

**Version No. 001**  
**Credit (Commonwealth Powers) Act 2010**  
**No. 11 of 2010**  
Version as at 1 April 2010

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**Version No. 001**  
**Credit (Commonwealth Powers) Act 2010**  
**No. 11 of 2010**

Version as at 1 April 2010

**The Parliament of Victoria enacts:**

**PART 1—PRELIMINARY**

**1 Purposes**

The Purposes of this Act are to—

- (a) adopt the National Consumer Credit Protection Act 2009 of the Commonwealth (as amended) and the National Consumer Credit Protection (Transitional and Consequential Provisions) Act 2009 of the Commonwealth, and to refer certain matters relating to the provision of credit and certain other financial transactions to the Parliament of the Commonwealth, for the purposes of section 51(xxxvii) of the Constitution of the Commonwealth; and
- (b) to make related provisions and transitional and consequential provisions.

**2 Commencement**

- (1) Subject to subsection (2), this Act comes into operation on a day or days to be proclaimed.
- (2) Section 20(2) comes into operation on 1 January 2011.

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**PART 2—ADOPTION AND REFERENCE OF MATTERS**

**3 Definitions**

In this Act—

***adoption*** means the adoption under section 4(1);

***amendment reference*** means the reference under section 6(1);

***Commonwealth Credit instrument*** means any instrument (whether or not of a legislative character) that is made or issued under the National Credit legislation;

***express amendment*** of the National Credit legislation means the direct amendment of the text of the National Credit legislation (whether by the insertion, omission, repeal, substitution or relocation of words or matter) by another Commonwealth Act or by an instrument under a Commonwealth Act, but does not include the enactment by a Commonwealth Act of a provision that has or will have substantive effect otherwise than as part of the text of the National Credit legislation;

***National Credit legislation*** means—

- (a) the National Consumer Credit Protection Act 2009 of the Commonwealth; and
- (b) the National Consumer Credit Protection (Transitional and Consequential Provisions) Act 2009 of the Commonwealth—

as in force from time to time;

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***referred credit matter*** means a matter relating to either of the following—

- (a) credit, being credit the provision of which would be covered by the expression "provision of credit to which this Code applies" in the relevant version of the National Credit Code;
- (b) consumer leases, being consumer leases each of which would be covered by the expression "consumer lease to which Part 11 applies" in the relevant version of the National Credit Code;

***relevant version of the National Credit Code***

means the text of Schedule 1 to the National Consumer Credit Protection Act 2009 of the Commonwealth as originally enacted, and as later amended by the National Consumer Credit Protection Amendment Act 2010 of the Commonwealth;

***relevant version of the National Credit legislation*** means—

- (a) the National Consumer Credit Protection Act 2009 of the Commonwealth as originally enacted, and as later amended by the National Consumer Credit Protection Amendment Act 2010 of the Commonwealth; and
- (b) the National Consumer Credit Protection (Transitional and Consequential Provisions) Act 2009 of the Commonwealth.

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#### **4 Adoption of National Credit legislation**

- (1) The relevant version of the National Credit legislation is adopted within the meaning of section 51(xxxvii) of the Constitution of the Commonwealth.
- (2) The adoption has effect for a period—
  - (a) beginning when this section commences; and
  - (b) ending at the end of the day fixed under section 5 as the day on which the adoption is to terminate—but no longer.

#### **5 Termination of adoption**

- (1) The Governor in Council may, at any time, by proclamation published in the Government Gazette, fix a day as the day on which the adoption under section 4 is to terminate.
- (2) The Governor in Council may, by proclamation published in the Government Gazette, revoke a proclamation published under subsection (1), in which case the revoked proclamation is taken (for the purposes of section 4) never to have been published.
- (3) A revoking proclamation has effect only if published before the day fixed under subsection (1).
- (4) The revocation of a proclamation published under subsection (1) does not prevent publication of a further proclamation under that subsection.

#### **6 Reference of matters**

- (1) Subject to section 7, any referred credit matter is referred to the Parliament of the Commonwealth, but only to the extent of the making of laws with respect to such a matter by making express amendments of the National Credit legislation.
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- (2) The reference of a matter under subsection (1) has effect only—
- (a) if and to the extent that the matter is not included in the legislative powers of the Parliament of the Commonwealth (otherwise than by a reference under section 51(xxxvii) of the Constitution of the Commonwealth); and
  - (b) if and to the extent that the matter is included in the legislative powers of the Parliament of the State.
- (3) Despite any other provision, the reference has effect for a period—
- (a) beginning when this section commences; and
  - (b) ending at the end of the day fixed under section 8 as the day on which the reference is to terminate—
- but no longer.

