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New South Wales



ANNO QUARTO

ELIZABETHÆ II REGINÆ

Act No. 26, 1955.

An Act to amend the minimum-deposit provisions 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:—

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

Short title, citation and comment.

Hire-purchase Agreements (Amendment).

(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) any body corporate authorised to carry on banking business under the Commonwealth Bank Act 1945 (as amended by subsequent Acts) of the Parliament of the Commonwealth 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 Commonwealth of Australia.

cf. 25
Geo. V. No.
33, s. 26
(Q'ld.).

“Hire-purchase agreement” includes—

- (a) any agreement for the bailment of goods with or without expressly 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

Hire-purchase Agreements (Amendment).

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 connection, 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 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.

“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. cf. Act No. 67, 1941, s. 3 (1).

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

Hire-purchase Agreements (Amendment).

(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 by cheque drawn by a banker or by the purchaser 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)

Hire-purchase Agreements (Amendment).

- (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.

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.

Offence
to carry
on business
of lending
deposits.

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

Deposits
not to be
by way
of loan.

Hire-purchase Agreements (Amendment).

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.

Certain transactions prohibited.

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 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.

Certain advertisements prohibited.

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)

Hire-purchase Agreements (Amendment).

- (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.

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

Contracts
to evade
this Part.

(b)

Hire-purchase Agreements (Amendment).

(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) 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.

Regulations.

39. (1) The Governor may make 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.

(4)

(2)

Hire-purchase Agreements (Amendment).

- (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.

(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.

By Authority:

A. H. PETTIFER, Government Printer, Sydney, 1955.

With reference to the above mentioned...

(2) The regulations shall

(a) be published in the Gazette

(b) be subject to the provisions of sub-section (1) of section 17 of the Government of India Act, 1935, and

(c) be subject to the provisions of sub-section (1) of section 17 of the Government of India Act, 1935, and it shall be lawful for the Government to make such regulations as may be necessary or expedient for the purposes of the said section.

It shall be lawful for the Government to make such regulations as may be necessary or expedient for the purposes of the said section, and it shall be lawful for the Government to make such regulations as may be necessary or expedient for the purposes of the said section.

Notwithstanding anything contained in the provisions of the said section, the provisions of section 17 of the Government of India Act, 1935, shall not apply in force in respect of any regulations made under the said section in pursuance of the provisions of section 17 of the Government of India Act, 1935.

For signature

Secretary to the Government of India

I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

H. ROBBINS,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 1 April, 1955, A.M.*

New South Wales



ANNO QUARTO

ELIZABETHÆ II REGINÆ

Act No. 26, 1955.

An Act to amend the minimum-deposit provisions 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:—

1. (1) This Act may be cited as the "Hire-purchase Agreements (Amendment) Act, 1955." Short title, citation and commencement.
- (2)

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

G. BOOTH,
Chairman of Committees of the Legislative Assembly.

Hire-purchase Agreements (Amendment).

(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) any body corporate authorised to carry on banking business under the Commonwealth Bank Act 1945 (as amended by subsequent Acts) of the Parliament of the Commonwealth 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 Commonwealth of Australia.

cf. 25
Geo. V. No.
33, s. 26
(Qld.).

“Hire-purchase agreement” includes—

(a) any agreement for the bailment of goods with or without expressly 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

Hire-purchase Agreements (Amendment).

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 connection, 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 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.

“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.

Hire-purchase Agreements (Amendment).

(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 by cheque drawn by a banker or by the purchaser 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)

Hire-purchase Agreements (Amendment).

- (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.

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.

Offence to carry on business of lending deposits.

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

Deposits not to be by way of loan.

Hire-purchase Agreements (Amendment).

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.

Certain transactions prohibited.

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 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.

Certain advertisements prohibited.

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)

Hire-purchase Agreements (Amendment).

- (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.

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

Contracts
to evade
this Part.

(b)

Hire-purchase Agreements (Amendment).

(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) 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.

Regulations.

39. (1) The Governor may make 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)

Hire-purchase Agreements (Amendment).

- (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.

