

1955/184

**THE HIRE PURCHASE AND CREDIT SALES STABILIZATION
REGULATIONS (NO. 2) 1955**

C. W. M. NORRIE, Governor-General

ORDER IN COUNCIL

At the Government House at Wellington this 11th day of October 1955

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to the Economic Stabilization Act 1948, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

REGULATIONS

1. (1) These regulations may be cited as the Hire Purchase and Credit Sales Stabilization Regulations (No. 2) 1955.

(2) These regulations shall come into force on the 14th day of October 1955.

2. (1) In these regulations, unless the context otherwise requires,—

“Appointed day” means the 13th day of October 1955:

“Bus” means a motor vehicle (other than a motor car or motor cycle) that is designed exclusively or principally for the carriage of persons by road:

“Buyer” includes a prospective buyer; and also includes a bailee or prospective bailee under a hire purchase agreement:

“Cash price”, in relation to any hire purchase agreement or credit sale agreement in respect of any goods, means the price at which the buyer may, at the date of the agreement, purchase the goods for cash; and, in relation to any other sale of any goods, means the purchase price of the goods:

“Credit sale agreement” means an agreement for the sale of goods under which the whole or part of the purchase price is payable by instalments, other than such an agreement that provides for the instalments to be spread over a period of less than nine months:

“Dispose of” includes the disposal of—

(a) Ownership, or any proprietary interest; or

(b) The right to possession; or

(c) Possession, whether or not accompanied by any disposal of ownership or of any proprietary interest or of the right to possession:

“Goods” means any personal property that can be completely transferred by delivery; but does not include money, things in action, aircraft, animals, seeds, or fertilizers:

“Hire purchase agreement” means an agreement for the bailment of goods under which the bailee may buy the goods or under which the property in the goods will or may pass to the bailee, whether on the performance of any act by the parties to the agreement or any of them or in any other circumstances; and includes any agreement for the bailment of goods, with or without expressly giving to the bailee an option to buy the goods, under which instalments are payable by the bailee during a specified or ascertainable period at the end of which the bailee may continue the bailment without any payment or subject to the payment of a nominal rent only:

“Lender” means a person who is engaged in the business or makes a practice of lending money:

“Loan” includes any advance or discount, or any money paid for or on account of or on behalf of or at the request of any person; and also 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 meanings:

“Motor car” means a motor vehicle (other than a motor cycle) designed exclusively or principally for the carriage of persons not exceeding nine in number inclusive of the driver; and includes a station wagon:

“Motor cycle” means a motor vehicle running on two wheels, or on not more than three wheels when fitted with a side car; but does not include a power cycle:

“Motor vehicle” means a motor vehicle within the meaning of the Transport Act 1949, other than a trailer within the meaning of that Act:

“Power cycle” means a pedal bicycle or pedal tricycle that for alternative propulsion is fitted with a motor attachment (whether detachable or not) the total cylinder capacity of which does not exceed sixty cubic centimetres:

“Seller” means a person who is engaged in the business of selling goods at retail; and includes a person who disposes of any goods under a hire purchase agreement:

“Station wagon” means a station wagon within the meaning of the Transport Act 1949:

“Truck” means a motor vehicle designed exclusively or principally for the carriage or haulage of goods by road.

(2) Where by virtue of two or more agreements, none of which by itself constitutes a hire purchase agreement or a credit sale agreement, there is a transaction which is in substance or effect a hire purchase agreement or a credit sale agreement as hereinbefore defined, the agreements shall be treated for the purposes of these regulations as a single agreement made at the time when the last of those agreements was made.

(3) Nothing in these regulations shall apply in respect of or in connection with the purchase or sale or disposal of any goods—

(a) Otherwise than at retail; or

(b) By the New Zealand Counties Association under subsection (2) of section 3 of the New Zealand Counties Association Act 1949, as enacted by section 36 of the Finance Act 1950.

3. Except as otherwise provided in these regulations, a person shall not dispose of any goods in pursuance of a hire purchase agreement or a credit sale agreement entered into after the appointed day unless the requirements specified in the First Schedule hereto are or have been satisfied in relation to that agreement:

Provided that this regulation shall not apply to any such agreement if it relates to goods concerning which an order had been placed and accepted on or before the 21st day of July 1955 and arises out of that order.

4. Notwithstanding anything to the contrary in these regulations, where after the appointed day a seller enters into a hire purchase agreement or credit sale agreement for the sale of goods to a person whose income is subject to seasonal fluctuation, the agreement may provide for the reduction of or omission to pay the instalments for any period or periods not exceeding four months in the aggregate in any case where the agreement provides that the balance of the amount payable in instalments thereunder in respect of the goods and of their installation and maintenance shall be paid in accordance with the following requirements:

(a) The said balance shall be paid in instalments none of which exceeds twice the average of all the instalments payable under the agreement; and

(b) All the instalments shall be paid on or before the last day of the maximum period of credit specified in the Second Schedule hereto in relation to that description of goods.

