

## DOOR TO DOOR SALES AMENDMENT BILL (NO. 2)

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### EXPLANATORY NOTE

This Bill, which is to come into force on 1 April 1974, amends the Door to Door Sales Act 1967.

*Clause 2* extends the Act so that it will apply where certain agreements for the provision of services, whether alone or together with goods, are made at places other than appropriate trade premises. The existing provisions apply only in respect of certain agreements for the sale of goods. In such a case certain requirements must be complied with and the purchaser has the right to cancel the agreement within 7 days.

*Clause 3* requires that where the vendor or any other person guarantees the goods or the services to which the agreement relates, that guarantee shall be in writing and a copy of it shall be given to the purchaser at the time when the agreement is made.

*Clause 4* inserts a new section 11A. The section is based on section 39 of the Hire Purchase Act 1971. The new section provides that in any proceedings it shall be a question of fact whether any representation, statement, or warranty was made or given to the purchaser or prospective purchaser by the vendor or by any person acting on behalf of the vendor in connection with or in the course of negotiations leading to the entering into of a credit agreement made at a place other than the appropriate trade premises and whether if the representation, statement, or warranty was made it constituted a term of the agreement or was relied on by the purchaser.

*Clause 5* inserts a new subsection which makes it an offence for the vendor under an agreement to provide services (which is made at a place other than appropriate trade premises) to stipulate for or demand or accept, before the end of the period within which the agreement may be cancelled under the Act, the whole or any part of the consideration to be provided by or on behalf of the purchaser under the agreement.

*Clause 6* effects metric conversions.

*Hon. Mr Freer*

## DOOR TO DOOR SALES AMENDMENT (NO. 2)

### ANALYSIS

Title	4. Existence of representations to be a question of fact
1. Short Title and commencement	5. Offences
2. Provision of services	6. Metric conversions
3. Requirements as to agreements	Schedule

### A BILL INTITULED

#### **An Act to amend the Door to Door Sales Act 1967**

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

**1. Short Title and commencement**—(1) This Act may be cited as the Door to Door Sales Amendment Act (No. 2) 1973, and shall be read together with and deemed part of the Door to Door Sales Act 1967\* (hereinafter referred to as the principal Act).

(2) This Act shall come into force on the 1st day of April 1974.

**2. Provision of services**—(1) The principal Act is hereby amended by inserting after section 3, the following section:

15 "3A. (1) Every agreement whereby a person agrees in the ordinary course of a business carried on by him to provide services for any other person for valuable consideration, whether alone or together with goods, shall (subject to

\*1967, No. 126

No. 64—1

paragraphs (a) to (d) of the definition of the term 'credit arrangement' and to subsection (3) of this section) be deemed to be a credit agreement within the meaning of this Act, and the provisions of this Act shall, so far as applicable, apply accordingly, with all necessary modifications, as if the services were goods within the meaning of this Act. 5

“(2) For the purposes of subsection (1) of this section (but without limiting the generality of that subsection), an agreement whereby a person agrees to do any thing which confers any right or benefit on any other person shall be deemed to be an agreement to provide services for that other person. 10

“(3) Subsection (1) of this section shall not apply in respect of—

“(a) Any contract of service between master and servant; 15  
or

“(b) Any agreement which relates to the disposition of an estate or interest in land; or

“(c) Any agreement under which the purchaser is a person who is carrying on any farming, agricultural, or manufacturing business, or any other business of any kind whatsoever, or who is practising any profession, if the services are of a type normally provided for the purposes of that business or the practice of that profession.” 20 25

(2) The principal Act is hereby consequentially amended in the manner indicated in the Schedule to this Act.

**3. Requirements as to agreements—**(1) Section 6 of the principal Act is hereby amended by adding to subsection (1) the following paragraph: 30

“(d) Where the vendor or any other person guarantees the goods or the services to which the agreement relates, that guarantee shall be in writing and a copy of it shall be given to the purchaser at the time at which the agreement is made.”

