



Government of Western Australia
Department of Commerce

EXPLANATORY MEMORANDUM

Credit (Commonwealth Powers) (Transitional and Consequential Provisions) Bill 2010

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Overview of Bill

The object of this Bill is to support the *Credit (Commonwealth Powers) Bill 2010* the purpose of which is to adopt the *National Consumer Credit Protection Act 2009* of the Commonwealth, as amended at the time of adoption by the *National Consumer Credit Protection Amendment Act 2010* (NCCP Act) of the Commonwealth, to adopt the *National Consumer Credit Protection (Transitional and Consequential Provisions) Act 2010* of the Commonwealth, and to refer certain matters relating to credit and consumer leases to the Parliament of the Commonwealth.

The Western Australian Government agreed to implement the scheme for national credit regulation at the COAG meeting of 2 October 2008 and, on 7 December 2009, the WA Government signed the credit Intergovernmental Agreement (IGA). The enactment of the *Credit (Commonwealth Powers) Bill 2010* and the *Credit (Commonwealth Powers) (Transitional and Consequential Provisions) Bill 2010* will give effect to those commitments.

The establishment of a single, national regulatory regime for credit providers and finance brokers has received strong support from industry and consumer groups.

The Commonwealth regulatory regime is scheduled to commence on 1 July 2010 (an event which is referred to in the Bill as “the referral day”). The proposed *Credit (Commonwealth Powers) (Transitional and Consequential Provisions) Bill 2010* (‘Transitional and Consequential Provisions Bill’) makes provisions to lessen the impact and financial burden of the transfer to the new legislation on finance brokers and credit providers already licensed under state laws in Western Australia.

Part 2 of the Bill repeals the *Consumer Credit (Western Australia) Act 1996*. This Act is the enabling legislation of the *Consumer Credit (Western Australia) Code* which is being subsumed by the National Credit Code in Schedule 1 of the *National Consumer Credit Protection Act 2009*. Transitional provisions are included to deal with proceedings which are not captured by the new National Credit Code, together with arrangements to be made with the Australian Securities and Investments Commission for these proceedings, and for the sharing of information held by the State in respect to the administration of the *Consumer Credit (Western Australia) Act 1996* with ASIC. Provision is also made for arrangements consequential to the repeal of the *Consumer Credit (Western Australia) Act 1996* in other State legislation.

Part 3 of the Bill amends the *Credit (Administration) Act 1984*. The amendments essentially remove the obligation for credit providers to be, or remain, licensed under the *Credit (Administration) Act 1984* on and after the referral day, while retaining provisions in the Act to allow for the conclusion of any proceedings underway in respect of alleged breaches of that Act prior to the commencement of the *Credit (Commonwealth Powers) Bill 2010 (WA)* ('Adoption and Referral Bill'), together with provision for arrangements to be made with the Australian Securities and Investments Commission in relation to these proceedings.

Transitional arrangements are included in the Bill to allow for monies held in the Consumer Credit Fund under Part VA of the *Credit (Administration) Act 1984* to be used for the provision of information, advice or research relevant to the protection of the interest of consumers broadly and for the Fund to be renamed the Consumer Credit Account. Part 3 also provides for the making of regulations enabling the Commissioner for Consumer Protection to repay a licensee all or part of an annual fee paid in respect of a licence within 12 months before the referral day. This is because a majority of licensees who have obtained, renewed or paid an annual fee in respect of their licence will not have received the full benefit of that fee at the date they will come under the Commonwealth licensing requirements. It is believed that this is unfair to local businesses and arrangements have been put in place for reimbursing fees on a pro rata basis. Further, fees charged for occupational licenses are used to recover the Government's costs in administering the relevant legislation over the licence period. After the transition date and completion of any run-out actions, this revenue will not be required by the State Government.

Amendments to references to the *Credit (Administration) Act 1984* in other State legislation are also provided for in this Part.

In Part 4, provisions are made for the amendment of the *Finance Brokers Control Act 1975* similar to the amendments with respect to the *Credit (Administration) Act 1984* in Part 3. Provision is made in this Part for the making of regulations enabling the Commissioner for Consumer Protection to repay all or part of a fee paid in respect of a finance broker's licence. Amendments to references to the *Finance Brokers Control Act 1975* in other State legislation are also provided for in this part.

