

Western Australia

Consumer Credit (Western Australia) Amendment Bill 2002

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Western Australia

LEGISLATIVE ASSEMBLY

(As amended in Committee)

**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

The amendments in this Act, except section 16, are to the
5 *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Section 3(1) is repealed and the following subsection is inserted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(1) of
this Act, as amended under section 5(2) of this Act
(if there are such amendments);

“*Consumer Credit (Western Australia) Code
Regulations*” means the provisions applying
because of section 6(1) of this Act, as amended

under section 6(2) of this Act (if there are such amendments).

- 5 (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.

”.

6. **Part 2 replaced**

Part 2 is repealed and the following Part is inserted instead —

10 “

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

15 **5. Application in Western Australia of the Consumer Credit Code**

- 20 (1) The Consumer Credit Code set out in the Appendix to the *Consumer Credit (Queensland) Act 1994* as in force on the commencement of section 6 of the *Consumer Credit (Western Australia) Amendment Act 2003* applies, as if amended as set out in Part 5 of this Act, as a law of Western Australia.
- 25 (2) If the Consumer Credit Code set out in the Appendix to the *Consumer Credit (Queensland) Act 1994* is amended, the Governor may amend the *Consumer Credit (Western Australia) Code* by order published in the *Gazette*.
- (3) An order cannot be made under subsection (2) unless a draft of the order has first been approved by each House of Parliament.
- 30 (4) The provisions applying because of subsection (1), as amended under subsection (2) (if there are such

amendments), may be cited as the *Consumer Credit (Western Australia) Code*.

6. Application of uniform regulations under the Consumer Credit Code

- 5 (1) The regulations in force under Part 4 of the *Consumer Credit (Queensland) Act 1994* on the commencement of section 6 of the *Consumer Credit (Western Australia) Amendment Act 2003* apply, as if amended as set out in regulations made for the purposes of this section, as regulations in force for the purposes of the *Consumer Credit (Western Australia) Code*.
- 10
- (2) If the regulations in force under Part 4 of the *Consumer Credit (Queensland) Act 1994* are amended, the Governor may amend the *Consumer Credit (Western Australia) Code Regulations* by order published in the *Gazette*.
- 15
- (3) An order may not be made under subsection (2) unless a draft of the order has first been approved by each House of Parliament.
- 20
- (4) The provisions applying because of subsection (1), as amended under subsection (2) (if there are such amendments), may be cited as the *Consumer Credit (Western Australia) Code Regulations*.
- 25
- (5) Schedule 2 to the *Consumer Credit (Western Australia) Code* applies in relation to the *Consumer Credit (Western Australia) Code Regulations*.

**6A. Interpretation of certain expressions in the
Consumer Credit (Western Australia) Code and the
*Consumer Credit (Western Australia) Code
Regulations***

- 5 (1) Unless the contrary intention appears, in the *Consumer
Credit (Western Australia) Code* and the *Consumer
Credit (Western Australia) Code Regulations* —
- 10 (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
- 15 (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
20 *Consumer Credit (Western Australia) Code
Regulations*.

**6B. Minister to give Queensland Bills and regulations to
the Clerk of each House of Parliament**

- 25 (1) Within 7 days of the Minister becoming aware of —
- (a) the introduction into the Legislative Assembly
of Queensland of a Bill to amend the Consumer
Credit Code set out in the Appendix to the
Consumer Credit (Queensland) Act 1994; or
- 30 (b) the notification in the Queensland Government
Gazette of regulations to amend the regulations
in force under Part 4 of the *Consumer Credit
(Queensland) Act 1994*,

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the Minister is to give a copy of the Bill or regulations to the Clerk of each House of Parliament.

- 5 (2) The Minister is to use his or her best endeavours to comply with subsection (1) but a failure to do so does not affect the validity of any other action under this Part.
- 10 (3) The Clerk of each House of Parliament is to give a copy of the Bill or regulations to the committee or committees of the Parliament whose terms of reference cover uniform legislation (that is, legislation that gives effect to an intergovernmental agreement or that is part of a uniform system of laws throughout the Commonwealth).
- 15 (4) A copy of the Bill or regulations given to the Clerk of a House is to be regarded as having been laid before that House.
- 20 (5) The laying of a copy of the Bill or regulations that is to be regarded as having occurred under subsection (4) is to be recorded in the Minutes, or Votes and Proceedings, of the House on the first sitting day of the House after the Clerk received the copy.

”.

7. Sections 7 and 8 amended

25 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 —

“

5

Part 4 — Miscellaneous

”.

9. **Section 9 repealed**

Section 9 is repealed.

10. **Section 10 replaced and repeal of regulations**

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

“

10. **General regulation making power**

15

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.

”.

20

(2) The *Consumer Credit (Western Australia) Regulations 1996* in force under section 10 of the *Consumer Credit (Western Australia) Act 1996* (as in force before the commencement of this Act) are repealed.

11. **Section 11 amended**

25

(1) Section 11(1) is deleted and the following subsection is inserted instead —

“

(1) The regulations may make provision of a savings or transitional nature consequent on —

(a) the enactment or amendment of this Act;

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- (b) the enactment of an Act of Queensland amending the Consumer Credit Code set out in the Appendix to the *Consumer Credit (Queensland) Act 1994*.

5

”.

Note: The heading to section 11 will be deleted and the following inserted “**Specific savings and transitional regulations for Western Australia**”.

- (2) Section 11(2) is amended by deleting “Code” and inserting instead —

10

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

- (3) Section 11(4) is deleted and the following subsection is inserted instead —

“

15

- (4) A regulation made under this section may, if the regulation so provides, take effect from the day of commencement of the Act concerned or from a later day.

”.

12. Section 12 amended

20

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* ”.

13. **Part 5 replaced**

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

“

**Part 5 — Amendment of the Consumer
Credit Code**

5

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.

10

Table

Provision of the Code	Amendment
Section 53(1)	Delete paragraph (a) and “or” after it, insert instead — “ (a) withdraw from the guarantee unless the debtor has — (i) ceased to be entitled to terminate the credit contract under section 19; or (ii) entered into another contract in reliance on the availability of credit under the credit contract; or ”.

”.

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Provision of the Code	Amendment
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
10 *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*.

- 5 (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*.
- 10 (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*.
- 15 (4) In this section —
- 15 “**Consumer Credit (Queensland) Act 1994**” means the *Consumer Credit (Queensland) Act 1994* of Queensland;
- 20 “**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;
- 25 “**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.

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

- 30 (1) The amendment in this section is to the *Credit (Administration) Act 1984**.
- [* Reprinted as at 5 May 2000.
For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 84.]

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

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