



ANNO VICESIMO SECUNDO

ELIZABETHAE II REGINAE

A.D. 1973

No. 7 of 1973

An Act to amend the Consumer Credit Act, 1972.

[Assented to 3rd September, 1973]

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

1. (1) This Act may be cited as the "Consumer Credit Act Amendment Act, 1973". Short titles.

(2) The Consumer Credit Act, 1972, as amended by this Act, may be cited as the "Consumer Credit Act, 1972-1973".

(3) The Consumer Credit Act, 1972, is hereinafter referred to as "the principal Act".

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

3. Section 2 of the principal Act is amended by inserting after the present contents thereof (which are hereby designated subsection (1) thereof) the following subsection:— Amendment of principal Act, s. 2—
Commencement.

(2) Notwithstanding the provisions of subsection (1) of this section and notwithstanding that a proclamation has been made under that subsection the Governor may, by proclamation, suspend the operation of any specified provisions of this Act until a day fixed in the proclamation or a day to be fixed by subsequent proclamation.

(3) Any provisions whose operation has been suspended under subsection (2) of this section shall come into operation on the day fixed for the expiration of the suspension by the

suspending proclamation, or if that proclamation provides for that day to be fixed by subsequent proclamation, on the day fixed by that subsequent proclamation.

Amendment of principal Act, s. 4—
Repeal and saving provision.

4. Section 4 of the principal Act is amended by inserting in subsection (1) after the passage “the Money-lenders Act Amendment Act, 1966” the passage “the Money-lenders Act Amendment Act, 1973”.

Amendment of principal Act, s. 5—
Interpretation.

5. Section 5 of the principal Act is amended—

(a) by striking out from paragraph (b) of the definition of “credit” the word “consumer” and inserting in lieu thereof the word “purchaser”;

(b) by striking out from the definition of “sale by instalment” the passage “the consumer” and inserting in lieu thereof the passage “the purchaser”;

and

(c) by striking out from the definition of “statutory rebate” the passage “from month to month—means the amount of interest attributable to the period of complete months” and inserting in lieu thereof the passage “at periodic intervals—means the amount of interest attributable to the number of complete intervals”.

Amendment of principal Act, s. 6—
Application of this Act.

6. Section 6 of the principal Act is amended—

(a) by striking out from subsection (1) the passage “this Act (except Part V and Part VI) does” and inserting in lieu thereof the passage “, and any other express provision of this Act, Parts II, III, IV and VII of this Act do”;

(b) by striking out from paragraph (h) of subsection (1) the passage “does not consist of, or include, the provision of credit to consumers” and inserting in lieu thereof the passage “consists only in the provision of credit to bodies corporate”;

and

(c) by striking out from subsection (2) the passage “V and VI” and inserting in lieu thereof the passage “VI and VII”.

Amendment of principal Act, s. 8—
Delegation.

7. Section 8 of the principal Act is amended by striking out from subsection (1) the word “person” and inserting in lieu thereof the passage “officer (who may be identified in the instrument of delegation and in any regulation by reference to his office rather than by name)”.

Amendment of principal Act, s. 13—
Establishment of Tribunal.

8. Section 13 of the principal Act is amended by striking out from paragraph (b) of subsection (2) the word “consumers” and inserting in lieu thereof the passage “persons for whose protection this Act and the Consumer Transactions Act were enacted”.

9. Section 18 of the principal Act is amended—

- (a) by striking out from subsection (2) the passage “prescribed for the purpose in the regulations” and inserting in lieu thereof the passage “(either under this Act or under any other Act) in respect of which the jurisdiction of the Tribunal is conferred by regulation upon the Chairman”;

and

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

(3) In any matter in which the jurisdiction of the Tribunal is conferred on the Chairman, the Chairman may, by instrument in writing, delegate that jurisdiction to the Registrar.

(4) The Registrar may exercise any such delegated jurisdiction in accordance with the instrument of delegation but if any party, at the commencement of proceedings before the Registrar, objects to the exercise of jurisdiction by the Registrar he shall refer those proceedings to the Chairman for hearing and determination.

Amendment of principal Act, s. 18—

How Tribunal is to be constituted.

10. Section 21 of the principal Act is amended—

- (a) by inserting in paragraph (a) of subsection (1) after the passage “member of the Tribunal” the passage “or the Registrar”;

- (b) by inserting in paragraph (b) of subsection (1) after the passage “member of the Tribunal” the passage “or the Registrar”;

and

- (c) by inserting in subsection (2) after the passage “guilty of an offence” the passage “(punishable by the Tribunal in the same manner as a contempt of court, or upon complaint in a court of summary jurisdiction)”.

Amendment of principal Act, s. 21—

Powers of the Tribunal.

11. Section 22 of the principal Act is amended by striking out from subsection (1) the passage “upon the determination of any proceedings”.

Amendment of principal Act, s. 22—

Orders for fines or costs.