## **7 Matters excluded from reference**

- (1) A matter referred by section 6(1) does not include—
- (a) the matter of making provision with respect to the imposition or payment of State taxes, duties, charges or other imposts, however described; or
  - (b) the matter of making provision with respect to the general system for the recording of estates or interests in land and related information; or
  - (c) the matter of providing for the priority of interests in real property; or
  - (d) the matter of making a law that excludes or limits the operation of a State law, to the extent that the State law makes provision
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with respect to the creation, holding, transfer, assignment, disposal or forfeiture of a State statutory right.

(2) In this section—

*forfeiture* means confiscation, seizure, extinguishment, cancellation, suspension or any other forfeiture;

*State law* means—

- (a) any Act of the State or any instrument made under such an Act, whenever enacted or made and as in force from time to time; or
- (b) the general law, being the principles and rules of common law and equity to the extent that they have effect in the State from time to time;

*State statutory right* means a right, entitlement or authority that is granted by or under any Act of the State or any instrument made under such an Act, whenever enacted or made and as in force from time to time, other than a right, entitlement or authority that relates to—

- (a) credit covered by paragraph (a) of the definition of *referred credit matter* in section 3; or
- (b) a consumer lease covered by paragraph (b) of that definition.

## 8 Termination of reference

- (1) The Governor in Council may, at any time, by proclamation published in the Government Gazette, fix a day as the day on which the amendment reference terminates.
- (2) The Governor in Council may, by proclamation published in the Government Gazette, revoke a proclamation published under subsection (1), in

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which case the revoked proclamation is taken (for the purposes of section 6) never to have been published.

- (3) A revoking proclamation has effect only if published before the day fixed under subsection (1).
- (4) The revocation of a proclamation published under subsection (1) does not prevent publication of a further proclamation under that subsection.

### **9 Amendment of Commonwealth law**

For the avoidance of doubt, it is the intention of the Parliament of the State that—

- (a) the National Credit legislation may be expressly amended, or have its operation otherwise affected, at any time after the commencement of this Act by provisions of Commonwealth Acts the operation of which is based on any legislative powers that the Parliament of the Commonwealth has on account of a reference of any matters, or the adoption of the relevant version of the National Credit legislation, under section 51(xxxvii) of the Constitution of the Commonwealth; and
- (b) the National Credit legislation may be expressly amended, or have its operation otherwise affected, at any time after the commencement of this Act by provisions of Commonwealth Acts the operation of which is based on legislative powers that the Parliament of the Commonwealth has apart from a reference of any matters, or the adoption of the relevant version of the National Credit legislation, under section 51(xxxvii) of the Constitution of the Commonwealth; and

- (c) the National Credit legislation may have its operation affected, otherwise than by express amendment, at any time by provisions of Commonwealth Credit instruments.

**10 Effect of termination of amendment reference before termination of adoption of Commonwealth Acts**

- (1) If the amendment reference is terminated but the adoption of the relevant version of the National Credit legislation is not terminated, the termination of the amendment reference does not affect—
  - (a) laws that were made under the amendment reference (but not repealed) before that termination (whether or not they have come into operation before that termination); or
  - (b) the continued operation in this State of the National Credit legislation as in operation immediately before that termination or as subsequently amended or affected by—
    - (i) laws referred to in paragraph (a) that come into operation after that termination; or
    - (ii) provisions referred to in section 9(b) or (c).
- (2) Accordingly, the amendment reference continues to have effect for the purposes of subsection (1) unless the adoption is terminated.
- (3) Subsection (1) does not apply to or in relation to an amendment of the National Credit legislation that is excluded from the operation of this section by the proclamation that terminates the amendment reference.

