



Australian Capital Territory

# **Consumer Credit (Administration) Act 1996**

**A1996-41**

**Republication No 18**

**Effective: 2 February 2009 – 21 September 2009**

Republication date: 2 February 2009

Last amendment made by A2008-37  
(republishing for amendments by A2008-36  
and A2008-37)

Authorised by the ACT Parliamentary Counsel

## About this republication

### The republished law

This is a republication of the *Consumer Credit (Administration) Act 1996* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 2 February 2009. It also includes any amendment, repeal or expiry affecting the republished law to 2 February 2009.

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

### Kinds of republications

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- 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.



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Australian Capital Territory

# **Consumer Credit (Administration) Act 1996**

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An Act relating to the administration of the consumer credit industry

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## Part 1 Preliminary

### 1 Name of Act

This Act is the *Consumer Credit (Administration) Act 1996*.

### 2 Dictionary

The dictionary at the end of this Act is part of this Act.

*Note 1* The dictionary at the end of this Act defines certain terms used in this Act, and includes references (*signpost definitions*) to other terms defined elsewhere in this Act.

For example, the signpost definition '*finance broker*, for division 3.4 (Occupational discipline—finance brokers)—see section 50.' means that the term 'finance broker' is defined in that section for division 3.4.

*Note 2* A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

### 3 Notes

A note included in this Act is explanatory and is not part of this Act.

*Note* See the Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

## **Part 2**                      **Credit providers**

### **Division 2.1**              **Exemptions**

#### **4**                      **Exemption—banks**

Division 2.2 (Provision of consumer credit) and division 2.3 (Registration of consumer credit providers) do not apply to a bank.

#### **5**                      **Exemption—collection of debts due to former credit providers**

This part does not apply in relation to the collection of money due to another person if—

- (a) the other person is a former registered credit provider or a former holder of a credit provider's licence under the *Credit Act 1985*, or if the person's registration as a credit provider is suspended; and
- (b) the money is collected under a contract for consumer credit entered into by the other person under the authority given under this part, or under the *Credit Act 1985*, part 11, by the registration or licence.

#### **6**                      **Exemption—Ministerial determination**

- (1) A provision of this part does not apply in relation to a credit provider if a determination under subsection (2) is in force exempting that person from the application of the provision, to the extent set out in the determination.
- (2) The Minister may, in writing, make a determination exempting a credit provider from the application of this part, in part or in whole, and to the extent set out in the determination.

- (3) A determination under subsection (2) is a disallowable instrument.

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

## **Division 2.2 Provision of consumer credit**

### **7 Registration as a consumer credit provider**

- (1) A person shall not provide consumer credit unless the person is registered as a credit provider.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) An individual shall not hold himself or herself out as a provider of consumer credit unless the person is registered as a credit provider.

Maximum penalty: 30 penalty units.

- (3) A body corporate shall not hold itself out as a provider of consumer credit unless it is registered as a credit provider.

Maximum penalty: 30 penalty units.

### **8 Authorised names**

- (1) A registered credit provider shall not provide consumer credit otherwise than under the credit provider's name or another name under which the credit provider is authorised under section 10 to provide consumer credit.

Maximum penalty: 30 penalty units.

- (2) A registered credit provider who is an individual shall not hold himself or herself out as providing consumer credit otherwise than under his or her name or another name under which he or she is authorised under section 10 to provide consumer credit.

Maximum penalty: 50 penalty units.

- (3) A registered credit provider that is a body corporate shall not hold itself out as providing consumer credit otherwise than under the body's name or another name under which the body is authorised under section 10 to provide consumer credit.

Maximum penalty: 50 penalty units.

## **9 Partnerships**

A registered credit provider shall not provide consumer credit in partnership with a person who is not registered as a credit provider.

Maximum penalty: 50 penalty units.

## **Division 2.3 Registration of consumer credit providers**

### **10 Authority given by registration**

Subject to the consumer credit legislation and the *Business Names Act 1963*, registration as a credit provider authorises the registered person to provide consumer credit under the person's name and under any other name endorsed on the registration certificate.

### **11 Application for registration**

- (1) An application for registration as a credit provider may be made to the commissioner in writing—
- (a) by an individual who has attained the age of 18 years; or
  - (b) by a body corporate.

*Note 1* A fee may be determined under s 140 (Determination of fees) for this section.

*Note 2* If a form is approved under section 140A (Approved forms) for an application, the form must be used.

- (2) An application shall specify—
  - (a) the applicant's name and address; and
  - (b) if the applicant is a body corporate—the name and address of each director of the body; and
  - (c) the name or names under which the applicant intends to carry on business as a credit provider in the ACT; and
  - (d) the address of each place where the applicant intends to carry on business as a credit provider in the ACT, indicating which of these is the principal place of business; and
  - (e) whether the applicant's business as a credit provider is to be carried on in partnership with any other person; and
  - (f) any other matters prescribed by the regulations.
- (3) An applicant for registration shall provide the commissioner with such particulars additional to those included in the application as the commissioner may require.

## **12 Registration**

- (1) On an application for registration as a credit provider in accordance with section 11, the commissioner shall register the applicant unless the applicant is disqualified from registration—
  - (a) as a credit provider under this part; or
  - (b) as a finance broker under part 3.

*Note 1* A fee may be determined under s 140 (Determination of fees) for this section.

*Note 2* If a form is approved under section 140A (Approved forms) for an application under this section or a registration certificate, the form must be used.

- (2) On registering a person as a credit provider, the commissioner shall issue a registration certificate to the person.

- (3) If a registration certificate issued to a credit provider, or any duplicate subsequently issued to the credit provider under this subsection, has been stolen, lost or destroyed, the commissioner must, on application by the credit provider, issue a duplicate.

**13 Endorsement of names**

- (1) On registration, or on application by a registered credit provider under subsection (2), the commissioner shall endorse the registration certificate with the name of the registered credit provider and any additional name or names under which the registered person intends to carry on, or carries on, business as a credit provider.
- (2) On written application by a registered credit provider (accompanied by the registration certificate), the commissioner shall add, amend or omit an endorsement of a name on the registration certificate in accordance with the application.

**14 Changed particulars**

A registered credit provider shall give written notice to the commissioner specifying any change in the particulars notified on application for registration, or in particulars subsequently notified under this section, within 14 days after the change.

Maximum penalty: 10 penalty units.

**15 Term of registration**

Registration as a credit provider continues in force until it is surrendered or cancelled, except during any period during which the registration is suspended.

## 16 Annual fee and statement

- (1) A registered credit provider shall lodge with the commissioner the annual fee on or before 27 March each year, or within such extended period as the commissioner allows under subsection (3).
- (2) A person who has been a registered credit provider at any time during the period of 12 months before 28 February in each year shall, on or before 27 March in that year, or within such extended period as the commissioner allows under subsection (3), lodge with the commissioner a statement in respect of that part of the period of 12 months before 28 February in that year during which the person provided consumer credit.

*Note* If a form is approved under section 140A (Approved forms) for the statement, the form must be used.

- (3) The commissioner may, in writing, extend, or further extend, the period for compliance with subsection (1) or (2) on application before the expiry of the period by the person required to comply with the subsection.
- (4) A person who is not registered as a credit provider who fails to comply with subsection (2) commits an offence.

Maximum penalty: 20 penalty units.

- (5) In this section:

***annual fee*** means the annual fee determined under section 140 (Determination of fees) for this section.

***registered credit provider***, in relation to the period of 12 months before 28 February in any year, includes a person whose registration was suspended for any part of that period, or for the whole of that period.



**17 Cancellation of registration for failure to pay fee or provide statement**

- (1) If a registered credit provider fails to lodge a fee or a statement in accordance with section 16, the commissioner shall give the credit provider written notice that the registration will be cancelled unless the fee or statement is lodged within a specified period (being a period of not less than 14 days after the date of the notice).
- (2) If a registered credit provider fails to pay a fee or lodge a statement in accordance with a notice under subsection (1), the commissioner shall—
  - (a) cancel the registration; and
  - (b) disqualify the credit provider from obtaining registration as a credit provider or as a finance broker until such time as the fee is paid or the statement is lodged, as the case requires.

**18 Surrender of registration**

- (1) A registered credit provider may surrender the registration by written notice to the commissioner accompanied by the registration certificate, subject to this section.
- (2) If the commissioner has applied to the ACAT for occupational discipline in relation to the registered credit provider, the credit provider must not surrender the registration before the ACAT has decided the application.
- (3) On application by a person who has surrendered registration, the commissioner shall return to the person so much as the commissioner thinks fit of the fee last paid by the person under section 16 (1).
- (4) In this section:  
*registered credit provider* includes a person whose registration as a credit provider is suspended.

## Division 2.3A Complaints—credit providers

### 18A Meaning of *credit provider*—div 2.3A

In this division:

*credit provider*, in relation to an act or omission, means a registered person or a person who was registered at the time of the act or omission.

### 18B Who may complain?

Anyone who believes on reasonable grounds that a ground for occupational discipline exists in relation to a credit provider may complain to the commissioner.

#### Examples—people who may complain

- 1 a member of the public
- 2 a user of a service

*Note 1* *Ground for occupational discipline*—see s 20.

*Note 2* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

### 18C Form of complaint

- (1) A complaint must—
  - (a) be in writing; and
  - (b) be signed by the person (the *complainant*) making the complaint; and
  - (c) include the complainant's name and address.
- (2) However, the commissioner may accept a complaint for consideration even if it does not comply with subsection (1).

- (3) If the commissioner accepts for consideration a complaint that is not in writing, the commissioner must require the complainant to put the complaint in writing unless there is a good reason for not doing so.

### **18D Withdrawal of complaints**

- (1) A complainant may withdraw the complaint at any time by written notice to the commissioner.
- (2) If the complainant withdraws the complaint, the commissioner—
- (a) need not take further action on the complaint; and
  - (b) may take further action on the complaint if the commissioner considers it appropriate to do so; and
  - (c) need not report to the complainant under section 18H (Action after investigating complaint) on the results of taking the action.

### **18E Further information about complaint etc**

- (1) The commissioner may, at any time, require a complainant—
- (a) to give the commissioner further information about the complaint; or
  - (b) to verify all or part of the complaint by statutory declaration.
- (2) When making a requirement under this section, the commissioner must give the complainant a reasonable period of time to satisfy the requirement and may extend that period, whether before or after it ends.
- (3) If the complainant does not comply with a requirement under subsection (1), the commissioner need not, but may, take further action in relation to the complaint.

**18F Investigation of complaint**

The commissioner must take reasonable steps to investigate each complaint the commissioner accepts for consideration.

**18G No further action on complaint**

The commissioner must not take further action on a complaint if satisfied that—

- (a) the complaint lacks substance; or
- (b) the complaint is frivolous, vexatious or was not made genuinely; or
- (c) the complaint has been adequately dealt with.

*Note* The commissioner may also take no further action on a complaint if the complainant has not complied with a requirement made under s 18E (see s 18E (3)).

**18H Action after investigating complaint**

- (1) After investigating a complaint against a credit provider, the commissioner must—
  - (a) if satisfied on reasonable grounds that a ground for occupational discipline exists in relation to the complaint—
    - (i) apply to the ACAT for an occupational discipline order in relation to the credit provider; and
    - (ii) tell the complainant in writing that the application has been made; or
  - (b) if not satisfied that a ground for occupational discipline exists in relation to the complaint—
    - (i) tell the complainant in writing that the commissioner will not take further action on the complaint; and
    - (ii) not take further action on the complaint.

- (2) Subsection (1) (b) (ii) does not prevent the commissioner from taking further action in relation to a complaint if the commissioner becomes satisfied that a ground for occupational discipline exists in relation to the complaint.

*Note* The commissioner need not notify the complainant under s (1) if the complainant has withdrawn the complaint (see s 18D).

## **Division 2.4 Occupational discipline—credit providers**

### **19 Meaning of *credit provider*—div 2.4**

In this division, to remove any doubt:

*credit provider* includes the following:

- (a) an unregistered credit provider;
- (b) a credit provider whose registration is suspended;
- (c) a bank;
- (d) an entity that pretends to be a credit provider.