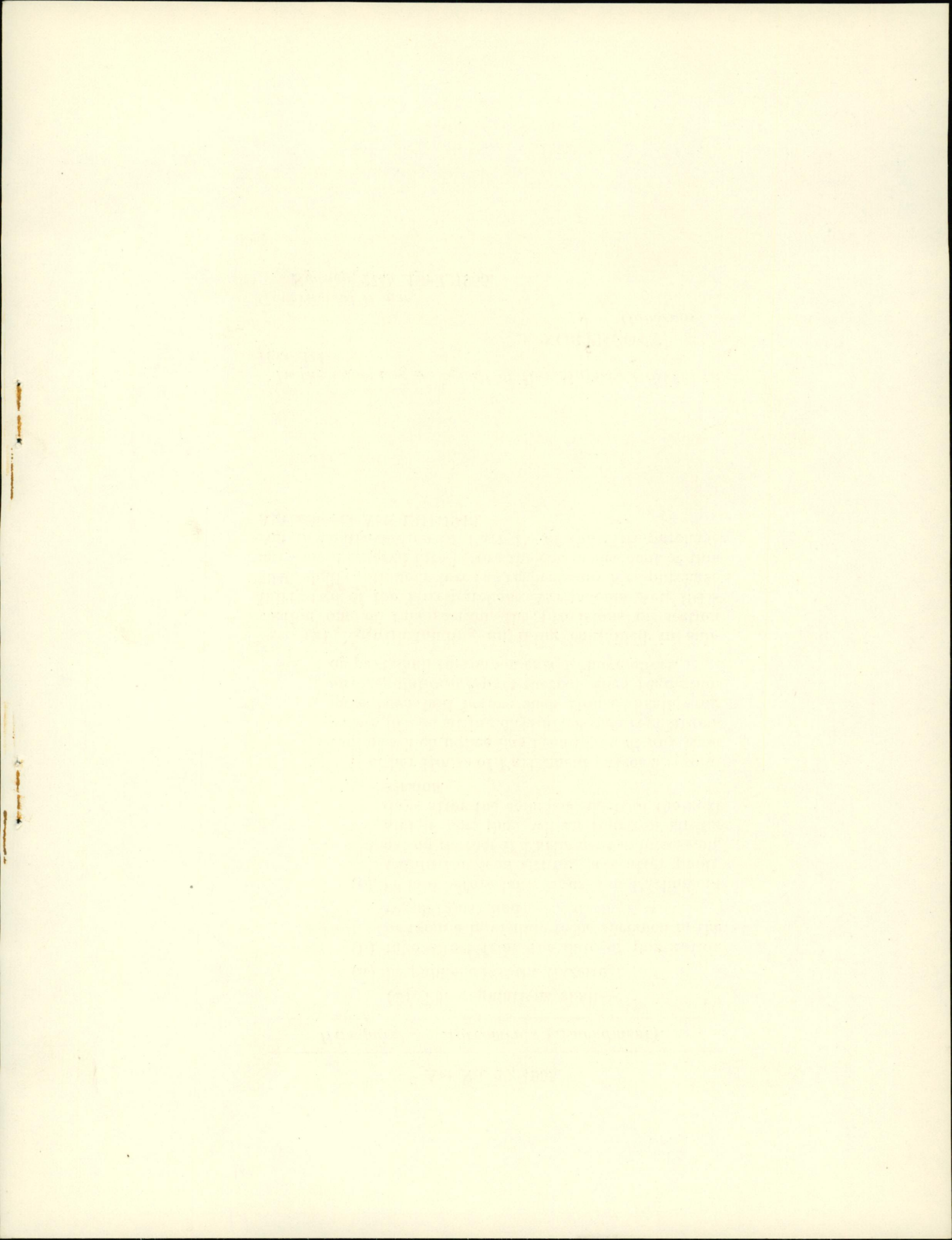
If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

(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.

In the name and on behalf of Her Majesty I assent to this Act.

J. NORTHCOTT,
Governor.

*Government House,
Sydney, 27th April, 1955.*



HIRE-PURCHASE AGREEMENTS (AMENDMENT) BILL.

*Schedule showing the Amendments referred to in Legislative Council's
Message of 31st March, 1955.*

No. 1.—Page 2, clause 2. *After line 10 insert—*

“Banker” means—

- (a) the Rural Bank of New South Wales;
- (b) any body corporate authorised to carry on banking business under the Commonwealth Bank Act 1945 (as amended by subsequent Acts) of the Parliament of the Commonwealth 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 Commonwealth of Australia.

No. 2.—Page 3, clause 2. *After line 38 insert—*

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

No. 3.—Page 4, clause 2, line 16. *After “of” insert—*

—(a) where the minimum amount of the deposit is not prescribed under paragraph (b) of this subsection,

No. 4.—Page 4, clause 3, lines 20 to 23 inclusive. *Omit “(or such other fraction as may for the time being be fixed in lieu thereof by the Governor by proclamation published in the Gazette)”.*

No. 5.—Page 4, clause 2, line 24. *After “agreement” insert—*

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.

No. 6.—Page 4, clause 2, lines 30 and 31. *Omit all words on these lines and insert in lieu thereof:—*

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.

