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GOVERNMENT GAZETTE

OF THE REPUBLIC OF SOUTH AFRICA

REPUBLIEK VAN SUID-AFRIKA

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STATE PRESIDENT'S OFFICE

No. 654. 27 March 1985

It is hereby notified that the State President has assented to the following Act which is hereby published for general information:—

No. 9 of 1985: Credit Agreements Amendment Act, 1985.

KANTOOR VAN DIE STAATSPRESIDENT

No. 654. 27 Maart 1985

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 9 van 1985: Wysigingswet op Kredietooreenkomste, 1985.

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Act No. 9, 1985 CREDIT AGREEMENTS AMENDMENT ACT, 1985

GENERAL EXPLANATORY NOTE:

[ ] Words in bold type in square brackets indicate omissions from existing enactments.

Words underlined with solid line indicate insertions in existing enactments.

ACT

To amend the Credit Agreements Act, 1980, so as to substitute the definition of "Minister"; grant to the Minister the power to prohibit certain advertisements by regulation; make further provision in regard to the contents of credit agreements; provide that a credit grantor shall collect from the credit receiver certain goods in his possession in consequence of a credit agreement if the credit receiver terminates the credit agreement; increase the limitation on certain amounts where an administration order has been granted in connection with a credit agreement; and authorize inspectors to inspect credit agreements in the possession or under the control of banks or other financial institutions, without the permission of the Minister of Finance; and to provide for incidental matters.

(Afrikaans text signed by the State President.)
(Assented to 12 March 1985.)

BE IT ENACTED by the State President and the Parliament of the Republic of South Africa, as follows:—

Amendment of section 1 of Act 75 of 1980.

1. Section 1 of the Credit Agreements Act, 1980 (hereinafter referred to as the principal Act), is hereby amended—

(a) by the insertion before the definition of "cash price" of the following definition:

"'advertisement' means any written, illustrated, visual or other descriptive material or oral statement, communication, representation or reference by means of which the nature, properties, advantages or uses of or the conditions on or prices at which—

(a) goods may be purchased, leased or otherwise acquired; or

(b) any service is rendered or provided,

are brought to the notice of the public;";

(b) by the substitution for paragraph *(a)* of the definition of "credit grantor" of the following paragraph:

"*(a)* a seller, a dealer or a person who renders a service, in terms of a credit transaction, and includes a person to whom the rights or the rights and obligations of any such seller or any such person so rendering a service have passed by assignment, cession, delegation or otherwise;"; and

(c) by the substitution for the definition of "Minister" of the following definition:

"'Minister' means the Minister of **[Commerce and Consumer Affairs]** Trade and Industry;".

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ALGEMENE VERDUIDELIKENDE NOTA:

[ ] Woorde in vet druk tussen vierkantige hake dui skrappings uit bestaande verordenings aan.

Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

WET

Tot wysiging van die Wet op Kredietooreenkomste, 1980, ten einde die omskrywing van "Minister" te vervang; aan die Minister die bevoegdheid te verleen om by regulasie sekere advertensies te verbied; verdere voorsiening te maak aangaande die inhoud van kredietooreenkomste; te bepaal dat 'n kredietgewer by die kredietopnemer sekere goedere wat na aanleiding van 'n kredietooreenkoms in sy besit is, moet afhaal indien die kredietopnemer die kredietooreenkoms beeindig; die beperking op sekere bedrae te verhoog waar 'n administrasiebevel in verband met 'n kredietooreenkoms verleen is; en inspekteurs te magtig om kredietooreenkomste in die besit of onder die beheer van banke of ander finansiële instellings sonder toestemming van die Minister van Finansies te inspekteer; en om vir bykomstige aangeleenthede voorsiening te maak.

(Afrikaanse teks deur die Staatspresident geteken.)
(Goedgekeur op 12 Maart 1985.)

DAAR WORD BEPAAL deur die Staatspresident en die Parlement van die Republiek van Suid-Afrika, soos volg:—

Wysiging van artikel 1 van Wet 75 van 1980.

