

Western Australia

Consumer Credit (Western Australia) Amendment Bill 2002

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Western Australia

LEGISLATIVE ASSEMBLY

(As amended during consideration in detail)

**Consumer Credit (Western Australia)
Amendment Bill 2002**

A Bill for

An Act to amend the *Consumer Credit (Western Australia) Act 1996*, to amend the *Credit (Administration) Act 1984* consequentially, to repeal the *Consumer Credit (Western Australia) Regulations 1996*, and for related purposes.

The Parliament of Western Australia enacts as follows:

1. Short title

This Act may be cited as the *Consumer Credit (Western Australia) Amendment Act 2002*.

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2. Commencement

This Act comes into operation on a day fixed by proclamation.

3. The Act amended

5 The amendments in this Act, except section 16, are to the
*Consumer Credit (Western Australia) Act 1996**.

[* Reprinted as at 6 September 2002.]

4. Long title replaced

The long title is deleted and the following long title is inserted
instead —

10 “
**An Act to make provision for a uniform legislative scheme to
regulate the provision of consumer credit, to make special
provision in certain cases, and for related purposes.**
”.

15 5. Section 3 amended

Section 3(1) is repealed and the following subsection is inserted
instead —

“

(1) In this Act —

20 “*Consumer Credit (Queensland) Act 1994*” means the
Consumer Credit (Queensland) Act 1994 of
Queensland;

25 “*Consumer Credit (Western Australia) Code*” means
the provisions applying because of section 5 of this
Act;

“*Consumer Credit (Western Australia) Code
Regulations*” means the provisions applying
because of section 6 of this Act.

- (1a) If this Act uses an expression that is given a meaning in the *Consumer Credit (Western Australia) Code*, the expression has the meaning so given unless the contrary intention appears.

5

”.

6. Part 2 replaced

Part 2 is repealed and the following Part is inserted instead —

“

Part 2 — *Consumer Credit (Western Australia) Code and Consumer Credit (Western Australia) Code Regulations*

10

5. Application in Western Australia of the Consumer Credit Code

The Consumer Credit Code set out in the Appendix to the *Consumer Credit (Queensland) Act 1994* as in force for the time being —

15

- (a) applies, as if amended as set out in Part 5 of this Act, as a law of Western Australia; and
(b) as so applying may be cited as the *Consumer Credit (Western Australia) Code*.

20

6. Application of uniform regulations under the Consumer Credit Code

- (1) The regulations in force for the time being under Part 4 of the *Consumer Credit (Queensland) Act 1994* —

25

- (a) apply, as if amended as set out in regulations made for the purposes of this paragraph, as regulations in force for the purposes of the *Consumer Credit (Western Australia) Code*; and
(b) as so applying may be cited as the *Consumer Credit (Western Australia) Code Regulations*.

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- (2) Schedule 2 to the *Consumer Credit (Western Australia) Code* applies in relation to the *Consumer Credit (Western Australia) Code Regulations*.
- (3) If a savings or transitional provision of the *Consumer Credit (Western Australia) Code Regulations* is expressed to have effect from an earlier day than the day on which the provision first applies in Western Australia, then the effect of the provision in Western Australia before that day is limited to the extent that it does not disadvantage a person (other than the State of Western Australia or an authority of the State of Western Australia) by —
- (a) decreasing the person's rights; or
 - (b) imposing liabilities on the person.
- 6A. Interpretation of certain expressions in the *Consumer Credit (Western Australia) Code* and the *Consumer Credit (Western Australia) Code Regulations***
- (1) Unless the contrary intention appears, in the *Consumer Credit (Western Australia) Code* and the *Consumer Credit (Western Australia) Code Regulations* —
- (a) a reference to “**the Legislature of this jurisdiction**” is to be read as a reference to the Parliament of Western Australia;
 - (b) a reference to “**the Code**” or “**this Code**” is to be read as a reference to the *Consumer Credit (Western Australia) Code*; and
 - (c) a reference to “**the jurisdiction**” or “**this jurisdiction**” is to be read as a reference to Western Australia.

- (2) The *Acts Interpretation Act 1954*, and other Acts, of Queensland do not apply to, or in relation to, the *Consumer Credit (Western Australia) Code* or the *Consumer Credit (Western Australia) Code Regulations*.

”.

7. Sections 7 and 8 amended

Sections 7(1) and 8(1) are amended by deleting “*Consumer Credit (Western Australia) Regulations*” and inserting instead —

“ *Consumer Credit (Western Australia) Code Regulations* ”.