No. 7.—Page 5, clause 2, line 7. *After “by” insert or under.*

No. 8.—Page 5, clause 2, lines 15 to 21 inclusive. *Omit “(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)” and insert in lieu thereof, other than a banker.*

No. 9.—Page 5, clause 2, line 26. *After “by” insert or under.*

No. 10.—Page 7, clause 2, line 11. *After “required” insert by or.*

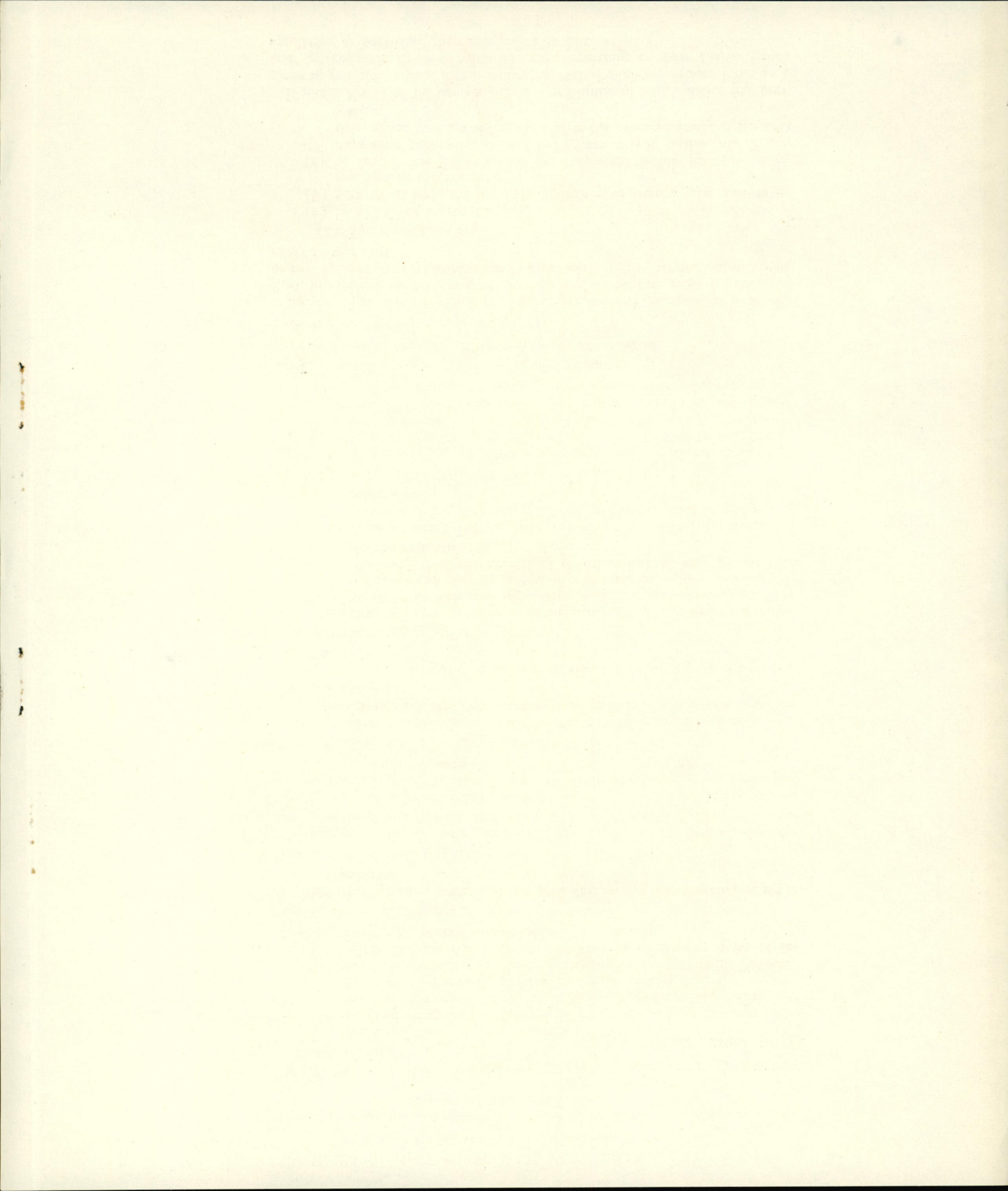
No. 11.—Page 8, clause 2. *After line 31 insert—*

39. (1) The Governor may make 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.



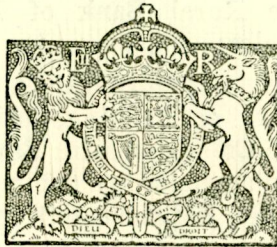
This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

H. ROBBINS,
Clerk of the Legislative Assembly.
Legislative Assembly Chamber,
Sydney, 30 March, 1955.

The LEGISLATIVE COUNCIL has this day agreed to this Bill with Amendments.