1. Artikel 1 van die Wet op Kredietooreenkomste, 1980 (hieronder die Hoofwet genoem), word hierby gewysig—

(a) deur die volgende omskrywing na die omskrywing van "aanvanklike huurgeld" in te voeg:

"'advertensie' enige skriftelike, geïllustreerde, visuele of ander beskrywende stof of mondelinge verklaring, mededeling, voorstelling of verwysing deur middel waarvan die aard, eienskappe, voordele of gebruike van of die voorwaardes waarop of die pryse waarteen—

(a) goedere gekoop, gehuur of andersins verkry kan word; of

(b) 'n diens gelewer of verskaf kan word,

onder die aandag van die publiek gebring word;";

(b) deur paragraaf *(a)* van die omskrywing van "kredietgewer" deur die volgende paragraaf te vervang:

"*(a)* 'n verkoper, handelaar of iemand wat 'n diens lewer, ingevolge 'n krediettransaksie, en ook iemand op wie die regte of die regte en verpligtinge van so 'n verkoper of iemand wat 'n diens aldus lewer deur oordrag, sessie, delegasie of andersins oorgegaan het;"; en

(c) deur die omskrywing van "Minister" deur die volgende omskrywing te vervang:

"'Minister' die Minister van Handel en **[Verbruikersake]** Nywerheid.".

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Act No. 9, 1985 CREDIT AGREEMENTS AMENDMENT ACT, 1985

Amendment of section 2 of Act 75 of 1980.

2. Section 2 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

"(3) When the Minister intends to revoke or amend any notice referred to in subsection (2), he shall publish a notice in the *Gazette* which shall contain the revocation or amendment in question and in which all interested persons are requested to lodge in writing within the period determined in the last-mentioned notice any objections and representations in connection with that revocation or amendment with the **[Secretary for Commerce and Consumer Affairs]** Director-General: Trade and Industry.".

Amendment of section 3 of Act 75 of 1980.

3. Section 3 of the principal Act is hereby amended by the insertion after paragraph *(c)* of subsection (1) of the following paragraph:

"*(cA)* prohibit any advertisement if, in his opinion, the contents thereof are in conflict with the provisions of this Act;".

Amendment of section 5 of Act 75 of 1980.

4. Section 5 of the principal Act is hereby amended by the addition to subsection (1) of the following paragraph:

"*(i)* have printed on the face thereof in bold type capital letters the wording of section 13 (1), with a clear space of not less than one centimeter immediately between that wording and any other wording on the same page.".

Amendment of section 6 of Act 75 of 1980.

5. Section 6 of the principal Act is hereby amended—

(a) by the substitution in subsection (1) for the words preceding paragraph *(a)* of the following words:

"A credit agreement or any other agreement or document shall not contain a provision **[having]** to the effect that —"; and

(b) by the substitution for subsection (6) of the following subsection:

"(6) No person shall be a party to a credit agreement in terms of which—

(a) the period within which the full price is payable, exceeds the appropriate prescribed period; or

(b) the initial payment or initial rental has not been received by the credit grantor or has not been paid by or on behalf of the credit receiver.".

Amendment of section 13 of Act 75 of 1980.

6. Section 13 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

"(3) When any credit agreement is terminated by any credit receiver in accordance with subsection (1), the credit grantor shall—

(a) within 10 days of the date upon which the relevant notice of termination was delivered or sent to him by mail, refund to such credit receiver the amount of all payments made to him in terms of the credit agreement; and

(b) collect from the credit receiver any goods delivered by him in terms of the credit agreement and the return of which has been tendered by the credit receiver.".

Substitution of section 20 of Act 75 of 1980.

7. The following section is hereby substituted for section 20 of the principal Act:

"Limitation on entry into credit agreements.

