

Legal Update

May 2004

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Proposed Amendments To Hire-Purchase Act

Overview

The Hire-Purchase Act (“HPA”) is a piece of legislation which has been part of Singapore’s laws for several decades now. The HPA essentially regulates the form and contents of hire-purchase agreements, and spells out the rights and duties of parties to such agreements. It covers the purchase of any consumer goods valued at S\$5,000 or less, and any motor vehicle valued at S\$55,000 or less excluding the Certificate of Entitlement (“COE”).

One of the bug bears of the HPA has been the use of the “Rule of 78” to compute the balance payable by consumers upon early settlement of their motor vehicle hire purchase loans. Calculations pursuant to this Rule meant that hirers of cars stood to lose a considerable sum when they decided to terminate their car loans earlier than the full period.

In recent times, there has been considerable negative feedback received on this Rule.

Pursuant to this feedback, the Ministry of Trade and Industry (“MTI”) appointed a Taskforce in September 2003 to review the HPA. After completing its review, the Taskforce submitted its recommendations to the MTI, which in turn accepted the recommendations. These recommendations have now been incorporated into a draft Hire-Purchase (Amendment) Bill (“draft Bill”). The consultation process is still open, and anyone interested can submit representations to the MTI.

This update touches on the salient changes that are being proposed.

Proposed Amendments To The HPA

The key amendments that have proposed to be made to the HPA are discussed here.

Rule of 78

The “Rule of 78” formula in calculating the loan balance

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that hirers are to pay hire-purchase financiers (“owners”) upon early settlement of the hire-purchase agreements will no longer be mandated.

The HPA currently applies the “Rule of 78” formula to the calculation of the statutory rebate for hirers when they opt for early settlement. Given that the market is competitive and there are other financing alternatives, it was recommended that there was no need under the HPA to specify any particular approach to calculate the loan balance payable by hirers upon early settlement of their loan.

It was felt that consumer interest is better safeguarded through enhancing disclosure requirements, so that hirers know and understand upfront (i.e. at the time of entering into the hire-purchase agreements) the method for calculating the loan balance upon early settlement.

It was observed that this is also the approach taken in some other countries.

Transparency and Disclosure Requirements

As consumers are becoming increasingly sophisticated and markets more competitive, it is no longer necessary to statutorily stipulate the terms, charges and fees payable. This

ought to be left to the parties to determine.

Thus, it is proposed that the Hire-Purchase (Terms Charges) Regulations and the Hire-Purchase (Rate of Interest on Overdue Instalments) Notification will be revoked.

Owners will instead be required to disclose upfront any charges and rates to be levied. To this end, the Second Schedule of the HPA will be amended to require the owner to provide the following information to prospective hirers in the written statement of financial obligations:

- the method of calculating the loan balance upon early settlement;
- effective interest rate charged by owners;
- interest rate for overdue instalments; and
- administrative charges.

To enable the hirer to know upfront whether the hire-purchase agreement falls under the ambit of the HPA, the price of the motor vehicle (excluding the COE) should be clearly indicated in the written statement as well.

Minimum Deposits

It is also proposed that the minimum deposit of 10% of the

cash price of the goods comprised in hire-purchase agreements will be removed.

The minimum deposit requirement was thought necessary at the time the HPA was enacted to minimise excessive consumption. It was felt that such concerns no longer had relevance in the current economic climate.

Thus, financiers should be left to decide the need for requiring a deposit, based on their own risk assessment and propensity to bear risk.

Repossession Procedures

The notice periods relating to repossession procedures will be shortened from 14 days to 7 business days.

The HPA currently lays down certain requirements for repossession procedures. In particular, owners are obliged to provide notice to the hirer of the owner’s intent to repossess.

It was felt that a 7-business-days notice period, instead of the 14 days notice period, was reasonable to both hirers and owners, taking into account the efforts needed by either the hirer or the owner and the almost instantaneous means of communication available today.

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Right To Reassign Hire-Purchase Agreement

Currently, the HPA does not expressly provide any scheme by which hirers can re-finance with another finance company. The absence of such a right for hirers limits refinancing activities in Singapore.

The draft Bill thus expressly provides for the manner in which hirers could seek assignment by owners.

Such a provision is envisaged to give rise to a more competitive refinancing market, which would overall be a good market development.

Sanctions and Remedies

As regards sanctions, the MTI sees merit in retaining criminal penalties for the more serious breaches of the HPA, especially those relating to fraudulent behaviour. For these criminal offences, the quantum of fines will be increased to

ensure the deterrent effect remains.

For less serious breaches, however, the offences will be decriminalized. Instead, the hire-purchase agreement will be rendered unenforceable until the owner fulfils specific obligations as stated in the HPA or the agreement. This will be a more effective measure to ensure compliance with the requirements under the HPA.

Actions In Magistrates Courts

Under the HPA as it now exists, hirers and owners can only pursue civil remedies in the District Court. This can be costly.

To lower overall legal costs and encourage recourse to civil courts, the draft Bill allow for HPA matters to also be dealt with in the Magistrates' Courts, depending on the quantum in dispute.

This means that aggrieved parties now have a choice as to

which court they should resort to, depending on the circumstances of their case.

Conclusion

The proposal to modify the HPA is certainly a welcome reprieve to many a hirer, and will certainly change the leasing industry somewhat. It remains to be seen what the final legislation will look like.

If you would require assistance setting out representations for submission to the MTI, we would be very happy to assist.

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