J. R. STEVENSON,
Clerk of the Parliaments.
Legislative Council Chamber,
Sydney, 31st March, 1955.

New South Wales



ANNO QUARTO

ELIZABETHÆ II REGINÆ

Act No. , 1955.

An Act to amend the minimum-deposit provisions 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.

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:—

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

5823

177—A

(2)

Short title,
citation and
commence-
ment.

NOTE.—The words to be omitted are ruled through; those to be inserted are printed in black letter.

Hire-purchase Agreements (Amendment).

(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 5 of May, one thousand nine hundred and fifty-five.

2. (1) The Hire-purchase Agreements Act, 1941-1946, is amended— Amendment of Act No. 56, 1941.

(a) by inserting at the end of section thirty the following new subsections:— Sec. 30. (Definition.)

10 (2) In this Part—

“Banker” means—

(a) the Rural Bank of New South Wales;

15 (b) any body corporate authorised to carry on banking business under the Commonwealth Bank Act 1945 (as amended by subsequent Acts) of the Parliament of the Commonwealth of Australia; or

20 (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 Commonwealth of Australia.

25

“Hire-purchase agreement” includes— cf. 25 Geo. V. No. 33, s. 26 (Qld.).

30 (a) any agreement for the bailment of goods with or without expressly 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

35

Hire-purchase Agreements (Amendment).

5 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
10 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
15 the sale or agreement for sale of
goods or with the intended or
future sale of goods which in the
opinion of the court in which any
proceedings under this Part are
taken is intended to give to the
20 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
25 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
30 later time.

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

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

{3}

Hire-purchase Agreements (Amendment).

(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.

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

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

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 by cheque drawn by a banker or by the purchaser or proposed purchaser or the spouse of the purchaser or proposed purchaser on a banker a deposit of—

Minimum
deposits.

(a) where the minimum amount of the deposit is not prescribed under paragraph (b) of this subsection, not less than one-tenth (or such other fraction as may for the time being be fixed in lieu thereof by the Governor by proclamation published in the Gazette) 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 so prescribed,

shall be guilty of an offence against this Part.

The Governor may from time to time in like manner vary or revoke any such proclamation.

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)

Hire-purchase Agreements (Amendment).

(ii) rates or bases varying in accordance with different amounts of purchase-price, different durations of hire-purchase agreements or otherwise.

5 (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
10 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.

15 32. 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 Bank-
ing Act 1945 of the Parliament of the Common-
wealth of Australia or under any amendment
20 of those Acts), **other than a banker**, who
(whether or not he carries on any other busi-
ness) carries on the business of lending or
making loans to other persons for the purpose of
enabling those other persons to pay the deposits
25 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.

30 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
35 than the Rural Bank of New South Wales or
any body corporate authorised to carry on
banking business under the Commonwealth Bank
Act

Offence
to carry
on business
of lending
deposits.

Deposits
not to be
by way
of loan.

Hire-purchase Agreements (Amendment).

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.

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

10 (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

15 (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,

20 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 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.

25 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— Certain advertisements prohibited.

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

(b)

Hire-purchase Agreements (Amendment).

5 (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,

10 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
15 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.

20 (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.

25 (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.

36. Any person who—

30 (a) enters into any transaction, or makes
any contract or arrangement purport-
ing to do whether presently or at some
future time or upon the happening of
any event or contingency anything that
35 contravenes or will contravene the
provisions of this Part; or

Contracts
to evade
this Part.

(b)

Hire-purchase Agreements (Amendment).

5 (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.

10 37. (1) Where after the commencement of the ^{Transactions} Hire-purchase Agreements (Amendment) Act, ^{not} 1955, any transaction is entered into, or any ^{invalidated.} contract or arrangement is made, in contravention of this Part, the transaction, contract
15 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.

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

25 38. Any person guilty of an offence against ^{Penalty.} this Part shall be liable on summary conviction—

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

30 (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.

35 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)

Hire-purchase Agreements (Amendment).

(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.

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If either House of Parliament passed 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.

(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.

[1s.]

Sydney: A. H. Pettifer, Government Printer—1955.

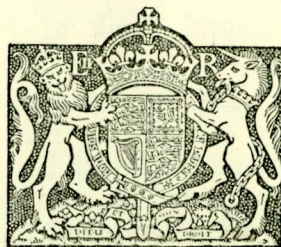
This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

H. ROBBINS,
Clerk of the Legislative Assembly.
Legislative Assembly Chamber,
Sydney, 30 March, 1955.

The LEGISLATIVE COUNCIL has this day agreed to this Bill with Amendments.

