



New South Wales

Consumer Credit (New South Wales) Special Provisions Amendment (Pay Day Lenders) Regulation 2001

under the

Consumer Credit (New South Wales) Act 1995

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Consumer Credit (New South Wales) Act 1995*.

JOHN WATKINS, M.P.,

Minister for Fair Trading

Explanatory note

The objects of this Regulation are:

- (a) to prescribe the maximum annual percentage rate that may be charged under certain short term credit contracts to which the *Consumer Credit Code (New South Wales)* applies, and
- (b) to include credit fees and charges, in addition to interest charges, in the calculation of the maximum annual percentage rate for those contracts, and
- (c) to make a consequential amendment, and
- (d) to make a transitional regulation consequent on the enactment of the *Consumer Credit (New South Wales) Amendment (Pay Day Lenders) Act 2001*.

This Regulation is made under the *Consumer Credit (New South Wales) Act 1995*, including section 11, section 14 and section 15 (the general regulation-making power).

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Clause 1 Consumer Credit (New South Wales) Special Provisions Amendment (Pay Day Lenders) Regulation 2001

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1 Name of Regulation

This Regulation is the *Consumer Credit (New South Wales) Special Provisions Amendment (Pay Day Lenders) Regulation 2001*.

2 Commencement

This Regulation commences on 1 December 2001.

3 Amendment of Consumer Credit (New South Wales) Special Provisions Regulation 1996

The *Consumer Credit (New South Wales) Special Provisions Regulation 1996* is amended as set out in Schedule 1.

4 Notes

The explanatory note does not form part of this Regulation.

Schedule 1 Amendments

(Clause 3)

[1] Clause 3 Definitions

Insert in alphabetical order in clause 3:

short term credit contract has the same meaning as it has in section 11 of the Act.

[2] Clause 7A

Insert after clause 7:

7A Maximum annual percentage rate for certain short term credit contracts

- (1) For the purposes of section 11 (1A) of the Act, interest charges and all credit fees and charges under a short term credit contract are to be included for the purpose of calculating the maximum annual percentage rate under a short term credit contract. For that purpose, the maximum annual percentage rate under a short term credit contract is to be calculated in accordance with subclauses (2)–(7).
- (2) The maximum annual percentage rate must be calculated as a nominal rate per annum, together with the compounding frequency, in accordance with this clause.
- (3) The maximum annual percentage rate is given by the following formula:

$$i = n \times r \times 100\%$$

where:

n is the number of repayments per annum 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

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Schedule 1 Amendments

- (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 mentioned below.

r is the solution of the following:

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

where:

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 calculated.

- (4) The maximum annual percentage rate must be correct to at least the nearest one hundredth of 1 % per annum.
- (5) In the application of the above formulae, reasonable approximations may be made if it would be impractical or unreasonably onerous to make a calculation.

- (6) The tolerances and assumptions under section 158 to 160 of the Code apply to the calculation of the maximum annual percentage rate.
- (7) For the purposes of the maximum annual percentage rate:
 - (a) the amount of credit is to be the amount (or the maximum amount) required by the debtor, and
 - (b) the term for which credit is provided is to be the term (or the maximum term) required by the debtor.

[3] Clause 9

Insert after clause 8:

9 Application of Code to small amounts of credit

- (1) This clause is made under section 14 (1) of the Act and has effect despite section 6 of the Act.
- (2) The Code applies to a short term credit contract even if the amount of credit does not exceed \$200.
- (3) This clause ceases to have effect on 1 December 2002.