



Australian Capital Territory

# **Fair Trading Regulation 2009**

**SL2009-59**

made under the

**Fair Trading Act 1992**

**Republication No 1**

**Effective: 22 December 2009 – 31 December 2010**

Republication date: 22 December 2009

Regulation not amended

Authorised by the ACT Parliamentary Counsel

## About this republication

### The republished law

This is a republication of the *Fair Trading Regulation 2009*, made under the *Fair Trading Act 1992* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 22 December 2009. It also includes any commencement, repeal or expiry affecting the republished law.

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 does not include 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

At the republication date, the value of a penalty unit for an offence against this law is \$110 for an individual and \$550 for a corporation (see *Legislation Act 2001*, s 133).



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Australian Capital Territory

# Fair Trading Regulation 2009

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made under the

**Fair Trading Act 1992**

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**1 Name of regulation**

This regulation is the *Fair Trading Regulation 2009*.

**2 Notes**

A note included in these regulations is explanatory and is not part of these regulations.

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

**3 Maximum annual percentage rate—Act, s 51D**

- (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.
- (3) The maximum annual percentage rate must be worked out in accordance with section 4.
- (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 51D. The effect of a contravention of this section is set out in s 51D. The maximum interest rate is not part of the uniform provisions of the code in Australia.

#### 4 Working out maximum annual percentage rate

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

$$nr100\%$$

- (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% for each 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, section 158 to section 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 stated 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 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

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## 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

### 3 **Legislation history**

This regulation was made as part of the Justice and Community Safety Legislation Amendment Act 2009 (No 3) (see A2009-44, s 4 and sch 2).

#### **Fair Trading Regulation 2009 SL2009-59**

taken to have been notified LR 24 November 2009 (A2009-44, s 4 (3) (a))

s 1 taken to have commenced 24 November 2009 (LA s 75 (1))

remainder commenced 22 December 2009 (A2009-44, s 4 (3) (b))

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