

Credit (Administration) (Amendment) Bill

EXPLANATORY MEMORANDUM

Clause 1 sets out the purposes of the Act.

Clause 2 is a commencement provision.

Clause 3 provides that the **Credit (Administration) Act 1984** is the Principal Act.

Clause 4 amends a number of definitions in section 4 of the Principal Act.

Clause 5 makes consequential amendments to various provisions of the Principal Act. These reflect the change in name of the Credit Licensing Authority to the Credit Authority and the replacement of the credit licensing system with a registration system.

Clause 6 substitutes a new heading to Part IV of the Principal Act.

Clause 7 inserts a new section 37 which provides that a person must not carry on business providing credit unless registered as a credit provider.

Clause 8 amends section 38 (1) of the Principal Act which identifies persons who are exempt from the requirement of section 37. The amendments reflect changes to other legislation made since the Principal Act was enacted.

Clause 9 substitutes for sections 39 to 60 of the Principal Act a number of new sections. New sections 39 to 50 deal with applications for registration of credit providers, the maintenance of the Register, the payment of annual fees and the lodgement of annual returns. New section 51 provides for certain enquiries to be made about registered credit providers. New section 52 provides for credit providers to give undertakings to refrain from particular conduct where it appears that the credit provider has engaged in unjust conduct. New sections 53 to 59 deal with the cancellation and suspension of registration. In particular new section 54 provides for objections to be made to the registration of a credit provider. New section 55 gives the Authority the power in certain circumstances to conduct an inquiry to determine whether or not to take action in relation to a credit provider. New section 56 sets out the circumstances in which the Authority may take action in relation to a credit provider's registration and sets out the action which the Authority may take.

Clause 10 makes consequential amendments to section 61 of the Principal Act, dealing with appeals against a decision of the Authority.

Clause 11 makes consequential amendments to section 62 of the Principal Act.

Clause 12 provides that a credit provider will be subject to civil penalty in respect of contracts written when the credit provider was unregistered, but only where the registration has been cancelled (otherwise than at the request of the credit provider) or suspended or the credit provider has been directed to cease trading.

Clause 13 of consequential amendments to section 65 of the Principal Act.

Clause 14 makes consequential amendments to sections 89C, 89D and 95 of the Principal Act.

Clause 15 makes consequential amendments to sections 3 and 81 of the **Credit Act 1984**.

Clause 16 amends an incorrect reference to the **Credit Act 1984** in the **Credit (Amendment) Act 1989**.

Clause 17 provides that a credit union is not liable to any civil penalty incurred in respect of contracts written as a result of the credit union being unlicensed.

Clause 18 is a transitional provision which provides that the Credit Authority is deemed to be the same body as the Credit Licensing Authority as constituted under the Principal Act.

Clause 19 deems existing licensees and applicants to be registered credit providers.

Clause 20 provides that proceedings before the Credit Licensing Authority immediately before the commencement of the clause are preserved under the new Act.