagor, in possession of the goods in circumstances in which he appears to be the owner of the goods;

or

(c) a person who trades in goods of that description,
the firstmentioned person shall acquire a good title to the goods in
defeasance of the interest of the lessor or mortgagee in those goods.

18. Section 50 of the principal Act is amended by striking out paragraph (b) of subsection (2) and substituting the following paragraph: Amendment of
s. 50—
Regulations.

(b) exempt, or provide for the exemption of—

(i) persons of a specified class from the provisions, or specified provisions, of this Act;

or

(ii) transactions of a specified class from the provisions, or specified provisions, of this Act,

and impose, or provide for the imposition of, conditions in respect of any such exemption;.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

W. R. CROCKER, Governor's Deputy