Provisions to remove the obligations in the *Finance Brokers Control Act 1975* regarding trust accounts on and after the referral day are contained in this Part, as those licensees who are not exempt from the requirement to maintain and audit a trust account will be subject to similar provisions under the *National Consumer Credit Protection Act 2009*. This will mean that Part IV, Division 2 of the *Finance Brokers Control Act 1975* will have historic relevance only. Obligations and provisions regarding trust accounts and statutory audits are to be retained, and can be enforced, where they are relevant to pre-referral day matters.

Part 5 of the Bill provides for the repeal of the *Finance Brokers Control Act 1975*. It is intended that this Part will be proclaimed at a later date, subject to the Minister being satisfied that all proceedings and any other relevant matters have been satisfactorily concluded. As it is not possible to determine, in advance, the date and exact circumstances under which this may occur, a repeal provision was drafted instead of a sunset clause.

Date of effect: The Transitional and Consequential Provisions Bill commences on a day to be fixed by proclamation, and different days may be fixed for different provisions. Sections 1 and 2 come into operation on the day on which the Act receives Royal Assent. Section 3 and Parts 1-4 are intended to commence from the referral day. Part 5, the repeal of the *Finance Brokers Control Act 1975*, will be proclaimed when the Minister is satisfied that there is no further business left to be regulated under the amended *Finance Brokers Control Act 1975*.

Proposal announced: The proposal to transfer responsibility for regulating consumer credit to the Commonwealth was announced by the Council of Australian Governments (COAG) on 26 March, 3 July and 2 October 2008.

Compliance cost impact: The Transitional and Consequential Arrangements Bill does not have any direct compliance cost impact. Provisions have been included to enable pro-rata refunds of State licence fees to licence holders transferring to the new Commonwealth regime.

Part 1 – Preliminary

- Clause 1 Sets out the short title.
- Clause 2 Provides for the commencement of sections 1 and 2 of the Act on the day the Act receives Royal Assent and the rest of the Act on a day or days to be fixed by proclamation.
- Clause 3 Defines two terms used in the Bill.

Part 2 – Repeal of the *Consumer Credit (Western Australia) Act 1996*

Division 1 – Repeal

- Clause 4 Repeals the *Consumer Credit (Western Australia) Act 1996*. This Act is the enabling legislation of the *Consumer Credit (Western Australia) Code* which is being replaced by the National Credit Code in Schedule 1 of the *National Consumer Credit Protection Act 2009*.

Division 2 – Transitional Provisions

- Clause 5 Provides that proceedings under the *Consumer Credit (Western Australia) Act 1996* that are pending before a court or the State Administrative Tribunal, which are not proceedings under the NCCP Act, are to be dealt with under the *Consumer Credit (Western Australia) Act 1996*, despite its repeal.
- Clause 6 The CEO of the Department responsible for the *Credit Act 1984 (WA)* and the *Credit (Administration) Act 1984 (WA)* (currently the Director General of the Department of Commerce), can arrange with the Australian Securities and Investments Commission (“ASIC”) to take over proceedings continued under clause 5 of the Bill. ASIC has power under its own legislation, the *Australian Securities and Investments Commission Act 2001* [ss 11(8) and (9)] to enter into arrangements to perform functions arising under state or territory law, and this section is intended to “dovetail” with that provision in the ASIC Act.
- Clause 7 Provides for the sharing of information held by the Commissioner for Consumer Protection, for the purposes of administering the *Consumer Credit (Western Australia) Act 1996*, with ASIC.

Division 3 – Consequential Provisions

- Clause 8 Amends the *Bills of Sale Act 1899* to replace the existing reference in that Act to the WA Credit Code so that covenants implied into bills of sale by way of security will be read and construed subject to the provisions of the new National Credit Code from the transition date.
- Clause 9 Amends the *Credit Act 1984* to allow credit contracts made within one month of the introduction of the 1996 *Consumer Credit (Western Australia) Code*, if they do not comply with the 1996 Code, to be regulated under the 1984 Act. The amendment in clause 5(3) allows credit providers whose contracts continue to be regulated by the *Credit Act 1984* to voluntarily “upgrade” and comply with the *Consumer Credit (Western Australia) Code* requirements regarding, for example, form, content and frequency of statements of account. This avoids credit providers having to maintain separate compliance systems if they are administering both pre- and post-1996 contracts.
- If an issue comes before a court or tribunal and a credit provider relies on this provision to establish his compliance, the relevant issue will be whether the credit provider complied with whichever of the 1996 regime and the national regime was in force at the time.
- Clause 10 Amends the *Door to Door Trading Act 1987* in light of the repeal of the *Consumer Credit (Western Australia) Act 1996* to remove the application of the *Consumer Credit (Western Australia) Code* to particular classes of contracts or instruments which are avoided in s16(1) of that Act as a State statute does not need to affirm the application of applicable Commonwealth law.
- Clause 11 Amends the *Hire Purchase Act 1959* such that any contract which was a credit contract under the *Consumer Credit (Western Australia) Code* is a contract under the National Credit Code.
- Clause 12 Amends the *Road Traffic Act 1974* such that an offence committed in a car which was the subject of a credit contract regulated by the *Consumer Credit (Western Australia) Code* will be the subject of a credit contract regulated by the National Credit Code.
- Clause 13 Amends the *Supreme Court Act 1935* to remove from the Act the exception of consumer credit legislation from the provision that there is no limit to the amount of interest which any person may lawfully contract to pay. This exception is being removed on the basis that, should Commonwealth credit legislation impose an interest rate cap, or other credit interest limitations, it would supersede a provision in the State *Supreme Court Act 1935*.