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- (4) For the purposes of subsection (1)—
- (a) the laws referred to in subsection (1)(a) include Commonwealth Credit instruments; and
  - (b) the reference in subsection (1)(b) to the National Credit legislation as in operation immediately before the termination of the amendment reference includes that legislation as affected by Commonwealth Credit instruments that have come into operation before that time.
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**PART 3—EXCLUDED MATTER AND TRANSITIONAL AND  
CONSEQUENTIAL MATTERS**

**Division 1—Preliminary**

**11 Definitions**

In this Part—

*ASIC* means the Australian Securities and Investments Commission established under the Australian Securities and Investments Commission Act 2001 of the Commonwealth;

*Commonwealth commencement* has the same meaning that commencement has in section 4 of the Commonwealth Transitional Provisions Act;

*Commonwealth Transitional Provisions Act* means the National Consumer Credit Protection (Transitional and Consequential Provisions) Act 2009 of the Commonwealth;

*Director* has the same meaning as in the **Fair Trading Act 1999**;

*National Credit Code* means the National Credit Code in Schedule 1 to the NCCP Act;

*NCCP Act* means the National Consumer Credit Protection Act 2009 of the Commonwealth;

*old Act* means the **Consumer Credit (Victoria) Act 1995** as in force before the Commonwealth commencement;

*old Code* means the Consumer Credit (Victoria) Code as in force before the Commonwealth commencement;

*old proceedings* has the same meaning as in item 4 of Schedule 1 to the Commonwealth Transitional Provisions Act;

*old regulations* means the Consumer Credit (Victoria) Regulations as in force before the Commonwealth commencement;

*Register of Credit Providers* means the register kept under section 19 of the old Act;

*Registrar* means the Registrar of the Authority appointed under the **Business Licensing Authority Act 1998**.

#### **Division 2—Excluded Matter**

### **12 Credit law excluded matter**

- (1) For the purposes of section 24 of the NCCP Act, section 29 of that Act, in so far as it would, but for this section, apply to a prescribed person, is declared to be an excluded matter.
- (2) In this section *prescribed person* means any of the following—
  - (a) the Crown or a public or local body or authority constituted by or under an Act;
  - (b) a body corporate empowered by an Act to lend money or provide credit to the extent that the lending of money or provision of credit is in accordance with that Act;
  - (c) a person, not being a body corporate, authorised by an Act to lend money or provide credit to the extent that the lending of money or provision of credit is in accordance with that Act;
  - (d) a council within the meaning of the **Local Government Act 1989**.

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**Division 3—Transitional provisions**

**13 Court proceedings, old Code and old regulations**

On the Commonwealth commencement an old proceedings ceases to be a proceeding in a court of this State.

**14 Court proceedings, old Act**

In the case of a proceeding (other than an old proceedings) brought in a court under the old Act before the Commonwealth commencement, the following provisions apply—

- (a) the proceeding may be continued; and
- (b) any order made by the Court in relation to the proceeding may be appealed against, reviewed or enforced under the old Act—

as if the old Act were still in force.

**15 Tribunal proceedings**

- (1) In the case of a proceeding that was commenced in VCAT under a provision of the old Code, old regulations or old Act before the Commonwealth commencement, but that was not finally determined before that commencement, the following provisions apply—

- (a) the proceeding may be continued; and
- (b) any order made by VCAT in relation to the proceeding may be appealed against, reviewed or enforced—

as if the old Act, old Code and old regulations, were still in force.

- (2) In the case of any right or liability that accrued before the Commonwealth commencement under a provision of the old Code or old regulations, proceedings must not be commenced in VCAT in

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relation to those rights and liabilities after the Commonwealth commencement.

**16 Cessation of application of old Code**

- (1) Except as otherwise provided by this Act or the Commonwealth Transitional Provisions Act, on and from the Commonwealth commencement the old Code ceases to apply to a contract or instrument that was made before that commencement that is a contract or instrument to which the National Credit Code applies by the operation of item 3 of Schedule 1 to the Commonwealth Transitional Provisions Act.
- (2) On and from the Commonwealth commencement, the old Code ceases to apply to any right or liability in respect of which a person has acquired, accrued or incurred a substitute right or liability by the operation of item 11 or 12 of Schedule 1 to the Commonwealth Transitional Provisions Act.

**17 Certain powers and functions may be conferred on ASIC**

- (1) The Minister, or a person authorised in writing by the Minister, may enter into an agreement or arrangement with ASIC for the performance of functions or the exercise of powers by ASIC as an agent of the State, even if those functions or powers are or may be conferred on another person or body by or under a law of the State.
- (2) An agreement or arrangement of a kind referred to in subsection (1) has effect by force of this section, despite any provision of a law of the State with respect to any function or power that is the subject of the agreement or arrangement.



