

MISCELLANEOUS ACTS (CREDIT) REPEAL AND AMENDMENT BILL, 1984

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

This Bill is cognate with the Credit Bill, 1984.

The objects of this Bill are—

- (a) to repeal the Consumer Credit Act, 1981 (clause 4 and Schedule 1);
 - (b) to amend certain Acts as a consequence of the repeal referred to in paragraph (a) and the enactment of the Credit Act, 1984 (clause 5 and Schedules 2 and 3);
 - (c) to enable regulations of a savings or transitional nature to be made as a consequence of the repeal referred to in paragraph (a), the amendments referred to in paragraph (b) or the operation of certain previously enacted repealing Acts (clause 6); and
 - (d) to make provisions ancillary to the foregoing.
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**MISCELLANEOUS ACTS (CREDIT) REPEAL AND
AMENDMENT BILL, 1984**

No. . . . , 1984.

A BILL FOR

An Act to repeal the Consumer Credit Act, 1981, and certain other enactments, and to amend various Acts consequent upon and in connection with the repeal of that Act and the enactment of the Credit Act, 1984, and other legislation.

[MR PACIULLO—3 *May*, 1984.]

Miscellaneous Acts (Credit) Repeal and Amendment.

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:—

5 **Short title.**

1. This Act may be cited as the "Miscellaneous Acts (Credit) Repeal and Amendment Act, 1984".

Commencement.

10 2. (1) Except as provided by this section, this Act shall commence on the date of assent to this Act.

(2) Section 5 shall, in its application to a provision of Schedule 2, commence on the day on which the provision commences.

15 (3) The several provisions of Schedule 2 shall commence on such day or days as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Schedules.

3. This Act contains the following Schedules:—

SCHEDULE 1.—REPEALS.

SCHEDULE 2.—AMENDMENTS TO CERTAIN ACTS.

20 SCHEDULE 3.—AMENDMENTS AFFECTING CERTAIN REPEALS.

Repeals.

4. The several provisions of the Acts specified in Schedule 1 are repealed on such day or days as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Miscellaneous Acts (Credit) Repeal and Amendment.

Amendments.

5. The Acts specified in Schedules 2 and 3 are amended in the manner set forth in those Schedules.

Transitional provisions.

- 5 **6. (1)** The Governor may make regulations—
- (a) requiring a reference, in a specified Act or provision of an Act, to a specified repealed Act or provision of a repealed Act to be read and construed as, or as including, a reference to a specified cognate Act or provision of a cognate Act;
 - 10 (b) containing such provisions (if any) as in the opinion of the Governor are necessary or convenient for the purpose of dealing with matters that are incidental to or consequential on the making of the provisions referred to in paragraph (a); or
 - 15 (c) containing such provisions (if any) of a savings or transitional nature as in the opinion of the Governor are necessary or convenient for the purpose of dealing with matters that are incidental to or consequential on the enactment of a cognate Act or the repeal of a repealed Act.
- 20 **(2)** A provision of a regulation made under subsection (1) may take effect on and from a day that is earlier than the day on which the regulation is published in the Gazette, or on and from a later day.
- (3)** To the extent to which a provision of a regulation made under subsection (1) takes effect on and from a day that is earlier than the day on which it is published in the Gazette, the provision does not operate—
- 25 (a) to affect, in a manner prejudicial to any person (other than the State or a public authority), the rights of that person existing before that day of publication; or
 - 30 (b) to impose a liability on any person (other than the State or a public authority) in respect of anything done or omitted to be done before that day of publication.

Miscellaneous Acts (Credit) Repeal and Amendment.

(4) In this section—

“cognate Act” means the Credit Act, 1984, the Credit (Administration) Act, 1984, the Credit (Finance Brokers) Act, 1984, the Credit (Home Finance Contracts) Act, 1984, or the Commercial Tribunal Act, 1984;

“repealed Act” means the Consumer Credit Act, 1981, the Moneylending Act, 1941, the Credit-sale Agreements Act, 1957, or the Hire-Purchase Act, 1960.

SCHEDULE 1.

(Sec. 4.)

REPEALS.

Year and number of Act.	Short title of Act.
15 1981, No. 124 1983, No. 54	Consumer Credit Act, 1981. Consumer Credit (Amendment) Act, 1983.

SCHEDULE 2.

(Sec. 5.)

AMENDMENTS TO CERTAIN ACTS.