- Clause 14 Amends the *Transport Co-ordination Act 1966* such that a provision which relates to a credit contract regulated by the *Consumer Credit (Western Australia) Code* relates to a credit contract regulated by the National Credit Code.

Part 3 – Amendment of the *Credit (Administration) Act 1984*

Division 1 – Amendment of the Credit (Administration) Act 1984

- Clause 15 Provides that this Part relates to the amendment of the *Credit (Administration) Act 1984*.
- Clause 16 Amends section 4 of the *Credit (Administration) Act 1984* to add definitions of “ASIC”, “pending application” and “referral day” to the Act, as well as amending the definition of “Code” to refer to the *Consumer Credit (Western Australia) Code* as in force before the referral day.
- Clause 17 Amends section 6 of the *Credit (Administration) Act 1984* to cause the licensing Division in the *Credit (Administration) Act 1984* to have no effect on and after the referral day.
- Clause 18 Amends section 9 of the *Credit (Administration) Act 1984* to remove the capacity for any person to apply for a licence under the Act on or after the referral day.
- Clause 19 Amends section 10 of the *Credit (Administration) Act 1984* to provide that the investigation of an application does not apply to pending applications, as there will be no capacity to grant a credit provider application on and after the referral day.
- Clause 20 Amends section 11 of the *Credit (Administration) Act 1984* to provide that an objection to an application does not apply to pending applications, as there will be no capacity to grant a credit provider application on and after the referral day.
- Clause 21 Amends section 12 of the *Credit (Administration) Act 1984* to provide that the Commissioner for Consumer Protection may neither grant nor refuse a pending application on or after the referral day.
- Clause 22 Amends section 13 of the *Credit (Administration) Act 1984* to provide that the Commissioner for Consumer Protection may not vary or revoke conditions or restrictions subject to which a licence is to be held on or after the referral day.

- Clause 23 Amends section 14 of the *Credit (Administration) Act 1984* to limit the prohibition of credit provision under a business name that is not authorised on the licence, subject to the *Business Names Act 1962*, to activity before the referral day. This allows for the conclusion, after the referral day, of any proceedings underway in respect of alleged breaches of this section in the *Credit (Administration) Act 1984*.
- Clause 24 Amends section 15 of the *Credit (Administration) Act 1984* to limit the prohibition of a licensee carrying on business in partnership with a person who is not the holder of a licence to the period before the referral day. This allows for the conclusion, after the referral day, of any proceedings underway in respect of alleged breaches of this section in the *Credit (Administration) Act 1984*.
- Clause 25 Amends section 17 of the *Credit (Administration) Act 1984* to limit the requirements regarding the change of address of a licensee to before the referral day. This allows for the conclusion, after the referral day, of any proceedings underway in respect of alleged breaches of this section in the *Credit (Administration) Act 1984*.
- Clause 26 Amends section 21 of the *Credit (Administration) Act 1984* to remove the requirement for a licensee to lodge an annual statement or pay an annual fee in respect of their licence where an anniversary date falls on or after the referral day, or within 12 months before the referral day.
- Clause 26(2B) provides for the making of regulations to enable the Commissioner for Consumer Protection to repay a licensee all or part of an annual fee paid in respect of the licence within 12 months before the referral day.
- Clause 27 Amends section 23 of the *Credit (Administration) Act 1984* to allow for the Commissioner to investigate and/or pursue disciplinary action against a licensee, under certain circumstances where those circumstances occurred at any time before the referral day.
- Clause 28 Deletes Part III of the *Credit (Administration) Act 1984* as undertakings under this Part only have affect under the administration of the Act by the State.
- Clause 29 Deletes Part IV of the *Credit (Administration) Act 1984* which provides a broad power for the Minister to order an inquiry into matters that relate to the provision of credit, or consequences of the provision of credit, or both. This function will be transferred to the Commonwealth Government under the *National Consumer Credit Protection Act 2009*.