## 18 Custody of registers

- (1) On and from the Commonwealth commencement, the Registrar must take possession and have custody, control and use of the Register of Credit Providers.
- (2) Despite the repeal of section 37S of the old Act, on and from the Commonwealth commencement, the Director retains possession and has custody, control and use of the register, within the meaning of section 6 of the **Finance Brokers Act 1969**, as in force before its repeal.

## 19 Provision of information to ASIC

Despite any other Act or law, the Director may disclose to ASIC information the Director has acquired in the course of acting as the Director, that is reasonably required by ASIC in connection with the performance or exercise of its functions or powers under the National Credit legislation.

## Division 4—Amendment of Consumer Credit (Victoria) Act 1995

### 20 Repeal of certain provisions of the Consumer Credit (Victoria) Act 1995

- (1) Sections 3, Part 2, Part 3, Part 4, Divisions 2 and 3 of Part 4A, sections 40A and 41 and Part 6 of the **Consumer Credit (Victoria) Act 1995** are **repealed**.
- (2) Divisions 1, 4, 5 and 6 of Part 4A and the heading to Part 4A of the **Consumer Credit (Victoria) Act 1995** are **repealed**.

See:  
Act No.  
41/1995.  
Reprint No. 3  
as at  
21 August  
2008  
and  
amending  
Act Nos  
4/2008, 6/2008  
and 19/2009.  
LawToday:  
www.  
legislation.  
vic.gov.au

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**21 Section 38 substituted**

For section 38 of the **Consumer Credit (Victoria) Act 1995** substitute—

**"38 Money to be paid to Consumer Credit Fund**

The Consumer Credit Fund established under the **Credit (Administration) Act 1984** is the fund into which are to be paid amounts of civil penalty awarded in proceedings commenced under a provision of the Consumer Credit (Victoria) Code before the Commonwealth commencement."

**22 Amendment of the Consumer Credit (Victoria) Act 1995**

(1) In section 37A of the **Consumer Credit (Victoria) Act 1995**—

(a) **insert** the following definition—

*"National Credit Code* has the same meaning as in Part 5;"

(b) in paragraph (a) of the definition of *consumer credit*, for "Consumer Credit (Victoria) Code" **substitute** "National Credit Code";

(c) in paragraph (b) of the definition of *consumer credit*, for "Part 10 of the Consumer Credit (Victoria) Code" **substitute** "Part 11 of the National Credit Code";

(d) in the definition of *valuation fee*, for "Consumer Credit (Victoria) Code" **substitute** "National Credit Code".

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- (2) In section 37J(3) of the **Consumer Credit (Victoria) Act 1995**—
- (a) in paragraph (a), for "Consumer Credit (Victoria) Code" **substitute** "National Credit Code";
- (b) in paragraph (b), for "Consumer Credit (Victoria) Code" **substitute** "National Credit Code".
- (3) After the heading to Part 5 of the **Consumer Credit (Victoria) Act 1995** **insert**—

**"38AA Definitions**

In this Part—

***Commonwealth commencement*** has the same meaning that commencement has in section 4 of the National Consumer Credit Protection (Transitional and Consequential Provisions) Act 2009 of the Commonwealth;

***credit contract*** has the same meaning as in the National Credit Code;

***credit provider*** has the same meaning as in the National Credit Code;

***National Credit Code*** means the national credit code in Schedule 1 to the National Consumer Credit Protection Act 2009 of the Commonwealth."

- (4) For section 39(2) of the **Consumer Credit (Victoria) Act 1995** **substitute**—
- "(2) Nothing in this section affects or limits the powers of the Court under section 70 of the Consumer Credit (Victoria) Code or of a court under section 76 of the National Credit Code if the Court or court is satisfied that the annual percentage rate in respect of a credit

contract although not exceeding, in the case of a credit contract in relation to which there is a mortgage, 30, and in the case of any other contract, 48, is excessive or that the transaction is unjust within the meaning of that section 70 or section 76, as the case requires, or is such that a court of equity would give relief."

### Division 5—Amendment of the Credit Act 1984

#### 23 Definitions

For the definition of *registered credit provider* in section 5(1) of the **Credit Act 1984** substitute—

**"registered credit provider** means a person registered or licensed to be a credit provider under the National Consumer Credit Protection Act 2009 of the Commonwealth;"

See:  
Act No.  
10097.  
Reprint No. 4  
as at  
23 February  
2007  
and  
amending  
Act Nos  
69/2006,  
2/2008 and  
68/2009.  
LawToday:  
www.  
legislation.  
vic.gov.au

### Division 6—Amendment of the Credit (Administration) Act 1984

#### 24 Definitions

In section 4 of the **Credit (Administration) Act 1984**, the definitions of *registered credit provider* and *registration* are repealed.

