

## **Development of Consumer Credit Laws in Malaysia\***

**Ahmad Saufi Abdul Rahman**

University of Malaya  
saufi@um.edu.my

**Abstract.** Consumer Credit is a branch of Commercial Law, which has been developing in recent years in Malaysia. The purpose of this paper is to summarize the latest amendments in the consumer credit laws in Malaysia and to highlight its significance. The discussion will be limited to the three most important laws of consumer credit in Malaysia: the hire-purchase, money lending and pawn broking laws.

### **I. Introduction**

The cost of living increases yearly, necessitating a need to borrow money for some sectors of the society. The affected sectors normally comprise the lower and middle classes of the society. They need to, at least, enter into hire-purchase transactions especially for purchasing motorcars or motorcycles. However, there are others who may go to the extent of acquiring some instant cash from a moneylender or a pawnbroker. Although the services provided by lenders do help the borrowers to temporarily solve their financial problems, there is an urgent need to impose safeguards for such transactions and protect the borrowers. There are lenders who take advantage of the borrowers, who are in dire and desperate need. This situation had made the enhancement of protection via consumer credit laws inevitable.

The legislature in Malaysia had recently reacted to such demands by amending statutory provisions regarding consumer credit. The main amendments involved the Pawnbroker Act 1972 (Act 81) and the Moneylender Act 1951 (Act 400). The amendments were made to strengthen the regulation and control for both transactions by way of licensing, powers of law enforcement and also the law regarding evidence in trial. There is also an amendment made to the Hire-Purchase Act 1967 (Act 212) in relation to variable term charges. The amendment in the Hire-Purchase Act had provided an alternative to the consumer and also the owner as to how the term charges will be calculated during hire-purchase period. The recent amendments had somehow enhanced the protection and also flexibility of consumer credit law.

### **2. The Element of Consumer and the Credit**

In consumer credit transactions, it is important to define the term “consumer.” Both the Moneylender Act and the Pawnbroker Act are silent on what the term “consumer” means. The Hire-Purchase Act 1967 also does not give a definition of the word “consumer”, but it provides the definition of the word “consumer goods”. Under section 2 of Hire-Purchase Act 1967 “consumer goods” is defined as goods purchased for personal, family or household purposes. The definition may sound simple, but in reality, it poses difficulties in distinguishing the intention of the person, especially when the person buys the goods for personal, family or household purposes but later uses it for business purposes. Probably we should refer to another related statutory provision to understand who should be regarded as a consumer. Under the Malaysian Consumer Protection Act 1999 (Act 599), a “consumer” means a person who:

- a) Acquires or uses goods or services of a kind ordinarily acquired for personal, domestic or household purpose, use or consumption; and
- b) Does not acquire or use the goods or services, or hold himself out as acquiring or using the goods or services, primarily for the purpose of –
  - (I) re-supplying them in trade;
  - (II) consuming them in the course of a manufacturing process; or in the case of goods, repairing or treating, in trade, other goods or fixtures on land.

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From the definition, it is clear that the Act emphasizes more on the purposes of the goods or services, and the limitations for usages of the goods or services to determine whether the person is within the consumer category. As consumer credit is a part of commercial law, there are others who opine that the law should not distinguish between a person who borrows money for his personal use or for his business because of the difficulty of distinguishing the loan, regardless of whether they are individuals or companies. According to the Committee on Consumer Credit under the Chairmanship of Lord Crowther Cmnd 4596 (1971), the law ought to distinguish between consumer and commercial transactions. The Committee is of the view that the purpose of the loan is an inadequate test, being too vague and subjective. The Committee seems to prefer the approach of excluding bodies corporate from the protection afforded to consumers. This can be achieved by setting a financial limit above which consumers were not entitled to statutory protection (D Rosenthal, 1994, p.4). This view has been applied in the United Kingdom Consumer Credit Act 1974.

