

### **3301 Consumer Credit Act**

Pursuant to the second indent of the first paragraph of Article 107 and the first paragraph of Article 91 of the Constitution of the Republic of Slovenia I hereby issue the following

#### **Order on the Promulgation of the Consumer Credit Act (ZPotK)**

I hereby promulgate the Consumer Credit Act (*Zakon o potrošniških kreditih*; ZPotK), which was adopted by the National Assembly of the Republic of Slovenia at its session of 18 July 2000.

No.: 001-22-126/00  
Ljubljana, 26 July 2000

Milan Kučan  
President of the Republic of Slovenia

## **CONSUMER CREDIT ACT**

### **Article 1**

(subject of act)

The present act shall regulate credit contracts in which a consumer taking credit under the conditions and for the purpose stipulated by the present act appears as the credit-taker.

### **Article 2**

(terms)

(1) A credit contract under the present act is a contract by which the creditor provides or undertakes to provide a consumer with credit in the form of:

1. delayed payment, particularly in the sale of goods or provision of services
2. loans, particularly cash loans or overdrafts on a current account
3. other similar financial agreements that in economic terms have the same purpose as credit

(2) A consumer is a natural person who is active in transactions under the present act for purposes outside such person's professional or income-earning activities.

(3) Creditors are legal or natural persons or a group of such persons that provide or undertake to provide credit to a consumer within the framework of their activities, business or profession.

(4) Credit brokers are legal and natural persons that within the framework of their activities, business or profession mediate in the conclusion of credit contracts within the framework of a creditor's activities, and are authorised to so do by the creditor through a contract.

(5) The total cost of credit covers all costs, including interest and other fees, that are directly connected to the credit contract and must be paid by the consumer during ordinary repayment of the credit.

(6) The effective interest rate is the total cost of the credit expressed as an annual percentage of the amount of credit approved. The annual percentage shall be calculated in accordance with Articles 17 and 18 of the present act.

### **Article 3**

(restrictions)

(1) The present act shall not apply to:

1. credit contracts in which the creditor's receivables are insured with a mortgage
2. lease contracts, with the exception of lease contracts that stipulate that the right of ownership passes to the lessee at the end
3. credits provided or facilitated without the payment of interest or any other costs
4. credit contracts under which no interest or other costs are charged under the condition that the consumer confirms that the credit will be repaid in the same amount
5. credit contracts in which the amount of credit is less than 40,000 tolar
6. credit contracts on the basis of which the consumer is obliged to repay the credit within three months
7. contracts for the constant supply of services, if the consumer has the possibility of paying in instalments during the supply thereof

(2) The provisions of the present act shall only apply to credit contracts on overdrafts on a current account approved by banks and savings banks if specifically stipulated by the present act, wherein accounts for credit card transactions are not involved.

#### **Article 4**

(prevention of avoidance of provisions of present act)

A group of contracts from the same creditor that in economic terms form a whole and have been concluded to avoid the provisions of the present act, particularly in the event of the allocation of an amount of credit among several contracts, shall in the sense of the present act be deemed a single contract.

### **II. ADVERTISING**

#### **Article 5**

(mandatory content of advertisements and offers)

(1) Any advertising or offer by which credit is offered or the acquisition of credit is brokered and in which interest rates or other information in connection with the costs of the credit are cited must also contain the effective interest rate. All such offers and all advertisements situated on or in commercial premises or in print must also contain a representative and understandable example of the calculation of the total cost of the credit, and the costs excluded from the calculation of the total cost of the credit by the advertiser or offering party under Article 18 of the present act must be cited.

(2) In order to avoid misleading advertising the effective interest rate cited in advertisements and offers must be labelled with the information that it can change if specific figures change and such figures were used to calculate the rate, and information on the day and month to which the figures used in calculating the published effective interest rate relate.

(3) The advertising and offering of credit without the statements specified in the previous paragraph shall be deemed misleading advertising in the sense of the consumer protection act (*zakon o varstvu potrošnikov*; Ur. l. RS, Nos. 20/98 and 25/98 – correction) and in contravention of good business practice.

### **III. OBLIGATIONS PRIOR TO CONCLUSION OF CREDIT CONTRACT, CONTENT OF CREDIT CONTRACT**

#### **Article 6**

(obligations prior to conclusion of credit contract)

(1) Prior to the conclusion of a credit contract the consumer must be acquainted with all the terms of the credit contract.

(2) The credit contract must be concluded in written form. The consumer must receive at least one copy of the entire credit contract.