20 **Commercial Agents and Private Inquiry Agents Act, 1963, No. 4—**

(1) Section 4, definition of “Commercial agent”—

After “sale”, insert “or taking possession of any goods the subject of a mortgage within the meaning of the Credit Act, 1984”.

(2) Section 22—

25 (a) After “sale”, insert “or takes possession of any motor vehicle the subject of a mortgage within the meaning of the Credit Act, 1984”.

(b) Omit “repossessed by him”.

*Miscellaneous Acts (Credit) Repeal and Amendment.*SCHEDULE 2—*continued.*AMENDMENTS TO CERTAIN ACTS—*continued.***Consumer Protection Act, 1969, No. 28—**

Section 5 (1) definition of “hire-purchase agreement”—

5 Omit the definition.

Disposal of Uncollected Goods Act, 1966, No. 57—

(1) Section 3, definition of “Hire-purchase agreement”—

Omit the definition.

(2) (a) Section 5—

10 After “agreement” where secondly occurring, insert “, or were the subject of a mortgage within the meaning of the Credit Act, 1984,”.

(b) Section 5—

After “hirer”, insert “or mortgagor”.

Lay-by Sales Act, 1943, No. 36—

15 Section 2 (1), definition of “Lay-by sale”—

Omit the definition, insert instead:—

“Lay-by sale” means a sale of goods or an agreement to sell goods under conditions, express or implied, which provide that—

20 (a) any of the goods sold or agreed to be sold will not be delivered to the purchaser until the purchase price is paid for the goods to be delivered, whether or not any charge is expressed to be payable for storage of the goods; and

(b) the purchase price or, where a deposit is paid, the balance of the purchase price—

25 (i) is to be payable by instalments (whether the number of instalments or the amount of all or any of the instalments is fixed by those conditions or is left at the option of the purchaser) payable over a fixed or ascertainable period; or

30 (ii) is to be paid at the expiration of a fixed or ascertainable period with an option, express or implied, for the purchaser to make payments in respect of the purchase price during that period.

Miscellaneous Acts (Credit) Repeal and Amendment.

SCHEDULE 2—*continued.*

AMENDMENTS TO CERTAIN ACTS—*continued.*

Miscellaneous Acts (Local Courts) Amendment Act, 1982, No. 168—

Schedule 2—

5 Omit the matter relating to the Consumer Credit Act, 1981.

Stamp Duties Act, 1920, No. 47—

(1) Section 98 (1), definitions of “credit contract”, “credit provider”—

(a) Omit “Consumer Credit Act, 1981” wherever occurring, insert instead “Credit Act, 1984”.

10 (b) Omit “section 19” wherever occurring, insert instead “sections 18 and 19”.

(2) Section 98 (2) (e)—

Omit “Consumer Credit Act, 1981”, insert instead “Credit Act, 1984”.

SCHEDULE 3.

15

(Sec. 5.)

AMENDMENTS AFFECTING CERTAIN REPEALS.

Credit-sale Agreements (Repeal) Act, 1981, No. 126—

Section 2 (2)—

Omit “Consumer Credit Act, 1981”, insert instead “Credit Act, 1984”.

20 Hire-Purchase (Repeal) Act, 1981, No. 127—

Section 2 (2)—

Omit “section 14 of the Consumer Credit Act, 1981”, insert instead “section 13 of the Credit Act, 1984”.

Moneylending (Repeal) Act, 1981, No. 125—

25 (1) Section 2 (2), (3)—

Omit section 2 (2), insert instead:—

(2) Except as provided by subsections (1) and (3), this Act shall commence on the day on which Part III of the Credit Act, 1984, commences.

*Miscellaneous Acts (Credit) Repeal and Amendment.*SCHEDULE 3—*continued.*AMENDMENTS AFFECTING CERTAIN REPEALS—*continued.*

(3) Sections 3 (2) and 5 shall commence on the day on which Part II of the Credit (Finance Brokers) Act, 1984, commences.

5 (2) Section 3 (2)—

At the end of section 3, insert:—

(2) Section 4 (i) of the Commercial Transactions (Miscellaneous Provisions) Act, 1974, and section 12 (b) and (c) of the Commercial Law (Miscellaneous Provisions) Act, 1975, are repealed.

10 (3) Sections 4, 5—

Omit section 4, insert instead:—

Savings applicable to moneylenders.