However, in Malaysia, such view probably applies only to the Moneylender Act 1951 and the Pawnbroker Act 1972. Both Acts do not distinguish the purpose of the loan, whether it is for personal use or for business purposes. Pawn broking transactions in Malaysia are regulated by way of a loan limit allowed for each transaction. The protection provided by Pawnbroker Act 1972 only applies to pawn broking transaction if the amount of money borrowed does not exceed ten thousand ringgit. For money lending, there is no financial limit for the transaction to be governed by the Moneylender Act 1951. Only the Hire-Purchase Act 1967 still distinguishes between consumer goods and non-consumer goods. The Hire-Purchase Act 1967 applies only to hire-purchase transactions relating to the goods specified in the First Schedule which include all consumer goods and most motor vehicles. The Hire-Purchase (Amendment) Act 1992 had inserted "All consumer goods" to the new First Schedule (P Balan, 1991). The latter stipulates that if the goods are consumer goods, then the transaction will still be governed by the Act no matter how expensive the goods are. The protection given in this aspect is better, in comparison to the setting of a financial limit suggested by the Crowther Committee. This is because by setting a financial limit, problems will arise in determining what would be the amount that limits the protection to the consumers. This is especially relevant in hire-purchase transactions as the prices for the goods to be hire-purchased will rapidly increase within a few years.

The Pawn Broker Act, for example, had increased the financial limit from five thousand to ten thousand Ringgit Malaysia, as it is no longer practical to stay with the previous amount. It is suggested that the protection given by the laws to consumer credit transactions should be a combination of the purposes of the goods and also the financial limit to the transaction. First, it is to give a wider application to transactions involving the consumers for example, by using the word "all consumer goods" as in the Hire-Purchase Act 1967. Second, it is to put a financial limit on transactions that involve goods which do not fall under the definition of consumer goods. By doing so, a wider protection will be given to the consumers. If they enter into a hire-purchase agreement to purchase consumer goods and later unintentionally or accidentally use it for business purposes, the transaction will still be governed by the Hire-Purchase Act. As mentioned earlier, to protect the consumers the definition given to the word "consumer" should be wider or flexible. By giving a strict and rigid definition, it can somehow limit the application of the Act and thus, limit the protection to the consumers.

Another element to be considered when we are talking about consumer credit is the term "credit". This is important since the definition of "credit" can be manipulated. If this happens, then protection by consumer credit legislation may not be applicable to the consumers in cases where the credit is not in terms of cash. Section 9 of the United Kingdom Consumer Credit Act 1974 defines credit as "including a cash loan and any other form of financial accommodation". This is based on the "recognition that the extension of credit in a sale or hire-purchase transaction is in reality a loan and that the reservation of title under a hire-purchase or conditional sale agreement or finance lease is in reality a chattel mortgage securing a loan". In Malaysia, the definition of credit generally refers more to a loan in cash especially in money lending and pawn broking transactions. As to hire-purchase, the transaction is more a contract of hiring goods rather than a contract of loan. However, hire-purchase is still regarded as consumer credit. Therefore, to protect consumers, the definition of "credit" should also be clear and as wide as possible to ensure that all types of consumer credit will fall within the definition.

### **3. Pawn broking Transaction**

Pawn broking is a transaction where a pawner surrenders pledge to the pawnbroker as security for a cash loan. The pawnbroker is entitled to hold the pledge until the pledge is redeemed or repurchased. In Malaysia, pawn broking transactions are governed by the Pawnbroker Act 1972 (Act 81). The Act came into force on

2nd January 1973. Generally, the purpose of the Act is to standardize the law of pawn broking in this country. The provision under Act 81 is to be read together with the Pawn broking Rules 1972. Act 81 will govern all pawn broking transactions unless it is excluded by the Act itself.