### **20 Grounds for occupational discipline**

Each of the following is a *ground for occupational discipline* in relation to a credit provider:

- (a) the credit provider has provided consumer credit inefficiently, dishonestly or unfairly;
- (b) the credit provider has provided false or misleading information to the commissioner in relation to an application for registration under this Act;
- (c) the credit provider has contravened, or is contravening—
  - (i) the consumer credit legislation; or
  - (ii) an occupational discipline order; or

- (iii) an undertaking under section 105;
- (d) the credit provider has provided consumer credit while the credit provider's registration was suspended or cancelled, or the credit provider was disqualified;
- (e) if the credit provider was licensed or registered at any time under the *Credit Act 1985*—
  - (i) the credit provider provided false or misleading information in relation to an application for the licence or the registration; or
  - (ii) the credit provider breached a condition to which the licence or registration was subject.

## 21 Application to ACAT for occupational discipline—credit provider

If the commissioner believes on reasonable grounds that a ground for occupational discipline exists in relation to a credit provider, the commissioner may apply to the ACAT for an occupational discipline order in relation to the credit provider.

## 22 Orders for occupational discipline

- (1) This section applies if the ACAT may make an occupational discipline order in relation to a credit provider.

*Note* The *ACT Civil and Administrative Tribunal Act 2008*, s 65 sets out when the ACAT may make an order.

- (2) In addition to any other occupational discipline order the ACAT may make, the ACAT may make 1 or more of the following orders for occupational discipline in relation to the credit provider:
- (a) suspend the registration for a period not longer than 1 year;
  - (b) cancel the registration and disqualify the credit provider from obtaining registration as a credit provider or as a finance broker for a stated period;

- (c) disqualify the credit provider, or a stated defined influential person in relation to the credit provider, from obtaining registration as a credit provider or as a finance broker for a stated period.

*Note* The *ACT Civil and Administrative Tribunal Act 2008*, s 66 sets out other occupational discipline orders the ACAT may make.

### **23 Credit provider not liable for penalties**

- (1) This section applies if—
  - (a) a credit provider has been convicted of an offence; and
  - (b) the conduct giving rise to the offence forms, wholly or partly, a ground for occupational discipline against the credit provider.
- (2) The credit provider is not liable to pay an amount ordered to be paid under the *ACT Civil and Administrative Tribunal Act 2008*, section 66 (2) (h) in relation to the conduct.

### **24 Extension of time for complying with directions**

- (1) The ACAT may extend the time for complying with an ACAT order in relation to a credit provider.
- (2) The extension may be made—
  - (a) before or after the end of the time for compliance given in the order; and
  - (b) on application by the credit provider or on the ACAT's own initiative.

### **24AA Powers of inquiry**

- (1) The commissioner may make the inquiries about a credit provider for this division that the commissioner considers appropriate.
- (2) The chief police officer must—

- (a) make any reasonable inquiry about the credit provider asked for by the commissioner; and
  - (b) report the outcome of the inquiry to the commissioner.
- (3) In this section:
- credit provider* includes—
- (a) a defined influential person in relation to a credit provider; and
  - (b) an employee of a credit provider.

**24AB Cancellation or suspension for insolvency etc**

- (1) This section applies to a credit provider if the credit provider is—
- (a) an individual and—
    - (i) becomes bankrupt, executes a personal insolvency agreement or otherwise applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
    - (ii) is convicted in the ACT or elsewhere of an offence involving fraud or dishonesty punishable, on conviction, by imprisonment for 3 months or more; or
    - (iii) has a mental incapacity that affects the exercise of the credit provider's functions; or
  - (b) a body corporate and—
    - (i) is dissolved, is under administration, is being wound up or has ceased to carry on business; or
    - (ii) a receiver, or a receiver and manager, has been appointed under the Corporations Act in relation to any property of the body; or
    - (iii) has entered into a compromise or scheme of arrangement with its creditors.



- (2) The commissioner may suspend the credit provider's registration for a stated period or cancel the registration.
- (3) If the commissioner cancels the registration of a credit provider, the commissioner must disqualify the credit provider from obtaining registration as a credit provider or finance broker for the period stated in the notice of cancellation under section 129.
- (4) On application by the credit provider, the commissioner may—
  - (a) remove the credit provider's suspension at any time before the expiry of the stated period of suspension; or
  - (b) revoke the credit provider's disqualification at any time before the expiry of the stated period of disqualification.

## **Division 2.4A      Offences—credit providers**

### **24AC      Offence—comply with orders**

A credit provider must comply with an order under the *ACT Civil and Administrative Tribunal Act 2008*, section 66 (2) (d), (h) or (i) that applies to the credit provider.

Maximum penalty: 50 penalty units.

### **24AD      Offence—return registration to place conditions etc**

- (1) This section applies if the ACAT directs the commissioner to place a condition on a credit provider's registration, or to remove or amend a condition on a credit provider's registration, under the *ACT Civil and Administrative Tribunal Act 2008*, section 66 (2) (g).
- (2) The credit provider must, on written notice from the commissioner and within 14 days after the date of the notice, return the certificate of registration to the commissioner to allow the commissioner—
  - (a) to place the condition on the registration; or

(b) to remove or amend the condition on the registration.

Maximum penalty: 10 penalty units.

**24AE      Offence—return suspended or cancelled registration**

If the ACAT suspends or cancels the registration of a credit provider, the credit provider must return the certificate of registration to the commissioner within 14 days after the date of suspension or cancellation.

Maximum penalty: 10 penalty units.

**24AF      Offence—disqualified credit providers to have no concern in credit businesses**

A person who is disqualified from obtaining registration as a credit provider by the ACAT must not exercise a function in relation to the direction, management or control of a business providing consumer credit or a finance broking business during the disqualification period.

Maximum penalty: 50 penalty units.

**Division 2.5            General**

**24A      Civil penalties—credit providers**

- (1) This section applies if—
  - (a) a credit provider’s registration was or is suspended or cancelled under this part or by the ACAT; and
  - (b) the credit provider provides consumer credit to a debtor while the registration is suspended or cancelled.
- (2) This section also applies if—
  - (a) a credit provider is not, or was not, registered under this part nor exempted under division 2.1 (Exemptions); and

- (b) the commissioner has directed the credit provider to become registered within a particular time; and
  - (c) the credit provider has not become registered, and not been exempted, within the time; and
  - (d) the credit provider provides consumer credit to a debtor after the time for complying with the direction while unregistered and not exempted.
- (3) If this section applies under subsection (1) or (2), the debtor is not liable to pay an amount under the credit contract that would, apart from this subsection, have been payable during the period of suspension or cancellation or while the credit provider was unregistered and not exempted.
- (4) An amount is recoverable by a debtor as a debt payable by a credit provider if—
- (a) under subsection (3), the debtor is not liable to pay the amount under a credit contract; but
  - (b) the debtor has paid the amount.
- (5) This section does not affect any liability of a person to be convicted or found guilty of an offence.
- (6) In this section, to remove any doubt, a *credit provider* is a credit provider under section 19.

## **25 Death of registered credit provider**

- (1) If a registered credit provider dies, the credit provider's legal personal representative may apply to the commissioner to take over the registration for a period of 6 months after the death.
- (2) An application under subsection (1) shall be—
  - (a) lodged within 28 days after the death of the registered credit provider, or within such an extended period as the commissioner allows; and

- (b) accompanied by the deceased credit provider's registration certificate.
- (3) On application in accordance with this section, the commissioner shall register the applicant unless the applicant is disqualified from registration—
  - (a) as a credit provider under this part or by the ACAT; or
  - (b) as a finance broker under part 3 or by the ACAT.
- (4) If an application is granted, the commissioner shall endorse the registration certificate with the name of the applicant and the term of registration and return it to the applicant.
- (5) For this part, a successful applicant under this section is to be taken to be registered as a credit provider subject to the condition that the registration is to terminate—
  - (a) at the expiration of 6 months after the death of the original registered credit provider; or
  - (b) if an application by the new registered credit provider to become the original registered credit provider's legal personal representative is rejected at an earlier date—on the date of the rejection.
- (6) In this section:  
*legal personal representative*, in relation to a registered credit provider, includes—
  - (a) a person who is named as the credit provider's legal personal representative; and
  - (b) a person who intends to apply to become the credit provider's legal personal representative.

**26 Register of credit providers**

- (1) For this Act and the *Credit Act 1985*, the commissioner shall keep a register to be known as the register of credit providers including particulars of registration of all registered credit providers.
- (2) The register shall be kept in such form and manner as the commissioner thinks fit.

**27 Access to register**

On application to the commissioner in writing, a person may—

- (a) inspect the register of credit providers; and
- (b) obtain a copy of, or an extract from, the register.

*Note* A fee may be determined under s 140 (Determination of fees) for this section.

## Part 3 Finance broking

### Division 3.1 Exemptions

#### 29 Exemption—particular entities

Division 3.2 (Finance broking) and division 3.3 (Registration of finance brokers) do not apply to the following entities:

- (a) a bank;
- (b) a financial institution;
- (c) a lawyer while acting in the ordinary course of the profession of lawyer;
- (d) a registered company auditor within the meaning of the Corporations Act, while acting in the ordinary course of the profession of public accountant;
- (e) a body corporate registered under the *Life Insurance Act 1995* (Cwlth);
- (f) a body corporate authorised under the *Insurance Act 1973* (Cwlth) to carry on insurance business;
- (g) unless the *Insurance Act 1973* (Cwlth), part 7 has ceased to have effect—a Lloyd's underwriter, being an underwriter of the society known as Lloyd's incorporated by the Imperial Act known as *Lloyd's Act 1871*;
- (h) a dealer under, or a recognised dealer under, the *Security Industry Act 1980* (Cwlth) while acting in the ordinary course of the business of a dealer within the meaning of that Act;
- (i) the curator of estates of deceased persons within the meaning of the *Public Trustee Act 1985*;

- (j) the public trustee within the meaning of the *Public Trustee Act 1985*;
- (k) a trustee company within the meaning of the *Trustee Companies Act 1947*.

**30 Exemption—finance broking in the course of another business**

Division 3.2 (Finance broking) and division 3.3 (Registration of finance brokers) do not apply to a person (the *exempt person*) who carries on a genuine business of selling land or supplying goods or services (whether as principal or agent) if—

- (a) the exempt person acts as a finance broker in relation to the provision of consumer credit exclusively for a person (the *client*) who deals with the exempt person in the ordinary course of that business; and
- (b) the client has given written authority for such credit to be applied in payment for land, goods or services sold or supplied in the course of that business.

**31 Exemption—Ministerial determination**

- (1) A provision of this part does not apply in relation to a finance broker if a determination under subsection (2) is in force exempting that person from the application of the provision, to the extent set out in the determination.
- (2) The Minister may, in writing, make a determination exempting a finance broker from the application of this part, in part or in whole, and to the extent set out in the determination.
- (3) A determination under subsection (2) is a disallowable instrument.

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

## Division 3.2 Finance broking

### 32 Registration as a finance broker

- (1) A person shall not act as a finance broker unless the person is registered as a finance broker.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) An individual shall not hold himself or herself out as a finance broker unless the person is registered as a finance broker.

Maximum penalty: 30 penalty units.

- (3) A body corporate shall not hold itself out as a finance broker unless it is registered as a finance broker.

Maximum penalty: 30 penalty units.

### 33 Advertising

A finance broker shall not publish, or cause to be published, whether in a newspaper or otherwise, an advertisement in connection with the broker's business as a finance broker without specifying in the advertisement—

- (a) a name under which the broker is authorised to act as a finance broker under section 41; and  
(b) the address of a place of business in respect of that name where the broker is authorised to act as a finance broker.

Maximum penalty: 10 penalty units.

### 34 Records

- (1) A finance broker shall make, or cause to be made, a full record of the particulars of a finance broking transaction as soon as practicable after entering into the transaction.