(2) The said section 6 is hereby further amended by adding to paragraph (c) of subsection (1) the word “; and”. 35

**4. Existence of representations to be a question of fact—** The principal Act is hereby amended by inserting, after section 11, the following section: 40

“11A. In any proceedings it shall be a question of fact whether any representation, statement, or warranty was made or given to the purchaser or prospective purchaser, whether orally or in writing, by the vendor or any person acting on

behalf of the vendor in connection with or in the course of negotiations leading to the entering into of a credit agreement made at a place other than appropriate trade premises and whether, if the statement, representation, or warranty was  
5 made, it constituted a term of the agreement or was relied on by the purchaser. The Court shall not be precluded from inquiring into and determining those questions by any provision in the agreement or in any other document unless  
10 the Court considers that in all the circumstances of the case, including the subject-matter and value of the transaction and the respective bargaining strengths of the parties, it is fair and reasonable that the provision should be conclusive between the parties.”

**5. Offences**—(1) Section 14 of the principal Act is hereby  
15 amended by inserting, after subsection (2), the following subsection:

“(2A) Every person commits an offence against this Act who, being the vendor under any agreement to which sub-  
section (1) of section 3A of this Act applies which is made at  
20 a place other than appropriate trade premises, stipulates for or demands or accepts, before the end of the period within which the agreement may be cancelled under this Act, the whole or any part of the consideration to be provided by or on behalf of the purchaser under the agreement.”

**6. Metric conversions**—(1) Part II of the First Schedule  
25 to the principal Act is hereby amended by repealing clause 2, and substituting the following clause:

“2. The width of the outlined area shall be not less than  
30 150 millimetres and its height shall be not less than 75 millimetres; and the thickness of the outlining shall be not less than 0.6 of a millimetre.”

(2) The said Part II is hereby further amended—

- (a) By omitting from clause 3 the words “sixty-seven  
35 thousandths of an inch”, and substituting the expression “1.5 millimetres”.
- (b) By omitting from clause 4 the words “one eighth of an inch”, and substituting the expression “3 millimetres”.
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Section 2 (2)

## SCHEDULE

## CONSEQUENTIAL AMENDMENTS OF PRINCIPAL ACT

Section Affected	Amendment
Title .....	By inserting, after the words "sale of goods", the words "and the provision of services".
Section 2 .....	<p>By repealing the definition of the term "appropriate trade premises" in subsection (1), and substituting the following definition:</p> <p style="padding-left: 40px;">"Appropriate trade premises" means—</p> <p style="padding-left: 80px;">(a) In relation to an agreement for the sale, letting, hiring, or bailment of goods, premises at which the vendor normally carries on a business or at which goods of the description to which the agreement relates, or goods of a similar description, are normally offered or exposed for sale in the course of a business carried on at those premises:</p> <p style="padding-left: 80px;">(b) In relation to an agreement for the provision of services (whether alone or together with goods), premises of the vendor."</p> <p>By inserting in the definition of the term "purchaser" in subsection (1), after the word "bailed", the words "or for whom services are to be provided".</p> <p>By inserting in the definition of the term "total purchase price" in subsection (1), after the word "goods", the words "or to have the services provided".</p> <p>By inserting in the definition of the term "vendor" in subsection (1), after the word "goods", the words "or to provide services".</p>
Section 4 .....	<p>By repealing this section and substituting the following section:</p> <p style="padding-left: 40px;"><b>"4. Power to exempt goods and services—</b>The Governor-General may, from time to time, by Order in Council, prescribe things or classes of things or services or classes of services, which shall not be goods or services for the purposes of this Act."</p>

**SCHEDULE—*continued***

**CONSEQUENTIAL AMENDMENTS OF PRINCIPAL ACT—*continued***

Section Affected	Amendment
Section 9 .....	By adding the following subsection: “(6) If the vendor has provided any services under the agreement before it is cancelled, he shall not be entitled to any compensation for those services. If the vendor’s services have resulted in the alteration of property of the purchaser, the vendor shall restore the property to substantially as good a condition as it was at the time the services were rendered.”
Second Schedule .....	By inserting after the words “or hire” in the Notice of Cancellation, the words “or be provided with”. By inserting, after the words “description of goods” in the second footnote to the Notice of Cancellation, the words “or services”.