(3) It shall not be permissible to charge the consumer payments, interest, fees or other costs that are not cited in the wording of the credit contract.

#### **Article 7**

(content of credit contract)

(1) The written contract must in a simple and understandable wording set out:

1. the net value of the credit or credit limit if such exists
2. the effective interest rate and conditions under which it is permissible to change the effective interest rate
3. the method of compiling interest, the frequency of capitalisation, the method for adjusting interest rates and the indexation mechanism employed
4. the costs not included in the calculation of the effective interest rate in accordance with Article 18 of the present act

5. the terms of payment imposed upon the consumer, particularly the projected size of individual payments, the number of payments, the precise date the payments fall due and, if possible, the total sum to be paid
6. the insurance the consumer must provide
7. the consumer's right to repay the credit before it falls due, and the right in such an event to request a reduction in the amounts under the conditions specified in Article 12 of the present act
8. the consumer's right to withdraw from the contract and the consumer's obligations if this right is exercised
9. for credit contracts where billing is tied to the use of a foreign currency, citation of the foreign currency and the type of exchange rate according to which the value in domestic currency is calculated

(2) If it is not possible to precisely calculate the effective interest rate, the total cost of the credit or any other mandatory component of the contract, the contract must contain all the elements on which the calculation depends and a calculation of the projected effective interest rate under the conditions applying on the day contract is concluded.

### **Article 8**

(contracts on sale in instalments)

Contracts on sale in instalments under the act governing consumer protection that are also credit contracts in the sense of the present act must contain all the components specified in Article 7 of the present act and in the act governing consumer protection.

### **Article 9**

(contracts on overdrafts on current accounts)

(1) Contracts specified in the second paragraph of Article 3 of the present act must be concluded in written form and must contain figures and information on:

1. the credit limit
2. the annual interest rate and costs at the time the contract is concluded
3. the conditions under which additions or amendments may be made to the credit agreement
4. the procedure in connection with the termination of the contract

(2) For the duration of the contract the creditor must notify the consumer in writing in the customary manner regarding any change in the annual interest rate or basic costs. The creditor must notify the consumer regarding a change as soon as it occurs. Such information may be provided via a statement on the current account balance.

(3) If a contract on the opening of a current account allows for an overdraft without a separate agreement between the contracting parties the creditor must notify the consumer regarding the annual interest rate and the cost of the credit and regarding all changes thereto if the overdraft lasts longer than three months.

### **Article 10**

(consequences of infringement of Articles 7 and 8 of the present act )

(1) If a credit contract fails to contain all the components specified in Articles 7 and 8 of the present act the consumer may terminate the contract via a unilateral declaration.

(2) If the consumer fails to make a declaration terminating the contract within one month of the payment of the first liabilities under the contract, the consumer shall be deemed to be persisting with the contract.

(3) In the event of the contract termination specified in the first paragraph of this article the creditor must return to the consumer all the paid sums within eight days of receiving the consumer's declaration specified in the first paragraph of this article. The consumer must return the exploited credit to the creditor within the same period if the declaration was delivered directly, or within ten days of the despatch of the declaration if the declaration was sent by registered post, and shall not be obliged to pay interest or other costs or fees connected to the credit approved or exploited.

### **Article 11**

(withdrawal from credit contract)

(1) If the consumer does not have the right to withdraw from the contract under the regulations governing consumer protection the consumer may withdraw from the credit contract without citation of any reason before exploitation of the credit within five days of the conclusion of the contract.

(2) The consumer's right to withdraw from a credit contract shall expire if the consumer begins to exploit the credit in this period.

(3) The consumer must notify the creditor regarding withdrawal from the credit contract by registered post.

(4) If the consumer withdraws from the credit contract the creditor shall have the right to charge the consumer compensation for the costs of approving the credit and compensation for the costs of reserving the sources of funds.

## **IV. RIGHTS AND OBLIGATIONS OF CREDITOR AND CONSUMER**

### **Article 12**

(early repayment)

(1) The consumer shall have the right at any time to make early repayment of the remainder of the current value of the credit before it falls due without additional costs, with the exception of the costs of billing the early repayment of the credit.

(2) In the event of repayment specified in the previous paragraph the consumer may subtract the current (revalued) value of the contractual interest from the current value of the liabilities of the (discounted) early repayment, including any costs that would have accrued from the day the early repayment is made to the day the payment falls due under the contract, if the contractual interest and costs for this period were already billed and included in the repayments made by the consumer.