Maximum penalty: 20 penalty units.



- (2) A finance broker shall preserve a record made under subsection (1) for the period of 3 years immediately following the date of the transaction.

Maximum penalty: 20 penalty units.

### **35 Commissions**

- (1) A finance broker shall not demand, receive or accept any commission for a finance broking transaction unless the transaction is effected under a written agreement—

(a) signed by the person charged, or to be charged, with the payment of the commission; and

(b) containing particulars of the amount of credit to be obtained, the term of the credit and the maximum amount of interest and other charges to be paid in respect of the credit.

Maximum penalty: 50 penalty units.

- (2) A finance broker must not demand, receive or accept any commission for a finance broking transaction in excess of the maximum prescribed by the regulations (plus any GST payable in relation to the commission).

Maximum penalty: 50 penalty units.

- (3) A finance broker shall not demand, receive or accept any commission for a finance broking transaction before securing the credit in respect of which the commission is charged.

Maximum penalty: 50 penalty units.

- (4) A finance broker shall not demand, receive or accept any commission for a finance broking transaction if the credit secured—

(a) is for an amount less than the amount specified in the terms of the agreement to act as a finance broker required under subsection (1); or

- (b) is at a rate of interest, or for a charge, greater than the rate or charge specified in the terms of that agreement; or
- (c) is for a term less than the term specified in that agreement.

Maximum penalty: 50 penalty units.

- (5) In proceedings for an offence against this section, the court may, if it finds the finance broker guilty of the offence (whether or not it proceeds to conviction), order the finance broker—
  - (a) to refund any amount received or accepted by the finance broker in contravention of this section; and
  - (b) to pay interest on such an amount at such rate as is fixed by the court, not exceeding the rate prescribed by the regulations, from the time of the receipt or acceptance of the amount until the time it is refunded.
- (6) In this section:  
*commission*, for a finance broking transaction—
  - (a) means a commission from a debtor on behalf of whom the credit to which the transaction relates is being sought; but
  - (b) does not include a commission from a credit provider in relation to the transaction.

### 36 Valuation fees

- (1) Nothing in section 35 prohibits a finance broker from demanding, receiving or accepting at any time an amount equal to the estimated cost of obtaining a valuation of any security offered for any proposed credit.
- (2) Subsection (1) applies only if—
  - (a) the cost of the valuation is estimated on the basis of the fees (if any) prescribed by the regulations as the maximum fees for such valuations; and

- (b) any amount paid for the valuation is held in trust by the finance broker to pay the costs of the valuation and to repay the balance of any such amount to the person who paid it.

**37 False statements about credit provision**

A finance broker shall not induce, or attempt to induce, a person to enter into an agreement in relation to the provision of consumer credit by making a statement or representation that is false or misleading by reason of—

- (a) the inclusion of matter that the finance broker knows to be false or misleading; or
- (b) the inclusion of matter that the finance broker has no reasonable grounds for believing to be true; or
- (c) the inclusion of matter that the finance broker has no reasonable grounds for believing to be accurate; or
- (d) the omission of any material matter that the finance broker knows to be material, except if the finance broker believes on reasonable grounds that such an omission would not make the statement or representation false or misleading.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

**38 Authorised names**

- (1) A registered finance broker shall not act as a finance broker otherwise than under the finance broker's name or another name under which the broker is authorised to act under section 41.

Maximum penalty: 50 penalty units.

- (2) A registered finance broker who is an individual shall not hold himself or herself out as a finance broker otherwise than under his or her name or another name under which he or she is authorised under section 41 to act as a finance broker.

Maximum penalty: 50 penalty units.

- (3) A registered finance broker that is a body corporate shall not hold itself out as a finance broker otherwise than under the body's name or another name under which the body is authorised under section 41 to act as a finance broker.

Maximum penalty: 50 penalty units.

### **39 Partnerships**

A registered finance broker shall not carry on a business of finance broking in partnership with a person who is not registered as a finance broker.

Maximum penalty: 50 penalty units.

### **40 Proof of finance broking offences**

A finance broker is not liable to be convicted of an offence against this division unless it is proved that—

- (a) the finance broker knew or had reasonable cause to suspect that the credit to which the proceedings relate was, or was to be, consumer credit in whole or in part; or
- (b) if the finance broker had made reasonable inquiries, the finance broker would have known or had reasonable cause to suspect that the credit to which the proceedings relate was, or was to be, consumer credit in whole or in part.

## **Division 3.3                      Registration of finance brokers**

### **41                      Authority given by registration**

Subject to the consumer credit legislation and the *Business Names Act 1963*, registration as a finance broker authorises the registered person to act as a finance broker under the person's name and under any other name endorsed on the registration certificate.

### **42                      Application for registration**

- (1) An application for registration as a finance broker may be made to the commissioner in writing—
- (a) by an individual who has attained the age of 18 years; or
  - (b) by a body corporate.

*Note 1* A fee may be determined under s 140 (Determination of fees) for this section.

*Note 2* If a form is approved under section 140A (Approved forms) for an application, the form must be used.

- (2) An application shall specify—
- (a) the applicant's name and address; and
  - (b) if the applicant is a body corporate—the name and address of each director of the body; and
  - (c) the name or names under which the applicant intends to carry on business as a credit provider in the ACT; and
  - (d) the address of each place where the applicant intends to carry on business as a finance broker in the ACT, indicating which of these is the principal place of business; and
  - (e) whether the applicant's business as a finance broker is to be carried on in partnership with any other person; and
  - (f) any other matters prescribed by the regulations.

- (3) An applicant for registration shall provide the commissioner with such particulars additional to those included in the application as the commissioner may require.

### **43 Registration**

- (1) On an application for registration as a finance broker in accordance with section 42, the commissioner shall register the applicant unless the applicant is disqualified from registration—
- (a) as a finance broker under this part; or
- (b) as a credit provider under part 2.

*Note 1* A fee may be determined under s 140 (Determination of fees) for this section.

*Note 2* If a form is approved under section 140A (Approved forms) for an application under this section or a registration certificate, the form must be used.

- (2) On registering a person as a finance broker, the commissioner shall issue a registration certificate to the person.
- (3) If a registration certificate issued to a finance broker, or any duplicate subsequently issued to the finance broker under this subsection, has been stolen, lost or destroyed, the commissioner must, on application by the finance broker, issue a duplicate.

### **44 Endorsement of names**

- (1) On registration, or on application by a registered finance broker under subsection (2), the commissioner shall endorse the registration certificate with the name of the registered finance broker and any additional name or names under which the registered person intends to carry on, or carries on, business as a finance broker.
- (2) On written application by a registered finance broker (accompanied by the registration certificate), the commissioner shall add, amend or omit an endorsement of a name on the registration certificate in accordance with the application.

**45 Changed particulars**

A registered finance broker shall give written notice to the commissioner specifying any change in the particulars notified on application for registration, or in particulars subsequently notified under this section, within 14 days after the change.

Maximum penalty: 10 penalty units.

**46 Term of registration**

Registration as a finance broker continues in force until it is surrendered or cancelled, except during any period during which the registration is suspended.

**47 Annual fee and statement**

- (1) A registered finance broker shall lodge with the commissioner the annual fee on or before 27 March each year, or within such extended period as the commissioner allows under subsection (3).
- (2) A person who has been a registered finance broker at any time during the period of 12 months before 28 February in each year shall, on or before 27 March in that year, or within such extended period as the commissioner allows under subsection (3), lodge with the commissioner a statement in respect of that part of the period of 12 months before 28 February in that year during which the person acted as a finance broker.

*Note* If a form is approved under section 140A (Approved forms) for the statement, the form must be used.

- (3) The commissioner may, in writing, extend, or further extend, the period for compliance with subsection (1) or (2) on application before the expiry of the period by the person required to comply with the subsection.

- (4) A person who is not registered as a finance broker who fails to comply with subsection (2) commits an offence.

Maximum penalty: 20 penalty units.

- (5) In this section:

*annual fee* means the annual fee determined under section 140 (Determination of fees) for this section.

*registered finance broker*, in relation to the period of 12 months before 28 February in any year, includes a person whose registration was suspended for any part of that period, or for the whole of that period.

#### **48 Cancellation of registration for failure to pay fee or provide statement**

- (1) If a registered finance broker fails to lodge a fee or a statement in accordance with section 47, the commissioner shall give the finance broker written notice that the registration will be cancelled unless the fee or statement is lodged within a specified period (being a period of not less than 14 days after the date of the notice).
- (2) If a registered finance broker fails to pay a fee or lodge a statement in accordance with a notice under subsection (1), the commissioner shall—
- (a) cancel the registration; and
  - (b) disqualify the finance broker from obtaining registration as a finance broker or as a credit provider until such time as the fee is paid or the statement is lodged, as the case requires.



## **49 Surrender of registration**

- (1) A registered finance broker may surrender the registration by written notice to the commissioner accompanied by the registration certificate, subject to this section.
- (2) If the commissioner has applied to the ACAT for occupational discipline in relation to the registered finance broker, the finance broker must not surrender the registration before the ACAT has decided the application.
- (3) On application by a person who has surrendered registration, the commissioner shall return to the person so much as the commissioner thinks fit of the fee last paid by the person under section 47 (1).
- (4) In this section:

*registered finance broker* includes a person whose registration as a finance broker is suspended.

## **Division 3.3A Complaints—finance brokers**

### **49A Meaning of *finance broker*—div 3.3A**

In this division:

*finance broker*, in relation to an act or omission, means a registered person or a person who was registered at the time of the act or omission.

## 49B Who may complain?

Anyone who believes on reasonable grounds that a ground for occupational discipline exists in relation to a finance broker may complain to the commissioner.

### Examples—people who may complain

- 1 a member of the public
- 2 a user of a service

*Note 1* **Ground for occupational discipline**—see s 51.

*Note 2* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

## 49C Form of complaint

- (1) A complaint must—
  - (a) be in writing; and
  - (b) be signed by the person (the *complainant*) making the complaint; and
  - (c) include the complainant's name and address.
- (2) However, the commissioner may accept a complaint for consideration even if it does not comply with subsection (1).
- (3) If the commissioner accepts for consideration a complaint that is not in writing, the commissioner must require the complainant to put the complaint in writing unless there is a good reason for not doing so.

## 49D Withdrawal of complaints

- (1) A complainant may withdraw the complaint at any time by written notice to the commissioner.
- (2) If the complainant withdraws the complaint, the commissioner—
  - (a) need not take further action on the complaint; and

- (b) may take further action on the complaint if the commissioner considers it appropriate to do so; and
- (c) need not report to the complainant under section 49H (Action after investigating complaint) on the results of taking the action.

**49E Further information about complaint etc**

- (1) The commissioner may, at any time, require a complainant—
  - (a) to give the commissioner further information about the complaint; or
  - (b) to verify all or part of the complaint by statutory declaration.
- (2) When making a requirement under this section, the commissioner must give the complainant a reasonable period of time to satisfy the requirement and may extend that period, whether before or after it ends.
- (3) If the complainant does not comply with a requirement under subsection (1), the commissioner need not, but may, take further action in relation to the complaint.

**49F Investigation of complaint**

The commissioner must take reasonable steps to investigate each complaint the commissioner accepts for consideration.

**49G No further action on complaint**

The commissioner must not take further action on a complaint if satisfied that—

- (a) the complaint lacks substance; or
- (b) the complaint is frivolous, vexatious or was not made genuinely; or

(c) the complaint has been adequately dealt with.

*Note* The commissioner may also take no further action on a complaint if the complainant has not complied with a requirement made under s 49E (see s 49E (3)).