- Clause 30 Inserts two new provisions into the *Credit (Administration) Act 1984*. The first, new section 44AA, allows the Commissioner for Consumer Protection to make arrangements with ASIC to take over proceedings underway in respect of the *Credit (Administration) Act 1984*. ASIC has power under its own legislation, the *Australian Securities and Investments Commission Act 2001* [ss 11(8) and (9)] to enter into arrangements to perform functions arising under state or territory law, and this section is intended to “dovetail” with that provision in the ASIC Act. The second new provision, new section 44AB, provides for the sharing of information held by the Commissioner for Consumer Protection, for the purposes of administering the *Credit (Administration) Act 1984*, with ASIC.
- Clause 31 Amends section 44A of the *Credit (Administration) Act 1984* to update references from the *Financial Administration and Audit Act 1985* to the *Financial Management Act 2006*, and corresponding changes in terminology, in line with standard drafting practice.
- Clause 32 Amends section 44B of the *Credit (Administration) Act 1984* to remove the requirement that the Consumer Credit Account be operated for the purpose of the *Consumer Credit (Western Australia) Code*, repealed by this Bill, and update changes in terminology as a result of the *Financial Administration and Audit Act 1985* being superseded by the *Financial Management Act 2006*, in line with standard drafting practice.
- Clause 33 Amends section 44C of the *Credit (Administration) Act 1984* to provide that monies held in the Consumer Credit Account are no longer limited to provision of services for consumer credit matters but can be used for the provision of information, advice or research relevant to the protection of the interest of consumers broadly.
- Clause 34 Amends section 44D of the *Credit (Administration) Act 1984* to update the reference from the *Financial Administration and Audit Act 1985* to the *Financial Management Act 2006*, and corresponding changes in terminology, in line with standard drafting practice.

Division 2 – Consequential Provisions

- Clause 35 Amends the definition of licensed credit provider in the *Credit Act 1984* to a person licensed under the Commonwealth’s *National Credit Protection Act 2009*.

Part 4 – Amendment of the *Finance Brokers Control Act 1975*

Division 1 – Amendment of the Finance Brokers Control Act 1975

- Clause 36 Provides that this Division relates to the amendment of the *Finance Brokers Control Act 1975*.
- Clause 37 Amends section 4 of the *Finance Brokers Control Act 1975* to add definitions of “ASIC” and “referral day” to the Act, as well as deleting the definition of “Treasurer”.
- Clause 38 Amends section 7 of the *Finance Brokers Control Act 1975* to remove the Commissioner’s powers regarding licensing and industry education.
- Clause 39 Inserts two new provisions into the *Finance Brokers Control Act 1975*. The first, new section 9A, allows the Commissioner for Consumer Protection to make arrangements with ASIC to take over proceedings underway in respect of the *Finance Brokers Control Act 1975*. ASIC has power under its own legislation, the *Australian Securities and Investments Commission Act 2001* [ss 11(8) and (9)] to enter into arrangements to perform functions arising under state or territory law, and this section is intended to “dovetail” with that provision in the ASIC Act. The second new provision, new section 9B, provides for the sharing of information held by the Commissioner for Consumer Protection, for the purposes of administering the *Finance Brokers Control Act 1975*, with ASIC.
- Clause 40 Amends section 17 of the *Finance Brokers Control Act 1975* to ensure that the Commissioner for Consumer Protection has the power to continue to perform compliance checks at licensees’ business premises, subject to relevant sections of the Act on or after the referral day, if necessary.
- Clause 41 Amends section 24 of the *Finance Brokers Control Act 1975* to remove the capacity for any person to apply for a licence under the Act.
- Clause 42 Amends section 25 of the *Finance Brokers Control Act 1975* to remove the capacity to object to an application for a licence under the Act.
- Clause 43 Amends section 26 of the *Finance Brokers Control Act 1975* to remove the obligation for finance brokers to be licensed under that Act on or after the referral day.
- Clause 44 Inserts a new section 27A into the *Finance Brokers Control Act 1975* to provide that no licences are to be granted under that Act on or after the referral day.

