



Australian Capital Territory

# **Consumer Credit Act 1995**

**A1995-18**

**Republication No 4**

**Effective: 22 December 2005 – 1 February 2009**

Republication date: 22 December 2005

Last amendment made by A2005-60

Authorised by the ACT Parliamentary Counsel

## About this republication

### The republished law

This is a republication of the *Consumer Credit Act 1995* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 22 December 2005. It also includes any amendment, repeal or expiry affecting the republished law to 22 December 2005.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

### Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

### Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication includes amendments made under part 11.3 (see endnote 1).

### Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

### Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

### Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.



Australian Capital Territory

# Consumer Credit Act 1995

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Australian Capital Territory

## Consumer Credit Act 1995

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An Act to make provision for a uniform legislative scheme to regulate the provision of consumer credit, and for other purposes

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## Part 1 Preliminary

### 1 Name of Act

This Act is the *Consumer Credit Act 1995*.

### 2 Dictionary

The dictionary at the end of this Act is part of this Act.

*Note 1* The dictionary at the end of this Act defines certain terms used in this Act, and includes references (*signpost definitions*) to other terms defined elsewhere in this Act.

For example, the signpost definition '*annual percentage rate*, for part 3A (Maximum annual percentage rate and disclosure)—see section 8A.' means that the term 'annual percentage rate' is defined in that section for part 3A.

*Note 2* A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

### 3 Notes

A note included in this Act is explanatory and is not part of this Act.

*Note* See the Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

## Part 2

# Consumer Credit (Australian Capital Territory) Code and Consumer Credit (Australian Capital Territory) Regulations

### 4 Application in ACT of Consumer Credit Code

The Consumer Credit Code set out in the Consumer Credit (Queensland) Act, appendix as in force for the time being—

- (a) applies as a Territory law; and
- (b) as so applying may be referred to as the Consumer Credit (Australian Capital Territory) Code.

### 5 Application of regulations under Consumer Credit Code

- (1) The regulations in force for the time being under the Consumer Credit (Queensland) Act, part 4—
  - (a) apply as regulations in force for the Consumer Credit (Australian Capital Territory) Code; and
  - (b) as so applying may be referred to as the Consumer Credit (Australian Capital Territory) Regulations.
- (2) The Consumer Credit (Australian Capital Territory) Code, schedule 2 applies in relation to those regulations.
- (3) To the extent that a provision of those regulations takes effect from a day earlier than the day of notification of the provision in the Government Gazette of Queensland, the provision does not operate in the ACT so as to—
  - (a) affect, in a manner prejudicial to any person (other than the Territory or an authority of the Territory), the rights of that person existing before the day of notification; or

- (b) impose liabilities on any person (other than the Territory or an authority of the Territory) in respect of anything done or omitted to be done before the day of notification.

## 6 Interpretation of some expressions in code and regulations

- (1) In the Consumer Credit (Australian Capital Territory) Code and the Consumer Credit (Australian Capital Territory) Regulations—

*legislature of this jurisdiction* means the legislature of the Territory.

*the code* or *this code* means the Consumer Credit (Australian Capital Territory) Code.

*the jurisdiction* or *this jurisdiction* means the Australian Capital Territory.

- (2) The *Acts Interpretation Act 1954*, and other Acts, of Queensland do not apply to—

- (a) the Consumer Credit Code set out in the Consumer Credit (Queensland) Act, appendix in its application as a Territory law; or

- (b) the regulations in force for the time being under the Consumer Credit (Queensland) Act, part 4 in their application as regulations in force for the Consumer Credit (Australian Capital Territory) Code.



## **Part 3**

# **Conferment of judicial and administrative functions**

### **7 Conferment of judicial functions on courts and credit tribunal**

- (1) The jurisdiction that is expressed to be exercisable by the court under the Consumer Credit (Australian Capital Territory) Code and the Consumer Credit (Australian Capital Territory) Regulations is exercisable—
  - (a) for the code, sections 34 (5), 36 (6) and (7), 44 (4), 47 (3), 77 (1), 79, 82 (b), 83 (1), 88 and 89, sections 91 (1) (a), 92, 93, 98 and section 162 (2) and any jurisdiction prescribed by the regulations—only by the Australian Capital Territory Credit Tribunal; or
  - (b) in any other case—either by the credit tribunal or any court.
- (2) The jurisdiction given to a court by this section (other than the credit tribunal) is subject to the court's general jurisdictional limits (so far as they relate to the amounts, or the value of property, with which the court may deal), but is not subject to the court's other jurisdictional limits.
- (3) The regulations may make provision in relation to the transfer of proceedings between the credit tribunal and other courts or between other courts.

### **8 Conferment of administrative functions**

The commissioner for fair trading has the functions of the Government Consumer Agency under the Consumer Credit (Australian Capital Territory) Code and the Consumer Credit (Australian Capital Territory) Regulations.