#### **49H Action after investigating complaint**

- (1) After investigating a complaint against a finance broker, the commissioner must—
  - (a) if satisfied on reasonable grounds that a ground for occupational discipline exists in relation to the complaint—
    - (i) apply to the ACAT for an occupational discipline order in relation to the finance broker; and
    - (ii) tell the complainant in writing that the application has been made; or
  - (b) if not satisfied that a ground for occupational discipline exists in relation to the complaint—
    - (i) tell the complainant in writing that the commissioner will not take further action on the complaint; and
    - (ii) not take further action on the complaint.
- (2) Subsection (1) (b) (ii) does not prevent the commissioner from taking further action in relation to a complaint if the commissioner becomes satisfied that a ground for occupational discipline exists in relation to the complaint.

*Note* The commissioner need not notify the complainant under s (1) if the complainant has withdrawn the complaint (see s 49D).

## Division 3.4 Occupational discipline—finance brokers

### 50 Meaning of *finance broker*—div 3.4

In this division, to remove any doubt:

*finance broker* includes the following:

- (a) an unregistered finance broker;
- (b) a finance broker whose registration is suspended;
- (c) an entity exempted under section 29 (Exemption—particular entities) or section 30 (Exemption—finance broking in the course of another business);
- (d) an entity that pretends to be a finance broker.

### 51 Grounds for occupational discipline

Each of the following is a *ground for occupational discipline* in relation to a finance broker:

- (a) the finance broker has exercised the functions of a finance broker inefficiently, dishonestly or unfairly;
- (b) the finance broker has provided false or misleading information to the commissioner in relation to an application for registration under this Act;
- (c) the finance broker has contravened, or is contravening—
  - (i) the consumer credit legislation; or
  - (ii) an occupation discipline order; or
  - (iii) an undertaking under section 105;
- (d) the finance broker has exercised the functions of a finance broker while the finance broker's registration was suspended or cancelled, or while the finance broker was disqualified;

- (e) if the finance broker was licensed at any time under the *Credit Act 1985*—
  - (i) the finance broker provided false or misleading information in relation to an application for the licence; or
  - (ii) the finance broker breached a condition to which the licence was subject.

**52 Application to ACAT for occupational discipline—finance brokers**

If the commissioner believes on reasonable grounds that a ground for occupational discipline exists in relation to a finance broker, the commissioner may apply to the ACAT for an occupational discipline order in relation to the finance broker.

**53 Orders for occupational discipline**

- (1) This section applies if the ACAT may make an occupational discipline order in relation to a finance broker.

*Note* The *ACT Civil and Administrative Tribunal Act 2008*, s 65 sets out when the ACAT may make an order.

- (2) In addition to any other occupational discipline order the ACAT may make, the ACAT may make 1 or more of the following occupational discipline orders in relation to the finance broker:
  - (a) suspend the registration for a period not longer than 1 year;
  - (b) cancel the registration and disqualify the finance broker from obtaining registration as a finance broker or as a credit provider for a stated period;

- (c) disqualify the finance broker, or a stated defined influential person in relation to the finance broker, from obtaining registration as a finance broker or as a credit provider for a stated period.

*Note* The *ACT Civil and Administrative Tribunal Act 2008*, s 66 sets out other occupational discipline orders the ACAT may make.

#### **54 Finance broker not liable for penalties**

- (1) This section applies if—
  - (a) a finance broker has been convicted of an offence; and
  - (b) the conduct giving rise to the offence forms, wholly or partly, a ground for occupational discipline in relation to the finance broker.
- (2) The finance broker is not liable to pay any amount ordered to be paid by the ACAT under the *ACT Civil and Administrative Tribunal Act 2008*, section 66 (2) (h) in relation to the conduct.

#### **55 Extension of time for complying with directions**

- (1) The ACAT may extend the time for complying with an ACAT order in relation to a finance broker.
- (2) The extension may be made—
  - (a) before or after the end of the time for compliance given in the order; and
  - (b) on application by the finance broker or on the ACAT's own initiative.

#### **55AA Powers of inquiry**

- (1) The commissioner may make the inquiries about a finance broker for this division that the commissioner considers appropriate.
- (2) The chief police officer must—

- (a) make any reasonable inquiry about a credit provider asked for by the commissioner; and
  - (b) report on the outcome of the inquiry to the commissioner.
- (3) In this section:
- finance broker* includes—
- (a) a defined influential person in relation to a finance broker; and
  - (b) an employee of a finance broker.

**55AB Cancellation or suspension for insolvency etc**

- (1) This section applies to a finance broker if the finance broker is—
- (a) an individual and—
    - (i) becomes bankrupt, executes a personal insolvency agreement or otherwise applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
    - (ii) is convicted in the ACT or elsewhere of an offence involving fraud or dishonesty punishable, on conviction, by imprisonment for 3 months or more; or
    - (iii) has a mental incapacity that affects the exercise of the credit provider's functions; or
  - (b) a body corporate and—
    - (i) is dissolved, is under administration, is being wound up or has ceased to carry on business; or
    - (ii) if a receiver, or a receiver and manager, has been appointed under the Corporations Act in relation to any property of the body; or
    - (iii) has entered into a compromise or scheme of arrangement with its creditors.



- (2) The commissioner may suspend the finance broker's registration for a stated period or cancel the registration.
- (3) If the commissioner cancels the registration of a finance broker, the commissioner must disqualify the finance broker from obtaining registration as a finance broker or credit provider for the period stated in the notice of cancellation under section 129.
- (4) On application by the finance broker, the commissioner may—
  - (a) remove the finance broker's suspension at any time before the expiry of the stated period of suspension; or
  - (b) revoke the finance broker's disqualification at any time before the expiry of the stated period of disqualification.

## **Division 3.4A      Offences—finance brokers**

### **55AC      Offence—comply with orders**

A finance broker must comply with an order of the ACAT under the *ACT Civil and Administrative Tribunal Act 2008*, section 66 (2) (d), (h) or (i).

Maximum penalty: 50 penalty units.

### **55AD      Offence—return registration for conditions**

- (1) This section applies if the ACAT directs the commissioner to place a condition on a finance broker's registration, or to remove or amend a condition on a finance broker's registration, under the *ACT Civil and Administrative Tribunal Act 2008*, section 66 (2) (g).
- (2) The finance broker must, on written notice from the commissioner and within 14 days after the date of the notice, return the certificate of registration to the commissioner to allow the commissioner to—
  - (a) place the condition on the registration; or

(b) remove or amend the condition on the registration.

Maximum penalty: 10 penalty units.

**55AE Offence—return suspended or cancelled registration**

If the ACAT suspends or cancels the registration of a finance broker, the finance broker must return the certificate of registration to the commissioner within 14 days after the date of suspension or cancellation.

Maximum penalty: 10 penalty units.

**55AF Offence—disqualified finance brokers**

A person who is disqualified from obtaining registration as a finance broker by order of the ACAT must not exercise any function in relation to the direction, management or control of a finance broking business or a business providing consumer credit during the disqualification period.

Maximum penalty: 50 penalty units.

**Division 3.5 General**

**55A Civil penalties—finance brokers**

- (1) This section applies if—
  - (a) the registration of a finance broker was or is suspended or cancelled under this part or by the ACAT; and
  - (b) the finance broker is involved in finance broking and for that purpose enters into a contract with a debtor while the registration is suspended or cancelled.
- (2) This section also applies if—
  - (a) a finance broker is or was not registered under this part nor exempted under division 3.1 (Exemptions); and

- (b) the commissioner has directed the finance broker to become registered within a particular time; and
  - (c) the finance broker has not become registered, and not been exempted, within the time; and
  - (d) the finance broker is involved in finance broking and for that purpose enters into a contract with a debtor after the time for complying with the direction while unregistered and not exempted.
- (3) If this section applies under subsection (1) or (2), the debtor is not liable to pay any amount under the contract.
- (4) An amount is recoverable by a debtor as a debt payable by a finance broker if—
- (a) under subsection (3), the debtor is not liable to pay the amount under a contract; but
  - (b) the debtor has paid the amount.
- (5) This section does not affect any liability of a person to be convicted or found guilty of an offence.
- (6) In this section, to remove any doubt, a *finance broker* is a finance broker under section 50.

## **56 Death of registered finance broker**

- (1) If a registered finance broker dies, the finance broker's legal personal representative may apply to the commissioner to take over the registration for a period of 6 months after the death.
- (2) An application under subsection (1) shall be—
- (a) lodged within 28 days after the death of the registered finance broker, or within such an extended period as the commissioner allows; and

- (b) accompanied by the deceased finance broker's registration certificate.
- (3) On application in accordance with this section, the commissioner shall register the applicant unless the applicant is disqualified from registration—
  - (a) as a finance broker under this part or by the ACAT; or
  - (b) as a credit provider under part 2 or by the ACAT.
- (4) If an application is granted, the commissioner shall endorse the registration certificate with the name of the applicant and the term of registration and return it to the applicant.
- (5) For this part, a successful applicant under this section is to be taken to be registered as a finance broker subject to the condition that the registration is to terminate—
  - (a) at the expiration of 6 months after the death of the original registered finance broker; or
  - (b) if an application by the new registered finance broker to become the original registered finance broker's legal personal representative is rejected at an earlier date—on the date of the rejection.
- (6) In this section:  
*legal personal representative*, in relation to a registered finance broker, includes—
  - (a) a person who is named as the finance broker's legal personal representative; and
  - (b) a person who intends to apply to become the finance broker's legal personal representative.

**57 Register of finance brokers**

- (1) For this Act and the *Credit Act 1985*, the commissioner shall keep a register to be known as the register of finance brokers including particulars of registration of all registered finance brokers.
- (2) The register shall be kept in such form and manner as the commissioner thinks fit.

**58 Access to register**

On application to the commissioner in writing, a person may—

- (a) inspect the register of finance brokers; and
- (b) obtain a copy of, or an extract from, the register.

*Note* A fee may be determined under s 140 (Determination of fees) for this section.

**59 False or misleading statements**

A person shall not make a statement in purported compliance with this part that is false or misleading by reason of—

- (a) the inclusion of matter in the statement that the person knows to be false or misleading; or
- (b) the inclusion of matter in the statement that the person has no reasonable grounds for believing to be true; or
- (c) the inclusion of matter in the statement that the person has no reasonable grounds for believing to be accurate; or
- (d) the omission from the statement of any material matter that the person knows to be material, except if the person believes on reasonable grounds that such an omission would not make the statement false or misleading.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

## Part 5                            Inquiries

### 99            **Meaning of *inquirer*—pt 5**

In this part:

*inquirer*—see section 100.

### 100           **Executive may order inquiry**

- (1) The Executive may appoint 1 of the following entities (the *inquirer*) to inquire into matters about the provision of credit, or the consequences of the provision of credit:

- (a) the commissioner;
- (b) another entity.

*Note 1* For the making of appointments (including acting appointments), see the Legislation Act, pt 19.3.

*Note 2* In particular, a person may be appointed for a particular provision of a law (see Legislation Act, s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see Legislation Act, s 207).

- (2) The appointment is subject to any condition stated in the appointment.
- (3) Subject to the appointment, the inquirer has the functions given under this part.

*Note*     **Function** includes power and **under** includes by (see Legislation Act, dict, pt 1).

- (4) The appointment is a notifiable instrument.

*Note*     A notifiable instrument must be notified under the Legislation Act.

- (5) The Executive must also publish the terms of each appointment in a daily newspaper circulating in the ACT.

**101 Notice of inquiry**

- (1) Before beginning an inquiry, the inquirer must prepare a written notice setting out the following matters in relation to the inquiry:
  - (a) the way in which the inquiry will be held;
  - (b) the subject matter of the inquiry;
  - (c) the time and day and location of the inquiry.
- (2) The notice may include anything else the inquirer considers appropriate.
- (3) The notice is a notifiable instrument.

*Note* A notifiable instrument must be notified under the Legislation Act.

- (4) The inquirer must also publish the notice in a daily newspaper circulating in the ACT.

**102 Application of Inquiries Act 1991**

The *Inquiries Act 1991*, part 3 (other than sections 14 and 14A) and part 4 apply in relation to an inquiry under this part as if, in those provisions—

- (a) a reference to an inquiry were a reference to an inquiry under this part; and
- (b) a reference to any of the following were a reference to the inquirer:
  - (i) a board of inquiry;
  - (ii) the chairperson of a board of inquiry;
  - (iii) a member of a board of inquiry.

