

CREDIT BILL.

EXPLANATORY NOTES.

Clause 1 contains the short title and commencement provisions.

Clause 2 contains details of the division of the Act into Parts and Divisions.

Clause 3 applies the Act to sales, contracts, leases and mortgages made after the commencement of the section and includes provisions for determining whether or not this Act applies in a case where there would otherwise be doubt about whether the law of Victoria or of another place applied.

Clause 4 contains interpretations, including interpretations of "credit provider", "credit sale", "loan", "lease", "linked credit provider" and "amount financed".

Clause 5 defines the meaning of "re-supply" which is used in the interpretation of "supply".

Clause 6 provides that the application of the Act to the sale of services on credit does not extend to services supplied by a bank.

Clause 7 provides that a reference to goods and services means goods, services, or goods and services.

Clause 8 applies the provisions of the Act to assignees but does not confer rights on assignees under an assignment that is not in accordance with the Act.

Clause 9 is an interpretation provision providing that the interpretations of words or phrases in the Act extend to other parts of speech and grammatical forms of the words or phrases.

Clause 10 limits the meaning of a contract for the supply of services so that it does not include contracts of service under contracts of employment.

Clause 11 contains an interpretation of "annual percentage rate" and is to be read with the provisions of clauses 102 and 117.

Clause 12 contains an interpretation of "credit charge" and of "accrued credit charge" defining the interest component of amounts payable under credit sales and loans.

Clause 13 defines "tied loans" and "tied continuing credit contracts" for the purposes of the provisions in Part IV. imposing liability in certain circumstances on credit providers for breaches by suppliers of sale contracts.

Clause 14 provides that leases with an option to purchase and implied purchase leases are credit sales for the purposes of the Act and the Chattel Securities Act and do not have effect as leases or hiring agreements.

Clause 15 provides that lay-by sales and sales in respect of payment for which credit is provided under a continuing credit contract are not credit sales.

Clause 16 operates to abolish hire-purchase and other forms of credit sales with retention of title to the goods by providing that a sale with retention of title takes effect as a credit sale passing title to the goods but with a property mortgage on the goods securing payment to the credit provider of amounts payable under the contract.

Clause 17 provides that the provisions regulating loans do not operate to regulate the provision of credit under continuing credit contracts.

Clause 18 is an interpretation provision relating to the carrying on of a business of providing credit or supplying goods under leases as part of another business.

Clause 19 exempts investment in debentures from the operation of the Act.

Clause 20 relates to the operation of the Act as a uniform Act with the proposed laws of other States and Territories and enables the laws of other States and Territories to be recognized as corresponding laws.

Clause 21 contains wide powers for the Governor in Council to grant exemptions from the Act for persons, transactions or transactions by particular persons, whether generally or in specific cases.

Clause 22 provides for the appointment of a Credit Commissioner to administer the Act.

Clause 23 provides for the appointment of the Commissioner's staff.

Clause 24 sets out the functions of the Commissioner in relation to the hearing of complaints, assisting people, reviewing the operation of the Act and conferring with persons holding corresponding offices in other States.

Clause 25 permits the Commissioner, with the consent of the Minister, to institute or defend proceedings on behalf of persons.

Clause 26 makes further provision in relation to proceedings instituted or defended by the Commissioner.

Clause 27 gives the Commissioner power to enter premises to inspect books and records in the course of his duties.

Clause 28 requires the Commissioner and his staff not to disclose confidential information.

Clause 29 establishes a Credit Advisory Council.

Clauses 30 and 31 contain terms and conditions of appointment of members of the Council and provisions for allowances.

Clauses 32, 33 and 34 deal with termination of appointment and resignation of members, acting appointments and the validation of decisions notwithstanding vacancies on the Council.

Clause 35 contains procedural provisions for the Council.

Clause 36 sets out the functions of the Council of making reports, recommendations and undertaking educational programmes.

Clause 37 enables the Commissioner to give relevant information to the Council for the purposes of the performance of its functions.

Clause 38 requires members of the Council to observe confidentiality.

Clause 39 establishes the Credit Tribunal consisting of a chairman, a person experienced in providing credit, a person experienced in supplying goods or services and two persons with knowledge of the interests of persons seeking to obtain credit.

Clause 40 requires the chairman of the Tribunal to be a County Court Judge.

Clauses 41 and 42 make provision for terms and conditions of appointment and allowances for members of the Tribunal.

Clause 43 relates to the resignation and termination of office of members of the Council.

Clauses 44 and 45 make provision for acting appointments to the office of chairman or member.

Clause 46 provides that the Tribunal's decisions are not invalid where there is a vacancy in an office.

Clause 47 provides for the constitution of the Tribunal and for the chairman alone to hear applications in certain uncontested cases or where the parties agree. In other cases the Tribunal will be constituted by three persons, being the chairman, the credit provider or supplier member and the member who represents the interests of users of credit.

Clause 48 provides that decisions may be made by a majority of members of the Tribunal and that the chairman decides questions of law unless they are referred to the Supreme Court under clause 49.

