

South Australia



CONSUMER CREDIT (SOUTH AUSTRALIA) ACT 1995

No. 34 of 1995

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ANNO QUADRAGESIMO QUARTO

ELIZABETHAE II REGINAE

A.D. 1995

No. 34 of 1995

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

[Assented to 27 April 1995]

The Parliament of South Australia enacts as follows:

**PART 1
PRELIMINARY**

Short title

1. This Act may be cited as the *Consumer Credit (South Australia) Act 1995*.

Commencement

2. This Act will come into operation on a day to be fixed by proclamation.

Definitions

3. In this Act—

"Consumer Credit Act" means the *Consumer Credit (Queensland) Act 1994* of Queensland;

"Consumer Credit (South Australia) Code" means the provisions applying because of section 5;

"Consumer Credit (South Australia) Regulations" means the provisions applying because of section 6;

"Ministerial Council" means the Ministerial Council established under the Uniform Consumer Credit Laws Agreement 1993.

References to Queensland Acts

4. In this Act, a reference to a Queensland Act includes a reference to—

- (a) that Queensland Act as amended and in force for the time being; and
- (b) an Act passed in substitution for that Act.

PART 2
CONSUMER CREDIT (SOUTH AUSTRALIA) CODE AND
CONSUMER CREDIT (SOUTH AUSTRALIA) REGULATIONS

Application in South Australia of the *Consumer Credit Code*

5. The *Consumer Credit Code* set out in the Appendix to the *Consumer Credit Act* as in force for the time being—

- (a) applies as a law of South Australia; and
- (b) as so applying may be referred to as the *Consumer Credit (South Australia) Code*.

Application of regulations

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

- (a) apply as regulations in force for the purposes of the *Consumer Credit (South Australia) Code*; and
- (b) as so applying may be referred to as the *Consumer Credit (South Australia) Regulations*.

(2) Schedule 2 to the *Consumer Credit (South Australia) Code* applies in relation to any such regulation.

(3) To the extent to which a provision of any such regulation of a savings or transitional nature takes effect from a day earlier than the day of the regulation's notification in the Government Gazette of Queensland, the provision does not operate in this State to the disadvantage of a person (other than the State or a State authority) by—

- (a) decreasing the person's rights; or
- (b) imposing liabilities on the person.

Interpretation of some expressions in the Code and Regulations

7. (1) In the *Consumer Credit (South Australia) Code* and the *Consumer Credit (South Australia) Regulations*—

"Legislature of this jurisdiction" means the Legislature of South Australia;

"the Code" or "this code" means the *Consumer Credit (South Australia) Code*;

"the jurisdiction" or "this jurisdiction" means South Australia.

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

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

PART 3
CONFERRAL OF JUDICIAL AND ADMINISTRATIVE FUNCTIONS

Conferral of judicial functions on District Court

8. The jurisdiction that is expressed to be exercisable by "the Court" under the *Consumer Credit (South Australia) Code* and the *Consumer Credit (South Australia) Regulations* is exercisable by—

- (a) in the case of an application under Part 6 of the Code—only the Administrative and Disciplinary Division of the District Court of South Australia; or
- (b) in the case of an application under any other section of the Code—only the District Court of South Australia.

Conferral of administrative functions

9. The Commissioner for Consumer Affairs has the functions of the Government Consumer Agency under the *Consumer Credit (South Australia) Code* and the *Consumer Credit (South Australia) Regulations*.

**PART 4
GENERAL**

Special savings and transitional regulations for South Australia

10. (1) The Governor may make regulations of a savings or transitional nature 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 Act*.

(2) If such a regulation so provides, it has effect despite any provision of this Act, including the *Consumer Credit (South Australia) Code*.

(3) A provision of a regulation made under this section may, if the regulation so provides, take effect from the day of assent to the Act concerned or from a later day.

(4) To the extent to which a provision takes effect from a day earlier than the day of the regulation's publication in the *Gazette*, the provision does not operate to the disadvantage of a person (other than the State or a State authority) by—

- (a) decreasing the person's rights; or
- (b) imposing liabilities on the person.

Crown is bound

11. This Act binds the Crown in right of the State and, so far as the legislative power of Parliament permits, the Crown in all its other capacities.

Maximum annual percentage rate

12. (1) The Governor may make regulations prescribing a maximum annual percentage rate for any credit contract or class of credit contract, within the meaning of the *Consumer Credit (South Australia) Code*.

(2) Division 2 of Part 2 of the Code (which limits the debtor's monetary obligations) applies in relation to a prescribed maximum annual percentage rate as if that rate had been prescribed by the Code.

SCHEDULE
Repeal and Transitional

Interpretation

1.(1) In this schedule—

"commencement date" means the date of commencement of this Act;

"repealed Act" means the *Consumer Credit Act 1972*.

(2) All other words and expressions used in this schedule have the same respective meanings as in the *Consumer Credit (South Australia) Code*.

Repeal

2. The *Consumer Credit Act 1972* is repealed.

Contracts and securities entered into before commencement date

3. The repealed Act applies (subject to any modifications prescribed by regulation) to contracts and securities entered into before the commencement date.

Revolving charge accounts

4.(1) The repealed Act applies (subject to any modifications prescribed by regulation) to credit provided on a revolving charge account established before the commencement date until the date of transition fixed in the regulations ("the date of transition").

(2) However, as from the date of transition the *Consumer Credit (South Australia) Code* applies to credit provided in accordance with this clause, subject to any modifications prescribed by regulation.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

ROMA MITCHELL Governor