

1995  
THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

---

(As presented)

(Attorney-General)

**Consumer Credit Bill 1995**

---

**A BILL**

FOR

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

The Legislative Assembly for the Australian Capital Territory enacts as follows:

**PART I—PRELIMINARY**

**Short title**

- 5       1. This Act may be cited as the *Consumer Credit Act 1995*.

**Commencement**

2. (1) Section 1 and this section commence on the day on which this Act is notified in the *Gazette*.
- 10       (2) The remaining provisions commence on a day fixed by the Minister by notice in the *Gazette*.
- (3) If the provisions referred to in subsection (2) have not commenced before the end of the period of 12 months commencing on the day on which this Act is notified in the *Gazette*, those provisions, by force of this subsection, commence on the first day after the end of that period.

---

85025 1994/124 (T25/95)

**Interpretation**

3. In this Act, unless the contrary intention appears—

“Consumer Credit (Australian Capital Territory) Code” means the provisions applying because of section 4;

5 “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* of Queensland;

10 “Credit Tribunal” means the Australian Capital Territory Credit Tribunal established by the *Credit Act 1985*;

“scheme legislation of the Australian Capital Territory” means—

(a) this Act and the regulations under this Act;

(b) the Consumer Credit (Australian Capital Territory) Code; and

15 (c) the Consumer Credit (Australian Capital Territory) Regulations.

**PART II—CONSUMER CREDIT (AUSTRALIAN CAPITAL TERRITORY) CODE AND CONSUMER CREDIT (AUSTRALIAN CAPITAL TERRITORY) REGULATIONS**

20 **Application in the Territory of the Consumer Credit Code**

4. The Consumer Credit Code set out in the Appendix to the Consumer Credit (Queensland) Act as in force for the time being—

(a) applies as a law of the Territory; and

25 (b) as so applying may be referred to as the Consumer Credit (Australian Capital Territory) Code.

**Application of regulations under the Consumer Credit Code**

5. (1) The regulations in force for the time being under Part 4 of the Consumer Credit (Queensland) Act—

30 (a) apply as regulations in force for the purposes of 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) Schedule 2 to the Consumer Credit (Australian Capital Territory) Code 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 Territory so as to—

- 5 (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.
- 10

**Interpretation of some expressions in the Code and regulations**

6. (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;

15 “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—

20

- (a) the Consumer Credit Code set out in the Appendix to the Consumer Credit (Queensland) Act in its application as a law of the Territory; or
- 25 (b) the regulations in force for the time being under Part 4 of the Consumer Credit (Queensland) Act in their application as regulations in force for the purposes of the Consumer Credit (Australian Capital Territory) Code.

**PART III—CONFERMENT OF JUDICIAL AND ADMINISTRATIVE FUNCTIONS**

30 **Conferment of judicial functions on courts and Credit Tribunal**

7. (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—

5 (a) in the case of subsections 34 (5), 36 (6) and (7), 44 (4), 47 (3) and 77 (1), section 79, paragraph 82 (b), subsection 83 (1), sections 88 and 89, paragraph 91 (1) (a), sections 92, 93 and 98 and subsection 162 (2) of the Code 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.

10 (2) The jurisdiction conferred on 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.

#### 15 **Conferment of administrative functions**

8. The Director of Consumer Affairs for the Australian Capital Territory has the functions of the Government Consumer Agency under the Consumer Credit (Australian Capital Territory) Code and the Consumer Credit (Australian Capital Territory) Regulations.

### 20 **PART IV—MISCELLANEOUS**

#### **Application to the Crown**

9. The scheme legislation of the Australian Capital Territory binds the Crown in right of the Territory and, so far as the legislative power of the Legislative Assembly permits, the Crown in all its other capacities.

#### 25 **Maximum annual percentage rate**

10. (1) The regulations may prescribe a maximum annual percentage rate for a credit contract or class of credit contracts to which the Consumer Credit (Australian Capital Territory) Code applies.

30 (2) Division 2 of Part 2 of the Code applies in relation to a maximum annual percentage rate so prescribed as if that rate had been prescribed by the Code.

#### **Proceedings for offences against the Code or regulations**

35 11. Proceedings for offences against the Consumer Credit (Australian Capital Territory) Code, or the Consumer Credit (Australian Capital Territory) Regulations, that are punishable summarily shall be dealt with by the Magistrates Court constituted by a magistrate sitting alone.

**Savings and transitional regulations**

5       **12. (1)** The regulations may contain savings or transitional provisions consequent on the enactment of this Act or of an Act of Queensland amending the Consumer Credit Code set out in the Appendix to the Consumer Credit (Queensland) Act.

**(2)** If the regulations so provide, a provision referred to in subsection (1) has effect notwithstanding the provisions of this Act and the Consumer Credit (Australian Capital Territory) Code.

10       **(3)** A provision referred to in subsection (1) may, if the regulations so provide, take effect from the day of commencement of the Act concerned or from a later day.

**(4)** To the extent that a provision referred to in subsection (1) takes effect from a day earlier than the day of notification of the provision in the *Gazette*, the provision does not operate to—

15       (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

20       (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.

**Regulations generally**

**13.** The Executive may make regulations for the purposes of this Act.