5. (1) A person shall not enter into any agreement or make any arrangement whereby any hire purchase agreement or credit sale agreement entered into after the 21st day of July 1955 is varied in either or both of the following respects, that is to say—

(a) Any payment made before the signing thereof in accordance with the provisions of these regulations is affected:

(b) Any of the requirements specified in the First Schedule hereto ceases to be satisfied in relation thereto:

Provided that a seller may, with respect to any such hire purchase agreement or credit sale agreement, enter into any agreement or make any arrangement the effect of which is—

(i) To permit the postponement of the due day of any payment for not more than thirty days; but no such postponement shall be to a day after the last day of the maximum period applicable to the existing agreement:

(ii) To permit the instalments to be paid in any manner which would have been permitted if regulation 4 hereof had been in force when the existing agreement was made.

(2) Except as provided in subclause (4) of this regulation, a person shall not enter into any agreement or make any arrangement whereby a hire purchase agreement or a credit sale agreement entered into before or on or after the appointed day is varied in such manner that the hire purchase agreement or the credit sale agreement comprises after the variation goods not comprised therein before the variation.

(3) Except as provided in subclause (4) of this regulation, a person shall not enter into any hire purchase agreement or credit sale agreement which is in substitution for another such agreement entered into whether before or on or after the appointed day and which—

- (a) Comprises all or some of the goods comprised in that other agreement; and
- (b) Comprises goods not comprised in that other agreement.

(4) Where a person has entered into a hire purchase agreement or credit sale agreement before or on or after the appointed day, it shall from time to time be lawful, for the purpose of extending the agreement so as to make it comprise additional goods as well as some or all of the goods to which the existing agreement applies, either to vary the existing agreement or enter into a similar new agreement, if the varied or new agreement complies in all other respects with the provisions of these regulations in so far as they apply to the additional goods and the instalments payable under the varied or new agreement are not less than the instalments which would be required to provide (within the maximum period of credit specified in the Second Schedule hereto in relation to the additional goods) the balance of the amount which at the date of the variation or new agreement is payable in instalments in respect of all the goods comprised therein plus an amount not less than fifteen per cent of that balance:

Provided that the instalments payable under the varied or new agreement shall not in any case be less than the instalments payable under the previous agreement.

6. (1) A seller or lender shall not after the appointed day make a loan on the security of any goods which have been purchased or are to be purchased by the borrower and of which the purchase price or any part thereof is to be paid out of the proceeds of the loan, unless—

- (a) The amount of the loan does not exceed the maximum loan value specified in the Second Schedule hereto in relation to that description of goods, being the appropriate percentage specified in that Schedule of the aggregate of the cash price of the goods on which the loan is secured and any amount payable by instalments for the installation or maintenance of those goods; and
- (b) He requires the borrower to repay the loan in full within a period not exceeding the maximum period of credit specified in the Second Schedule hereto in relation to that description of goods.

(2) This regulation shall not apply in respect of a loan—

- (a) Secured or partly secured by a mortgage upon real property; or
- (b) Fully secured by a charge or lien upon any personal property other than the goods in connection with the purchase of which the loan is made.

(3) A seller shall not accept on account of the cash price of any goods disposed of by him any money or other consideration that was lent to the buyer in contravention of this regulation.

(4) A seller or lender shall be deemed not to have acted in contravention of this regulation in making any loan or accepting any money if he shows that, at the time of the making of the loan or of the acceptance of the money, he had taken all reasonable steps to ensure,—

- (a) In the case of a sale, that the money being offered had not been lent to the buyer in contravention of this regulation; and
- (b) In the case of a loan on the security of any goods which have been purchased or are to be purchased, that the loan is made in accordance with this regulation.

7. Every person commits an offence against these regulations 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) In the opinion of the Court in which any proceedings under this regulation are taken is likely or intended to convey to any person the impression that it offers—

possession of goods on terms and conditions that, if made the subject of a contract, would constitute a hire purchase agreement or a credit sale agreement in contravention of these regulations.

8. A person shall not—

- (a) Enter into any transaction, or make 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 these regulations; or
- (b) Enter into any transaction, or make any contract or arrangement, whether orally or in writing, for the purpose of or having the effect of, in any way, whether directly or indirectly, defeating, evading, avoiding, or preventing the operation of these regulations in any respect.

9. Nothing in these regulations shall prevent a seller or lender from making a sale of goods or loan on terms more stringent or restrictive than those prescribed in these regulations, or a buyer or borrower from paying before it is due any loan or the price of any goods or any instalment thereof.