See:  
Act No.  
10091.  
Reprint No. 5  
as at  
1 May 2008  
and  
amending  
Act No.  
68/2009.  
LawToday:  
www.  
legislation.  
vic.gov.au

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## 25 Definitions in Credit Act 1984

For section 5 of the **Credit (Administration) Act 1984** substitute—

### "5 Definitions in Credit Act 1984

Expressions used in this Act, unless the contrary intention appears, have the same respective meanings as in the **Credit Act 1984**."

## 26 Definition

In section 10A of the **Credit (Administration) Act 1984**, for the definition of *Credit Acts* substitute—

"*Credit Acts* means the **Credit Act 1984** and the **Consumer Credit (Victoria) Act 1995**."

## 27 Section 12 substituted

For section 12 of the **Credit (Administration) Act 1984** substitute—

### "12 Powers of Director

Subject to this Act and the Credit Acts, the Director has power to do all things necessary or convenient to be done for or in connection with the performance of his or her functions."

## 28 Powers of Director in relation to proceedings

- (1) In section 13(2)(b) of the **Credit (Administration) Act 1984**, after "the **Consumer Credit (Victoria) Code**" insert "(as in force before the repeal of Part 2 of the **Consumer Credit (Victoria) Act 1995**)".
- (2) In the definition of *consumer credit matter* in section 13(5) of the **Credit (Administration) Act 1984**—

- (a) after "the **Consumer Credit (Victoria) Code**" insert "(as in force before the repeal of Part 2 of the **Consumer Credit (Victoria) Act 1995**)";
- (b) after "the **Consumer Credit (Victoria) Act 1995**" insert "(as in force before the repeal of that Division)".

## 29 Secrecy

In section 15(2) of the **Credit (Administration) Act 1984**, for "or the Credit Acts" (wherever occurring) substitute ", the Credit Acts or the **Credit (Commonwealth Powers) Act 2010**".

## 30 Definitions

- (1) In section 17 of the **Credit (Administration) Act 1984**—
  - (a) in the definition of *Credit Acts*, after "**Consumer Credit (Victoria) Code**" insert "(as in force before the repeal of Part 2 of the **Consumer Credit (Victoria) Act 1995**)";
  - (b) in paragraph (b) of the definition of *financial institution*, for "Gazette." substitute "Gazette;"
  - (c) insert the following definition—

"*relevant credit provider* means a person who makes or has made a relevant provision of credit."
- (2) At the end of section 17 of the **Credit (Administration) Act 1984** insert—
  - "(2) In this Act a reference to a *relevant provision of credit* is a reference to—
    - (a) a provision of credit under a contract that is regulated by the **Credit Act 1984** or that is a contract to which

section 39 or 40 of the **Consumer Credit (Victoria) Act 1995** applies; or

- (b) provision of credit, before the repeal of the **Consumer Credit (Victoria) Code**, under a contract that was regulated by the **Consumer Credit (Victoria) Code** (as in force before its repeal); or
- (c) engaging in finance broking before the repeal of Division 1 of Part 4A of the **Consumer Credit (Victoria) Act 1995**, being finance broking within the meaning of that Part (as in force before its repeal)."

### **31 Documents available for inspection**

- (1) In section 19(1) of the **Credit (Administration) Act 1984**—
  - (a) for "registered credit provider" (wherever occurring) **substitute** "relevant credit provider";
  - (b) for "carries on business as a credit provider or finance broker" **substitute** "carries on or has carried on the business of making relevant provisions of credit".
- (2) Section 19(2) of the **Credit (Administration) Act 1984** is repealed.

### **32 Requirements to produce documents, supply information, answer questions**

- (1) In section 20(1) of the **Credit (Administration) Act 1984**—
  - (a) after "or the regulations under those Acts" **insert** "as to a relevant provision of credit";
  - (b) for "registered credit provider" **substitute** "relevant credit provider".