Clause 49 makes provision for questions of law to be referred to the Supreme Court for its opinion.

Clause 50 enables parties to appear before the Tribunal personally or by a lawyer or, if a company, by a director or officer of the company or, with the consent of the Tribunal by an interpreter or other person. Provision is also made for the appearance of the Commissioner on behalf of a party.

Clause 51 applies relevant provisions of the *Evidence Act* 1958 to the proceedings of the Tribunal relating to the summoning and examination of witnesses.

Clause 52 enables the Tribunal to award costs.

Clause 53 gives power to members of the Tribunal to summon witnesses.

Clause 54 provides that subject to the Act, the Tribunal can determine its procedure.

Clause 55 requires the Tribunal to comply with requests for copies of reasons for its determinations.

Clause 56 requires the Commissioner to take any necessary action to give effect to the Tribunal's determinations.

Clause 57 enables the Tribunal to ask the Commissioner to make investigations.

Clause 58 provides for the appointment of a lawyer as a registrar of the Tribunal and for the appointment of other staff. The Tribunal may delegate to the registrar functions and powers that may be performed or exercised by the chairman alone.

Clause 59 requires the Tribunal to observe confidentiality.

Clause 60 provides that except as otherwise expressly provided the Tribunal's jurisdiction, power and authority is exclusive.

Clause 61 provides that the Tribunal has no jurisdiction, power or authority except as conferred by the Act.

Clause 62 makes it an offence to carry on business as a credit provider without a licence. Exceptions from the licensing provisions are provided for the Crown, public or local statutory bodies, banks, insurance companies, building societies and friendly societies and other bodies or persons licensed or registered under other Acts. The licensing requirement does not apply to a person carrying on a business only of providing loans at annual percentage rates less than 14 per cent.

Clause 63 makes it an offence to carry on business of supplying goods under leases to which the Act applies without a lessor's licence or credit provider's licence. The licensing requirement does not apply to the persons and bodies exempt from clause 62.

Clause 64 provides for applications for licences.

Clause 65 provides for the notification and investigation of applications for licences.

Clause 66 relates to the making and hearing of objections to applications for licences.

Clause 67 provides for the granting of credit providers licences, whether with or without authority to provide credit under continuing credit contracts, and lessors licences.

Clause 68 makes provision for licensees under uniform laws of other States and Territories to apply for licences under this Act.

Clause 69 requires the Tribunal to grant licences to applicants licensed in recognized States or Territories.

Clause 70 enables licences to be made subject to conditions.

Clause 71 enables licensees to apply for additional authority to provide credit under continuing credit contracts.

Clause 72 permits the Tribunal to authorize a licensee to carry on business under names other than the licensed name.

Clause 73 deals with the form of licences.

Clauses 74 and 75 require licensees to give notice of their business addresses and change of address.

Clauses 76 and 77 relate to the keeping and inspection of the Register of Licensees.

Clause 78 provides that a licence continues in force until surrendered or cancelled.

Clause 79 requires licensees to pay an annual fee and file an annual statement, in default of which the licence may be cancelled.

Clause 80 provides for the surrender of licences.

Clause 81 requires cancellation of licences where the holder's licence under a uniform law has been cancelled.

Clause 82 contains provisions for disciplinary action against licensees and requires the Tribunal to hold an inquiry before reprimanding, fining a licensee or suspending or cancelling a licence.

Clause 83 provides for appeal against refusal to grant, cancellation or suspension of licences.

Clause 84 permits legal personal representatives to carry on the business of a deceased licensee for a limited period.

Clauses 85 and 86 provide for civil penalties against unlicensed credit providers and lessors, the penalty being total loss of the amount financed and the credit charge or of the amount payable under the lease or of the credit charge where the offence is providing credit under continuing credit contracts without authority. The Tribunal has power under clause 207 to reduce the penalty.

Clause 87 defines sales to which Part IV. of the Act applies as all sales of goods and services for personal, domestic or household use or consumption and all other sales of goods and services under \$15,000. Sales to dealers are not included. The interpretation follows that in the *Trade Practices Act 1974* but clause 87 (c) has made more explicit the ambit of the exemption for sales of goods to dealers and a new exemption for sales of services to dealers is included in paragraph (d).

Clause 88 enables a buyer to rescind a sale where he has been unable to obtain credit having made it known to the supplier that he required credit.

Clause 89 prohibits the supplier requiring the buyer to obtain credit from a person selected by the supplier.

Clause 90 provides for the joint and several liability of the supplier and linked credit provider where the buyer has a claim in relation to the sale. Proceedings may not be taken against the credit provider unless they have been taken against the supplier and any judgement may not be enforced against the credit provider unless it has been enforced against but not satisfied by the supplier. The credit provider's liability is limited to the cash price of the goods and any costs that are awarded. The application of the provision to credit providers is applied through the interpretation of "linked credit provider" in clause 4, the interpretation of "tied loan" and "tied continuing credit contract" in clause 13 and through the limitation in clause 90 (2).