4. Notwithstanding the repeals effected by section 3 (1)—

15

(a) the Moneylending Act, 1941, as in force immediately before the commencement of section 3 (1), continues to apply after that commencement to and in respect of money lent, contracts made, and securities taken, before that commencement in the same way as it would have applied if those repeals had not been effected;

20

(b) a person who, immediately before that commencement, was a moneylender within the meaning of that Act, as so in force, shall, for the purposes of paragraph (a), be deemed after that commencement to be such a moneylender and to be carrying on the business of money-lending; and

25

(c) sections 56–59 of that Act continue to apply after that commencement to and in respect of cash orders issued before that commencement in the same way as they would have applied if those repeals had not been effected.

Saving applicable to finance brokers.

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5. Notwithstanding the repeals effected by section 3 (2), sections 68, 69, 71 and 72 of the Moneylending Act, 1941, as in force immediately before the commencement of section 3 (2), continue to apply after that commencement to and in respect of dealings with a finance broker before that commencement.

(4) (a) Schedule 1—

35

From the matter relating to Act No. 105, 1974, omit “Section 4”, insert instead “Section 4, paragraph (i) excepted”.

Miscellaneous Acts (Credit) Repeal and Amendment.

SCHEDULE 3—*continued.*

AMENDMENTS AFFECTING CERTAIN REPEALS—*continued.*

(b) Schedule 1—

From the matter relating to Act No. 105, 1975, omit "Section 12", insert instead "Section 12, paragraphs (b) and (c) excepted,".

5

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1984

(50c)





MISCELLANEOUS ACTS (CREDIT) REPEAL AND
AMENDMENT ACT, 1984, No. 100

New South Wales



ANNO TRICESIMO TERTIO

ELIZABETHÆ II REGINÆ

Act No. 100, 1984.

An Act to repeal the Consumer Credit Act, 1981, and certain other enactments, and to amend various Acts consequent upon and in connection with the repeal of that Act and the enactment of the Credit Act, 1984, and other legislation. [Assented to, 28th June, 1984.]

Miscellaneous Acts (Credit) Repeal and Amendment.

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

Short title.

1. This Act may be cited as the "Miscellaneous Acts (Credit) Repeal and Amendment Act, 1984".

Commencement.

2. (1) Except as provided by this section, this Act shall commence on the date of assent to this Act.

(2) Section 5 shall, in its application to a provision of Schedule 2, commence on the day on which the provision commences.

(3) The several provisions of Schedule 2 shall commence on such day or days as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

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3. This Act contains the following Schedules:—

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SCHEDULE 3.—AMENDMENTS AFFECTING CERTAIN REPEALS.

Repeals.

4. The several provisions of the Acts specified in Schedule 1 are repealed on such day or days as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Miscellaneous Acts (Credit) Repeal and Amendment.

Amendments.

5. The Acts specified in Schedules 2 and 3 are amended in the manner set forth in those Schedules.

Transitional provisions.

6. (1) The Governor may make regulations—

- (a) requiring a reference, in a specified Act or provision of an Act, to a specified repealed Act or provision of a repealed Act to be read and construed as, or as including, a reference to a specified cognate Act or provision of a cognate Act;
- (b) containing such provisions (if any) as in the opinion of the Governor are necessary or convenient for the purpose of dealing with matters that are incidental to or consequential on the making of the provisions referred to in paragraph (a); or
- (c) containing such provisions (if any) of a savings or transitional nature as in the opinion of the Governor are necessary or convenient for the purpose of dealing with matters that are incidental to or consequential on the enactment of a cognate Act or the repeal of a repealed Act.

(2) A provision of a regulation made under subsection (1) may take effect on and from a day that is earlier than the day on which the regulation is published in the Gazette, or on and from a later day.

(3) To the extent to which a provision of a regulation made under subsection (1) takes effect on and from a day that is earlier than the day on which it is published in the Gazette, the provision does not operate—

- (a) to affect, in a manner prejudicial to any person (other than the State or a public authority), the rights of that person existing before that day of publication; or
- (b) to impose a liability on any person (other than the State or a public authority) in respect of anything done or omitted to be done before that day of publication.

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(4) In this section—

“cognate Act” means the Credit Act, 1984, the Credit (Administration) Act, 1984, the Credit (Finance Brokers) Act, 1984, the Credit (Home Finance Contracts) Act, 1984, or the Commercial Tribunal Act, 1984;

“repealed Act” means the Consumer Credit Act, 1981, the Moneylending Act, 1941, the Credit-sale Agreements Act, 1957, or the Hire-Purchase Act, 1960.