- 
- (2) In section 20(2) of the **Credit (Administration) Act 1984**—
- (a) in paragraph (a), for "registered credit provider" (wherever occurring) **substitute** "relevant credit provider";
  - (b) paragraph (a)(i) is **repealed**;
  - (c) paragraphs (a)(iii) and (a)(iv) are **repealed**.
- (3) In section 21(a) of the **Credit (Administration) Act 1984**, for "registered credit provider's" **substitute** "relevant credit provider's".
- (4) In section 22(1)(a) of the **Credit (Administration) Act 1984**, for "registered credit provider's" **substitute** "relevant credit provider's".
- (5) In section 23(1)(a) of the **Credit (Administration) Act 1984**, for "registered credit provider's" **substitute** "relevant credit provider's".
- (6) In sections 25(1)(a) and 25(1)(b) of the **Credit (Administration) Act 1984**, for "registered credit provider's" **substitute** "relevant credit provider's".

### **33 Confidentiality**

After section 42(2)(c) of the **Credit (Administration) Act 1984** **insert**—

- "(ca) to an agency of the Commonwealth, the extent reasonably required to bring into operation the National Consumer Credit Protection Act 2009 of the Commonwealth and the National Consumer Credit Protection (Transitional and Consequential Provisions) Act 2009 of the Commonwealth; or".

### **34 The Fund**

In section 86AA(2)(b) of the **Credit (Administration) Act 1984**, **omit** "section 30 or 38 of".



### 35 Giving of notices

In section 86(1) of the **Credit (Administration) Act 1984**, omit "or Part 4 of the **Consumer Credit (Victoria) Code**".

### 36 Repeal of certain provisions

- (1) Sections 89A and 89B of the **Credit (Administration) Act 1984** are repealed.
- (2) Section 95(1)(j) of the **Credit (Administration) Act 1984** is repealed.

## Division 7—Amendment of the Business Licensing Authority Act 1998

### 37 Definitions

In the definition of *business licensing Act* in section 3 of the **Business Licensing Authority Act 1998**, paragraph (a) is repealed.

See:  
Act No.  
49/1998.  
Reprint No. 2  
as at  
1 July 2008.  
LawToday:  
www.  
legislation.  
vic.gov.au

### 38 Functions of Authority

In section 6 of the **Business Licensing Authority Act 1998**, paragraph (a)(i) is repealed.

### 39 Secrecy

After section 18(3)(b)(v) of the **Business Licensing Authority Act 1998**, insert—

- "(va) to an agency of the Commonwealth, the extent reasonably required to bring into operation the National Consumer Credit Protection Act 2009 of the Commonwealth and the National Consumer Credit Protection (Transitional and Consequential Provisions) Act 2009 of the Commonwealth; or".

#### 40 Part 3 definitions

In the definition of *licence* in section 20 of the **Business Licensing Authority Act 1998**, paragraphs (e) and (f) are repealed.

#### 41 Effect of suspension

Sections 22(6) and 22(7) of the **Business Licensing Authority Act 1998** are repealed.

#### Division 8—Amendment of the Duties Act 2000

#### 42 Amendments to Duties Act 2000

- (1) In section 132(i) of the **Duties Act 2000**, after "Consumer Credit (Victoria) Code" insert "as in force before its repeal";
- (2) In the definition of *Consumer Credit Code* in section 169(5) of the **Duties Act 2000**, in paragraph (a), after "Territory" insert "before its repeal in that State or Territory".

See:  
Act No.  
79/2000.  
Reprint No. 7  
as at  
7 July 2009  
and  
amending  
Act Nos  
84/2008,  
4/2009,  
69/2009,  
74/2009 and  
1/2010.  
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#### Division 9—Amendments to the Fair Trading Act 1999

#### 43 Definitions

In section 3 of the **Fair Trading Act 1999**—

- (a) insert the following definition—

*National Credit Code* has the same meaning as in the National Consumer Credit Protection Act 2009 of the Commonwealth;";

- (b) in paragraph (d) of the definition of *hire-purchase agreement*, for "Consumer Credit (Victoria) Code" substitute "National Credit Code".

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#### **44 Amendment of references to Consumer Credit (Victoria) Code**

- (1) In section 64(3) of the **Fair Trading Act 1999**, for "Consumer Credit (Victoria) Code" substitute "National Credit Code".
- (2) In section 67D(3) of the **Fair Trading Act 1999**, for "Consumer Credit (Victoria) Code" substitute "National Credit Code".
- (3) In section 67I(3) of the **Fair Trading Act 1999**, for "Consumer Credit (Victoria) Code" substitute "National Credit Code".
- (4) In the note at the foot of section 67M(1)(a) of the **Fair Trading Act 1999**, for "Consumer Credit (Victoria) Code" substitute "National Credit Code".
- (5) In section 72(3) of the **Fair Trading Act 1999**, for "Consumer Credit (Victoria) Code" substitute "National Credit Code".