Clause 91 makes provision for the discharge of a tied loan where the sale with which it is connected is rescinded or discharged. The clause makes provision for the rights and obligations of the buyer, supplier and credit provider both in respect of payments and the delivery of goods. The Tribunal is given power to settle disputes.

Clause 92 makes provisions corresponding to those in clause 91 in the case of the rescission or discharge of a sale financed under a tied continuing credit contract. Under clause 92, where a sale is rescinded or discharged and payment was made or is to be made under a continuing credit contract, the credit provider is required to cancel amounts that would have been due under the credit contract in respect of the sale, whether in payment of the cash price or of credit charges, the credit contract itself remaining in force.

Clause 93 requires a supplier who is informed of a buyer's rescission or discharge of a sale to inform the linked credit provider of the rescission or discharge.

Clause 94 limits the application of Part V. to credit sales under \$15,000 unless they are in respect of goods and services for personal, domestic or household use or consumption.

Clause 95 limits Part V. to loans under \$15,000 at an annual percentage rate of 14 per cent or more.

Clause 96 provides that a loan that does not in the contract disclose whether or not it is a loan to which the Part applies, is to be deemed to be such a loan in the absence of any other proof to the contrary.

Clause 97 requires credit sales and loans to be written, or to have been made by the acceptance of a written offer, and to disclose the statutory information referred to in clause 100 or 101.

Clause 98 required credit providers and suppliers to give statements of financial obligations and other rights to persons who in their presence sign offers to enter into credit contracts.

Clause 99 requires credit providers to give copies of contracts or details of the acceptance of offers to persons who sign contracts or offers in their presence.

Clause 100 is the provision setting out details of the statutory information required to be included in credit sales of goods and services. The contract must disclose details of the amount financed, the credit charge, the annual percentage rate and all other relevant details and terms of the contract. Sub-clause (2) sets out details of the component parts of the amount financed to be disclosed, including the cash price and deposit, registration and licensing charges, insurance charges, stamp duty, fees and other amounts. Sub-clause (3) states how the details of the credit charge whether a minimum charge, a predetermined or an estimated charge are to be set out and requires the contract to state that a credit charge is not due unless it is accrued within the meaning of clause 12 (2). Sub-clause (4) limits the type of insurance ; premiums that may be included in the amount financed.

Clause 101 is the provision setting out the details of the statutory information required to be included in loan contracts. The contract must disclose details of the amount financed, of the credit charge, the annual percentage rate and all other relevant details and terms of the contract. Sub-clause (2) requires details of the component parts of the amount financed to be disclosed including the amount lent, insurance charges, stamp duty, fees and other charges. Sub-clause (3) requires details of the credit charge whether minimum, predetermined or estimated, to be set out. Sub-clause (4) limits the type of insurance premiums that may be included in the amount financed.

Clause 102 specifies the requirements for disclosure of the annual percentage rate for credit sales and loans. Under paragraph (a), the rate to be disclosed is the rate applied to the balances of the amount financed to yield the credit charge. If paragraph (a) is not applicable, paragraph (b) provides alternative methods of disclosure of the rate, including disclosure by use of the method set out in Schedule 3.

Clause 103 provides that a credit sale or loan does not comply with the Act if it includes more than one annual percentage rate or a reference to any other rate and, for the purposes of applying an interest rate if more than one is disclosed, the lowest rate is to be applied.

Clause 104 imposes a civil penalty on a credit provider who does not comply with the requirements of the Act in relation to disclosure in credit sales and loans. The maximum amount of the penalty is loss of all credit charges but under clause 207 the Tribunal is empowered to determine that part only of the credit charges will be lost. The penalty also applies to a credit provider where a property mortgage securing a credit sale or loan is not written as required under clause 174.

Clause 105 makes a credit provider guilty of a criminal offence if the credit sale or loan is not in accordance with the Act. The penalty is in addition to the penalty under clause 97 where the contract is not in writing.

Clause 106 makes void a provision imposing a minimum credit charge exceeding the statutory limits. A credit provider who includes such a void provision is guilty of an offence.

Clause 107 requires copies of property mortgages securing credit sales and loans to be given to the debtor.

Clause 108 requires credit providers to comply with requests for information and statements of the account under credit sales and loans.

Clause 109 requires credit providers to give copies of contracts or offers to debtors and guarantors upon request.

Clause 110 permits the Tribunal to reduce certain amounts included in credit sales or loans to the reasonable value of those fees or amounts.

Clause 111 contains the interpretation of "continuing credit contract". A continuing credit contract is a contract under which credit is provided for the supply of cash or for the payment for goods and services on a running account basis.

Clause 112 limits the application of Division 2 of Part V. to continuing credit contracts where the interest rate exceeds 14 per cent for cash supplied under the contract or where goods and services are supplied and a charge is made for the credit, an amount owing is not required to be paid within three months or an amount owing may be paid by four or more instalments. The clause exempts continuing credit contracts of the kind made by certain credit card companies where the only charge for credit is a limited accounting charge, as defined in clause 4. The provisions of the Division apply in the absence of proof to the contrary if a contract under which cash may be disclosed does not include information stating whether or not it is one where the interest rate exceeds 14 per cent. The clause exempts from the application of the Division bank overdrafts and continuing credit contracts where the credit limit exceeds \$15,000.