**103       Findings and recommendations**

On finishing an inquiry, the inquirer must, as soon as practicable—

- (a) give a written report of the results of the inquiry to the Minister; and
- (b) make the recommendations in the report about the results that the inquirer thinks fit.



## Part 6 Unjust conduct

### 105 Undertakings

- (1) If the commissioner is satisfied that a person has engaged in unjust conduct as a credit provider or finance broker, the commissioner may, with the consent of the Minister—
  - (a) request the person to give an undertaking in respect of 1 or more of the following matters by a deed approved by the commissioner:
    - (i) refraining from that conduct;
    - (ii) rectifying its consequences;
    - (iii) future conduct by the person; or
  - (b) apply to the ACAT for an order under section 107 (1).
- (2) The commissioner must not apply for an order under section 107 (1) in relation to the conduct that is in accordance with an undertaking.
- (3) A person shall not contravene an undertaking.  
Maximum penalty: 100 penalty units.
- (4) A prosecution for an offence against subsection (3) must not be begun except by the commissioner with the leave of the ACAT.

### 106 Registration of undertakings

- (1) The commissioner shall—
  - (a) keep a register containing the prescribed particulars in respect of each undertaking referred to in section 105; and
  - (b) ensure that the register is available for public inspection free of charge at the office of the commissioner.

- (2) The register shall be kept in such form and manner as the commissioner thinks fit.
- (3) The commissioner shall—
  - (a) retain each deed by which an undertaking is given; and
  - (b) give a copy of the deed to—
    - (i) the person who gave the undertaking; and
    - (ii) the registrar of the ACAT.

### 107 Orders by ACAT

- (1) The commissioner may apply to the ACAT for an order under this section in relation to a person.
- (2) On application, the ACAT may make the following orders:
  - (a) if satisfied that the person has engaged in unjust conduct—require the person to refrain from engaging in the conduct;
  - (b) if satisfied that the person has contravened an undertaking under section 105—require the person to comply with the undertaking within a stated period;
  - (c) if satisfied that the person has engaged in defined conduct—prohibit the person from engaging in the defined conduct.
- (3) In this section, a person engages in *defined conduct* if the person—
  - (a) is a defined influential person in relation to a body corporate; and
  - (b) has consented to or connived at—
    - (i) the body corporate engaging in unjust conduct as a credit provider or finance broker; or
    - (ii) the body corporate contravening an undertaking mentioned in section 105.

- (4) An order under this section is subject to any condition stated in the order.
- (5) This section does not limit the orders the ACAT may make.

### **108      Contravention of orders**

- (1) A person who contravenes an order under section 107 (1) commits an offence.

Maximum penalty: 100 penalty units.

- (2) A person who contravenes an order under section 107 (2) commits an offence.

Maximum penalty: 100 penalty units.

- (3) A person who contravenes an order under section 107 (3) commits an offence.

Maximum penalty: 100 penalty units.

## Part 7                    Role of commissioner

### Division 7.1            Functions generally

#### 109                    Functions

In addition to any other functions given to the commissioner under the consumer credit legislation, the commissioner has the following functions:

- (a) to investigate complaints about matters relating to the consumer credit legislation received by the commissioner from credit providers, debtors, finance brokers and other persons who might reasonably be taken to have an interest in the matters complained about, and to provide advice to complainants about those matters;
- (b) to conduct, on his or her own initiative, other investigations and research about matters relating to the consumer credit legislation;
- (c) to give to, and exchange information with, persons who, under a law of a State or another Territory, have functions similar to those given to the commissioner under the consumer credit legislation;
- (d) to commence and conduct proceedings for offences against the consumer credit legislation;
- (e) at the request of the ACAT, to prepare reports for, and to provide other assistance to, the ACAT.

*Note*                    A provision of a law that gives an entity (including a person) a function also gives the entity the powers necessary and convenient to exercise the function (see Legislation Act, s 196 (1) and dict, pt 1, defs of *entity* and *function*).

## **Division 7.2                      Functions in relation to proceedings**

### **111                      Representing other people before ACAT**

- (1) Despite anything in the consumer credit legislation, the commissioner may represent a party in a proceeding before the ACAT.
- (2) For subsection (1), the commissioner may—
  - (a) appear in person; or
  - (b) be represented by a legal practitioner or another person.

### **112                      Taking or defending proceedings for other people**

- (1) This section applies to a complaint about a matter arising under the consumer credit legislation made by—
  - (a) an individual; or
  - (b) a strata corporation under the Credit Code.
- (2) The commissioner may begin or defend a proceeding on behalf of, and in the name of, the complainant.
- (3) However, the commissioner may begin or defend a proceeding only if—
  - (a) the commissioner is satisfied that—
    - (i) the complainant has a right to begin or defend the proceeding—
      - (A) in a court or the ACAT; and
      - (B) in relation to the matter complained about; and
    - (ii) it would be in the public interest for the commissioner to take or defend the proceeding on behalf of the complainant; and

- (b) the commissioner has the written consent of the complainant and the Minister.
- (4) A complainant who has given consent under subsection (3) (b) cannot revoke the consent after the commissioner has taken a step in the proceeding unless the commissioner agrees.

**113 Conduct of proceedings so taken or defended**

- (1) This section applies in relation to proceedings being taken or defended by the commissioner under section 112.
- (2) The commissioner shall have the conduct of the proceedings on behalf of the complainant.
- (3) The commissioner may—
  - (a) appear in person; or
  - (b) despite any other law in force in the ACT, be represented by a lawyer or another person.
- (4) The commissioner may do anything necessary or expedient to be done to give effect to an order or decision of the court or ACAT.
- (5) The complainant is liable to pay any amount (other than an amount for costs) that the complainant is ordered by the court or ACAT to pay.
- (6) The Territory is liable to pay the costs of the complainant, including any costs awarded against the complainant.

**114 Intervention by Minister or commissioner**

- (1) The Minister or commissioner may intervene in a proceeding under the consumer credit legislation before a court or the ACAT if satisfied that it would be in the public interest to do so.
- (2) However—

- (a) the commissioner must only intervene with the Minister's consent; and
  - (b) the Minister and commissioner must not intervene in a proceeding for an offence.
- (3) If the Minister or commissioner intervenes in a proceeding, the Minister or commissioner—
- (a) is, by force of this section, a party to the proceeding; and
  - (b) may—
    - (i) appear in person; or
    - (ii) despite any other law in force in the ACT, be represented by a legal practitioner or another person.

**115 Presumption that Minister has consented**

If the commissioner—

- (a) takes or defends proceedings under section 112; or
- (b) intervenes in proceedings under section 114;

it shall be presumed that the Minister consented to the commissioner doing so, but that presumption is rebuttable.

**116 Investigation of certain applications to ACAT**

Before an application under the *Credit Act 1985*, section 86, or the Credit Code, section 101, is heard, the commissioner must, if required to do so by the ACAT, investigate the application and report the findings to the ACAT.

## Division 7.3                      Powers in relation to investigations

### 117                      Investigators

An investigation for section 109 (a) or (b) may be made by the commissioner or a person authorised, in writing, by the commissioner.

*Note 1*    An *investigator* is the commissioner or a person authorised under this section (see the dictionary, definition of *investigator*).

*Note 2*    For the issue of an identity card to an investigator, see the *Fair Trading (Consumer Affairs) Act 1973*, section 10.

### 118                      Powers of entry and inspection

- (1) An investigator may—
  - (a) for the purpose of ensuring that the consumer credit legislation is being complied with, enter—
    - (i) any premises (other than residential premises) at any reasonable time; or
    - (ii) any premises with the consent of the occupier or a person apparently in charge of the premises; or
  - (b) enter any premises under a search warrant.
- (2) An investigator may enter premises under subsection (1)—
  - (a) with such assistance; and
  - (b) when entering under a warrant—with such force;as is necessary and reasonable.
- (3) An investigator who enters premises under subsection (1) is not authorised to remain on the premises if the investigator does not produce his or her identity card for inspection if asked to do so by the occupier or a person apparently in charge of the premises.



- (4) If an investigator enters premises under subsection (1), the investigator may—
- (a) inspect any record found on the premises; and
  - (b) take copies of and extracts from any such records; and
  - (c) require any person on the premises to—
    - (i) make available any record kept on the premises; and
    - (ii) furnish information; and
    - (iii) answer questions.

## **119 Consent to entry**

- (1) Before obtaining the consent of a person to enter premises for section 118 (1) (a) (ii), an investigator must—
- (a) show the person his or her identity card; and
  - (b) tell the person that the person may refuse to give consent.
- (2) If an investigator obtains the consent of a person for section 118 (1) (a) (ii), the investigator shall ask the person to sign a written acknowledgment of—
- (a) the fact that the person has been informed that he or she may refuse to give consent; and
  - (b) the fact that the person has voluntarily given consent; and
  - (c) the day and the time when the consent was given.
- (3) An entry by an investigator under a person's consent is not lawful unless the consent was voluntary.
- (4) If—
- (a) it is material, in any proceedings, for a court to be satisfied that the consent of a person for section 118 (1) (a) (ii) was voluntary; and

- (b) an acknowledgment, in accordance with subsection (2), signed by the person is not produced in evidence;

the court shall assume, unless the contrary is proved, that the consent was not voluntary.

## **120              Search warrants**

- (1) If—
  - (a) an information is laid before a magistrate alleging that an investigator has reasonable grounds for suspecting that there may be on any premises a thing of a particular kind connected with a particular offence against the consumer credit legislation; and
  - (b) the information sets out those grounds;  
the magistrate may issue a search warrant authorising the investigator named in the warrant, with such assistance and by such force as is necessary and reasonable—
  - (c) to enter the premises described in the warrant; and
  - (d) to search the premises for things of the kind mentioned in paragraph (a); and
  - (e) to exercise any of the powers under section 118 (4) in respect of those things.
- (2) A magistrate shall not issue a warrant unless—
  - (a) the informant or another person has given the magistrate, either orally or by affidavit, any further information that the magistrate requires concerning the grounds on which the issue of the warrant is being sought; and
  - (b) the magistrate is satisfied that there are reasonable grounds for issuing the warrant.
- (3) A warrant shall—

- (a) state the purpose for which it is issued, including a reference to the nature of the offence in connection with which the entry and search is authorised; and
- (b) state that the entry is authorised at any time of the day or night, or specify particular hours when the entry is authorised; and
- (c) a description of the kind of things in relation to which the powers under section 118 (4) may be exercised; and
- (d) specify a date (being a date not later than 1 month after the date when the warrant is issued) when the warrant ceases to have effect.

## **121 Power to obtain information or documents**

- (1) If an investigator is satisfied that a person is capable of providing information or producing a document reasonably required for the purpose of ensuring that the consumer credit legislation is being complied with, the investigator may, by written notice, require the person—
  - (a) to provide the information to the investigator in the manner specified in the notice; or
  - (b) to produce the document to the investigator.
- (2) A notice shall state—
  - (a) the place where the information is to be provided or the document is to be produced; and
  - (b) the time where, or the period within which, the information is to be provided or the document produced.
- (3) A person is not required to comply with a notice unless, at the time the notice is given, the investigator warns the person that the person is obliged to comply.

- (4) A person is not excused from providing information or producing a document required under this section on the ground that the information or document would tend to incriminate the person.

*Note* The *Legislation Act 2001*, s 171 deals with the application of client legal privilege.

- (5) If a person provides information or produces a document in compliance with a notice—
- (a) the information provided or the document produced; and
  - (b) any other information, document or thing obtained as a direct or indirect consequence of that information or document;

is not admissible in evidence against the person in any criminal proceedings, other than proceedings for an offence in respect of the falsity of the information or document or an offence against section 123.