20. When any administration order referred to in section 74 (1) of the Magistrates' Courts Act, 1944, has been granted to any person whose gross monthly income is less than **[R250]** R500, no credit grantor or

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Wysiging van artikel 2 van Wet 75 van 1980.

2. Artikel 2 van die Hoofwet word hierby gewysig deur subartikel (3) deur die volgende subartikel te vervang:

"(3) Wanneer die Minister voornemens is om 'n kennisgewing bedoel in subartikel (2) in te trek of te wysig, moet hy 'n kennisgewing in die *Staatskoerant* publiseer wat die betrokke intrekking of wysiging bevat en waarin 'n beroep op alle belanghebbende persone gedoen word om besware en vertoë in verband met daardie intrekking of wysiging binne die tydperk wat in laasbedoelde kennisgewing bepaal word skriftelik by die **[Sekretaris van Handel en Verbruikersake]** Direkteur-generaal: Handel en Nywerheid in te dien.".

Wysiging van artikel 3 van Wet 75 van 1980.

3. Artikel 3 van die Hoofwet word hierby gewysig deur na paragraaf *(c)* van subartikel (1) die volgende paragraaf in te voeg:

"*(cA)* enige advertensie verbied indien, volgens sy oordeel, die inhoud daarvan met die bepalings van hierdie Wet in stryd is;".

Wysiging van artikel 5 van Wet 75 van 1980.

4. Artikel 5 van die Hoofwet word hierby gewysig deur die volgende paragraaf by subartikel (1) te voeg:

"*(i)* op die voorkant daarvan die bewoording van artikel 13 (1) in vetdruk-hoofletters bevat met 'n oop ruimte van nie minder nie as een sentimeter onmiddellik tussen daardie bewoording en enige ander bewoording op dieselfde bladsy.".

Wysiging van artikel 6 van Wet 75 van 1980.

5. Artikel 6 van die Hoofwet word hierby gewysig—

(a) deur in subartikel (1) die woorde wat paragraaf *(a)* voorafgaan deur die volgende woorde te vervang:

"'n Kredietooreenkoms of enige ander ooreenkoms of stuk mag nie 'n bepaling bevat **[wat die uitwerking het nie]** met die strekking dat—"; en

(b) deur subartikel (6) deur die volgende subartikel te vervang:

"(6) Niemand mag 'n deelnemer aan 'n kredietooreenkoms wees nie ingevolge waarvan—

(a) die tydperk waarin die volle prys betaalbaar is die toepaslike voorgeskrewe tydperk oorskry; of

(b) die aanvanklike betaling of aanvanklike huurgeld nie deur die kredietgewer ontvang is of nie deur of namens die kredietopnemer betaal is nie.".

Wysiging van artikel 13 van Wet 75 van 1980.

6. Artikel 13 van die Hoofwet word hierby gewysig deur subartikel (3) deur die volgende subartikel te vervang:

"(3)Wanneer enige kredietooreenkoms ooreenkomstig subartikel (1) deur die kredietopnemer beëindig word, moet die kredietgewer—

(a) binne 10 dae vanaf die datum waarop die betrokke kennisgewing van beëindiging aan hom oorhandig of per pos gestuur is die som van alle betalings wat kragtens die kredietooreenkoms aan hom gedoen is aan die kredietopnemer terugbesorg; en

(b) enige goedere wat ingevolge die kredietooreenkoms deur hom gelewer is en waarvan teruggawe deur die kredietopnemer aangebied is, by die kredietopnemer afhaal.".

Vervanging van artikel 20 van Wet 75 van 1980.

7. Artikel 20 van die Hoofwet word hierby deur die volgende artikel vervang:

"Beperking op aangaan van kredietooreenkomste.

20. Wanneer daar aan iemand wie se bruto maandelikse inkomste minder is as **[R250]** R500 'n administrasiebevel bedoel in artikel 74 (1) van die Wet op Landdroshowe, 1944, verleen is, mag geen krediet-

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his manager, agent or employee shall, as long as such administration order remains in force, without the consent in writing of the administrator concerned enter into any credit agreement with such person if the price payable in terms of that credit agreement exceeds **[R100]** R200.".