## Part 3A Maximum annual percentage rate and disclosure

### 8A Definitions for pt 3A

In this part:

*annual percentage rate*—see the code, section 25 (Definitions relating to interest).

*code* means the Consumer Credit (Australian Capital Territory) Code.

*contract document*—see the code, schedule 1 (Principal definitions), clause 1 (1).

*credit*—see the code, section 4 (1).

*credit contract*—see the code, section 5.

*credit fees and charges*—see the code, schedule 1 (Principal definitions), clause 1 (1).

### 8B Maximum annual percentage rate

- (1) A regulation may prescribe a maximum annual percentage rate for a credit contract to which the code applies.
- (2) A regulation may require interest charges, and all credit fees and charges, under a credit contract to be included in working out the maximum annual percentage rate under the contract.
- (3) The code, part 2, division 2 applies in relation to a prescribed maximum annual percentage rate as if the rate had been prescribed by the code.

*Note* The effect of s (3) is that a contract is void to the extent that it imposes a monetary liability prohibited under s (1) and that any amount paid under the contract may be recovered. In addition, the credit provider commits an offence for entering into the contract.

- (4) This section does not affect the exercise of any powers under the code, part 4, division 3 in relation to a contract that is not void because of this section.

*Note* The code, pt 4, div 3 allows (among other things) the reopening of unjust transactions.

- (5) This section applies to a credit contract whether the credit contract was established before, or is established after, the commencement of this section.

### **8C Disclosure of cost of credit**

- (1) For the code, section 15 (C) (Annual percentage rate or rates), the contract document must state an annual percentage rate worked out on the basis of charges under the contract that are interest charges (whether or not they are described in the contract as interest charges).
- (2) For the code, section 15 (E) (Total amount of interest charges payable), the total amount of interest charges payable under the contract includes an amount that is an interest charge (whether or not it is described in the contract as an interest charge).
- (3) For the code, section 14 (Precontractual disclosure), the precontractual statement must also set out the matters mentioned in subsections (1) and (2).
- (4) The requirements of this section are additional to any other requirements of the code, section 14 or section 15.

## Part 4 Miscellaneous

### 13 Regulation-making power

The Executive may make regulations for this Act.

*Note* Regulations must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

## Dictionary

(see s 2)

*Note 1* The Legislation Act contains definitions and other provisions relevant to this Act.

*Note 2* For example, the Legislation Act, dict, pt 1, defines the following terms:

- Executive
- territory law
- the Territory.

***annual percentage rate***, for part 3A (Maximum annual percentage rate and disclosure)—see section 8A.

***code***, for part 3A (Maximum annual percentage rate and disclosure)—see section 8A.

***Consumer Credit (Australian Capital Territory) Code*** means the provisions applying because of section 4.

***Consumer Credit (Australian Capital Territory) Regulations*** means the provisions applying because of section 5.

***Consumer Credit (Queensland) Act*** means the *Consumer Credit (Queensland) Act 1994* (Qld).

***contract document***, for part 3A (Maximum annual percentage rate and disclosure)—see section 8A.

***credit***, for part 3A (Maximum annual percentage rate and disclosure)—see section 8A.

***credit contract***, for part 3A (Maximum annual percentage rate and disclosure)—see section 8A.

***credit fees and charges***, for part 3A (Maximum annual percentage rate and disclosure)—see section 8A.

***credit tribunal*** means the Australian Capital Territory Credit Tribunal.

*scheme legislation of the Australian Capital Territory* means—

- (a) this Act; and
- (b) the Consumer Credit (Australian Capital Territory) Code; and
- (c) the Consumer Credit (Australian Capital Territory) Regulations.

## Endnotes

### 1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

### 2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	par = paragraph/subparagraph
def = definition	pres = present
dict = dictionary	prev = previous
disallowed = disallowed by the Legislative Assembly	(prev...) = previously
div = division	pt = part
exp = expires/expired	r = rule/subrule
Gaz = gazette	renum = renumbered
hdg = heading	reloc = relocated
IA = Interpretation Act 1967	R[X] = Republication No
ins = inserted/added	RI = reissue
LA = Legislation Act 2001	s = section/subsection
LR = legislation register	sch = schedule
LRA = Legislation (Republication) Act 1996	sdiv = subdivision
mod = modified/modification	sub = substituted
o = order	SL = Subordinate Law
om = omitted/repealed	<u>underlining</u> = whole or part not commenced or to be expired

## Endnotes

3 Legislation history

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### 3 Legislation history

#### **Consumer Credit Act 1995 No 18**

notified 5 September 1995 (Gaz 1995 No S212)  
s 1, s 2 commenced 5 September 1995 (s 2 (1))  
remainder commenced 1 November 1996 (s 2 (2) and Gaz 1996  
No S273)

as amended by

#### **Consumer Credit (Administration) (Consequential Provisions) Act 1996 No 42 pt 2 div 1**

notified 2 September 1996 (Gaz 1996 No S223)  
s 1, s 2 and pt 2 div 1 commenced 2 September 1996 (s 2 (1))