#### **45 Amendment of definition of consumer dispute**

In the definition of *consumer dispute* in section 105(5) of the **Fair Trading Act 1999**, after "trade or commerce" insert ", other than a dispute under or in relation to the National Consumer Credit Protection Act 2009 of the Commonwealth".

#### **46 Amendment of definition of licence**

In the definition of *licence* in section 106C of the **Fair Trading Act 1999**, paragraphs (e) and (f) are repealed.

#### **47 Repeal of provisions relating to registrations**

Sections 106E(6) and 106E(7) of the **Fair Trading Act 1999** are repealed.

#### 48 Confidentiality

After section 106P(2)(c) of the **Fair Trading Act 1999** insert—

"(ca) to an agency of the Commonwealth, to the extent reasonably required to bring into operation the National Consumer Credit Protection Act 2009 of the Commonwealth and the National Consumer Credit Protection (Transitional and Consequential Provisions) Act 2009 of the Commonwealth; or".

#### 49 Amendment of reference to Consumer Credit (Victoria) Act 1995

In section 163(2) of the **Fair Trading Act 1999**, for "Consumer Credit (Victoria) Act 1995" substitute "National Credit Code".

#### Division 10—Amendment of the Goods Act 1958

#### 50 Amendment of the Goods Act 1958

In paragraph (f) of the definition of *hire purchase agreement* in section 120(1) of the **Goods Act 1958**, for "Consumer Credit (Victoria) Code" substitute "National Credit Code within the meaning of the National Consumer Credit Protection Act 2009 of the Commonwealth".

See:  
Act No.  
6265.  
Reprint No. 10  
as at  
1 May 2003  
and  
amending  
Act Nos  
30/2003,  
2/2009, 7/2009  
and 68/2009.  
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## Division 11—Interpretation of Legislation Act 1984

### 51 Amendment of the definition of Code

See:  
Act No.  
10096.  
Reprint No. 9  
as at  
6 March 2007  
and  
amending  
Act Nos  
4/2008,  
30/2008,  
77/2008,  
78/2008,  
9/2009,  
68/2009 and  
69/2009.  
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legislation.  
vic.gov.au

Paragraph (k) of the definition of *Code* in section 32(1) of the **Interpretation of Legislation Act 1984** is repealed.

### 52 Repeal of section 38C

Section 38C of the **Interpretation of Legislation Act 1984** is repealed.

## Division 12—Amendment of the Motor Car Traders Act 1986

### 53 Application of the National Credit Code to certain agreements for the purchase of motor cars

See:  
Act No.  
104/1986.  
Reprint No. 6  
as at  
1 December  
2006  
and  
amending  
Act Nos  
17/2007,  
2/2008, 4/2008,  
12/2008 and  
68/2009.  
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legislation.  
vic.gov.au

In section 43(6) of the **Motor Car Traders Act 1986**, for "section 125 of the Consumer Credit (Victoria) Code" **substitute** "section 135 of the National Credit Code within the meaning of the National Consumer Credit Protection Act 2009 of the Commonwealth".

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**54 Insertion of new section after section 43**

After section 43 of the **Motor Car Traders Act 1986** insert—

**"43A Credit Law excluded matter**

For the purposes of section 24 of the National Consumer Credit Protection Act 2009 of the Commonwealth, the matter provided for in section 43 is declared to be excluded matter in relation to section 135 of the National Credit Code within the meaning of the National Consumer Credit Protection Act 2009 of the Commonwealth."

**55 Repeal of section 49**

In section 49 of the **Motor Car Traders Act 1986**, for "or the Consumer Credit (Victoria) Code" **substitute** "or the National Credit Code within the meaning of the National Consumer Credit Protection Act 2009 of the Commonwealth".

**56 Determination of claims**

For section 76(4A)(e) of the **Motor Car Traders Act 1986** **substitute**—

"(e) a person who acts as an intermediary within the meaning of section 9 of the National Consumer Credit Protection Act 2009 of the Commonwealth."