- Clause 45 Provides that all finance broker licences which have not already expired or been surrendered by the referral day will expire on the referral day.
- Clause 46 Removes the capacity to renew a licence on or after the referral day.
- Clause 47 Amends section 32 of the *Finance Brokers Control Act 1975* to remove the capacity to apply to renew a licence, or renew a licence, under the Act.
- Clause 48 Amends section 34 of the *Finance Brokers Control Act 1975* to provide that conditions to which a licence is subject must be complied with until the referral day and may not be varied or revoked on or after the referral day.
- Clause 49 Amends section 35 of the *Finance Brokers Control Act 1975* to allow the Commissioner for Consumer Protection to discharge a bond or guarantee held in respect of a licence, after the licence has expired, if the Commissioner is reasonably satisfied that the former licensee is unlikely to have, or to incur, an undischarged liability in respect of any trust moneys which came to his hand before the referral day.
- Clause 50 Deletes sections 36, 37 and 38 of the *Finance Brokers Control Act 1975* to remove the obligations on licensees to notify the Commissioner for Consumer Protection of certain changes to particulars; and remove the requirements concerning registered and branch offices.
- Clause 51 Amends section 40A of the *Finance Brokers Control Act 1975* to remove the prohibition against doing business with unlicensed finance brokers with effect from the referral day.
- Clause 52 Amends section 41 of the *Finance Brokers Control Act 1975* to remove the requirements concerning the use of a business name with effect from the referral day.
- Clause 53 Amends section 42 of the *Finance Brokers Control Act 1975* to remove the requirements concerning the exhibition of a Notice at the registered and/or branch office with effect from the referral day.
- Clause 54 Amends section 43 of the *Finance Brokers Control Act 1975* to cause the controls prohibiting an unlicensed finance broker from demanding or receiving any valuable consideration in respect of their services in that capacity to have no effect on or after the referral day.
- Clause 55 Amends section 44 of the *Finance Brokers Control Act 1975* to cause the controls concerning the remuneration of finance brokers to have no effect on or after the referral day.

- Clause 56 Amends section 45 of the *Finance Brokers Control Act 1975* to cause the controls concerning advertisements by licensees to have no effect on or after the referral day.
- Clause 57 Amends section 46 of the *Finance Brokers Control Act 1975* to clarify that the obligations concerning the provision of copies of loan documents only apply before the referral day.
- Clause 58 Amends section 48 of the *Finance Brokers Control Act 1975* to cause the obligations concerning the obligation of finance brokers to keep or use trust accounts to have no affect on or after the referral day. The obligation to keep proper records of the account is retained under the amended section.
- Clause 59 Amends section 49 of the *Finance Brokers Control Act 1975* to cause the obligations concerning receipts and accounting to a principal regarding trust monies to have no affect on or after the referral day.
- Clause 60 Amends section 50 of the *Finance Brokers Control Act 1975* to cause the duty of a finance broker to have trust accounts audited to have no affect on or after the referral day.
- Clause 61 Amends section 53 of the *Finance Brokers Control Act 1975* to limit the requirements concerning the appointment of an auditor to the statutory requirements under Division 2 of the Act.
- Clause 62 Amends section 54 of the *Finance Brokers Control Act 1975* to limit the ability for the Commissioner to give directions for the audit of business carried on at more than one place to the statutory audits required by Division 2 of the Act.
- Clause 63 Amends section 60 of the *Finance Brokers Control Act 1975* to limit the requirements concerning the statement of moneys held by a finance broker for or on behalf of other persons to the statutory requirements under Division 2 of the Act.
- Clause 64 Amends section 61 of the *Finance Brokers Control Act 1975* to limit the requirements concerning the auditor's report where a finance broker has not complied with the Act to the statutory audits required by Division 2 of the Act.
- Clause 65 Amends section 66 of the *Finance Brokers Control Act 1975* to limit the requirements concerning finance brokers having no accounts to audit to the year for which an audit would be required by Division 2 of the Act.
- Clause 66 Amends section 68 of the *Finance Brokers Control Act 1975* to limit the ability of the Commissioner for Consumer Protection to order the audit of a trust account to trust accounts maintained in compliance with section 48 of the Act.