Clause 113 defines "billing cycle" in relation to continuing credit contracts. It is such period not exceeding 40 days as is applied from time to time as the accounting period.

Clause 114 identifies the chargeable amount under continuing credit contracts as the amount determined by the credit provider for each billing cycle as the chargeable amount, subject to the provision that under no circumstances may the chargeable amount for any billing cycle exceed the sum of the average daily balances of the account (paragraph (b) of clause 114 (1) would always be a greater amount than the amount under paragraph (a) although paragraph (a) would be the more usual manner of calculation of the chargeable amount).

Clause 115 further limits both the calculation of the chargeable amount under clause 114 and of the credit charge under clause 116 by prohibiting a credit provider charging to a debtor amounts other than amounts of the kind set out in clause 115 (1). In particular, the chargeable amount may not include amounts other than the cash price of goods and services, the amount of cash supplied, and credit charges and other expenses outstanding from previous billing cycles.

Clause 116 defines credit charge for the purposes of each billing cycle. The credit charge is the amount payable for the billing cycle less the chargeable amount and other amounts specified in sub-clause (1). Sub-clause (2) requires a credit provider to limit the credit charge to the amount derived by applying the disclosed annual percentage rate to the chargeable amount. Sub-clause (3) specifically provides that in determining a credit charge under a three-party continuing credit contract, account is not taken of charges made by the credit provider to the suppliers of goods and services or of cash.

Clause 117 interprets "annual percentage rate" for the purposes of continuing credit contracts as the rate applied under the contract to the chargeable amount to yield the credit charge.

Clause 118 permits the application to a billing cycle of a continuing credit contract of a credit charge calculated as a monthly rate notwithstanding that the billing cycle is less than one month. The provisions do not apply if a billing cycle is less than 24 days and are required only for the first billing cycle of a contract which is for a period of less than a month.

Clause 119 permits statements of account to be made up to include credit charges for holidays immediately following the end of the billing cycle provided that that amount of credit charge is not also included in the succeeding billing cycle.

Clause 120 requires a credit provider to give a statement of rights to a debtor before a debt is incurred, or if the contract is not written, to give the statement with the notice he is required to give under clause 121.

Clause 121 is the provision requiring a notice containing statutory information to be given before a debt is incurred under a continuing credit contract. The statutory information requires disclosure of methods for calculating the chargeable amount and the credit charge, a statement of the annual percentage rate (or rates as, under continuing credit contracts, more than one rate can be applied), the credit limit under the contract and all other relevant details of the contract.

Clause 122 applies to limit the operation of the exercise of a right to vary a contract for at least seven days after the debtor has been given notice of the variation. Special provision is made where notices are posted by bulk postage.

Clause 123 is the provision requiring a statement of account disclosing the statutory information required to be given for each billing cycle. The statutory information must include the opening and closing balances, details of goods and services and cash supplied, details of refunds and allowances, details of the credit charge and annual percentage rate (or rates) and details of stamp duty and other charges in the account. Sub-clause (4) permits details of purchases and other details to be disclosed by attaching vouchers or other documents to the account. Sub-clause (5) permits omission of details of transactions under the account that take place in the closing day or days of the billing cycle and their inclusion in the next billing cycle.

Clause 124 prohibits a credit provider giving a statement of account for a billing cycle unless he has given a statement of account for the previous billing cycle (if any) and the statutory period has elapsed. It also prohibits the inclusion in the first statement of the chargeable amount for that billing cycle, thus requiring the first chargeable amount to be free of credit charge if paid not later than the date required under the second billing cycle.

Clause 125 permits a credit provider not to give a statement of account for the billing cycle if the account has not been active or the debt has been written off.

Clause 126 requires a credit provider to pay upon request any amounts by way of refunds or otherwise that he owes to the debtor.

Clause 127 imposes a civil penalty on a credit provider where he fails to comply with his obligations to the debtor in accordance with the Division. The maximum amount of the civil penalty is total loss of the credit charge for the billing cycle in respect of which the failure occurred but under clause 207 the Tribunal is given power to reduce the amount of the credit provider's loss.

Clause 128 requires a credit provider upon request to give the debtor or guarantor a copy of the notice given under clause 121.

Clause 129 prevents an attempted exclusion of a person's right to revoke an offer at any time before acceptance.

Clause 130 permits the over-statement of the annual percentage rate under credit contracts. It also permits the under-statement provided the under-statement is not more than 1 part in 50 of the actual rate.

Clause 131 permits the under-statement of an estimated credit charge. It also permits the over-statement provided the over-statement is not more than 1 part in 100 of the actual charge.

Clause 132 makes provision for a case where under a credit sale or loan there is a discrepancy between the stated amount of the credit charge and the amount calculated by applying the stated annual percentage rate to the amount financed. The effect of the clause is to make the liability of the debtor a liability to pay whichever amount is the less.