## **122 Retaining and copying documents produced**

If a person produces to an investigator a document in compliance with a notice under section 121, the investigator—

- (a) may take possession of, and make copies of, the document; and
- (b) may retain possession of the document for such period as is necessary to make those copies; and
- (c) shall, during that period, comply with any reasonable request by or of behalf of the person who produced the document to inspect and make copies of the document.

## **123 Obstructing etc investigator**

A person shall not, without reasonable excuse—

- (a) obstruct or hinder an investigator in the exercise of his or her powers under this division; or

- (b) fail to comply with a requirement under section 118 (4) (c) or a notice under section 121.

Maximum penalty:

- (a) for paragraph (a)—50 penalty units, imprisonment for 6 months or both; or
- (b) for paragraph (b)—50 penalty units.

## Part 8 Financial counselling trust fund

### 124 Continuation of fund

The financial counselling trust fund is established.

*Note* The Legislation Act, dict, pt 1 defines *establish* as including continue in existence.

### 125 Payments to fund

The following amounts shall be paid to the financial counselling trust fund:

- (a) amounts of public money appropriated by an Act for the purposes of the fund;
- (b) amounts of civil penalties paid under the Credit Code, section 106;
- (c) amounts that a credit provider or finance broker has agreed or undertaken to pay to the fund;
- (d) amounts paid to the Territory because of an order under the *Credit Act 1985*, section 85AA (1);
- (e) amounts recovered by enforcing orders under the *Credit Act 1985*, section 85AA (1) as judgments under section 92, and interest on such amounts;
- (f) interest received from the investment of money of the fund.

**125A Payment into ACAT trust account**

Despite section 125, the chief executive may arrange for—

- (a) the payment of an amount mentioned in section 125 to the ACAT trust account; or
- (b) the transfer of amounts from the financial counselling fund to the ACAT trust account.

*Note* The *ACT Civil and Administrative Tribunal Act 2008*, s 115C sets out how amounts paid into the ACAT trust account may be used.

**126 Payments from fund**

The moneys of the financial counselling trust fund may be applied for any of the following purposes:

- (a) consumer credit counselling;
- (b) credit and debt management education;
- (c) consumer credit research;
- (d) consumer credit litigation;
- (e) any other credit related activity determined by the Minister.

**127 Bank account**

All money received by the financial counselling trust fund shall be paid into a trust bank account maintained under the *Financial Management Act 1996*, section 51.

## Part 8A Notification and review of decisions

### 128 Meaning of *reviewable decision*—pt 8A

In this part:

*reviewable decision* means a decision mentioned in schedule 1, column 3 under a provision of this Act mentioned in column 2 in relation to the decision.

### 129 Reviewable decision notices

If a person makes a reviewable decision, the person must give a reviewable decision notice to each entity mentioned in schedule 1, column 4 in relation to the decision.

*Note 1* The person must also take reasonable steps to give a reviewable decision notice to any other person whose interests are affected by the decision (see *ACT Civil and Administrative Tribunal Act 2008*, s 67A).

*Note 2* The requirements for reviewable decision notices are prescribed under the *ACT Civil and Administrative Tribunal Act 2008*.

### 130 Applications for review

The following may apply to the ACAT for a review of a reviewable decision:

- (a) an entity mentioned in schedule 1, column 4 in relation to the decision;
- (b) any other person whose interests are affected by the decision.

*Note* If a form is approved under the *ACT Civil and Administrative Tribunal Act 2008* for the application, the form must be used.



## Part 9 Miscellaneous

### 134 Secrecy

- (1) This section applies to a person—
  - (a) who is or has been engaged in the administration of the consumer credit legislation; or
  - (b) who receives information or a document from the commissioner under that legislation.
- (2) Subject to subsection (3), a person to whom this section applies shall not—
  - (a) make a record of, or directly or indirectly divulge or communicate to a person, information concerning the affairs of another person acquired for the consumer credit legislation; or
  - (b) produce to a person a document produced for the consumer credit legislation.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (3) Subsection (2) does not prevent a person to whom this section applies from—
  - (a) divulging or communicating information concerning the affairs of another person with that person's consent; or
  - (b) divulging or communicating information, or producing a document, to a court for the purposes of civil or criminal proceedings.

### 135 Limitation on prosecution

Despite any other law in force in the ACT, proceedings for an offence against this Act or the *Credit Act 1985* may be brought—

- (a) within the period of 3 years immediately following the commission of the offence; or
- (b) with the consent of the Minister, at any time after the expiration of that period.

**136 Conduct of agents**

- (1) The conduct of an officer, employee or agent of a credit provider or finance broker acting within his or her actual or ostensible authority will be taken to be the conduct of the credit provider or finance broker.
- (2) Subsection (1) does not apply in relation to the prosecution of a credit provider or finance broker that is a corporation.

*Note* See the Criminal Code, pt 2.5 for provisions about corporate criminal responsibility.

**137 Extensions of time**

Unless the contrary intention appears, a power of a court or the ACAT, commissioner or registrar to extend a period under this Act or the *Credit Act 1985* may be exercised despite the period having elapsed.

**138 Registration—evidence**

A certificate purporting to be signed by the commissioner stating that a specified person was or was not, on a specified day or during a specified period, a registered credit provider or a registered finance broker is evidence of the matters so stated.

**138A Joint liability**

- (1) Subject to the consumer credit legislation, if a party to a proceeding is jointly liable with another person, that other person need not be made a party to the proceeding.

- (2) If a decision is made against a party to a proceeding (the *party*) who is jointly liable with another person who is not a party to the proceeding (the *non-party*)—
- (a) the liability of the non-party is not discharged by the decision or any step taken to enforce the decision; and
  - (b) the party and the non-party are severally but not jointly liable; and
  - (c) if there are 2 or more non-parties—as between themselves, the non-parties are jointly liable; and
  - (d) the liability of the non-party is discharged to the extent of any amount paid or recovered under the decision.
- (3) Nothing in subsection (2) affects the right of a person to contribution or indemnity in respect of satisfaction by the person of a liability that he or she has jointly, severally or jointly and severally with another person.

#### **140 Determination of fees**

- (1) The Minister may, in writing, determine fees for this Act.

*Note* The *Legislation Act 2001* contains provisions about the making of determinations and regulations relating to fees (see pt 6.3).

- (2) A determination is a disallowable instrument.

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

#### **140A Approved forms**

- (1) The Minister may, in writing, approve forms for this Act.
- (2) If the Minister approves a form for a particular purpose, the approved form must be used for that purpose.

*Note* For other provisions about forms, see the *Legislation Act*, s 255.

- (3) An approved form is a notifiable instrument.

*Note* A notifiable instrument must be notified under the *Legislation Act 2001*.

#### **141 Regulation-making power**

- (1) The Executive may make regulations for this Act.

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

- (2) The regulations may also prescribe offences for contraventions of the regulations and prescribe maximum penalties of not more than 10 penalty units for offences against the regulations.

## Schedule 1 Reviewable decisions

(see pt 8A)

column 1 item	column 2 section	column 3 decision	column 4 entity
1	24AB (2)	suspend credit provider's registration	credit provider
2	24AB (2)	cancel credit provider's registration	credit provider
3	24AB (4) (a)	refuse to remove credit provider's suspension	credit provider
4	24AB (4) (b)	refuse to revoke credit provider's disqualification	credit provider
5	55AB (2)	suspend finance broker's registration	finance broker
6	55AB (2)	cancel finance broker's registration	finance broker

**Schedule 1**      Reviewable decisions

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<b>column 1 item</b>	<b>column 2 section</b>	<b>column 3 decision</b>	<b>column 4 entity</b>
7	55AB (4) (a)	refuse to remove finance broker's suspension	finance broker
8	55AB (4) (b)	refuse to revoke finance broker's disqualification	finance broker

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## Dictionary

(see s 2)

*Note 1* The Legislation Act contains definitions and other provisions relevant to this Act.

*Note 2* For example, the Legislation Act, dict, pt 1, defines the following terms:

- ACAT
- ACT
- entity
- exercise
- function
- lawyer
- may (see s 146)
- Minister (see s 162)
- must (see s 146)
- occupational discipline order
- person
- reviewable decision notice.

***ACAT trust account***—see the *ACT Civil and Administrative Tribunal Act 2008*, dictionary.

***commissioner*** means the commissioner for fair trading.

***consumer credit*** means credit to which the consumer credit legislation applies, and includes arrangements under a consumer lease within the meaning of the Credit Code.

***consumer credit legislation*** means the following legislation:

- (a) this Act;
- (b) the *Consumer Credit Act 1995*;
- (c) the Consumer Credit (Australian Capital Territory) Code;

- (d) the Consumer Credit (Australian Capital Territory) Regulations;
- (e) the *Credit Act 1985*.

*Note* 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).

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

***credit provider***—

- (a) for this Act generally—means a credit provider under the consumer credit legislation, and includes a prospective credit provider; and
- (b) for division 2.3A (Complaints—credit providers)—see section 18A; and
- (c) for division 2.4 (Occupational discipline—credit providers)—see section 19.

***debtor*** means a debtor under the consumer credit legislation, and includes a prospective debtor.

***decision*** includes a determination, judgment or order.

***defined influential person***, in relation to a credit provider or a finance broker, means—

- (a) if the credit provider or finance broker is a body corporate—the secretary or a director of the body; or
- (b) in any case—
  - (i) a person substantially concerned in the direction or management of the credit provider or finance broker; or
  - (ii) a person able to control, or to substantially influence, the activities or internal affairs of the credit provider or finance broker.



***finance broker***—

- (a) for this Act generally—means a person who (whether or not carrying on any other business) carries on the business of finance broking; and
- (b) for division 3.3A (Complaints—finance brokers)—see section 49A; and
- (c) for division 3.4 (Occupational discipline—finance brokers)—see section 50.

***finance broking*** means negotiating, or acting as intermediary to obtain, consumer credit for persons other than an employer or principal of the person so negotiating or acting.

***financial institution*** means—

- (a) a building society; or
- (b) a credit union; or
- (c) a body registered under the *Cooperatives Act 2002*; or
- (d) a body registered or incorporated under a law of a State or another Territory corresponding to the *Cooperatives Act 2002*.

***investigator*** means the commissioner or a person who is authorised by the commissioner under section 117.

***premises*** means any place occupied by—

- (a) a credit provider, finance broker, debtor, guarantor, mortgagee or mortgagor under the consumer credit legislation; or
- (b) a supplier in relation to—
  - (i) a trade or tie agreement under the *Credit Act 1985*; or
  - (ii) a tied continuing credit contract or tied loan contract under the Credit Code; or

- (c) any other person who has, or whom the commissioner believes on reasonable grounds to have, entered into a transaction to which the consumer credit legislation applies.

**registered credit provider** means a credit provider who is registered under section 12.

**registered finance broker** means a finance broker who is registered under section 43.

**registration** means—

- (a) in relation to a credit provider—registration under section 12; or
- (b) in relation to a finance broker—registration under section 43.

**reviewable decision**, for part 8A (Notification and review of decisions)—see section 128.

**unjust conduct** means conduct that—

- (a) is dishonest or unfair; or
- (b) breaches a contract; or
- (c) contravenes the consumer credit legislation.