The Pawnbroker Act 1972 (Act 81) was amended by Act A1209 or the Pawnbroker (Amendment) Act 2003. Act A1209 came into force on the 1st of January 2004. The purpose of Act A1209 is to (a) amend (b) delete and (c) replace some of the provisions within Act 81 (the principal Act). The principal Act was amended by substituting the long title with another long title, "*An act for the regulation and control of the business of pawn broking, the protection of pawners and pledges pawned in course of such business, and matters connected therewith*". The new title clearly shows the intention of the legislature to improve the protection to pawn broking transactions. Section 3(1) is amended where the maximum amount of pawn broking transaction covered by the Act is now ten thousand ringgit instead of five thousand ringgit. This amendment does not only increase the amount of loan that could be given to the pawner. It also gives better value to the pledge. Moreover, the amendment has widened the application of the Act and its protection. Under the new amendment, the minimum age for the pawner is now changed from sixteen to eighteen years old. This amendment is important since the capacity to enter into a contract in Malaysia is eighteen as mentioned in section 11 of the Contracts Act 1950. It is unsuitable to allow a sixteen year old person to pawn articles in a pawnshop since he can easily be exploited.

The amendments to the Pawnbroker Act 1972 emphasize licensing. Section 7 of Act 81 had been replaced with a new provision. Section 7 (1) Act 1209 states that "No person shall carry on business as a pawn broker unless he holds a valid license granted under this Act". Section 8, regarding application for license had also been amended. There is also a new section 8A, which is related to the circumstances under which a licence shall not be granted. Act A1209 replaced the provisions under section 9 and section 10 with new provisions, which are related to the power of the Registrar to grant a licence and also the duration of licence. Previously, an application for a licence was based on calls for tenders, whereas now it is being replaced by way of open application (Husin Rani 2004). Duration for a licence had been reduced from three years to two years and this was done for the purpose of supervision. Section 11 concerns the revocation and suspension of licences and it has been replaced with a new provision. According to section 11 (1) (a) the Registrar may revoke the licence issued or suspend the license if the licensee has been carrying on his pawn broking business, in the opinion of the Registrar, in a manner detrimental to the interest of the pawner or to any member of the public. Part IIA of Act A1209 has introduced a new provision regarding advertisement by the licensee. According to section 13B, no advertisement regarding the business of pawn broking is allowed unless an advertisement permit has been granted by the Registrar. According to section 13B "Any person who contravenes subsection (1) commits an offence and shall on conviction be liable to a fine not exceeding twenty thousand ringgit or to imprisonment for a term not exceeding twelve months or to both".

A new provision under section 22 imposes more responsibilities on pawnbrokers regarding the pledge. Section 22 (2) states that "The pawner shall be responsible for the loss or damage of any pledge, whether such loss or damage be caused by or in consequence of fire, negligence, omission, theft, robbery or otherwise". According to section 22 (3), the value of the pledge for the purposes of compensation to the pawner, is assumed to be one quarter more than the amount of the loan thereon. A new section has been added and Sec. 23 states that any pledge if pawned for a sum not exceeding two hundred ringgit shall become the property of the pawnbroker if the pledge has not been redeemed at the expiration of six months from the date of pawning or such longer period as may be agreed between a pawnbroker and the pawner. Unfortunately, amendments to section 23 would deny the pawner rights to the unredeemed pledge since the amount has been increased from one hundred ringgit to two hundred ringgit. If this happens, it means that the pawner is not entitled to claim the surplus if the pledge has been sold for more than the amount of the loan. Section 25 states that where a pledge pawned for a sum exceeding two hundred ringgit is sold for more than the amount of the loan, the pawnbroker shall pay the surplus to the pawner if a claim is made by the pawner within the period of four months. Somehow the provision under the Pawnbroker Act only takes into account the amount of the loan, and not the value of the pledge. Thus, if the pawner borrows only two hundred ringgit or less but the value of his pledge is higher than two hundred ringgit, the pawner will suffer losses if he is unable to redeem or forgot to redeem the pledge. Regarding the amount of loan itself, there should be a third party valuation so that the pawners will be able to get more value for their pledges. However, since third party valuation is not common to pawn broking transactions and a pledge valuation is still in the hands of the pawnbrokers, the desperate pawner has no choice but to accept, the amount determined by the pawnbroker.