#### **Law Reform (Miscellaneous Provisions) Act 1999 No 66 sch 3**

notified 10 November 1999 (Gaz 1999 No 45)  
commenced 10 November 1999 (s 2)

#### **Justice and Community Safety Legislation Amendment Act 2000 (No 3) No 17 sch 1**

notified 1 June 2000 (Gaz 2000 No 22)  
commenced 1 June 2000 (s 2)

#### **Legislation (Consequential Amendments) Act 2001 No 44 pt 75**

notified 26 July 2001 (Gaz 2001 No 30)  
s 1, s 2 commenced 26 July 2001 (IA s 10B)  
pt 75 commenced 12 September 2001 (s 2 and Gaz 2001 No S65)

#### **Justice and Community Safety Legislation Amendment Act 2004 A2004-18 pt 3**

notified LR 6 April 2004  
s 1, s 2 commenced 6 April 2004 (LA s 75 (1))  
pt 3 commenced 20 April 2004 (s 2)

#### **Justice and Community Safety Legislation Amendment Act 2005 (No 4) A2005-60 sch 1 pt 1.7**

notified LR 1 December 2005  
s 1, s 2 taken to have commenced 23 November 2005 (LA s 75 (2))  
sch 1 pt 1.7 commenced 22 December 2005 (s 2 (4))



## 4 Amendment history

### Name of Act

s 1 sub A2005-60 amdt 1.16

### Dictionary

s 2 am 1996 No 42 pt 2 div 1  
om R1 LRA  
ins A2005-60 amdt 1.19

### Notes

s 3 am 2001 No 44 amdt 1.800, amdt 1.801  
defs reloc to dict A2005-60 amdt 1.18  
sub A2005-60 amdt 1.19  
def **short-term credit contract** ins A2004-18 s 9  
om A2005-60 amdt 1.17

### Conferment of administrative functions

s 8 am 1999 No 66 sch 3; 2000 No 17 sch 1

### Maximum annual percentage rate and disclosure

pt 3A hdg ins A2004-18 s 10

### Definitions for pt 3A

s 8A ins A2004-18 s 10  
def **annual percentage rate** ins A2004-18 s 10  
def **code** ins A2004-18 s 10  
def **contract document** ins A2004-18 s 10  
def **credit** ins A2004-18 s 10  
def **credit contract** ins A2004-18 s 10  
def **credit fees and charges** ins A2004-18 s 10  
def **short-term credit contract** ins A2004-18 s 10  
om A2005-60 amdt 1.20

### Maximum annual percentage rate

s 8B ins A2004 s 10  
sub A2005-60 amdt 1.21

### Disclosure of cost of credit

s 8C ins A2004 s 10  
am A2005-60 amdts 1.22-1.24

### Application to the Crown

s 9 om A2005-60 amdt 1.25

### Maximum annual percentage rate

s 10 om A2004-18 s 11

### Proceedings for offences against code or regulations

s 11 om A2005-60 amdt 1.25

## Endnotes

4 Amendment history

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### **Savings and transitional regulations**

s 12 om 2001 No 44 amdt 1.803

### **Regulation-making power**

s 13 am 2001 No 44 amdt 1.804

### **Dictionary**

dict ins A2005-60 amdt 1.26  
def **annual percentage rate** ins A2004-18 s 9  
reloc from s 3 A2005-60 amdt 1.18  
def **code** ins A2004-18 s 9  
reloc from s 3 A2005-60 amdt 1.18  
def **Consumer Credit (Australian Capital Territory) Code**  
reloc from s 3 A2005-60 amdt 1.18  
def **Consumer Credit (Australian Capital Territory)**  
**Regualtions** reloc from s 3 A2005-60 amdt 1.18  
def **Consumer Credit (Queensland) Act** reloc from s 3  
A2005-60 amdt 1.18  
def **contract document** ins A2004-18 s 9  
reloc from s 3 A2005-60 amdt 1.18  
def **credit** ins A2004-18 s 9  
reloc from s 3 A2005-60 amdt 1.18  
def **credit contract** ins A2004-18 s 9  
reloc from s 3 A2005-60 amdt 1.18  
def **credit fees and charges** ins A2004-18 s 9  
reloc from s 3 A2005-60 amdt 1.18  
def **credit tribunal** am 1996 No 42 pt 2 div 1  
reloc from s 3 A2005-60 amdt 1.18  
def **scheme legislation of the Australian Capital Territory**  
am 2001 No 44 amdt 1.802  
reloc from s 3 A2005-60 amdt 1.18

## 5 Earlier replications

Some earlier replications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised replications have also been published in printed format. These replications are marked with an asterisk (\*) in column 1. Electronic and printed versions of an authorised republication are identical.

Replication No	Amendments to	Replication date
1	Act 2000 No 17	24 July 2000
2	A2001-44	21 February 2002
3	A2004-18	20 April 2004

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