12. Section 23 of the principal Act is repealed and the following section is enacted and inserted in its place:—

Repeal of s. 23 of principal Act and enactment of section in its place—

23. Where a party to any proceedings before the Tribunal has, within seven days after the Tribunal has made a decision or order in those proceedings, requested the Tribunal to give reasons in writing for the decision or order, the Tribunal shall give reasons in writing for its decision or order.

Reasons for decisions of Tribunal.

Amendment of
principal Act,
s. 27—
The Registrar.

13. Section 27 of the principal Act is amended—

(a) by inserting after subsection (1) the following subsection:—

(1a) The Registrar shall be a special magistrate;

and

(b) by inserting after subsection (3) the following subsections:—

(4) The Registrar shall exercise such powers, discretions and functions as may be conferred on, or assigned to, him by regulation.

(5) The Registrar may delegate to any person approved by the Chairman of the Tribunal any functions of a clerical nature assigned to him.

(6) The Attorney-General may, by instrument in writing, authorize any special magistrate to exercise the powers, discretions and functions of the Registrar in respect of any matters arising in a part of the State specified in the instrument.

(7) A special magistrate to whom such an authorization has been given, shall have, and may exercise, the powers, discretions and functions of the Registrar in respect of any matters to which the authorization relates.

Amendment of
principal Act,
s. 39—
Corporation
must employ
approved
person as
manager.

14. Section 39 of the principal Act is amended by striking out from subsection (2) the word “fourteen” and inserting in lieu thereof the words “twenty-eight”.

Amendment o
principal Act,
s. 40—
Form of credit
contract.

15. Section 40 of the principal Act is amended—

(a) by inserting in subsection (5) after the passage “of this Act” the passage “and of the Consumer Transactions Act”;

and

(b) by inserting after subsection (9) the following subsection:—

(10) Where the terms or conditions of a credit contract to which this section applies are varied in any manner the credit provider shall within fourteen days after the date of the variation serve on the consumer a notice—

(a) that sets out in a clear and concise manner the nature of the variation to the consumer’s rights under the contract, and the nature and extent of his obligations under the contract as varied;

and

(b) that contains such other information as may be prescribed.

Penalty: Five hundred dollars.

(11) This section does not apply to a credit contract under which credit is provided without any credit charge.

16. Section 41 of the principal Act is amended—

Amendment of principal Act, s. 41—

(a) by inserting in subsection (4) after the passage “of this Act” the passage “and of the Consumer Transactions Act”;
and

Form of contract that is sale by instalment.

(b) by inserting after subsection (6) the following subsection:—

(7) Where the terms or conditions of a credit contract to which this section applies are varied in any manner the credit provider shall within fourteen days after the date of the variation serve on the consumer a notice—

(a) that sets out in a clear and concise manner the nature of the variation to the consumer’s rights under the contract, and the nature and extent of his obligations under the contract as varied;

and

(b) that contains such other information as may be prescribed.

Penalty: Five hundred dollars.

17. Section 54 of the principal Act is amended—

Amendment of principal Act, s. 54—

(a) by striking out subsection (1) and inserting in lieu thereof the following subsection:—

Advertisements.

(1) An advertisement to the effect that a person is prepared to provide, or to procure the provision of, credit to or on behalf of any other person must conform with any stipulations—

(a) made by the Commissioner in respect of advertisements relating to the provision of credit;

and

(b) published in the *Gazette*.;

(b) by striking out from subsection (2) the passage “the credit provider” and inserting in lieu thereof the passage “a person by or on behalf of whom the advertisement was published”;

(c) by striking out from subsection (3) the passage “the credit provider” and inserting in lieu thereof the passage “the defendant”;

and

(d) by inserting after subsection (3) the following subsections:—

(4) Upon production of a copy of the *Gazette* purporting to contain a stipulation made by the Commissioner under this section, it shall be presumed in any legal proceedings in which the *Gazette* is produced, in the absence of proof to the contrary, that a stipulation in the terms shown in the *Gazette* has been made and is in force.

(5) This section applies in respect of any person whether or not he is a credit provider and whether or not any other provisions of this Act are applicable to him.

Amendment of
principal Act,
s. 57—
False
statements.

18. Section 57 of the principal Act is amended by striking out from subsection (1) the word “consumer” and inserting in lieu thereof the word “person”.

Amendment of
principal Act,
s. 61—
Regulations.

19. Section 61 of the principal Act is amended—

(a) by inserting after paragraph (a) the following paragraph:—

(ab) confer any jurisdiction of the Tribunal (either under this Act or any other Act) upon the Chairman so that it may be exercised by him independently of the other members of the Tribunal;;

and

(b) by striking out paragraph (i) and inserting in lieu thereof the following paragraph:—

(i) prescribe the powers, discretions and functions of the Registrar;.

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

M. L. OLIPHANT, Governor