



Australian Capital Territory

Consumer Credit Regulation 1996

SL1996-24

made under the

Consumer Credit Act 1995

Republication No 5

Effective: 19 October 2006 – 1 February 2009

Republication date: 19 October 2006

Last amendment made by A2006-40

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Consumer Credit Regulation 1996*, made under the *Consumer Credit Act 1995* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 19 October 2006. It also includes any amendment, repeal or expiry affecting the republished law to 19 October 2006.

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):

- 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.



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R5
19/10/06

Consumer Credit Regulation 1996
Effective: 19/10/06-01/02/09

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Australian Capital Territory

Consumer Credit Regulation 1996

made under the

Consumer Credit Act 1995

1 Name of regulation

This regulation is the *Consumer Credit Regulation 1996*.

4 Transfer of proceedings

- (1) If a proceeding is instituted in, or is before, a court in a matter for the determination of which the credit tribunal and the court each have jurisdiction, the proceeding is—
- (a) if all the parties to the proceeding agree; or
 - (b) if the court on its own initiative or on the application of a party so directs;

transferred to the credit tribunal and is to continue before the credit tribunal as if it had been instituted there.

- (2) If a proceeding is instituted in, or is before, the credit tribunal in a matter for the determination of which the credit tribunal and a court each have jurisdiction, the proceeding is—
- (a) if all the parties agree; or
 - (b) if the credit tribunal on its own initiative or on the application of a party so directs;

transferred to the court in accordance with the rules of the court or, if the court is not empowered to make those rules, as prescribed, and is to continue before the court as if it had been instituted in the court.

5 Maximum annual percentage rate—Act, s 8B

- (1) The prescribed maximum annual percentage rate is 48% per annum for all credit contracts to which the code applies.
- (2) Interest charges, and all credit fees and charges, under a credit contract must be included in working out the maximum annual percentage rate under all credit contracts to which the code applies.

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- (3) The maximum annual percentage rate must be worked out in accordance with section 6.
- (4) Despite subsection (2), any credit fees or charges arising from the establishment or maintenance of a temporary credit facility are not required to be included for working out the maximum annual percentage rate if—
- (a) the credit provider is an authorised deposit-taking institution; and
 - (b) the debtor has or had an existing credit contract or debit account with the authorised deposit-taking institution when the temporary credit facility is or was established; and
 - (c) the temporary credit facility is related to the existing credit contract or debit account.
- (5) In this section:

temporary credit facility includes an overdraft facility and a short-term extension of the total amount of credit available under an existing credit contract.

Note This section is made under the Act, s 8B. The effect of a contravention of this section is set out in s 8B. The maximum interest rate is not part of the uniform provisions of the code in Australia.

6 Working out maximum annual percentage rate

- (1) For the purposes of working out the maximum annual percentage rate under a credit contract, the rate must be worked out as a nominal rate per year, together with the compounding frequency, in accordance with this section.
- (2) The maximum annual percentage rate is worked out in accordance with the following formula:

$$nr100\%$$

(3) In subsection (2):

n is the number of repayments per year to be made under the credit contract annualised, except that—

- (a) if repayments are to be made weekly or fortnightly—***n*** is to be 52.18 or 26.09, respectively; and
- (b) if the contract does not provide for a constant interval between repayments—***n*** is to be derived from the interval selected for the purposes of the definition of ***j*** (see subsection (4)).

r is the solution of the following:

$$\sum_{j=0}^t \frac{A_j}{(1+r)^j} = \sum_{j=0}^t \frac{R_j + C_j}{(1+r)^j}$$

(4) In subsection (3):

j is the time, measured as a multiple (not necessarily integral) of the interval between contractual repayments that will have elapsed since the first amount of credit is provided under the credit contract, except that if the contract does not provide for a constant interval between repayments an interval of any kind is to be selected by the credit provider as the unit of time.

t is the time, measured as a multiple of the interval between contractual repayments (or other interval so selected), that will elapse between the time when the first amount of credit is provided and the time when the last repayment is to be made under the contract.