Clause 133 makes provision for the disclosure of amounts owing under credit contracts that are discharged under an arrangement for a new credit contract consolidating amounts owing under the discharged contracts.

Clause 134 requires disclosure of amounts owing under a contract before any variation is made to the amount financed.

Clause 135 makes provisions regulating deferral charges imposed under contracts that include provisions permitting a charge to be made. A charge may not exceed an amount determined by the application of the annual percentage rate to the deferred amount, a prescribed rate or any lesser amount agreed between the parties.

Clause 136 permits the making of a default charge for late payment of amounts under credit sales and loans provided that the amount does not exceed the amount determined by applying the annual percentage rate to the unpaid amount or the contractual rate, whichever is the less. It is specifically provided that a credit charge cannot be made on a default charge.

Clause 137 allows reasonable enforcement expenses to be charged to the debtor.

Clause 138 prevents variation of contracts (otherwise than by way of consolidation, refinancing or deferral) to be subject to notice being given. A regulated contract continues to be a regulated contract notwithstanding its variation.

Clause 139 permits a debtor who because of illness or unemployment is unable to discharge obligations under a secured credit sale or loan, to make application for an extension of the period of the sale or loan. The provision applies only to secured contracts where the value of the property to which the security relates exceeds the value of the debtor's obligations. The provision has the effect of preventing the credit provider exercising rights under the property mortgage and corresponds to a debtor's rights under unsecured contracts to make arrangements for the due payment of the debt.

Clause 140 defines net balance for the purposes of the termination and enforcement provisions relating to credit contracts. The net balance is the sum of the outstanding balances of amounts owed at the particular time less any statutory rebates.

Clause 141 entitles the debtor, after giving notice, to discharge a credit contract by paying the net balance.

Clause 142 requires credit providers to give notice before instituting proceedings or exercising rights under credit contracts or under mortgages securing credit contracts, except in the case of fraud or where the Tribunal determines that notice is not required.

Clause 143 limits the credit provider's right to recover amounts under the credit contract to a maximum amount not exceeding the net balance.

Clause 144 prevents a credit provider exercising rights arising from a breach of a credit contract or mortgage securing the credit contract if, after he has given notice of intention to exercise the right, the debtor remedies the breaches.

Clause 145 prohibits assignment by a credit provider of rights under a credit contract, or under a mortgage securing a credit contract, to a person other than a licensed or exempt credit provider, except in the case of assignment by way of security. The limitation on assignment does not operate to prevent assignment of rights under mortgages affecting obligations arising otherwise than under the credit contract. Where a credit provider assigns a contract in contravention of the clause he loses his credit charges unless the Tribunal reduces the extent of that penalty.

Clause 146 is the provision determining the leases to which the provisions of Part VI. apply. The Part applies to leases of goods for personal, domestic or household use or consumption and to leases of any other goods where the rent is less than \$15,000 but does not apply to any leases to corporations, to leases to natural persons for business purposes, to leases where the rent is less than \$200 or to leases terminable at will upon the expiry of a rental period of 1 month or more. Under the interpretation of "lease" in clause 4, the provisions do not in any event apply to leases the minimum term of which does not exceed three months. The clause includes a formula for the purposes of calculating the minimum term by reference to the rent, the periods for payment of rent, and the instalments of rent.

Clause 147 requires a lease to be written or to have been made by the acceptance of a written offer.

Clause 148 requires a lessor to give a statement of financial obligations and rights to a person who signs an offer in his presence.

Clause 149 requires a lessor to give the lessee a copy of a lease or offer signed in his presence.

Clause 150 is the provision setting out the statutory information required to be disclosed in a lease of goods. The lease must include detailed statements of the rent, the period of the lease, amounts other than rent payable by the lessee, details of insurance premiums payable by the lessee and other terms of the lease. As with credit sales and loans, the insurance premiums that may be charged to the lessee are limited and must be identified.

Clause 151 makes it an offence to enter into a lease that is not in accordance with the provisions of the Part, in addition to the offence under clause 147 for entering into an unwritten lease.

Clause 152 prohibits a lessor including in a lease provision for payment of amounts on termination exceeding the amount calculated by the statutory formula in clause 166.

Clause 153 imposes a civil penalty on a lessor who does not comply with clause 150. The penalty is total loss of amounts payable under the lease, subject to the right of the Tribunal under clause 207 to reduce the lessor's loss.

Clause 154 requires a lessor to give lessees and guarantors information they request about the state of account under the lease.

Clause 155 requires a lessor to comply with written requests from lessees and guarantors for copies of the lease.

Clause 156 permits the Tribunal to determine amounts payable in respect of solicitor's fees where the lessee claims the amount he is required to pay under the lease is unreasonable.

Clause 157 requires a lessee who agrees to terminate a regulated lease in consideration of the lessee entering into another lease to give full details of the amount due to the lessee under the terminated lease.

Clause 158 requires disclosure of amounts owing under a lease before any variation is made to the amount payable under the lease.

Clause 159 makes provision for a deferral charge to be imposed where the lease includes provisions permitting such a charge. The charge may not exceed an amount determined by application of the prescribed rate or the agreed amount, whichever is the less.

