

Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain even numbered pages as the other language is printed on uneven numbered pages.



GOVERNMENT GAZETTE

OF THE REPUBLIC OF SOUTH AFRICA

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No. 9642

KAAPSTAD, 27 MAART 1985

STATE PRESIDENT'S OFFICE

KANTOOR VAN DIE STAATSPRESIDENT

No. 654.

27 March 1985

No. 654.

27 Maart 1985

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

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

— 9 of 1985: Credit Agreements Amendment Act, 1985.

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;" 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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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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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: 10
 “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: 20
 “(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 25
- (c) by the substitution for subsection (6) of the following subsection: 30
 “(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.” 35

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*. 40