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STATE PRESIDENT'S OFFICE

KANTOOR VAN DIE STAATSPRESIDENT

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.

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.

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;"

(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;"

ALGEMENE VERDUIDELIKENDE NOTA:

- []** Woorde in vet druk tussen vierkantige hake dui skappings uit bestaande verordenings aan.
- _____** Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

WET

Tot wysiging van die Wet op Kredietooreenkoms, 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 kredietooreenkoms; 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 beëindig; die beperking op sekere bedrae te verhoog waar 'n administrasiebevel in verband met 'n kredietooreenkoms verleen is; en inspekteurs te magtig om kredietooreenkoms 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:—

1. Artikel 1 van die Wet op Kredietooreenkoms, 1980 (hieronder die Hoofwet genoem), word hierby gewysig—
- 5 (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—
- 10 (a) goedere gekoop, gehuur of andersins verkry kan word; of
- 15 (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:
- 20 “(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
- 25 (c) deur die omskrywing van "Minister" deur die volgende omskrywing te vervang:
- “Minister” die Minister van Handel en **[Verbruikersake]** Nywerheid.”.

Wysiging van
artikel 1 van
Wet 75 van 1980.

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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:

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

Wysiging van
artikel 2 van
Wet 75 van 1980.

“(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 verhoë 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.”

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

Wysiging van
artikel 3 van
Wet 75 van 1980.

“(cA) enige advertensie verbied indien, volgens sy oordeel, die inhoud daarvan met die bepalinge van hierdie Wet in stryd is.”

4. Artikel 5 van die Hoofwet word hierby gewysig deur die 20 volgende paragraaf by subartikel (1) te voeg:

Wysiging van
artikel 5 van
Wet 75 van 1980.

“(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.”

5. Artikel 6 van die Hoofwet word hierby gewysig—

Wysiging van
artikel 6 van
Wet 75 van 1980.

(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.”

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

Wysiging van
artikel 13 van
Wet 75 van 1980.

“(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.”

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

Vervanging van
artikel 20 van
Wet 75 van 1980.

“Beperking
op aangaan
van krediet-
ooreenkomste.

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.**" 5

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 10
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 informa- 15
tion as such **[Secretary] Director-General** or of-
ficial may require or to determine whether the pro-
visions 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 20
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 of- 25
ficial 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 30
a banking institution registered under the Banks Act,
1965 (Act No. 23 of 1965), or any other financial insti-
tution unless he beforehand obtained the permission in
writing of the Minister of Finance: Provided that any
inspector may, without obtaining such permission, or- 35
der any institution aforesaid to produce to him for in-
spection any credit agreement in its possession or under
its control."

Short title.

9. This Act shall be called the Credit Agreements Amend-
ment Act, 1985, and shall come into operation on a date fixed by 40
the State President by proclamation in the *Gazette*.

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5 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.

10 (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—”;

20 (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:

30 “ (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.”.

40 9. Hierdie Wet heet die Wysigingswet op Kredietooreen- Kort titel.
komste, 1985, en tree in werking op ’n datum wat die Staatspre-
sident by proklamasie in die *Staatskoerant* bepaal.

