



Australian Capital Territory

# **Consumer Credit Act 1995**

**A1995-18**

**Republication No 3**

**Effective: 20 April 2004 – 21 December 2005**

Republication date: 20 April 2004

Last amendment made by A2004-18

Authorised by the ACT Parliamentary Counsel

## About this republication

### The republished law

This is a republication of the *Consumer Credit Act 1995* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 20 April 2004. It also includes any amendment, repeal or expiry affecting the republished law to 20 April 2004.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

### Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

### Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication does not include amendments made under part 11.3 (see endnote 1).

### Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

### Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

### Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.



Australian Capital Territory

# Consumer Credit Act 1995

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Australian Capital Territory

## Consumer Credit Act 1995

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An Act to make provision for a uniform legislative scheme to regulate the provision of consumer credit, and for other purposes

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## Part 1 Preliminary

### 1 Short title

This Act may be cited as the *Consumer Credit Act 1995*.

### 3 Definitions for Act

In this Act:

*Note* A definition applies except so far as the contrary intention appears (see *Legislation Act 2001*, s 155).

*Note 2* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including regulations (see *Legislation Act 2001*, s 104).

**annual percentage rate**, for part 3A (Maximum annual percentage rate and disclosure)—see section 8A.

**code**, for part 3A (Maximum annual percentage rate and disclosure)—see section 8A.

**Consumer Credit (Australian Capital Territory) Code** means the provisions applying because of section 4.

**Consumer Credit (Australian Capital Territory) Regulations** means the provisions applying because of section 5.

**Consumer Credit (Queensland) Act** means the *Consumer Credit (Queensland) Act 1994* (Qld).

**contract document**, for part 3A (Maximum annual percentage rate and disclosure)—see section 8A.

**credit**, for part 3A (Maximum annual percentage rate and disclosure)—see section 8A.

**credit contract**, for part 3A (Maximum annual percentage rate and disclosure)—see section 8A.

*credit fees and charges*, for part 3A (Maximum annual percentage rate and disclosure)—see section 8A.

*credit tribunal* means the Australian Capital Territory Credit Tribunal.

*scheme legislation of the Australian Capital Territory* means—

- (a) this Act; and
- (b) the Consumer Credit (Australian Capital Territory) Code; and
- (c) the Consumer Credit (Australian Capital Territory) Regulations.

*short-term credit contract*, for part 3A (Maximum annual percentage rate and disclosure)—see section 8A.

## **Part 2 Consumer Credit (Australian Capital Territory) Code and Consumer Credit (Australian Capital Territory) Regulations**

### **4 Application in ACT of Consumer Credit Code**

The Consumer Credit Code set out in the Consumer Credit (Queensland) Act, appendix as in force for the time being—

- (a) applies as a Territory law; and
- (b) as so applying may be referred to as the Consumer Credit (Australian Capital Territory) Code.

### **5 Application of regulations under Consumer Credit Code**

- (1) The regulations in force for the time being under the Consumer Credit (Queensland) Act, part 4—
  - (a) apply as regulations in force for the Consumer Credit (Australian Capital Territory) Code; and
  - (b) as so applying may be referred to as the Consumer Credit (Australian Capital Territory) Regulations.
- (2) The Consumer Credit (Australian Capital Territory) Code, schedule 2 applies in relation to those regulations.
- (3) To the extent that a provision of those regulations takes effect from a day earlier than the day of notification of the provision in the Government Gazette of Queensland, the provision does not operate in the ACT so as to—
  - (a) affect, in a manner prejudicial to any person (other than the Territory or an authority of the Territory), the rights of that person existing before the day of notification; or



- (b) impose liabilities on any person (other than the Territory or an authority of the Territory) in respect of anything done or omitted to be done before the day of notification.

## **6 Interpretation of some expressions in code and regulations**

- (1) In the Consumer Credit (Australian Capital Territory) Code and the Consumer Credit (Australian Capital Territory) Regulations—

*legislature of this jurisdiction* means the legislature of the Territory.

*the code* or *this code* means the Consumer Credit (Australian Capital Territory) Code.

*the jurisdiction* or *this jurisdiction* means the Australian Capital Territory.