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## Division 13—Amendment of the Partnership Act 1958

### 57 New section 28A inserted

See:  
Act No.  
6330.  
Reprint No. 7  
as at  
3 December  
2003  
and  
amending  
Act Nos  
108/2004,  
2/2008,  
12/2008 and  
1/2010.  
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After section 28 of the **Partnership Act 1958**  
**insert—**

#### **"28A Credit law excluded matter**

For the purposes of section 24 of the  
National Consumer Credit Protection Act  
2009 of the Commonwealth, the matter  
provided for in section 28(3) is declared to  
be excluded matter in relation to the whole  
of the National Consumer Credit Protection  
Act 2009 of the Commonwealth."

## Division 14—Amendment of the Supreme Court Act 1986

### 58 Amendment of reference to Consumer Credit (Victoria) Code

See:  
Act No.  
110/1986.  
Reprint No. 6  
as at  
28 April 2006  
and  
amending  
Act Nos  
48/2006,  
24/2007,  
8/2008, 9/2008,  
23/2008,  
24/2008,  
78/2008,  
4/2009, 9/2009,  
50/2009,  
68/2009 and  
69/2009.  
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legislation.  
vic.gov.au

In section 57(1) of the **Supreme Court Act 1986**,  
for "the **Consumer Credit (Victoria) Code**"  
**substitute "the Consumer Credit (Victoria) Act**  
**1995** and the National Credit Code within the  
meaning of the National Consumer Credit  
Protection Act 2009 of the Commonwealth".

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**Division 15—Amendment of the Victorian Civil and  
Administrative Tribunal Act 1998**

**59 Repeal of references to Consumer Credit (Victoria)  
Code**

- (1) In section 62(2)(f) of the **Victorian Civil and Administrative Tribunal Act 1998** omit "the **Consumer Credit (Victoria) Code** or".
- (2) Paragraph (c) of the definition of *credit enactment* in section 148(10) of the **Victorian Civil and Administrative Tribunal Act 1998** is repealed.
- (3) Paragraph (c) of the definition of *credit enactment* in clause 2 of Schedule 1 to the **Victorian Civil and Administrative Tribunal Act 1998** is repealed.
- (4) In clause 7 of Schedule 1 to the **Victorian Civil and Administrative Tribunal Act 1998** omit "or section 101 of the **Consumer Credit (Victoria) Code**".
- (5) In clause 8(1)(b) of Schedule 1 to the **Victorian Civil and Administrative Tribunal Act 1998** omit "or the **Consumer Credit (Victoria) Code**".

See:  
Act No.  
53/1998.  
Reprint No. 6  
as at  
1 January  
2009  
and  
amending  
Act Nos  
46/2008,  
76/2008,  
78/2008,  
6/2009,  
14/2009,  
21/2009,  
68/2009 and  
69/2009.  
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**PART 4—REPEAL OF CERTAIN PROVISIONS**

**60 Repeal of this Part and Divisions 4 to 15 of Part 3**

This Part and Divisions 4 to 15 of Part 3 are repealed on the first anniversary of the first day on which all of those provisions are in operation.

**Note**

The repeal of Divisions 4 to 15 of Part 3 does not affect the continuing operation of the amendments made by those Divisions (see section 15(1) of the **Interpretation of Legislation Act 1984**).

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## ENDNOTES

### 1. General Information

*Minister's second reading speech—*

*Legislative Assembly: 24 February 2010*

*Legislative Council: 11 March 2010*

The long title for the Bill for this Act was "A Bill for an Act to adopt the National Consumer Credit Protection Act 2009 of the Commonwealth (as amended) and the National Consumer Credit Protection (Transitional and Consequential Provisions) Act 2009 of the Commonwealth, and to refer certain matters relating to the provision of credit and certain other financial transactions to the Parliament of the Commonwealth, for the purposes of section 51(xxxvii) of the Constitution of the Commonwealth and to make related provisions and transitional and consequential provisions."

The **Credit (Commonwealth Powers) Act 2010** was assented to on 30 March 2010 and came into operation as follows:

Sections 1–11, 19, 29, 33, 39 and 48 on 1 April 2010; Special Gazette (No. 114) 31 March 2010 page 1; section 20(2) on 1 January 2011; rest of Act not yet proclaimed.

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**Endnotes**

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**2. Table of Amendments**

There are no amendments made to the **Credit (Commonwealth Powers) Act 2010** by Acts and subordinate instruments.

**3. Explanatory Details**

No entries at date of publication