- Clause 67 Amends section 69 of the *Finance Brokers Control Act 1975* to limit the requirements for a finance broker to produce books, accounts and records relating to all trust accounts to the statutory requirement under Division 2 of the Act.
- Clause 68 Amends section 72 of the *Finance Brokers Control Act 1975* to limit the power for the State Administrative Tribunal to restrain the accounts of a finance broker to the provision of evidence relating to trust accounts maintained under Division 2 of the Act.
- Clause 69 Deletes sections 73 to 80 inclusive of the *Finance Brokers Control Act 1975*.
- Clause 70 Amends section 82 of the *Finance Brokers Control Act 1975* to limit the application of disciplinary proceedings against finance brokers to persons who were licensed immediately before the referral day or were licensed when the alleged misconduct occurred.
- Clause 71 Deletes section 82A of the *Finance Brokers Control Act 1975* concerning suspension of a licence pending possible disciplinary action.
- Clause 72 Amends section 83 of the *Finance Brokers Control Act 1975* to limit the scope of disciplinary action to conduct occurring before the referral day and remove the ability for the State Administrative Tribunal to suspend a licence on or after the referral day.
- Clause 73 Deletes section 84 of the *Finance Brokers Control Act 1975* which concerns the keeping and provision of a register of licensees.
- Clause 74 Amends section 85 of the *Finance Brokers Control Act 1975* to remove the requirement for the Commissioner for Consumer Protection to publish a list of all persons holding licences each year, or any supplementary lists; remove the requirement for the Commissioner to issue a certificate as to any of the contents of the register; and clarify that certificates issued under the hand of the Commissioner concern the licence status of a person prior to the effect of clause 45 of this Bill.
- Clause 75 Deletes section 92B of the *Finance Brokers Control Act 1975* to remove the capacity of the Commissioner for Consumer Protection to publish public warnings under that Act.
- Clause 76 Amends section 95 of the *Finance Brokers Control Act 1975* to provide for the setting of regulations to provide for the refund, on the expiry of a licence under section 30(1A), of the whole or part of a fee paid on the grant or most recent renewal of the licence.

Division 2 – Consequential Provisions

- Clause 77 Amends the *Housing Societies Act 1976*. Section 78(3) of that Act makes it an offence to receive commission for arranging finance unless the recipient is “a person who is a licensed finance broker under the *Finance Brokers Control Act 1975*”. This amendment replaces the reference with a reference to someone who holds an Australian Credit Licence under the *National Consumer Credit Protection Act 2009*.
- Clause 78 Amends the *Settlement Agents Act 1981*. Schedule 1 of this Act prevents the grant of a settlement agent’s licence to anyone who has had a “business licence” suspended or cancelled in the past 5 years. Clause 6 of Schedule 1 defines “business licence” as a licence issued under any of several Western Australian Acts (including the FBCA) or a similar licence “held under a law of another State or a Territory of the Commonwealth”. Reference to licences issued under FBCA, will be retained, since the provision looks back and the historic cancellation of an FBCA licence would still be relevant. This clause amends the reference to other jurisdictions so that it includes the laws, not just of other States and Territories, but also of the Commonwealth itself. Given that the *Settlement Agents Act* does not currently identify specific Acts of other States and Territories, specific Commonwealth Acts have not been identified.

Part 5 – Repeal of the *Finance Brokers Control Act 1975*

Division 1 – Repeal

- Clause 79 Repeals the *Finance Brokers Control Act 1975*. Pursuant to clause 2 of this Bill, this Part will be proclaimed when the Minister is satisfied that there is no further business left to be regulated under the amended *Finance Brokers Control Act 1975*.
- Clause 80 Amends the *Housing Societies Repeal Act 2005*. Section 27 of *Housing Societies Repeal Act 2005*, when proclaimed, will delete section 5(1)(c) of the *Finance Brokers Control Act 1975* (FBCA). If the *Housing Societies Repeal Act 2005* is unproclaimed when the FBCA is repealed, it will be appropriate to delete section 27. If, however, it has entered into force then it will have amended the FBCA and exhausted its effect, and when the FBCA comes to be repealed there will be nothing in the *Housing Societies Repeal Act* to repeal. Hence this clause provides for the repeal of s. 27 of the *Housing Societies Repeal Act 2005* only if it has not already come into force.

Clause 81 Amends the *State Administrative Tribunal Act 2004* (SAT Act). Schedule 1 of the SAT Act lists the Acts, decisions under which are the subject of an automatic right of appeal to SAT on issues of both fact and law. The FBCA is one of these Acts and reference to it will therefore need to be deleted when the FBCA is repealed.