Clause 160 permits a default charge to be made for late payments under a lease, provided that the amount of the charge does not exceed the amount calculated by applying to the unpaid amounts the prescribed rate or any rate that is prescribed in the lease.

Clause 161 permits a lessor to require payment of reasonable enforcement expenses by the lessee. The Tribunal may determine disputes over reasonable charges.

Clause 162 provides that a variation of a lease does not take effect until notice is given and that a regulated lease continues to be a regulated lease notwithstanding a variation.

Clause 163 enables a lessee under a secured lease who by reason of illness or unemployment is unable to discharge his obligations under the lease to make application for extension of the lease and reduction of instalments of rent provided that the value of the security exceeds the amount payable under the lease. The Tribunal has power to make appropriate Orders.

Clause 164 permits a lessee to terminate a lease at any time by returning the leased goods, subject to his obligation to pay the relevant amount determined under clause 166.

Clause 165 prevents a lessor instituting proceedings or exercising rights under the lease, or under a mortgage securing the lease, unless he has given notice to the lessee. The restriction does not apply in the case of fraud or where the goods have been or will be removed, concealed or damaged.

Clause 166 determines the amount payable on termination of a lease where the lessee returns the goods under clause 164, the lessor takes possession of the goods or the parties agree to terminate the lease. The amount payable is the lesser of the amount agreed under the lease or the amount calculated in accordance with the formula in sub-clause (2) which takes into account the original value, residual value and market value of the goods.

Clause 167 prevents a lessor or mortgagee exercising rights arising out of breaches of the lease or a mortgage securing the lease if, after notice is given, the lessee pays amounts owing and remedies all breaches.

Clause 168 makes void a provision in a lease purporting to permit entry on premises to take possession of goods without an Order of a court or the Tribunal.

Clause 169 makes a lessor guilty of an offence if he enters to take possession without an Order of a court or the Tribunal, unless the lessee gave his consent.

Clause 170 requires a lessee to answer a lessor's request to disclose the location of leased goods.

Clause 171 provides that a lessor may not assign his rights or obligations under a lease, or under a mortgage securing a lease, except to a licensee or exempt credit provider except where the assignment is by way of security only. The clause permits assignment of rights and obligations under a mortgage that relate to matters other than the lease.

Clause 172 prohibits a lessee disposing or parting with possession of goods under a lease or assigning his interest without the lessor's consent. The lessor may not unreasonably withhold consent and may require the lessee and assignee to execute an assignment agreement. The Tribunal is given power to permit assignment in a case where the lessor has not given his consent.

Clause 173 applies the provision of Part VII. to property mortgages securing obligations under regulated credit contracts and regulated leases.

Clause 174 requires a property mortgage to be in writing or to be made as the result of a written offer or agreement. The provision does not apply where the mortgagee had possession of the property before the mortgage was made.

Clause 175 makes void a provision purporting to permit a mortgagee to enter on premises to possess goods without an order of a court or the Tribunal.

Clause 176 makes a mortgagee guilty of an offence for entry on premises without the Order of a court or the Tribunal unless the mortgagor has given consent.

Clause 177 requires a mortgagor to comply with a written request to inform the mortgagee where the goods the subject of the mortgage are situated.

Clause 178 makes void a purported mortgage over wages, salary or superannuation or pension benefits.

Clause 179 makes a credit provider or lessor guilty of an offence if he draws, accepts or endorses a bill of exchange or promissory note securing amounts payable but not then due under regulated credit contracts, leases or property mortgages. Where a bill or note is drawn, accepted or endorsed, the credit provider, lessor or mortgagee is liable to pay to the debtor, lessee or mortgagor any amount paid under the bill or note in excess of amounts for which the debtor, lessee or mortgagor is liable under the contract, lease or mortgage.

Clause 180 makes void a provision by a natural person creating a blanket charge over all his property and assets.

Clause 181 makes void mortgages by natural persons of future property. The clause does not apply to provisions in property mortgages relating to property acquired in the future under regulated credit contracts, property described or identified in the mortgage or provisions extending the mortgage to apply to goods replacing or goods in addition to other goods subject to the mortgage.

Clause 182 makes void a provision under a property mortgage insofar as it secures amounts payable under a regulated credit contract where the annual percentage rate under the contract exceeds 30 per centum.

Clause 183 makes void a purported mortgage by a natural person of goods to which a continuing credit contract relates.

Clause 184 requires Part VII. of the Bill to be read and construed with the Chattel Securities Act.

Clause 185 permits a mortgagor to require the mortgagee to exercise his right to sell goods subject to a property mortgage unless the property mortgage is security for a debt or obligation arising otherwise than under a regulated credit contract or lease. The clause makes provision for the return of the goods to the mortgagee and for the sale of them by the mortgagee at the best price reasonably obtainable.

Clause 186 requires a mortgagee to give notice before exercising a right to take possession of goods under a property mortgage unless the goods have been or will be removed, concealed or damaged. The Tribunal has power to waive the provisions.