Clerk of the Parliaments.
Legislative Council Chamber,
Sydney, March, 1955.

New South Wales



ANNO QUARTO
ELIZABETHÆ II REGINÆ

Act No. , 1955.

An Act to amend the minimum-deposit provisions 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.

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:—

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

5823

177—

(2)

Short title, citation and commencement.

NOTE.—The words to be omitted are ruled through; those to be inserted are printed in black letter.

Hire-purchase Agreements (Amendment).

(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 5 of May, one thousand nine hundred and fifty-five.

2. (1) The Hire-purchase Agreements Act, 1941-1946, is amended— Amendment of Act No. 56, 1941.

(a) by inserting at the end of section thirty the following new subsections:— Sec. 30. (Definition.)

10 (2) In this Part—

“Banker” means—

(a) the Rural Bank of New South Wales;

15 (b) any body corporate authorised to carry on banking business under the Commonwealth Bank Act 1945 (as amended by subsequent Acts) of the Parliament of the Commonwealth of Australia; or

20 (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 Commonwealth of Australia.

25 “Hire-purchase agreement” includes—

30 (a) any agreement for the bailment of goods with or without expressly 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 cf. 25 Geo. V. No. 33, s. 26 (Qld.).

Hire-purchase Agreements (Amendment).

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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 connection, 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 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.

“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)

Hire-purchase Agreements (Amendment).

(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.

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

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

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 by cheque drawn by a banker or by the purchaser 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 (or such other fraction as may for the time being be fixed in lieu thereof by the Governor by proclamation published in the Gazette) 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.

Minimum
deposits.

The Governor may from time to time in like manner vary or revoke any such proclamation.

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)

Hire-purchase Agreements (Amendment).

(ii) rates or bases varying in accordance with different amounts of purchase-price, different durations of hire-purchase agreements or otherwise.

5 (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
10 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.

15 32. Any person (~~other than the Rural Bank~~ ^{Offence}
~~of New South Wales or any body corporate~~ ^{to carry}
~~authorised to carry on banking business under~~ ^{on business}
~~the Commonwealth Bank Act 1945 or the Bank-~~ ^{of lending}
~~ing Act 1945 of the Parliament of the Common-~~ ^{deposits.}
20 ~~wealth of Australia or under any amendment~~
~~of those Acts), other than a banker, who~~
(whether or not he carries on any other busi-
ness) carries on the business of lending or
making loans to other persons for the purpose of
25 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.

30 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
35 than the Rural Bank of New South Wales or
any body corporate authorised to carry on
banking business under the Commonwealth Bank
Act

Hire-purchase Agreements (Amendment).

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.

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

10 (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

15 (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,

20 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 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.

30 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— Certain advertisements prohibited.

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

(b)

Hire-purchase Agreements (Amendment).

5 (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,

10 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.

20 (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.

25 (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.

36. Any person who—

30 (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

Contracts to evade this Part.

35

(b)

Hire-purchase Agreements (Amendment).

5 (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.

10 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 contra-
15 vention 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.

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

25 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;

30 (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.

35 39. (1) The Governor may make 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)

Hire-purchase Agreements (Amendment).

(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 passed 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.

(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.

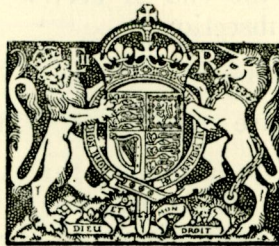
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This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

H. ROBBINS,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 30 March, 1955.*

New South Wales



ANNO QUARTO

ELIZABETHÆ II REGINÆ

Act No. , 1955.

An Act to amend the minimum-deposit provisions 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.

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 **5** the same, as follows:—

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

Short title,
citation and
commence-
ment.

Hire-purchase Agreements (Amendment).

(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 5 of May, one thousand nine hundred and fifty-five.

2. (1) The Hire-purchase Agreements Act, 1941-1946, is amended— Amendment of Act No. 56, 1941.

(a) by inserting at the end of section thirty the following new subsections:— Sec. 30. (Definition.)

10 (2) In this Part—

“Hire-purchase agreement” includes— cf. 25 Geo. V. No. 33, s. 26 (Q'ld.).

15 (a) any agreement for the bailment of goods with or without expressly 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;

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35 (b) any scheme or device wholly or partly in writing on or in connection, directly or indirectly, with the sale or agreement for sale of goods or with the intended or future

Hire-purchase Agreements (Amendment).