(3) The creditor shall be obliged to formulate a bill for the consumer for the liabilities of the early repayment in accordance with the previous paragraph. The costs of formulating the bill for the early repayment of the credit may not exceed half of the costs of approving the credit.

### **Article 13**

(termination of contract by creditor)

(1) The creditor may request payment of the remaining instalments before they fall due or terminate the contract through a unilateral declaration if the consumer is late in repaying the initial instalment or two consecutive instalments.

(2) Before declaring the termination of the contract the creditor must via written notification set an appropriate additional period for the consumer for the payment of the due liabilities, which may not be shorter than fifteen days.

(3) The creditor may only terminate the contract if the consumer fails to pay the due liabilities within the additional period specified in the previous paragraph.

(4) If the creditor requests the early repayment of instalments before they fall due or terminates the contract through a unilateral declaration the repayment liabilities shall be determined in accordance with the second paragraph of Article 12 of the present act.

(5) The consumer shall be obliged to pay the creditor penalty interest, charged according to the penalty interest rate, for due credit liabilities for the period from the time the debtor became late to the day of payment.

#### **Article 14**

(assignment of claims)

(1) In all instances when there is assignment of the claim from a credit contract the consumer shall be entitled to exercise all rights against the recipient and use for his/her defence all evidence that could be made use of against the original creditor, including offsetting.

#### **Article 15**

(insurance with securities)

(1) In connection with the credit contract any insurance of payments that commits the consumer to issuing or accepting a blank bill of exchange or cheque shall be prohibited.

(2) The consumer may request the return from the creditor of any security specified in the first paragraph of this article that was delivered to the latter for insurance of payments.

(3) The creditor must refund the consumer for all damages resulting from the use of an instrument of payment insurance specified in the first paragraph of this article.

#### **Article 16**

(financing of third persons)

(1) If the consumer concludes a credit contract for the purpose of financing the purchase of property or the provision of services the consumer may file a complaint against the creditor regarding the refusal of payment and file other complaints deriving from the contract on the sale of property or the contract on the provision of services if the goods or services were not supplied or performed in accordance with the contract in the event of such contracts and the credit contract being mutually linked.

(2) There shall be deemed to be a link between a sales contract or contract on the provision of services and the credit contract if the creditor and seller or service provider cooperate with the intention of providing financing for the purchase of property or the provision of services, in particular:

- when for the purchase of goods or the provision of services the consumer concludes a credit contract with a creditor that is not at the same time the seller or service provider with whom the consumer purchased the goods or ordered the services, and
- the creditor and seller or service provider have already concluded a contract under which the creditor places credit at the disposal of clients of the seller or service provider exclusively for the purchase of goods or services from the seller or service provider, and
- a consumer specified in the first indent obtains credit in accordance with a contract specified in the previous indent

(3) The complaints specified in the first paragraph of this article may be filed by the consumer against the creditor only if they have been previously filed against the seller or service provider and despite the use of all possible complaints the desired effects have not been achieved within a reasonable period.

## V. EFFECTIVE INTEREST RATE

### Article 17

(method for calculating effective interest rate)

(1) The effective interest rate is the annual interest rate (discount level) by which the total credit burden (the total value of all consumer payments to the creditor excluding the costs specified in Article 18 of the present act) is equalised with the current value of approved and transferred credit sums, and is calculated using the mathematical formula specified in the second paragraph of this article.

(2) The effective interest rate (EOM) is given by the following equation:

$$\sum_{j=1}^m \frac{a_j}{\left(1 + \frac{EOM}{100}\right)^{t_j}} = \sum_{k=1}^n \frac{b_k}{\left(1 + \frac{EOM}{100}\right)^{t_k}}$$

where

$\Sigma$  is the sum

m is the number of amounts received (instalments) if the credit is used gradually, otherwise m=1

$a_j$  is amounts received, the total of which is the same as the amount of credit

$t_j$  is the length of the interval, expressed in years or parts thereof, between the initial moment (the day the first instalment of credit is received) and the day of the final instalment (if there are instalments)

n is the number of expenses created by all repayments of credit and the total cost of credit

$b_k$  is the size of an individual payment

$t_k$  is the length of the interval, expressed in years or parts thereof, between the initial moment (the day the first instalment of credit is received) and the day of individual repayments or individual payments of the total costs of credit

EOM (effective interest rate) is the annual percentage interest and can be calculated if the other terms of the equation are known from the contract or otherwise

(3) The total effective interest rate (S) is the effective interest rate (EOM) in which the revaluation rate has been taken into consideration, and is given by the following formula:

$$S = \left( \left( 1 + \frac{VS}{100} \right) * \left( 1 + \frac{r}{100} \right) - 1 \right) * 100$$

where

VS is the revaluation rate, which is the same as the annual interest rate by which the real value is preserved under the prescribed penalty interest rate and basic interest rate act (Ur. l. RS, No. 45/95)

r is the real interest rate

(4) For credit contracts in which the amount and method of repayment of credit is tied to a foreign currency in accordance with other regulations only the effective interest rate (EOM) shall be used in place of the total effective interest rate (S).