Clause 187 requires a mortgagee who has taken possession of property to postpone sale or disposal until notice has been given to the mortgagee and a period has elapsed. If the mortgagor applies for relief to a court or Tribunal, a further prohibition on sale or disposal may be made by Order of a court or the Tribunal.

Clause 188 permits a mortgagor to redeem property of which a mortgagee has taken possession by paying amounts due.

Clause 189 enables reasonable enforcement expenses to be charged to a mortgagor. The Tribunal may determine the amount of the expenses in the case of a dispute.

Clause 190 requires a mortgagee who takes possession of property to account for the proceeds of sale or amount he should have received on prompt enforcement and to pay the balance to the mortgagor after deduction of amounts owing to the mortgagee.

Clause 191 places on the mortgagee the onus of proving that he obtained the best price under a sale of re-possessed goods.

Clause 192 prohibits the mortgagor disposing or parting with possession of property subject to a mortgage without consent. Consent may not unreasonably be withheld by the credit provider, lessor or mortgagee but an assignment agreement may be required. The Tribunal may determine disputes where consent has been withheld.

Clause 193 limits a lessor's right to require leased goods to be insured under leases or mortgages securing the lease. The lessor may not require insurance at the lessee's expense for a period of more than 12 months at a time or require the insurance to be with a named insurer or for unreasonable risks, nor may the lessor require insurance against risks that he did not require in the original policy.

Clause 194 requires insurance contracts (other than compulsory insurance contracts as defined in clause 4) to include certain information about the premiums and risks. Sub-clause (2) provides that *Scott v. Avery* clause and certain other provisions in insurance contracts relating to arbitration are to be read as agreements to arbitrate and not as preventing causes of action from accruing.

Clause 195 requires insurance premiums payable to credit providers or lessors under regulated contracts or leases to be paid to the insurer.

Clause 196 provides that where debtors and lessees are entitled to no-claim bonuses credit providers and lessors who receive but do not pass on the benefit of those bonuses are guilty of an offence.

Clause 197 provides that contracts of insurance relating to regulated contracts or leases or property mortgages are not void or unenforceable by reason only of immaterial mis-statements or omissions.

Clause 198 gives to a court hearing proceedings relating to an insurance contract relating to a regulated contract, lease or mortgage, power to make orders correcting immaterial mis-statements or omissions in or minor contraventions of the contract.

Clause 199 makes a contract of guarantee in respect of the obligations of a debtor or lessee under a regulated contract or lease unenforceable unless it is in writing.

Clause 200 limits the liability of a guarantor in respect of the obligations of a debtor or lessee under a regulated contract or lease to an amount not exceeding the debtor's or lessee's liability and reasonable costs.

Clause 201 provides that the guarantor of a minor is liable under a guarantee contract in respect of a regulated contract or lease as if the minor had been of full age, provided that the contract includes a prominent statement to the effect that the guarantor may not be able to recover amounts from a debtor or lessee who is a minor.

Clause 202 requires copies of guarantee contracts to be given to guarantors.

Clause 203 requires a statement of rights to be given to guarantors.

Clause 204 enables a guarantor to discharge a guarantee relating to a regulated contract or lease insofar as it relates to future obligations.

Clause 205 makes void a purported exclusion of a person's right to revoke an offer to enter into a contract of guarantee before it is accepted.

Clause 206 permits a court or the Tribunal to give relief for minor errors in regulated contracts, or in notices or statements of account relating to continuing credit contracts or in regulated leases.

Clause 207 is the provision enabling credit providers and lessors to apply to the Tribunal for a reduction of the civil penalties under clauses 85, 86 and Part V. The Tribunal's power to reduce the extent of the penalty enables it, in the case of a failure to hold a licence which it believes ought reasonably to be excused, to determine that the credit provider may receive the whole or some part of the credit charge as well as the amount financed or that the lessor may receive the whole or some part of the amount payable under the lease. In the case of a failure to hold a credit provider's licence that ought not to be excused, the Tribunal may determine that the loss be mitigated by the payment of part of the amount financed, the whole of the amount financed or the whole of the amount financed and some part of the credit charge. In the case of any other civil penalty, the Tribunal may order that the credit provider or lessor is entitled to some part of the credit charge or of the amount payable under the lease. In any event, the amount by which the civil penalty is mitigated must not exceed the amount of the debtor's or lessee's loss.

Clause 208 enables a credit provider or lessor who is aware that he has contravened the licensing provisions to apply to the Tribunal for general orders in respect of several contracts or leases or general orders in respect of contracts or leases entered into during a certain period.

Clause 209 permits a debtor or lessee whose liability is reduced by the civil penalty to set off the extent of the reduction against future payment and makes the credit provider or lessor liable to pay to the debtor or lessee amounts that because of the reduction, exceed the debtor's or lessee's future liability.

Clause 210 permits a debtor, lessee or mortgagor to seek the assistance of the Commissioner, the Tribunal or the court for relief against the enforcement of a regulated contract, lease or mortgage. The court or Tribunal is empowered to give appropriate relief.