Amendment of section 26 of Act 75 of 1980.

8. Section 26 of the principal Act is hereby amended—

(a) by the substitution in subsection (1) for the words preceding paragraph *(a)* of the following words:

"Any inspector furnished with inspection authority in writing by the **[Secretary for Commerce and Consumer Affairs]** Director-General: Trade and Industry or by an official authorized by him, may conduct an investigation to gather such information as such **[Secretary]** Director-General or official may require or to determine whether the provisions of this Act are being or have been complied with, and may for that purpose—";

(b) by the substitution for subsection (4) of the following subsection:

"(4) Any inspector referred to in subsection (1) who exercises any power or performs any duty or function under this section, shall be subject to the orders and control of the **[Secretary for Commerce and Consumer Affairs]** Director-General: Trade and Industry or an official authorized by him."; and

(c) by the substitution for subsection (6) of the following subsection:

"(6) Any inspector referred to in subsection (1) shall not exercise his powers under this section in respect of a banking institution registered under the Banks Act, 1965 (Act No. 23 of 1965), or any other financial institution unless he beforehand obtained the permission in writing of the Minister of Finance: Provided that any inspector may, without obtaining such permission, order any institution aforesaid to produce to him for inspection any credit agreement in its possession or under its control.".

Short title.

9. This Act shall be called the Credit Agreements Amendment Act, 1985, and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.

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gewer of sy bestuurder, agent of werknemer, solank daardie administrasiebevel van krag is, sonder die skriftelike toestemming van die betrokke administrateur enige kredietooreenkoms met so iemand aangaan nie indien die prys wat ingevolge daardie kredietooreenkoms betaalbaar is, meer as **[R100]** R200 is.".

8. Artikel 26 van die Hoofwet word hierby gewysig— Wysiging van artikel 26 van Wet 75 van 1980.

(a) deur in subartikel (1) die woorde wat paragraaf *(a)* voorafgaan deur die volgende woorde te vervang:

"'n Inspekteur aan wie die **[Sekretaris van Handel en Verbruikersake]** Direkteur-generaal: Handel en Nywerheid of 'n beampte wat deur hom gemagtig is, skriftelik inspeksiebevoegdhede verleen het, kan ondersoek instel om die inligting wat daardie **[Sekretaris]** Direkteur-generaal of beampte verlang, in te win of om vas te stel of die bepalings van hierdie Wet nagekom is of word en kan vir daardie doel—";

(b) deur subartikel (4) deur die volgende subartikel te vervang:

"(4) 'n Inspekteur bedoel in subartikel (1) wat kragtens hierdie artikel 'n bevoegdheid uitoefen, 'n plig nakom of 'n werksaamheid verrig, is onderworpe aan die opdragte en beheer van die **[Sekretaris van Handel en Verbruikersake]** Direkteur-generaal: Handel en Nywerheid of 'n beampte wat deur hom gemagtig is."; en

(c) deur subartikel (6) deur die volgende subartikel te vervang:

"(6) 'n Inspekteur bedoel in subartikel (1) oefen nie sy bevoegdhede kragtens hierdie artikel ten opsigte van 'n bankinstelling wat geregistreer is kragtens die Bankwet, 1965 (Wet No. 23 van 1965), of 'n ander finansiële instelling uit nie tensy hy vooraf die skriftelike toestemming van die Minister van Finansies verkry het: Met dien verstande dat 'n inspekteur, sonder om sodanige toestemming te verkry, enige voormelde instelling kan gelas om 'n kredietooreenkoms in sy besit of onder sy beheer vir inspeksie aan hom voor te lê.".

9. Hierdie Wet heet die Wysigingswet op Kredietooreenkomste, 1985, en tree in werking op 'n datum wat die Staatspresident by proklamasie in die *Staatskoerant* bepaal. Kort titel.

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