10. Where—

- (a) A hire purchase agreement or a credit sale agreement is entered into or varied; or
- (b) A loan is made; or
- (c) Any money or other consideration is accepted by a seller; or
- (d) Any other transaction is entered into,—

in contravention of these regulations, the agreement, loan, sale, or other transaction shall be void:

Provided that all money paid and the value of any other consideration provided by the buyer under any agreement or on any sale shall be recoverable as a debt due to him from the bailor or vendor.

11. (1) The Hire Purchase and Credit Sales Stabilization Regulations 1955* are hereby revoked.

(2) Without limiting the provisions of the Acts Interpretation Act 1924, it is hereby declared that the revocation of any provision by these regulations shall not affect any document made or any thing whatsoever done under the provision so revoked or under any corresponding former provision, and every such document or thing, so far as it is subsisting or in force at the time of the revocation and could have been made or done under these regulations, shall continue and have effect as if it had been made or done under the corresponding provision of these regulations and as if that provision had been in force when the document was made or the thing was done.

*S.R. 1955/112.

SCHEDULES

FIRST SCHEDULE

GENERAL REQUIREMENTS FOR A HIRE PURCHASE AGREEMENT OR A CREDIT SALE AGREEMENT

1. The agreement is in writing.
2. The agreement contains in respect of each description of goods a statement of the cash price of the goods of that description comprised in the agreement and of any amount payable by instalments under the agreement for the installation or maintenance of those goods.
3. (1) At the time of the signing of the agreement payment was made in respect of each description of goods comprised in the agreement of not less than an amount equal to the minimum deposit specified in the Second Schedule hereto in relation to that description of goods, being the appropriate percentage specified in that Schedule of the aggregate of—
 - (a) The cash price of the goods of that description comprised in the agreement; and
 - (b) Any amount payable by instalments under the agreement for the installation or maintenance of the goods of that description comprised in the agreement.
- (2) In computing for the purposes of this paragraph the total amount to be paid at the time of the signing of any agreement account may be taken of any allowance for any goods taken in part exchange for goods comprised in that agreement, being an amount which is reasonable in relation to the value of the goods so taken in part exchange.
4. Except as provided in regulations 4 and 5 of these regulations, the agreement provides for the payment of the balance due in respect of each description of goods comprised therein either—
 - (a) By approximately equal instalments at equal intervals spread over a period not exceeding the maximum period of credit specified in the Second Schedule hereto in relation to that description of goods; or
 - (b) In the case of a hire purchase agreement, by one payment to be made within three months.

SECOND SCHEDULE

MINIMUM DEPOSITS, MAXIMUM LOAN VALUES, AND MAXIMUM PERIODS
OF CREDIT

Description of Goods	Minimum Deposit Per Cent	Maximum Loan Value Per Cent	Maximum Period of Credit Months
1. Motor cars and motor cycles	50	50	18
2. Motor trucks and buses	33 $\frac{1}{3}$	66 $\frac{2}{3}$	24
3. Other goods	15	85	24

T. J. SHERRARD,
Clerk of the Executive Council.

EXPLANATORY NOTE

[This note is not part of the regulations, but is intended to indicate their general effect.]

These regulations repeat the provisions contained in the Hire Purchase and Credit Sales Stabilization Regulations 1955 with the following modifications:

Regulation 2 adds definitions of the terms "bus", "motor car", "motor cycle", "power cycle", "truck", and "station wagon"; amends the definition of the term "goods" so as to exclude aircraft; and restricts the scope of the regulations to retail transactions:

A proviso has been added to regulation 3 so as to exclude the operation of that regulation in cases where an order for goods had been placed and accepted on or before 21 July 1955 but no formal agreement had been drawn up by that date:

Regulation 4 is new and allows in certain cases a reduction or omission of instalments (not exceeding the instalments for four months) in cases where a purchaser's income is subject to seasonal fluctuation:

The proviso to regulation 5 (1) (b) is new and enables certain existing agreements to be modified in accordance with regulation 4; and also enables a postponement of the due date of any instalment by not more than thirty days so long as this does not permit the discharge of the indebtedness after the last day of the maximum period allowed:

Regulation 5 (4) is new and enables an agreement to be varied or a new agreement made so as to bring in additional goods subject to specified adjustments of instalments:

Regulation 6 (4) is new and makes it a defence to a seller or lender who has made a loan or accepted money in certain circumstances to show that he has taken all reasonable steps to avoid contravening the regulation:

Regulation 9 makes it clear that the regulations do not prevent the imposition of more stringent or restrictive terms, or prevent a buyer or borrower from paying before the due date:

The Second Schedule which relates to minimum deposits, maximum loan values, and maximum periods of credit is varied in its application to certain motor vehicles:

Regulation 6 of the original regulations, which related to charge accounts, is omitted, thus permitting payments on charge accounts to be spread over a period of up to nine months without being brought within the terms of the regulations.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 13 October 1955.

These regulations are administered in the Department of Industries and Commerce.