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Section 2 (1), definition of “Lay-by sale”—

Omit the definition, insert instead:—

“Lay-by sale” means a sale of goods or an agreement to sell goods under conditions, express or implied, which provide that—

(a) any of the goods sold or agreed to be sold will not be delivered to the purchaser until the purchase price is paid for the goods to be delivered, whether or not any charge is expressed to be payable for storage of the goods; and

(b) the purchase price or, where a deposit is paid, the balance of the purchase price—

(i) is to be payable by instalments (whether the number of instalments or the amount of all or any of the instalments is fixed by those conditions or is left at the option of the purchaser) payable over a fixed or ascertainable period:
or

(ii) is to be paid at the expiration of a fixed or ascertainable period with an option, express or implied, for the purchaser to make payments in respect of the purchase price during that period.

Miscellaneous Acts (Credit) Repeal and Amendment.

SCHEDULE 2—*continued.*AMENDMENTS TO CERTAIN ACTS—*continued.***Miscellaneous Acts (Local Courts) Amendment Act, 1982, No. 168—**

Schedule 2—

Omit the matter relating to the Consumer Credit Act, 1981.

Stamp Duties Act, 1920, No. 47—

- (1) Section 98 (1), definitions of “credit contract”, “credit provider”—
 - (a) Omit “Consumer Credit Act, 1981” wherever occurring, insert instead “Credit Act, 1984”.
 - (b) Omit “section 19” wherever occurring, insert instead “sections 18 and 19”.
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Omit “Consumer Credit Act, 1981”, insert instead “Credit Act, 1984”.

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(Sec. 5.)

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Moneylending (Repeal) Act, 1981, No. 125—

(1) Section 2 (2), (3)—

Omit section 2 (2), insert instead:—

- (2) Except as provided by subsections (1) and (3), this Act shall commence on the day on which Part III of the Credit Act, 1984, commences.

Miscellaneous Acts (Credit) Repeal and Amendment.

SCHEDULE 3—*continued.*AMENDMENTS AFFECTING CERTAIN REPEALS—*continued.*

(3) Sections 3 (2) and 5 shall commence on the day on which Part II of the Credit (Finance Brokers) Act, 1984, commences.

(2) Section 3 (2)—

At the end of section 3, insert:—

(2) Section 4 (i) of the Commercial Transactions (Miscellaneous Provisions) Act, 1974, and section 12 (b) and (c) of the Commercial Law (Miscellaneous Provisions) Act, 1975, are repealed.

(3) Sections 4, 5—

Omit section 4, insert instead:—

Savings applicable to moneylenders.

4. Notwithstanding the repeals effected by section 3 (1)—

- (a) the Moneylending Act, 1941, as in force immediately before the commencement of section 3 (1), continues to apply after that commencement to and in respect of money lent, contracts made, and securities taken, before that commencement in the same way as it would have applied if those repeals had not been effected;
- (b) a person who, immediately before that commencement, was a moneylender within the meaning of that Act, as so in force, shall, for the purposes of paragraph (a), be deemed after that commencement to be such a moneylender and to be carrying on the business of money-lending; and
- (c) sections 56–59 of that Act continue to apply after that commencement to and in respect of cash orders issued before that commencement in the same way as they would have applied if those repeals had not been effected.

Saving applicable to finance brokers.

5. Notwithstanding the repeals effected by section 3 (2), sections 68, 69, 71 and 72 of the Moneylending Act, 1941, as in force immediately before the commencement of section 3 (2), continue to apply after that commencement to and in respect of dealings with a finance broker before that commencement.

(4) (a) Schedule 1—

From the matter relating to Act No. 105, 1974, omit "Section 4", insert instead "Section 4, paragraph (i) excepted".

Miscellaneous Acts (Credit) Repeal and Amendment.

SCHEDULE 3—*continued.*AMENDMENTS AFFECTING CERTAIN REPEALS—*continued.*

(b) Schedule 1—

From the matter relating to Act No. 105, 1975, omit "Section 12", insert instead "Section 12, paragraphs (b) and (c) excepted,".

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

L. W. STREET,
*By Deputation from
His Excellency the Governor.*

*Government House,
Sydney, 28th June, 1984.*