## 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
def = definition	pres = present
dict = dictionary	prev = previous
disallowed = disallowed by the Legislative Assembly	(prev...) = previously
div = division	pt = part
exp = expires/expired	r = rule/subrule
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

## Endnotes

3 Legislation history

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### 3 Legislation history

#### **Consumer Credit (Administration) Act 1996 No 41**

notified 2 September 1996 (Gaz 1996 No S223)

s 1, s 2 commenced 2 September 1996 (s 2 (1))

remainder commenced 1 November 1996 (s 2 (2) and Gaz 1996 No S272)

as amended by

#### **Legal Practitioners (Consequential Amendments) Act 1997 No 96 sch 1**

notified 1 December 1997 (Gaz 1997 No S380)

s 1, s 2 commenced 1 December 1997 (s 2 (1))

sch 1 commenced 1 June 1998 (s 2 (2))

#### **Consumer Credit (Administration) (Amendment) Act 1998 No 47**

notified 16 November 1998 (Gaz 1998 No S205)

commenced 16 November 1998 (s 2)

#### **Statute Law Revision (Penalties) Act 1998 No 54 sch**

notified 27 November 1998 (Gaz 1998 No S207)

s 1, s 2 commenced 27 November 1998 (s 2 (1))

sch commenced 9 December 1998 (s 2 (2) and Gaz 1998 No 49)

#### **Financial Sector Reform (ACT) Act 1999 No 33 sch**

notified 25 June 1999 (Gaz 1999 No S34)

s 1, s 2, dict commenced 25 June 1999 (s 2 (1))

sch commenced 1 July 1999 (s 2 (2) and Cwlth Gaz 1999 No S289)

#### **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 1 sch**

notified 9 March 2000 (Gaz 2000 No 10)

s 1, s 2 commenced 9 March 2000 (s 2 (1))

amnds commenced 9 September 2000 (s 2 (3))

**Justice and Community Safety Legislation Amendment Act 2000  
(No 2) No 2 sch**

notified 9 March 2000 (Gaz 2000 No 10)  
commenced 9 March 2000 (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 77**

notified 26 July 2001 (Gaz 2001 No 30)  
s 1, s 2 commenced 26 July 2001 (IA s 10B)  
pt 77 commenced 12 September 2001 (s 2 and see Gaz 2001 No S65)

**Justice and Community Safety Legislation Amendment Act 2001  
No 70 sch 1**

notified LR 14 September 2001  
s 1, s 2 commenced 14 September 2001 (LA s 75)  
amnds taken to have commenced 29 May 2001 (s 2 (4))

**Legislation Amendment Act 2002 No 11 pt 2.10**

notified LR 27 May 2002  
s 1, s 2 commenced 27 May 2002 (LA s 75)  
pt 2.10 commenced 28 May 2002 (s 2 (1))

**Justice and Community Safety Legislation Amendment Act 2002  
No 27 pt 5**

notified LR 9 September 2002  
s 1, s 2 commenced 9 September 2002 (LA s 75)  
pt 5 commenced 10 September 2002 (s 2 (1))

**Cooperatives Act 2002 No 45 amdt 6.2**

notified LR 5 December 2002  
s 1, s 2 commenced 5 December 2002 (LA s 75 (1))  
amdt 6.2 commenced 5 June 2003 (s 2 and LA s 79)

**Justice and Community Safety Legislation Amendment Act 2003  
A2003-2 pt 3**

notified LR 3 March 2003  
s 1, s 2 commenced 3 March 2003 (LA s 75 (1))  
pt 3 commenced 31 March 2003 (s 2 (2))

## Endnotes

3 Legislation history

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**Criminal Code (Theft, Fraud, Bribery and Related Offences)  
Amendment Act 2004 A2004-15 sch 1 pt 1.6, sch 2 pt 2.21**

notified LR 26 March 2004

s 1, s 2 commenced 26 March 2004 (LA s 75 (1))

sch 1 pt 1.6, sch 2 pt 2.21 commenced 9 April 2004 (s 2 (1))

**Court Procedures (Consequential Amendments) Act 2004 A2004-60  
sch 1 pt 1.14**

notified LR 2 September 2004

s 1, s 2 commenced 2 September 2004 (LA s 75 (1))

sch 1 pt 1.14 commenced 10 January 2005 (s 2 and see Court  
Procedures Act 2004 A2004-59, s 2 and CN2004-29)

**Criminal Code (Administration of Justice Offences) Amendment Act  
2005 A2005-53 sch 1 pt 1.4**

notified LR 26 October 2005

s 1, s 2 commenced 26 October 2005 (LA s 75 (1))

sch 1 pt 1.4 commenced 23 November 2005 (s 2)

**Justice and Community Safety Legislation Amendment Act 2006  
A2006-40 sch 2 pt 2.11**

notified LR 28 September 2006

s 1, s 2 commenced 28 September 2006 (LA s 75 (1))

sch 2 pt 2.11 commenced 29 September 2006 (s 2 (1))

**Statute Law Amendment Act 2007 A2007-3 sch 3 pt 3.23**

notified LR 22 March 2007

s 1, s 2 taken to have commenced 1 July 2006 (LA s 75 (2))

sch 3 pt 3.23 commenced 12 April 2007 (s 2 (1))

**Statute Law Amendment Act 2007 (No 2) A2007-16 sch 3 pt 3.6**

notified LR 20 June 2007

s 1, s 2 taken to have commenced 12 April 2007 (LA s 75 (2))

sch 3 pt 3.6 commenced 11 July 2007 (s 2 (1))

**Statute Law Amendment Act 2008 A2008-28 sch 3 pt 3.17**

notified LR 12 August 2008

s 1, s 2 commenced 12 August 2008 (LA s 75 (1))

sch 3 pt 3.17 commenced 26 August 2008 (s 2)

**ACT Civil and Administrative Tribunal Legislation Amendment  
Act 2008 A2008-36 sch 1 pt 1.14**

notified LR 4 September 2008  
s 1, s 2 commenced 4 September 2008 (LA s 75 (1))  
sch 1 pt 1.14 commenced 2 February 2009 (s 2 (1) and see ACT Civil  
and Administrative Tribunal Act 2008 A2008-35, s 2 (1) and CN2009-2)

**ACT Civil and Administrative Tribunal Legislation Amendment  
Act 2008 (No 2) A2008-37 sch 1 pt 1.24**

notified LR 4 September 2008  
s 1, s 2 commenced 4 September 2008 (LA s 75 (1))  
sch 1 pt 1.24 commenced 2 February 2009 (s 2 (1) and see ACT Civil  
and Administrative Tribunal Act 2008 A2008-35, s 2 (1) and CN2009-2)

## 4 Amendment history

### Dictionary

s 2 om R2 LRA  
ins A2007-3 amdt 3.115  
am A2008-36 amdt 1.156

### Notes

s 3 defs reloc to dict A2007-3 amdt 3.114  
sub A2007-3 amdt 3.115  
def **bank** om 1999 No 66 sch 3  
def **bureau** om 1999 No 66 sch 3  
def **chairperson** om 2000 No 2 sch  
def **credit provider** om A2007-3 amdt 3.113  
def **deputy registrar** om 1999 No 66 sch 3  
def **determined fee** om 2001 No 44 amdt 1.807  
def **director** sub 1999 No 66 sch 3  
om 2000 No 17 sch 1  
def **Financial Institutions (ACT) Code** om 1999 No 33 sch  
def **investigating officer** om 2000 No 17 sch 1  
def **legal practitioner** om 1997 No 86 sch  
def **office** ins 1999 No 66 sch 3  
om 2000 No 17 sch 1

### Exemptions

div 2.1 hdg (prev pt 2 div 1 hdg) renum R3 LA

### Exemption—banks

s 4 sub A2003-2 s 14

### Exemption—Ministerial determination

s 6 am 2001 No 44 amdt 1.808, amdt 1.809

## Endnotes

### 4 Amendment history

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#### **Provision of consumer credit**

div 2.2 hdg (prev pt 2 div 2 hdg) renum R3 LA

#### **Registration of consumer credit providers**

div 2.3 hdg (prev pt 2 div 3 hdg) renum R2 LA

#### **Application for registration**

s 11 am 2000 No 17 sch 1; 2001 No 44 amdts 11.810-1.812; pars  
renum 2001 No 44 amdt 1.813

#### **Registration**

s 12 am 2000 No 17 sch 1; 2001 No 44 amdt 1.814, amdt 1.815

#### **Endorsement of names**

s 13 am 2000 No 17 sch 1

#### **Changed particulars**

s 14 am 2000 No 17 sch 1

#### **Annual fee and statement**

s 16 am 2000 No 17 sch 1; 2001 No 44 amdts 1.816-1.820  
ss renum R3 LA (see 2001 No 44 amdt 1.821)

#### **Cancellation of registration for failure to pay fee or provide statement**

s 17 am 2000 No 17 sch 1

#### **Surrender of registration**

s 18 am 2000 No 17 sch 1; A2008-36 amdt 1.157

#### **Complaints—credit providers**

div 2.3A hdg ins A2008-36 amdt 1.158

#### **Meaning of *credit provider*—div 2.3A**

s 18A ins A2003-2 s 15  
sub A2008-36 amdt 1.158

#### **Who may complain?**

s 18B ins A2008-36 amdt 1.158

#### **Form of complaint**

s 18C ins A2008-36 amdt 1.158

#### **Withdrawal of complaints**

s 18D ins A2008-36 amdt 1.158

#### **Further information about complaint etc**

s 18E ins A2008-36 amdt 1.158

#### **Investigation of complaint**

s 18F ins A2008-36 amdt 1.158

#### **No further action on complaint**

s 18G ins A2008-36 amdt 1.158



**Action after investigating complaint**

s 18H ins A2008-36 amdt 1.158

**Occupational discipline—credit providers**

div 2.4 hdg (prev pt 2 div 4 hdg) renum R3 LA  
sub A2008-36 amdt 1.158

**Meaning of *credit provider*—div 2.4**

s 19 am 2000 No 17 sch 1; A2003-2 s 30; A2007-3 amdt 3.116  
sub A2008-36 amdt 1.158

**Grounds for occupational discipline**

s 20 am 2000 No 17 sch 1; A2008-28 amdt 3.60, amdt 3.61  
sub A2008-36 amdt 1.158

**Application to ACAT for occupational discipline—credit provider**

s 21 am 2000 No 17 sch 1; A2003-2 s 30  
sub A2008-36 amdt 1.158

**Orders for occupational discipline**

s 22 am 2000 No 17 sch 1; A2003-2 s 30  
sub A2008-36 amdt 1.158

**Credit provider not liable for penalties**

s 23 am 2000 No 17 sch 1; A2003-2 s 30  
sub A2008-36 amdt 1.158

**Extension of time for complying with directions**

s 24 am 2000 No 17 sch 1; A2003-2 s 16, s 17, s 30  
sub A2008-36 amdt 1.158

**Powers of inquiry**

s 24AA ins A2008-36 amdt 1.158

**Cancellation or suspension for insolvency etc**

s 24AB ins A2008-36 amdt 1.158

**Offences—credit providers**

div 2.4A hdg ins A2008-36 amdt 1.158

**Offence—comply with orders**

s 24AC ins A2008-36 amdt 1.158

**Offence—return registration to place conditions etc**

s 24AD ins A2008-36 amdt 1.158

**Offence—return suspended or cancelled registration**

s 24AE ins A2008-36 amdt 1.158

**Offence—disqualified credit providers to have no concern in credit businesses**

s 24AF ins A2008-36 amdt 1.158

## Endnotes

### 4 Amendment history

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#### **General**

div 2.5 hdg (prev pt 2 div 5 hdg) renum R3 LA

#### **Civil penalties—credit providers**

s 24A ins 1998 No 47  
sub A2003-2 s 18  
am A2008-36 amdt 1.159, amdt 1.160

#### **Death of registered credit provider**

s 25 am 2000 No 17 sch 1; A2008-36 amdt 1.161

#### **Register of credit providers**

s 26 am 2000 No 17 sch 1

#### **Access to register**

s 27 am 2000 No 17 sch 1; 2001 No 44 amdt 1.822, amdt 1.823

#### **False or misleading statements**

s 28 om A2004-15 amdt 2.48

#### **Exemption—particular entities**

s 29 hdg sub A2003-2 s 19  
s 29 pars renum R3 LA  
am A2003-2 s 19; A2008-28 amdt 3.64

#### **Exemption—finance broking in the course of another business**

s 30 am A2003-2 s 20

#### **Exemption—Ministerial determination**

s 31 am 2001 No 44 amdt 1.824, amdt 1.825

#### **Finance broking**

div 3.2 hdg (prev pt 3 div 2 hdg) renum R3 LA

#### **Commissions**

s 35 am 2002 No 27 s 16; A2003-2 s 21

#### **Registration of finance brokers**

div 3.3 hdg (prev pt 3 div 3 hdg) renum R3 LA

#### **Application for registration**

s 42 am 2000 No 17 sch 1; 2001 No 44 amdts 1.826-1.828;  
paragraphs renum 2001 No 44 amdt 1.829