5 future sale of goods which in the
 opinion of the court in which any
 proceedings under this Part are
 taken is intended to give to the
 10 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
 15 instalment thereof or until any
 later time.

20 “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 sub-
 stance or effect a loan of money, and
 “lend” and “lending” have corre-
 sponding interpretations.

25 (3) Except to the extent provided in subsec-
 tion 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.

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

35 31. (1) A vendor who enters into a hire-
 purchase agreement without having first
 obtained from the purchaser or proposed pur-
 chaser thereunder in current coin or bank notes
 or by cheque drawn by a banker or by the pur-
 chaser or proposed purchaser or the spouse of
 the purchaser or proposed purchaser on a banker
 a deposit of not less than one-tenth (or such
 other

cf. Act No. 67, 1941, s. 2 (1).

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

Minimum deposits.

Hire-purchase Agreements (Amendment).

5 other fraction as may for the time being be fixed in lieu thereof by the Governor by proclamation published in the Gazette) of the purchase-price of the goods the subject of the agreement, shall be guilty of an offence against this Part.

The Governor may from time to time in like manner vary or revoke any such proclamation.

10 (2) Notwithstanding anything contained in subsection one of this section the deposit required by 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.

20 32. 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) 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 subsection one of section thirty-one of this Act upon the purchase of goods under hire-purchase agreement shall be guilty of an offence against this Part.

Offence to carry on business of lending deposits.

30 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

Deposits not to be by way of loan.

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Hire-purchase Agreements (Amendment).

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.

5

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

Certain transactions prohibited.

10

(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

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(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,

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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 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.

30

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—

Certain advertisements prohibited.

35

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

(b)

Hire-purchase Agreements (Amendment).

5 (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,

10 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 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.

20 (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.

25 (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.

36. Any person who—

30 (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

Contracts to evade this Part.

(b)

Hire-purchase Agreements (Amendment).

5 (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.

10 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 contra-
15 vention 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.

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

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

- 25 (a) if a company—to a penalty not exceeding two hundred pounds;
- 30 (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.

(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.

THE HISTORY OF THE UNITED STATES

OF THE

AMERICAN PEOPLE

FROM THE

EARLIEST PERIODS TO THE

PRESENT

BY

W. H. CHAPMAN

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No. , 1955.

A BILL

To amend the minimum-deposit provisions 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.

[Mr. SHEAHAN;—23 *March*, 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:—

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

Short title,
citation and
commence-
ment.

Hire-purchase Agreements (Amendment).

(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 5 of May, one thousand nine hundred and fifty-five.

2. (1) The Hire-purchase Agreements Act, 1941-1946, is amended— Amendment of Act No. 56, 1941.

(a) by inserting at the end of section thirty the following new subsections:— Sec. 30. (Definition.)

10 (2) In this Part—

“Hire-purchase agreement” includes—

15 (a) any agreement for the bailment of goods with or without expressly 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;

cf. 25 Geo. V. No. 33, s. 26 (Q'ld.).

30 (b) any scheme or device wholly or partly in writing on or in connection, directly or indirectly, with the sale or agreement for sale of goods or with the intended or future

35

Hire-purchase Agreements (Amendment).

5 future sale of goods which in the
 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
 10 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
 15 later time.

“Loan” includes advance, discount, money cf. Act
 No. 67,
 1941, s. 3
 (1).
 paid for or on account of or on behalf
 of or at the request of any person, and
 20 includes every contract (whatever its
 terms or form may be) which is in sub-
 stance or effect a loan of money, and
 “lend” and “lending” have corre-
 sponding interpretations.

25 (3) Except to the extent provided in subsec-
 tion 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.

30 (b) by omitting sections thirty-one and thirty-two
 and by inserting in lieu thereof the following
 sections:— Subst. secs.
 31 and 32
 and new
 secs. 33-38.

35 31. (1) A vendor who enters into a hire-
 purchase agreement without having first Minimum
 deposits.
 obtained from the purchaser or proposed pur-
 chaser thereunder in current coin or bank notes
 or by cheque drawn by a banker or by the pur-
 chaser or proposed purchaser or the spouse of
 the purchaser or proposed purchaser on a banker
 a deposit of not less than one-tenth (or such
 other

Hire-purchase Agreements (Amendment).

5 other fraction as may for the time being be fixed in lieu thereof by the Governor by proclamation published in the Gazette) of the purchase-price of the goods the subject of the agreement, shall be guilty of an offence against this Part.

The Governor may from time to time in like manner vary or revoke any such proclamation.

10 (2) Notwithstanding anything contained in subsection one of this section the deposit required by 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.

20 32. 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) 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 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.