### **Article 18**

(costs outside total cost of credit)

In the calculation of the total cost of credit the following costs are excluded:

1. costs paid by the consumer taking the credit because of a failure to fulfil the consumer's contractual obligations
2. fees and costs outside the purchase price that must be paid by the consumer during the purchase of goods or services, irrespective of whether the transaction is a cash or credit transaction
3. costs for the transfer of money and costs for the administration of an account intended for the repayment of credit, interest and other liabilities, except when the consumer was not given the opportunity to freely decide for the purpose of repaying such liabilities whether to open a special account or to exploit any of the other possibilities, and in instances where such costs are abnormally high
4. costs of membership in associations or groups not covered by the credit contract, even though membership has an influence on the credit terms
5. costs of insurance or warranties; however the effective interest rate shall include insurance, warranties and other guarantees intended to ensure repayment to the creditor in the event of death, invalidity, illness or unemployment on the part of the consumer in an amount equal to or less than the total cost of the credit, including interest and other liabilities imposed by the creditor as a condition for the approval of the credit

## **VI. BROKERAGE OF CONSUMER CREDIT**

### **Article 19**

(payment of services, compensation of costs)

(1) In the relationship with a credit broker the consumer shall have no obligations for the payment of services or compensation of costs.

(2) All payments made to a credit broker by the creditor shall be included in the total cost of the credit.

### **Article 20**

(conditions for performing credit brokerage)

(1) Credit brokers must fulfil the conditions prescribed for the performance of their activities by the Bank of Slovenia via a resolution if it is a matter of credit brokers at a bank or savings bank, or by the minister responsible for consumer protection (hereinafter: the minister) via rules if it is a matter of other creditors' credit brokers.

(2) The conditions for the performance of the activities of credit brokers shall in particular define:

- who may be a credit broker
- the method of acquiring and demonstrating credit broker status
- the credit broker's authorisations in relations with the consumer
- the consequences of overstepping the credit broker's authorisations and the demarcation of responsibilities between the credit broker and the creditor in the event of the overstepping of authorisations

- the obligation to administer records on credit brokers and the content thereof
- the obligation to report on credit brokers

## **VII. MANDATORY NATURE OF PROVISIONS OF PRESENT ACT**

### **Article 21**

(nullity of contractual provisions)

(1) Any contractual provision that to the detriment of the consumer abrogates or amends any of the provisions of the present act shall be null and void.

(2) The provisions of the present act shall also directly apply if the provisions of the credit contract are unclear or incomplete.

(3) Irrespective of the provisions of the present act the provisions of other regulations more favourable to the consumer shall also apply.

## **VII. SUPERVISION OF IMPLEMENTATION OF PRESENT ACT**

### **Article 22**

(licence to perform consumer credit services)

(1) Before commencing the performance of consumer credit services creditors must obtain a licence for the performance of such services (hereinafter: licence).

(2) A licence shall not be required by banks and savings banks that obtain a licence for the performance of credit transactions under the act governing banking. A licence shall not be required by the Housing Fund of the Republic of Slovenia. A licence shall not be required by creditors that only provide credit to their own employees or by not-for-profit organisations that only provide credit for social and educational purposes.

(3) The licence specified in the first paragraph of this article shall be issued by the office responsible for consumer protection (hereinafter: the authority).

### **Article 23**

(issue of licence)

The authority shall issue a licence at the request of a creditor under the rules of general administrative procedure.

### **Article 24**

(content of application, sticker, revocation of licence)

(1) The personnel, organisational and technical conditions that must be fulfilled by a licence applicant shall be prescribed by the minister via rules.

(2) The licence applicant must cite the site in which credit contracts are to be concluded in the licence application and must enclose the documentation prescribed by the rules specified in the previous paragraph.

(3) The authority shall reject a licence application if the applicant fails to fulfil the conditions prescribed for the performance of consumer credit services.