The most significant part of the 2003 Amendment is the introduction of new provisions relating to investigation, search, and arrest. These powers are in Part IVA. Part IVA contains eleven (11) new sections,

which are sections 34A to 34K. Briefly, section 34A deals with the power to investigate complaints and to make inquiry. Here, any complaint relating to an offence under this Act may be made orally or in writing to an Inspector or police officer and where a complaint is made orally, it shall be reduced into writing. Section 34B deals with the powers of the Inspector or police officer in investigations. Powers given to the enforcement officers are important since it helps them acquire information. Section 34C is about the power to examine persons. Under section 34D a magistrate may issue a warrant authorizing an Inspector or police officer to enter into any premises and if the Inspector or police officer in any circumstances has reasonable cause to believe that by reason of delay in obtaining a search warrant, the investigation would be adversely affected, they may enter the premises as if they were authorized to do so by a warrant issued under section 34D. Section 34F deals with the seizure of moveable property. Under this provision, the Inspector or police officer may seize any moveable property which he has reasonable grounds to suspect to be related to the commission of an offence under this Act during the course of investigation. Under section 34I (1) any person, who obstructed the inspection and search by the Inspector or police officer, commits an offence and shall on conviction be liable to a fine not exceeding twenty thousand ringgit or to imprisonment for a term not exceeding twelve months or to both. Subsection 2 of section 34I stated that any person who abets the commission of any offence under subsection (1) shall be guilty of an offence and shall be liable to a fine not exceeding twenty thousand ringgit or to imprisonment for a term not exceeding twelve months or both. Subsection 3 states any person who, while committing or abetting the commission of any offence under subsection (1), or (2) causes hurt to a police officer or any public officer shall be liable to whipping. According to section 34J every offence punishable under this Act shall be a seizable offence and an Inspector may arrest without warrant any person committing an offence under this Act. Meanwhile section 34L to section 34O in Part IVB deals with evidence in court. Section 34L is about evidence of an accomplice and agent provocateur which protects the person from being regarded as an accomplice. Section 34M is about the protection of informers and information. Section 41A had introduced a general penalty for any offences under the Act to which no penalty had been expressly provided; where on conviction the accused shall be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding six months or to both.

Under the new amendment, it will be an offence for any person to purchase or attempt to purchase any pawn-ticket as mentioned in section 41 (C). Such offender shall be liable on conviction, to a fine not exceeding twenty thousand ringgit or to imprisonment for a term not exceeding twelve months. Even though amendments were made to the Pawnbroker Act 1972, pawn broking transactions still have the highest interest rates compared to other consumer credit transactions. Under the Pawn broking Rules 1972, the interest rate for pawn broking transaction is 2% a month. This means that the average interest rate for pawn broking transaction will be 24% per annum. Compared to the Moneylender Act 1951, the interest rate for secured loan shall not exceed 12% per annum and interest rate for unsecured loan shall not exceed 18% per annum. According to the Hire-Purchase (Terms Charges) Regulations 1968 the terms charges in relation to a hire-purchase agreement shall not exceed 10% per annum. Therefore, it is suggested that the interest rate under the Pawn broking Rules 1972 be revised in the future.

## Money lending Transactions

The Malaysian Moneylenders Act 1951 (Act 400) is modelled after the (English) Moneylenders Act of 1900 and 1927. According to section 1 (2) the Moneylender Act 1951 applies only to the States of West Malaysia. The Ministry in charge of the enforcement of the Act is the Ministry of Housing and Local Government.

The Moneylenders Act 1951 (Act 400) the "principal Act", was amended by the Moneylenders (Amendment) Act 2003 (Act 1193). Act A1193 came into force on 1st November 2004. The main purpose of Act A1193 is to (a) amend (b) delete and (c) replace some of the provisions in Act 400. Act 1193 had introduced new provisions regarding investigation, search and also evidence. The amendments to Act 400 were introduced just after the amendments were made to the Pawnbroker Act 1972 (Act 81) and the purposes of the amendments are almost similar, i.e. to strengthen the existing law by way of licensing and enforcement. As the long title for the Pawnbroker Act 1972 (Act 81) was amended, the long title for the Moneylenders Act 1951 (Act 400), was also amended by substituting for the long title the following long title - "*An Act for the regulation and control of the business of money lending, the protection of borrowers of the monies lent in the course of such business, and, matters connected therewith*". Under section 2 of Act 1193 a new definition was given to moneylenders as "any person who lends a sum of money to a borrower in consideration of a larger sum being repaid to him". Section 5 which is related to the requirement for a