- (2) The *Acts Interpretation Act 1954*, and other Acts, of Queensland do not apply to—
  - (a) the Consumer Credit Code set out in the Consumer Credit (Queensland) Act, appendix in its application as a Territory law; or
  - (b) the regulations in force for the time being under the Consumer Credit (Queensland) Act, part 4 in their application as regulations in force for the Consumer Credit (Australian Capital Territory) Code.

## **Part 3 Conferment of judicial and administrative functions**

### **7 Conferment of judicial functions on courts and credit tribunal**

- (1) The jurisdiction that is expressed to be exercisable by the court under the Consumer Credit (Australian Capital Territory) Code and the Consumer Credit (Australian Capital Territory) Regulations is exercisable—
  - (a) for the code, sections 34 (5), 36 (6) and (7), 44 (4), 47 (3), 77 (1), 79, 82 (b), 83 (1), 88 and 89, sections 91 (1) (a), 92, 93, 98 and section 162 (2) and any jurisdiction prescribed by the regulations—only by the Australian Capital Territory Credit Tribunal; or
  - (b) in any other case—either by the credit tribunal or any court.
- (2) The jurisdiction given to a court by this section (other than the credit tribunal) is subject to the court's general jurisdictional limits (so far as they relate to the amounts, or the value of property, with which the court may deal), but is not subject to the court's other jurisdictional limits.
- (3) The regulations may make provision in relation to the transfer of proceedings between the credit tribunal and other courts or between other courts.

### **8 Conferment of administrative functions**

The commissioner for fair trading has the functions of the Government Consumer Agency under the Consumer Credit (Australian Capital Territory) Code and the Consumer Credit (Australian Capital Territory) Regulations.

## Part 3A                      Maximum annual percentage rate and disclosure

### 8A                      Definitions for pt 3A

In this part:

*annual percentage rate*—see the code, section 25 (Definitions relating to interest).

*code* means the Consumer Credit (Australian Capital Territory) Code.

*contract document*—see the code, schedule 1 (Principal definitions), clause 1 (1).

*credit*—see the code, section 4 (1).

*credit contract*—see the code, section 5.

*credit fees and charges*—see the code, schedule 1 (Principal definitions), clause 1 (1).

*short-term credit contract* means—

- (a) a contract for the provision of credit to which the code applies that is limited to a total period not longer than 62 days; or

*Note*        For contracts for the provision of credit to which the code does not apply, see the code, s 7 (1) (Short term credit).

- (b) a contract prescribed under the regulations.

### 8B                      Maximum annual percentage rate

- (1) The regulations may prescribe a maximum annual percentage rate for credit contracts.
- (2) For a short-term credit contract, the regulations may require interest charges, and all credit fees and charges, under the contract to be

included for the purpose of working out the maximum annual percentage rate.

- (3) The code, part 2 (Credit contracts), division 2 (Debtor's monetary obligations) applies in relation to a maximum annual percentage rate prescribed under subsection (1) as if the rate had been prescribed by the code.

**8C Disclosure of cost of credit**

- (1) This section applies to a short-term credit contract.
- (2) For the code, section 15 (C) (Annual percentage rate or rates), the contract document must state an annual percentage rate worked out on the basis of charges under the contract that are interest charges (whether or not they are described in the contract as interest charges).
- (3) For the code, section 15 (E) (Total amount of interest charges payable), the total amount of interest charges payable under the contract includes an amount that is an interest charge (whether or not it is described in the contract as an interest charge).
- (4) For the code, section 14 (Precontractual disclosure), the precontractual statement must also set out the matters mentioned in subsections (2) and (3).

## Part 4                      Miscellaneous

### 9                      **Application to the Crown**

The scheme legislation of the Australian Capital Territory binds the Crown in right of the Territory and, so far as the legislative power of the Legislative Assembly permits, the Crown in all its other capacities.

### 11                      **Proceedings for offences against code or regulations**

Proceedings for offences against the Consumer Credit (Australian Capital Territory) Code, or the Consumer Credit (Australian Capital Territory) Regulations, that are punishable summarily shall be dealt with by the Magistrates Court constituted by a magistrate sitting alone.

### 13                      **Regulation-making power**

The Executive may make regulations for this Act.