(4) When issuing a licence the authority shall issue the licence holder with a sticker that demonstrates the licence has been acquired. The number of stickers issued to the licence holder shall be the same as the number of sites for concluding credit

contracts cited in the application. The licence holder must place the sticker in a clearly visible location. The licence holder may request the issue of a new sticker if a new site for concluding contracts is introduced.

(5) In the event of the infringements specified in points 1, 2, 3 and 5 of the first paragraph of Article 26 of the present act the authority shall at the proposal of the market inspectorate or a consumer protection organisation revoke the licence holder's licence. The licence revocation procedure shall be conducted according to the general administrative procedure act (Ur. l. RS, No. 80/99). After a ruling on licence revocation becomes final the licence holder must immediately dispose of the sticker and cease to provide consumer credit. If the licence holder fails to dispose of the sticker it may be disposed of by the supervisory body.

(6) The form and content of the sticker shall be stipulated by the minister via an order.

## **Article 25** (supervision)

(1) Supervision of the implementation of the present act shall comprise monitoring of the content of advertisements, offers and credit contracts, the method of calculating the total cost of credit and the effective interest rate, and the fulfilment of the conditions prescribed for consumer credit transactions.

(2) Supervision of creditors operating on the basis of a licence under the act governing banking shall be conducted by the body responsible for supervision under the aforementioned act.

(3) Supervision of creditors operating on the basis of a licence issued by the authority and of credit brokers shall be conducted by the market inspectorate.

(4) During the conduct of supervision market inspectors may request from the creditor or credit broker that they be allowed to inspect concluded contracts and make their own copies.

(5) All information obtained in the supervision procedure shall be deemed commercially confidential and must be safeguarded by persons who come into contact therewith.

(6) The market inspectorate must immediately notify the authority regarding infringements detected if it is a matter of infringements by creditors or credit brokers specified in the third paragraph of this article, and the Bank of Slovenia if it is a matter of infringements by banks and savings banks.

(7) The market inspectorate shall via a ruling prohibit the conclusion of credit contracts by the creditor if such operates without a licence from the authority in contravention of the present act.

## **X. PENAL PROVISIONS**

### **Article 26**

(1) A fine of at least 3,000,000 tolar for an infringement shall be imposed upon a creditor or credit broker:

1. if during the advertising and offering of services such person fails to cite all the components specified in the first paragraph of Article 5 of the present act
2. if the credit contract has not been concluded in written form (Article 6)
3. if the credit contract or contract on an overdraft on a current account fails to contain all the components prescribed by the present act (Articles 7, 8 and 9)
4. if upon conclusion of the credit contract such person requests the issue or acceptance of a blank bill of exchange or cheque (Article 15)
5. if the effective interest rate or total cost of the credit is calculated in contravention of Articles 17, 18 or 19 of the present act

6. if in a relationship with a credit broker the consumer has the obligation to pay for services or compensation of costs (Article 19)
7. if during operations such person fails to fulfil the conditions prescribed for credit brokers (Article 20)
8. if the credit contract contains a contractual provision that to the detriment of the consumer would abrogate or amend any provision of the present act (Article 21)
9. if in contravention of the present act such person approves credit without a licence (Article 22)
10. if in contravention of the present act the site where credit contracts are concluded is not labelled with the sticker (Article 24)

(2) A fine of at least 300,000 tolar for an infringement shall be imposed upon the responsible officer of a legal person that commits an offence specified in the previous paragraph.

## **XI. TRANSITIONAL AND FINAL PROVISIONS**

### **Article 27**

The Government of the Republic of Slovenia shall harmonise the sum specified in Article 3 of the present act if the relation between the tolar and the euro according to the Bank of Slovenia's middle exchange rate changes by more than 10 per cent.

### **Article 28**

The minister shall adopt implementing regulations pursuant to the present act within two months of its entry into force.

### **Article 29**

(1) Creditors must harmonise their operations with the provisions of Articles 5, 7, 8, 9, 10, 16, 17 and 18 of the present act by 1 March 2001, and credit brokers must harmonise their operations with the provisions of Article 20 of the present act by 30 April 2001.

(2) Creditors that under Article 22 of the present act must obtain a licence may continue with their previous performance of consumer credit services under the conditions of the present act until the final decision in the general administrative procedure or until 31 December 2001.

### **Article 30**

The provision of Article 15 of the present act shall begin to be applied on 1 January 2001.

### **Article 31**

The present act shall enter into force fifteen days after its publication in the Official Gazette of the Republic of Slovenia.

No.: 450-15/00-1/1  
Ljubljana, 18 July 2000

Dr. Janez Podobnik  
President  
National Assembly of the Republic of Slovenia