moneylender to obtain a license has been replaced with a new provision. Section 5 (1) of Act 1193 provides that “No person shall conduct business as a moneylender unless he is licensed under the Act”. Section 5(2) imposes a penalty on any person who carries on business as a moneylender without licence, with a fine of not less than twenty thousand ringgit or imprisonment for a term not exceeding five years or both and in the case of second or subsequent offences, the person shall also be liable to whipping.

For the purposes of enforcement of Act 400, the new Act A1193 had introduced new provisions relating to the powers of investigation, search, and arrest of the police under section 10A to section 10K. Similar to the Pawnbroker Act (Amendment) 2003, Act A1193 had also introduced four new sections regarding evidence in court. Under section 10P a moneylender and the borrower must enter into a money lending agreement in the prescribed form. Any moneylender who contravenes this section shall be guilty of an offence under this Act and shall be liable to a fine of not less than ten thousand ringgit but not more than fifty thousand ringgit or imprisonment for a term not exceeding five years or to both, and in the case of a second or subsequent offence shall also be liable to whipping in addition to such punishment. According to subsection 3 any money lending agreement which does not comply with the prescribed form shall be void and have no effect and shall not be enforceable. Section 11 of Act 400 has been replaced with a new provision. Under the new section 11, moneylenders have to apply to the Registrar for an advertisement permit. The application for an advertisement permit is stated under the new section 11A. This provision is quite similar to section 13B of the Pawnbroker Act 1972 except the fine under section 13B is not exceeding twenty thousand ringgit compared to only ten thousand ringgit under section 11(1) of the Moneylender Act 1951. Section 17 (1) had been amended and under the new provision, the moneylender is entitled to charge simple interest on the unpaid sum or instalment calculated at the rate of eight per centum per annum from day to day. Under a new section 17A, the interest for a secured loan shall not exceed twelve per centum per annum and interest for unsecured loan shall not exceed eighteen per centum per annum. Under a new section 21 (8), interest charged in respect of money lent by moneylender is excessive when the rate of that interest exceeds the maximum rate of interest permitted under this Act. It is pertinent to note that section 22 Act 400, which is in relation to excessive interest has been repealed. Any moneylender who contravenes this provision shall be guilty of an offence under this Act and shall be liable to a fine not exceeding twenty thousand ringgit or to imprisonment for a term not exceeding eighteen months or to both. Under the new section 29B (1), any moneylender who harasses or intimidates a borrower shall be guilty of an offence under the Act and shall be liable to a fine not exceeding one thousand ringgit or to imprisonment for a term not exceeding fifteen months or to both, and in case of a second or subsequent offences, shall also be liable to whipping in addition to such punishment. Provisions under section 29B apply not only to licensed moneylenders but also to unlicensed moneylenders. Therefore it would be an effective measure to counter a loan shark or unlicensed moneylenders known as “Along” in Malaysia.

#### **4. Hire-Purchase Transaction**

Hire-Purchase is the most important branch of consumer credit. Malaysia did not have any local legislation, which regulates this branch of consumer credit, until 11<sup>th</sup> April 1968, when the Hire-Purchase Act 1967 (Act 212) came into force. Before the Act was enacted, such transactions were governed by the general principles of contract law as well as the Sale of Goods Ordinance 1957 as “agreement to sell”. When hire-purchase transactions became more widespread as a “painless” method of acquiring assets by consumers, the authorities considered it necessary to enact the Hire-Purchase Act of 1967 (Salleh Buang 2001). The Hire Purchase Act 1967 was first published in 1967 as Act No. 24 of 1967. The Act was revised in 1978 and published as Laws of Malaysia Act No. 212. The Act applies throughout Malaysia. The Malaysian Hire-Purchase Act is based on the New South Wales Act 1960-65.