8. Heading to Part 4 replaced

The heading to Part 4 is deleted and the following heading is inserted instead —

“

Part 4 — Miscellaneous

”.

9. Section 9 repealed

Section 9 is repealed.

10. Section 10 replaced and repeal of regulations

- (1) Section 10 is repealed and the following section is inserted instead —

“

10. General regulation making power

The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed for giving effect to the purposes of this Act.

”.

12. Section 12 amended

Section 12(1), (2), (3) and (4) are amended by deleting “Code” in each place where it occurs and inserting instead —

“ *Consumer Credit (Western Australia) Code* ”.

5 13. Part 5 replaced

Part 5 is repealed and the following Part is inserted instead —

“

Part 5 — Amendment of the Consumer Credit Code

10 13. Amendment of the Consumer Credit Code

For the purposes of section 5(a), the Consumer Credit Code set out in the Appendix to the *Consumer Credit (Queensland) Act 1994* applies as if the provisions listed in the Table to this section were amended as set out in the Table.

15

Table

| Provision of the Code | Amendment |
|------------------------------|--|
| Section 53(1) | <p>Delete paragraph (a) and “or” after it, insert instead —</p> <p>“</p> <p>(a) withdraw from the guarantee unless the debtor has —</p> <p>(i) ceased to be entitled to terminate the credit contract under section 19; or</p> |

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| Provision of the Code | Amendment |
|------------------------------|---|
| | (ii) entered into another contract in reliance on the availability of credit under the credit contract; or ”. |
| Section 66 | After section 66(1) insert — “ (1a) The Government Consumer Agency may, if requested in writing by a debtor, assist a debtor in applying for a change in the terms of a credit contract under subsection (1) and in any negotiations with the credit provider relating to the change. ”. |
| Section 101(2) | Delete “anywhere in Australia” and “or a corresponding law of another jurisdiction”. |
| Section 108(2) | Delete “for the purposes of this Code in relation to the contraventions occurring in this jurisdiction”. ”. |

14. The Appendix repealed

The Appendix is repealed.

15. Savings and transitional provisions

- 5 (1) The repeal of the Appendix to the *Consumer Credit (Western Australia) Act 1996* by section 14 of this Act and the application of the Consumer Credit Code set out in the Appendix to the *Consumer Credit (Queensland) Act 1994* by section 5 of the *Consumer Credit (Western Australia) Act 1996* (as in force after the commencement of this Act) is taken to be the repeal and re-enactment of an enactment for the purposes of section 36 of the *Interpretation Act 1984*.
- 10 (2) The repeal of the *Consumer Credit (Western Australia) Regulations 1996* by section 10(2) of this Act and the application of the regulations in force under Part 4 of the *Consumer Credit (Queensland) Act 1994* by section 6 of the *Consumer Credit (Western Australia) Act 1996* (as in force after the commencement of this Act) is taken to be the repeal and re-enactment of an enactment for the purposes of section 36 of the *Interpretation Act 1984*.
- 15 (3) The enactment of section 6A of the *Consumer Credit (Western Australia) Act 1996* is not, by implication, to have any effect on the interpretation of the former *Consumer Credit (Western Australia) Code* or the former *Consumer Credit (Western Australia) Regulations*.
- 20 (4) In this section —
- 25 “**Consumer Credit (Queensland) Act 1994**” means the *Consumer Credit (Queensland) Act 1994* of Queensland;
- “**former Consumer Credit (Western Australia) Code**” means the *Consumer Credit (Western Australia) Code* within the meaning of the *Consumer Credit (Western Australia) Act 1996* as in force before the commencement of this Act;
- 30 “**former Consumer Credit (Western Australia) Regulations**” means the *Consumer Credit (Western Australia) Regulations* within the meaning of the *Consumer Credit (Western Australia) Act 1996* as in force before the commencement of this Act.

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16. Consequential amendment to the *Credit (Administration) Act 1984*

- (1) The amendment in this section is to the *Credit (Administration) Act 1984**.

5 [* Reprinted as at 5 May 2000.
For subsequent amendments see 2001 Index to Legislation of
Western Australia, Table 1, p. 84.]

- (2) Section 4 is amended in the definition of “Code” by deleting
10 “set out in the Appendix to the *Consumer Credit (Western
Australia) Act 1996*”.

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