Offence to carry on business of lending deposits.

30 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

Deposits not to be by way of loan.

Hire-purchase Agreements (Amendment).

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.

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

10 (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

15 (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,

20 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 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.

30 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— Certain advertisements prohibited.

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

(b)

Hire-purchase Agreements (Amendment).

5 (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,

10 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 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
15 offence against this Part.

20 (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.

25 (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.

36. Any person who—

30 (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
35 contravenes or will contravene the provisions of this Part; or

Contracts to evade this Part.

(b)

Hire-purchase Agreements (Amendment).

5 (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.

10 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 contra-
15 vention 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.

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

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

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

(2) Notwithstanding anything contained in subsection one of this section, the provisions of section thirty-two of the Hire-purchase Agreements Act, 1941-
35 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.

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HIRE-PURCHASE AGREEMENTS (AMENDMENT) BILL, 1955.

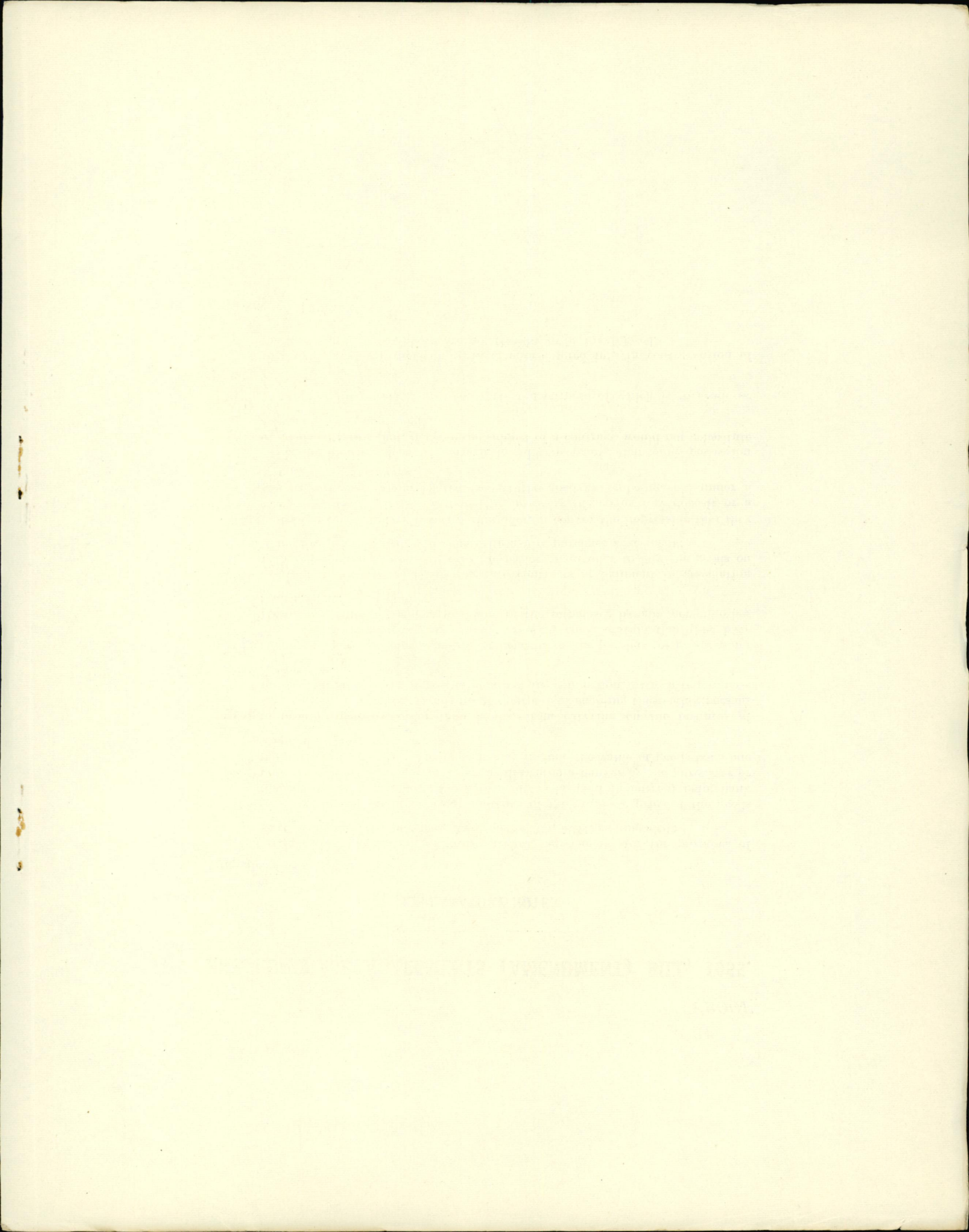
EXPLANATORY NOTE.