According to section 2 of the Act, “hire-purchase agreement” includes a letting of goods with an option to purchase and an agreement for the purchase of goods by instalments (whether the agreement describes the instalments as rent or hire or otherwise), but does not include any agreement –

- (a) Whereby the property in the goods comprised therein passes at the time of the agreement or upon or at any time before delivery of the goods: or
- (b) Under which the person by whom the goods are being hired or purchased is a person who is engaged in the trade or business of selling goods of the same nature or description as the goods comprised in the agreement.

The Hire-Purchase Act 1967 clearly states the process of a hire-purchase transaction from the beginning to the end. However, this statutory provision only applies to goods stated in the First Schedule. The goods which are not within the First Schedule will not be governed by the Act and thus, will be governed by Common Law. However the parties are free to be bound by the provisions of the Act (Kesang Leasing 1990). The limited application of the Hire-Purchase Act 1967 to goods within the First Schedule clearly shows that the Act is meant to protect the consumers, although certain non-consumer items such goods vehicles and buses are also included. Since common law is based on freedom of contract, the terms of the contract could be biased for the hirer. It would be better if the protection under the Hire-Purchase Act could be extended, if not to all hire-purchase transactions, then at least to those transactions involving entrepreneurs who run small businesses. This is because the latter may need to enter into hire-purchase transactions to acquire goods such as refrigerators, photocopy machine and other types of small machines. If the government policies are to encourage small and medium sized businesses, then the Hire-Purchase Act should offer some protection to them. This can be done as previously discussed earlier, by inserting into the First Schedule a credit limit for hire-purchase transactions, for example any goods not exceeding twenty thousand ringgit will also be governed by the Hire-purchase Act. Although entrepreneurs are not consumers, they still need protection under the law. It is important to note here that the New South Wales Act 1960-65 imposed no restriction in its application when the Act was introduced and the United Kingdom Consumer Credit Act 1974 imposed a monetary limit as suggested by the Committee on Consumer Credit under the Chairmanship of Lord Crowther.

The Hire-Purchase Act 1967 (Act 212) was amended by the Hire-Purchase (Amendment) Act 2004 (Act A1234). Act A1234 came into force on 15th April 2005. The amendment Act introduces a new method of terms charges; that is by way of variable terms rate. Under the new amendment, the owner shall provide an option to the hirer for the terms charges under a hire-purchase agreement to be either at a fixed rate or at a variable rate as stated in section 6A (1) of the Hire-Purchase Act 1967. A variable rate of terms charges shall be quoted at a margin percentage above the base lending rate. Base lending rate is defined as the minimum interest rate based on owner's cost of funds and other administrative costs. According to the amendment, the owner may revise the base lending rate at any time during the continuance of the agreement. Where the owner has revised the base lending rate, the rate and total amount of terms charges and the amount of each instalment or the number of instalments under the hire-purchase agreement shall be revised accordingly. However, the Act does provide protection to the hirer in cases where the owner had revised the base lending rate. According to Section 6B (3) of the Hire-Purchase Act 1967, the owner who revised the base lending rate shall serve a notice to the hirer specifying the following:

- a) the revised base lending rate;
- b) the revised rate of terms charges;
- c) the revised total amount of terms charges; and
- d) the revised amount of instalments or the revised number of instalments, as the case may be.

Where the owner has revised the base lending rate, the hirer may opt whether to retain the existing number of instalments and vary the amount of instalments or to retain the existing amount of instalments and vary the number of instalments. This provision seems to provide the hirer with an alternative if the base lending rate has been revised.