Clause 211 re-enacts corresponding provision in the Hire-Purchase and Money Lenders Acts giving power for relief against harsh and unconscionable transactions and gives power both to a court and to the Tribunal to grant relief.

Clause 212 permits a lessor or mortgagee to apply to the Tribunal for an order that the lessee or mortgagor deliver up possession of goods where notice requiring possession has been given under clause 165 or 186 but not complied with.

Clause 213 prohibits the payment under a regulated loan of amounts otherwise than in cash or money's worth and requires them to be made in full.

Clause 214 re-acts the provision in the Money Lenders Act making invalid assignments of interests under wills unless written and executed in the prescribed manner.

Clause 215 imposes a penalty for including false or misleading statements or omitting material matter from offers to enter into regulated contracts or leases. The clause includes provision for a defence where the person making the offer reasonably believed the matter to be true.

Clause 216 requires the credit provider, in the absence of agreement to the contrary, to apply payments received under regulated credit contracts in the order set out in the clause.

Clause 217 enables the Tribunal to extend periods for the doing of things under the Act notwithstanding that the period has elapsed.

Clause 218 makes unenforceable any credit contract and property mortgage securing a credit contract if the annual percentage rate under the contract exceeds 48.

Clause 219 requires a credit provider to give reasons for refusing credit but the terms of the clause would be altered on the passing of the Credit Reporting Bill presently before Parliament.

Clause 220 permits the Tribunal to make an order approving the removal of goods to a place other than a place specified as the place in which they are to be kept under a contract, lease or mortgage.

Clause 221 permits a debtor or lessee to appropriate payments made to the same credit provider or lessor in respect of two or more regulated contracts or leases to a specified contract or lease and, if he does not make an appropriation in such a case, a payment is to be appropriated to the contracts or leases in the order in which they were entered into.

Clause 222 makes void a provision requiring interest to be paid on credit sales that are not regulated credit contracts, at an annual percentage rate exceeding 10 per centum.

Clause 223 re-enacts a provision in the Hire-Purchase Act making special provision for relief from enforcement of mortgages over farm machinery.

Clause 224 makes it an offence to publish an advertisement relating to credit that is false or misleading or that states or implies that an interest rate will be applied to credit contracts other than the interest rate that is actually applicable.

Clause 225 prohibits the hawking of credit but does not operate to prohibit persons inviting applications for credit otherwise than at the prospective borrower's residence or place of business or by telephone made by a prospective borrower. The provisions do not apply to offers of credit to dealers.

Clause 226 makes it an offence for a licensee to carry on business under a name other than a licensed name.

Clause 227 makes it an offence fraudulently to dispose or sell goods subject to a credit sale, lease or mortgage.

Clause 228 provides a general penalty.

Clause 229 prevents proceedings being brought after three years unless the Minister gives his consent.

Clause 230 makes officers of companies concurrently liable with the company itself for breaches of the Act if they were knowingly a party to the commission of the offence.

Clause 231 provides that the Commissioner may publish tables or charts of calculations for the purposes of ascertaining amounts accrued due under credit contracts in accordance with Schedule Two and to publish tables or charts for ascertaining the annual percentage rate in accordance with Schedule Three.

Clause 232 requires written documents to be readily legible in clear handwriting or in specified type or print.

Clause 233 permits signature of documents by authorized agents but does not extend to permitting credit providers, lessors or mortgagees to be authorized agents.

Clause 234 provides that a credit contract, lease or mortgage is not illegal, void or unenforceable by reason only that an offence is committed.

Clause 235 makes void provisions in contracts, leases or mortgages that are inconsistent with the Act.

Clause 236 specifically provides that this Act does not, except as expressly stated, modify or restrict other rights or remedies.

Clause 237 requires the Commissioner to present an annual report for tabling in Parliament.

Clause 238 prevents the Commissioner including reference in his report to named credit providers or lessors stating or inferring that they have contravened the Act otherwise than where there has been a hearing before a court or the Tribunal.

Clause 239 makes provision for the giving and service of notices.

Clause 240 provides that documents sent by post are to be deemed to have been given to the addressee when the letter would be delivered in the ordinary course of post.

Clause 241 allows Sundays, Saturdays and holidays to be excluded in the computation of periods of less than eight days.

Clause 242 is an evidentiary provision relating to certificates of the Registrar and documents signed by the Registrar.

Clause 243 provides for reciprocity of offences under the uniform laws.

Clause 244 enables the necessary regulations to be made.

Clause 245 repeals the *Money Lenders Act 1958*, *Hire-Purchase Act 1959* and amending Acts but continues those Acts in operation in respect of contracts made before the commencement of operation of the Credit Act.

Clause 246 provides that nothing in the Credit Act applies to sales, contracts, leases or mortgages made before the commencement of the section except that the continuing credit contract provisions will apply in respect of transactions under the credit made after the commencement of operation of the Act.

Schedule One lists the repealed Acts and provisions.

Schedule Two sets out a permitted method of calculating the accrued credit charges.

Schedule Three sets out a permitted method of ascertaining the annual percentage rate.