THE objects of this Bill are—

- (a) to extend the definition of "hire-purchase agreement" for the purposes of Part IV of the Hire-purchase Agreements Act, 1941, as amended;
- (b) to require a deposit of at least one-tenth of the purchase price of the goods the subject of a hire-purchase agreement to be paid in current coin, bank notes or by a bank cheque or a cheque drawn on a banker by the purchaser or the purchaser's spouse. The deposit may include the value of goods bona-fide supplied by the purchaser;
- (c) to prohibit persons, other than banks, from carrying on the business of lending money to other persons for the purpose of enabling those other persons to pay the minimum deposits required in connection with hire-purchase agreements;
- (d) to prohibit persons from accepting as deposits on the purchase of goods under hire-purchase agreements any money or other consideration that they have reasonable cause to believe was lent to the purchaser by any person other than a bank;
- (e) to prohibit persons from entering into contracts of bailment in association with the making by the bailee to the bailor of an offer to buy the goods on terms that, if accepted, will constitute a hire-purchase agreement;
- (f) to prohibit certain advertisements that offer, or convey the impression that they offer, possession of goods without the necessity of paying any deposit or a less deposit than would be required if the goods were being sold under a hire-purchase agreement.

The prohibition does not attach to advertisements that offer possession of goods on terms that, if made the subject of a contract, would not constitute a hire-purchase agreement;

- (g) to prohibit the entering into contracts the purpose of which is to evade or defeat any of the above objects;
- (h) to provide that contracts or arrangements entered into in contravention of the provisions set out above are not thereby to be invalidated.



No. , 1955.

A BILL

To amend the minimum-deposit provisions 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.

[Mr. SHEAHAN;—23 March, 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
5 the same, as follows:—

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

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ment.

Hire-purchase Agreements (Amendment).

(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 5 of May, one thousand nine hundred and fifty-five.

2. (1) The Hire-purchase Agreements Act, 1941-1946, is amended— Amendment of Act No. 56, 1941.

(a) by inserting at the end of section thirty the following new subsections:— Sec. 30. (Definition.)

10 (2) In this Part—

“Hire-purchase agreement” includes—

15 (a) any agreement for the bailment of goods with or without expressly 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;

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25
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35 (b) any scheme or device wholly or partly in writing on or in connection, directly or indirectly, with the sale or agreement for sale of goods or with the intended or future

cf. 25 Geo. V. No. 33, s. 26 (Q'ld.).

Hire-purchase Agreements (Amendment).

5 future sale of goods which in the
opinion of the court in which any
proceedings under this Part are
taken is intended to give to the
10 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
15 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.

20 “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 sub-
stance or effect a loan of money, and
“lend” and “lending” have corre-
sponding interpretations.

25 (3) Except to the extent provided in subsec-
tion 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.

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

35 31. (1) A vendor who enters into a hire-
purchase agreement without having first
obtained from the purchaser or proposed pur-
chaser thereunder in current coin or bank notes
or by cheque drawn by a banker or by the pur-
chaser or proposed purchaser or the spouse of
the purchaser or proposed purchaser on a banker
a deposit of not less than one-tenth (or such
other

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

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

Minimum
deposits.

Hire-purchase Agreements (Amendment).

5 other fraction as may for the time being be fixed
in lieu thereof by the Governor by proclamation
published in the Gazette) of the purchase-price
of the goods the subject of the agreement, shall
be guilty of an offence against this Part.

The Governor may from time to time in like
manner vary or revoke any such proclamation.

10 (2) Notwithstanding anything contained
in subsection one of this section the deposit
required by 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
15 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.

20 32. 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 Bank-
ing Act 1945 of the Parliament of the Common-
wealth of Australia or under any amendment
of those Acts) who (whether or not he carries
25 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 subsection one of
section thirty-one of this Act upon the purchase
30 of goods under hire-purchase agreements shall
be guilty of an offence against this Part.

35 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

Offence
to carry
on business
of lending
deposits.

Deposits
not to be
by way
of loan.

Hire-purchase Agreements (Amendment).

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.

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

Certain
transactions
prohibited.

10

(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

15

(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,

20

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 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.

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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—

Certain
advertisements
prohibited.

35

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

(d)

(b)

Hire-purchase Agreements (Amendment).

5 (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,

10 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 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.

20 (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.

25 (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.

36. Any person who—

30 (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

Contracts to evade this Part.

(b)

Hire-purchase Agreements (Amendment).

(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.

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.

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) 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.

(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.