A_j is the amount of credit to be provided under the contract at time ***j*** (the value of ***j*** for the provision of the first amount of credit is taken to be zero).

R_j is the repayment to be made at time ***j***.

C_j is the fee or charge (if any) payable by the debtor at time j (j is taken to be zero for any such fee or charge payable before the time of the first amount of credit provided) in addition to the repayments R_j , being a credit fee or charge that is ascertainable when the annual percentage rate is worked out.

- (5) The maximum annual percentage rate must be correct to at least the nearest 0.001% per year.
- (6) In applying the formulas in this section, reasonable approximations may be made if it would be impractical or unreasonably onerous to make a precise calculation.
- (7) The tolerances and assumptions under the code, sections 158 to 160 apply in working out the maximum annual percentage rate.
- (8) If the credit contract is a continuing credit contract (within the meaning of the code), the following assumptions also apply in working out the maximum annual percentage rate:
 - (a) that the debtor has drawn down the maximum amount of credit that the credit provider has agreed to provide under the contract;
 - (b) that the debtor will pay the minimum repayments specified in the contract;
 - (c) if credit is provided for payment by the credit provider to a third person in relation to goods, services or cash supplied by the third person to the debtor from time to time—that the debtor will not be supplied with any more goods, services or cash;
 - (d) if credit is provided for cash supplied by the credit provider to the debtor—that the debtor will not be supplied with any more cash.

- (9) For the purposes of the maximum annual percentage rate—
- (a) the amount of credit is the amount (or the maximum amount) required by the debtor; and
 - (b) the term for which credit is provided is the term (or the maximum term) required by the debtor.

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

3 Legislation history

This regulation was originally the *Consumer Credit Regulations*. It was renamed under the *Legislation Act 2001*.

Consumer Credit Regulation 1996 SL No 24

notified 1 November 1996

commenced 1 November 1996 (s 2)

as amended by

Legislation (Consequential Amendments) Act 2001 No 44 pt 76

notified 26 July 2001 (Gaz 2001 No 30)

s 1, s 2 commenced 26 July 2001 (IA s 10B)

pt 76 commenced 12 September 2001 (s 2 and see Gaz 2001 No S65)

Justice and Community Safety Legislation Amendment Act 2004 A2004-18 pt 4

notified LR 6 April 2004

s 1, s 2 commenced 6 April 2004 (LA s 75 (1))

pt 4 commenced 20 April 2004 (s 2)

Justice and Community Safety Legislation Amendment Act 2005 (No 4) A2005-60 sch 1 pt 1.8

notified LR 1 December 2005

s 1, s 2 taken to have commenced 23 November 2005 (LA s 75 (2))

sch 1 pt 1.8 commenced 22 December 2005 (s 2 (4))

Justice and Community Safety Legislation Amendment Act 2006 A2006-40 sch 1 pt 1.3

notified LR 28 September 2006

s 1, s 2 commenced 28 September 2006 (LA s 75 (1))

sch 1 pt 1.3 commenced 19 October 2006 (s 2 (3))

4 Amendment history

Name of regulation

s 1 am R1 LA; R2 LA

Commencement

s 2 om Act 2001 No 44 amdt 1.805

Interpretation

s 3 om Act 2001 No 44 amdt 1.805

def **the Act** om Act 2001 No 44 amdt 1.805

Maximum annual percentage rate—Act, s 8B

s 5 am A2004-18 s 13
 sub A2005-60 amdt 1.27
 am A2006-40 amdt 1.7, amdt 1.8; ss renum R5 LA

Working out maximum annual percentage rate

s 6 ins A2006-40 amdt 1.9

5 Earlier republications

Some earlier republications 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 republications have also been published in printed format. These republications are marked with an asterisk (*) in column 1. Electronic and printed versions of an authorised republication are identical.

Republication No	Amendments to	Republication date
1	A2001-44	9 July 2002
2	A2004-18	20 April 2004
3	A2004-18	2 November 2004
4	A2005-60	22 December 2005

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