The introduction of variable term charges is something new to the hire-purchase industry in this country. The effect of the variable term charges to the hire-purchase industry is still unknown and until today such concept has not yet been introduced by financial institutions. The decision as to whether to opt for traditional fixed rate term charges or a new variable term charges are in the hands of the hirer. However, the hirer should be aware of the danger of such variable term charges as it could trap them financially if the base lending rate increases rapidly. If this happens, the hirer would probably suffer by paying more than what he had expected to pay. However, according to the Hire-Purchase (Terms Charges) Regulations 1968, the terms charges in relation to a hire-purchase agreement shall not exceed 10% per annum in respect of all goods specified in the First Schedule. Besides that, under section 34 (c), if the hirer under the agreement which provides for terms charges at variable rate is imposed to pay interest on any overdue instalments at two per centum above the prevailing rate of terms charges, such provision shall be void and of no effect. Overall, although the hirer chose to opt for variable term charges, they are still protected under the Hire-Purchase (Terms Charges) Regulations 1968.

## 5. Malaysian Consumer Credit Act?

As previously mentioned, the main consumer credit transactions in Malaysia are the hire-purchase, money lending and pawn broking transactions. Every transaction is governed by specific legislation. There are also a few other consumer credit transactions which do not fall within those categories, such as credit card and credit sale. Other consumer credits, which do not have specific regulation, usually will be governed by general law; for example, the law of contract and sale of goods (Grace Xavier, 1994). In Malaysia, consumer credit is not only governed by different statutes and regulations but it is also supervised by different ministries and departments. Credit card for example is regulated under banking regulations supervised by Bank Negara (The National Bank). Hire-purchase and credit sale is under the supervision of Ministry of Internal Trade and Consumer Affairs. Both money lending and pawn broking are under the Ministry of Housing and Local Government. As consumer credit is under different legislations and also departments, supervision sometime could be a problem. If there is no standardization in terms of regulation of consumer credit, there will be a loop hole in supervision and enforcement. Therefore, there is a need for comprehensive regulation for consumer credit in Malaysia. Since consumer credit has become part and parcel of Malaysian society, there is a demand by Non-Government Organizations (NGOs) especially by Consumer Association Penang (CAP) for the government to consider enacting the Consumer Credit Act. The proposed Act will govern all fields of consumer credit currently existing in this country. Among the suggestions to be incorporated in the proposed Act include:

- 1) The Act should strictly be enacted for the protection of consumers
- 2) The Act should provide strict action regarding issues of advertisement and marketing
- 3) The Act should provide strict legislation regarding debt collecting and issues of repossession.
- 4) The Act should state the limit regarding calculation of interest (including the late payment interest) and other sort of payments.
- 5) The Act should give more powers to law enforcement in dealing with credit providers.

According to Consumer Association Penang President S M Mohamed Idris (2005), to implement such Act will not be a problem since Malaysian legislators could learn from the Consumer Credit Law of the United Kingdom and New Zealand. The introduction of the Consumer Credit Act could overcome many problems such as inconsistent interest rates between consumer credit transactions in this country. For example, for hire-purchase transaction, the term charges is not more than 10%; whereas for Moneylender transaction, interest rate is 18 % per annum for unsecured loan and 12 % per annum for secured loan. Compared with pawn broking transaction, the interest rate for the transaction is 2 % per month or 24% per annum (Ahmad Saufi, 2004). Another problem, which needs to be overcome, relates to the issues of jurisdiction. There is a question: if the Consumer Credit Act is implemented, will the enforcement of such Act be governed by only one department such as the Ministry of Internal Trade and Consumer Affairs or will it still be in the hand of various departments? Since consumer credit is a consumer affair, it is suggested that it should be placed under the Ministry of Internal Trade and Consumer Affairs. This will not only be easier for the purposes of implementation and monitoring the Act, but it could also make it easier for public to refer cases or complaints.

## 6. Conclusion

It is important to recognize the invaluable contribution of the consumer credit industry to the country's economy, especially in providing credit to the society. Although recent amendments in consumer credit laws relating to transactions, such as money lending and pawn broking, seem to enhance the protection for the consumer, more needs to be done. All the amendments will be ineffective if there is lack of enforcement by the relevant authorities and cooperation from the public. The proposal for a Consumer Credit Act to govern all consumer credit legislation in this country should be adopted. Such Act will provide better protection to the consumer, similar to the protection which is enjoyed by consumers in other countries, such as United Kingdom or New Zealand already enjoy.

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