*Note*                      Regulations must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

## Endnotes

1 About the endnotes

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## Endnotes

### 1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

### 2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	par = paragraph/subparagraph
cl = clause	pres = present
def = definition	prev = previous
dict = dictionary	(prev...) = previously
disallowed = disallowed by the Legislative Assembly	pt = part
div = division	r = rule/subrule
exp = expires/expired	reg = regulation/subregulation
Gaz = Gazette	renum = renumbered
hdg = heading	reloc = relocated
IA = Interpretation Act 1967	R[X] = Republication No
ins = inserted/added	RI = reissue
LA = Legislation Act 2001	s = section/subsection
LR = legislation register	sch = schedule
LRA = Legislation (Republication) Act 1996	sdiv = subdivision
mod = modified/modification	sub = substituted
o = order	SL = Subordinate Law
om = omitted/repealed	<u>underlining</u> = whole or part not commenced or to be expired

### 3 Legislation history

**Consumer Credit Act 1995 No 18**

notified 5 September 1995 (Gaz 1995 No S212)  
s 1, s 2 commenced 5 September 1995 (s 2 (1))  
remainder commenced 1 November 1996 (s 2 (2) and Gaz 1996  
No S273)

as amended by

**Consumer Credit (Administration) (Consequential Provisions) Act  
1996 No 42 pt 2 div 1**

notified 2 September 1996 (Gaz 1996 No S223)  
s 1, s 2 and pt 2 div 1 commenced 2 September 1996 (s 2 (1))

**Law Reform (Miscellaneous Provisions) Act 1999 No 66 sch 3**

notified 10 November 1999 (Gaz 1999 No 45)  
commenced 10 November 1999 (s 2)

**Justice and Community Safety Legislation Amendment Act 2000  
(No 3) No 17 sch 1**

notified 1 June 2000 (Gaz 2000 No 22)  
commenced 1 June 2000 (s 2)

**Legislation (Consequential Amendments) Act 2001 No 44 pt 75**

notified 26 July 2001 (Gaz 2001 No 30)  
s 1, s 2 commenced 26 July 2001 (IA s 10B)  
pt 75 commenced 12 September 2001 (s 2 and Gaz 2001 No S65)

**Justice and Community Safety Legislation Amendment Act 2004  
A2004-18 pt 3**

notified LR 6 April 2004  
s 1, s 2 commenced 6 April 2004 (LA s 75 (1))  
pt 3 commenced 20 April 2004 (s 2)

### 4 Amendment history

**Commencement**

s 2 am 1996 No 42 pt 2 div 1  
om R1 LRA

## Endnotes

### 4 Amendment history

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#### Definitions for Act

- s 3 am 2001 No 44 amdt 1.800, amdt 1.801  
def **annual percentage rate** ins A2004-18 s 9  
def **code** ins A2004-18 s 9  
def **contract document** ins A2004-18 s 9  
def **credit** ins A2004-18 s 9  
def **credit contract** ins A2004-18 s 9  
def **credit fees and charges** ins A2004-18 s 9  
def **credit tribunal** am 1996 No 42 pt 2 div 1  
def **scheme legislation of the Australian Capital Territory**  
am 2001 No 44 amdt 1.802  
def **short-term credit contract** ins A2004-18 s 9

#### Conferment of administrative functions

- s 8 am 1999 No 66 sch 3; 2000 No 17 sch 1

#### Maximum annual percentage rate and disclosure

- pt 3A hdg ins A2004-18 s 10

#### Definitions for pt 3A

- s 8A ins A2004-18 s 10  
def **annual percentage rate** ins A2004-18 s 10  
def **code** ins A2004-18 s 10  
def **contract document** ins A2004-18 s 10  
def **credit** ins A2004-18 s 10  
def **credit contract** ins A2004-18 s 10  
def **credit fees and charges** ins A2004-18 s 10  
def **short-term credit contract** ins A2004-18 s 10

#### Maximum annual percentage rate

- s 8B ins A2004 s 10

#### Disclosure of cost of credit

- s 8C ins A2004 s 10

#### Maximum annual percentage rate

- s 10 om A2004-18 s 11

#### Savings and transitional regulations

- s 12 om 2001 No 44 amdt 1.803

#### Regulation-making power

- s 13 am 2001 No 44 amdt 1.804



## 5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (\*) in column 1. Except for the footer, electronic and printed versions of an authorised republication are identical.

Republication No	Amendments to	Republication date
1	Act 2000 No 17	24 July 2000
2	A2001-44	21 February 2002

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