#### **Registration**

s 43 am 2000 No 17 sch 1; 2001 No 44 amdt 1.830, amdt 1.831

#### **Endorsement of names**

s 44 am 2000 No 17 sch 1

#### **Changed particulars**

s 45 am 2000 No 17 sch 1

**Annual fee and statement**

s 47 am 2000 No 17 sch 1; 2001 No 44 amdts 1.832-1.836  
ss renum R3 LA (see 2001 No 44 amdt 1.837)

**Cancellation of registration for failure to pay fee or provide statement**

s 48 am 2000 No 17 sch 1

**Surrender of registration**

s 49 am 2000 No 17 sch 1; A2008-36 amdt 1.162

**Complaints—finance brokers**

div 3.3A hdg ins A2008-36 amdt 1.163

**Meaning of *finance broker*—div 3.3A**

s 49A ins A2003-2 s 22  
sub A2008-36 amdt 1.163

**Who may complain?**

s 49B ins A2008-36 amdt 1.163

**Form of complaint**

s 49C ins A2008-36 amdt 1.163

**Withdrawal of complaints**

s 49D ins A2008-36 amdt 1.163

**Further information about complaint etc**

s 49E ins A2008-36 amdt 1.163

**Investigation of complaint**

s 49F ins A2008-36 amdt 1.163

**No further action on complaint**

s 49G ins A2008-36 amdt 1.163

**Action after investigating complaint**

s 49H ins A2008-36 amdt 1.163

**Occupational discipline—finance brokers**

div 3.4 hdg (prev pt 3 div 4 hdg) renum R3 LA  
sub A2008-36 amdt 1.163

**Meaning of *finance broker*—div 3.4**

s 50 am 2000 No 17 sch 1; A2003-2 s 31; A2007-3 amdt 3.116  
sub A2008-36 amdt 1.163

**Grounds for occupational discipline**

s 51 am 2000 No 17 sch 1; A2008-28 amdt 3.62  
sub A2008-36 amdt 1.163

**Application to ACAT for occupational discipline—finance brokers**

s 52 am 2000 No 17 sch 1; A2003-2 s 31  
sub A2008-36 amdt 1.163

## Endnotes

4 Amendment history

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### **Orders for occupational discipline**

s 53 am 2000 No 17 sch 1; A2003-2 s 31  
sub A2008-36 amdt 1.163

### **Finance broker not liable for penalties**

s 54 am 2000 No 17 sch 1; A2003-2 s 31  
sub A2008-36 amdt 1.163

### **Extension of time for complying with directions**

s 55 am 2000 No 17 sch 1; A2003-2 s 23, s 24, s 31  
sub A2008-36 amdt 1.163

### **Powers of inquiry**

s 55AA ins A2008-36 amdt 1.163

### **Cancellation or suspension for insolvency etc**

s 55AB ins A2008-36 amdt 1.163

### **Offences—finance brokers**

div 3.4A hdg ins A2008-36 amdt 1.163

### **Offence—comply with orders**

s 55AC ins A2008-36 amdt 1.163

### **Offence—return registration for conditions**

s 55AD ins A2008-36 amdt 1.163

### **Offence—return suspended or cancelled registration**

s 55AE ins A2008-36 amdt 1.163

### **Offence—disqualified finance brokers**

s 55AF ins A2008-36 amdt 1.163

### **General**

div 3.5 hdg (prev pt 3 div 5 hdg) renum R3 LA

### **Civil penalties—finance brokers**

s 55A ins 1998 No 47  
sub A2003-2 s 25  
am A2008-36 amdt 1.164, amdt 1.165

### **Death of registered finance broker**

s 56 am 2000 No 17 sch 1; A2008-36 amdt 1.166

### **Register of finance brokers**

s 57 am 2000 No 17 sch 1

### **Access to register**

s 58 am 2000 No 17 sch 1; 2001 No 44 amdt 1.838, amdt 1.839

### **Credit tribunal**

pt 4 hdg om A2008-36 amdt 1.168

**Establishment and functions**

div 4.1 hdg (prev pt 4 div 1 hdg) renum R3 LA  
sub A2007-3 amdt 3.117  
om A2008-36 amdt 1.168

**Establishment of tribunal**

s 60 sub A2007-3 amdt 3.117  
om A2008-36 amdt 1.168

**Functions of tribunal**

s 61 am 2000 No 2 sch  
sub A2007-3 amdt 3.117  
om A2008-36 amdt 1.168

**Tribunal members**

div 4.2 hdg (prev pt 4 div 2 hdg) sub 2000 No 2 sch  
renum R3 LA  
om A2008-36 amdt 1.168

**Membership of tribunal**

s 62 sub 2000 No 2 sch  
am A2007-3 amdt 3.118  
om A2008-36 amdt 1.168

**Presidential members**

s 63 sub 2000 No 2 sch  
om A2008-36 amdt 1.168

**Non-presidential members**

s 64 sub 2000 No 2 sch  
om A2008-36 amdt 1.168

**Terms of appointment generally**

s 65 sub 2000 No 2 sch  
om A2008-36 amdt 1.168

**Matters to be included in instrument of appointment etc**

s 66 sub 2000 No 2 sch  
am A2007-3 amdt 3.119; pars renum R15 LA  
om A2008-36 amdt 1.168

**Duration of appointment**

s 67 sub 2000 No 2 sch  
am A2007-3 amdt 3.120  
om A2008-36 amdt 1.168

**Acting members**

s 68 om 2000 No 2 sch

## Endnotes

### 4 Amendment history

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#### **Registrar and deputy registrars**

div 4.3 hdg (prev pt 4 div 4 hdg) sub 1999 No 66 sch 3  
renum R3 LA  
om A2008-36 amdt 1.168

#### **Registrar and deputy registrars**

s 69 sub 1999 No 66 sch 3  
am A2007-3 amdt 3.121  
om A2008-36 amdt 1.168

#### **Deputy registrar**

s 70 om 1999 No 66 sch 3

#### **Constitution of tribunal**

s 71 sub 2000 No 2 sch  
om A2008-36 amdt 1.168

#### **Role of president**

s 72 sub 2000 No 2 sch  
om A2008-36 amdt 1.168

#### **Presiding member**

s 73 sub 2000 No 2 sch  
om A2008-36 amdt 1.168

#### **Procedure**

s 74 om A2008-36 amdt 1.168

#### **Directions by presidential member**

s 75 sub 2000 No 2 sch  
om A2008-36 amdt 1.168

#### **Assistance from commissioner**

s 76 am 2000 No 2 sch; 2000 No 17 sch 1  
om A2008-36 amdt 1.168

#### **Deciding questions**

s 77 sub 2000 No 2 sch  
om A2008-36 amdt 1.168

#### **Referral of questions of law to Supreme Court**

s 78 am 2000 No 2 sch  
sub A2004-60 amdt 1.80  
om A2008-36 amdt 1.168

#### **Joint liability**

s 79 reloc and renum as s 138A

#### **Legal personal representatives**

s 80 om A2008-36 amdt 1.168

#### **Adding parties**

s 81 am 2000 No 2 sch

om A2008-36 amdt 1.168

**Notice of proceeding**

s 82 sub 2000 No 2 sch  
om A2008-36 amdt 1.168

**Appearance and representation**

s 83 am A2008-28 amdt 3.64  
om A2008-36 amdt 1.168

**Failure to appear**

s 84 om A2008-36 amdt 1.168

**Hearings**

s 85 om A2008-36 amdt 1.168

**Witness subpoenas**

s 86 am 2000 No 2 sch  
sub A2005-53 amdt 1.25  
(8), (9) exp 23 November 2006 (s 86 (9))  
om A2008-36 amdt 1.168

**Power to require witness to take oath etc**

s 87 am 1998 No 54 sch  
sub 2000 No 2 sch; A2005-53 amdt 1.25  
om A2008-36 amdt 1.168

**Inspection and retention of documents and things**

s 88 om A2008-36 amdt 1.168

**Adjournments and stays**

s 89 om A2008-36 amdt 1.168

**Dismissal of proceedings**

s 90 om A2008-36 amdt 1.168

**Costs**

s 91 om A2008-36 amdt 1.168

**Orders for payment of money**

s 92 om A2008-36 amdt 1.168

**Reasons for decisions of tribunal**

s 93 om A2008-36 amdt 1.168

**Appeals to Supreme Court**

div 4.5 hdg (prev pt 4 div 5 hdg) renum R3 LA  
sub A2004-60 amdt 1.81  
om A2008-36 amdt 1.168

**Appeals from tribunal to Supreme Court**

s 94 sub A2004-60 amdt 1.81  
(5), (6) exp 10 January 2006 (s 94 (6))

## Endnotes

4 Amendment history

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sub A2006-40 amdt 2.85  
om A2008-36 amdt 1.168

### **Appeals from Magistrates Court decisions**

s 95 sub A2004-60 amdt 1.81  
om A2008-36 amdt 1.168

### **Jurisdiction of Supreme Court**

s 96 om A2004-60 amdt 1.81

### **General**

div 4.6 hdg (prev pt 4 div 6 hdg) renum R3 LA  
om A2008-36 amdt 1.168

### **Application of Criminal Code, ch 7**

s 97 sub A2005-53 amdt 1.26  
om A2008-36 amdt 1.168

### **Protection of members etc**

s 98 am A2008-28 amdt 3.64  
om A2008-36 amdt 1.168

### **Inquiries**

pt 5 hdg sub A2008-36 amdt 1.168

### **Meaning of *inquirer*—pt 5**

s 99 om 2000 No 1 sch  
ins A2008-36 amdt 1.168

### **Executive may order inquiry**

s 100 hdg am 2000 No 2 sch  
s 100 am 2000 No 2 sch; 2001 No 44 amdt 1.840, amdt 1.841  
sub A2008-36 amdt 1.168

### **Notice of inquiry**

s 101 sub 2001 No 44 amdt 1.842; A2008-36 amdt 1.168

### **Application of Inquiries Act 1991**

s 102 am 2000 No 2 sch  
sub A2008-36 amdt 1.168

### **Findings and recommendations**

s 103 om A2005-53 amdt 1.27  
ins A2008-36 amdt 1.168

### **Findings and recommendations**

s 104 om A2008-36 amdt 1.168

### **Undertakings**

s 105 am 2000 No 17 sch 1; A2008-36 amdt 1.169-1.171

### **Registration of undertakings**

s 106 am 2000 No 17 sch 1; A2008-36 amdt 1.172



**Orders by ACAT**

s 107 am 2000 No 17 sch 1  
sub A2008-36 amdt 1.173

**Role of commissioner**

pt 7 hdg sub 2000 No 17 sch 1

**Functions generally**

div 7.1 hdg (prev pt 7 div 1 hdg) renum R3 LA  
sub A2007-3 amdt 3.122

**Functions**

s 109 am 2000 No 2 sch; 2000 No 17 sch 1; A2007-3 amdt 3.123;  
A2008-36 amdt 1.174

**Powers**

s 110 am 2000 No 17 sch 1  
om A2007-3 amdt 3.124

**Functions in relation to proceedings**

div 7.2 hdg (prev pt 7 div 2 hdg) renum R3 LA

**Representing other people before ACAT**

s 111 am 2000 No 17 sch 1; A2008-28 amdt 3.64  
sub A2008-36 amdt 1.175

**Taking or defending proceedings for other people**

s 112 am 2000 No 17 sch 1  
sub A2008-36 amdt 1.175

**Conduct of proceedings so taken or defended**

s 113 am 2000 No 17 sch 1; A2008-28 amdt 3.64; A2008-36  
amdt 1.176

**Intervention by Minister or commissioner**

s 114 am 2000 No 17 sch 1; A2008-28 amdt 3.64  
sub A2008-36 amdt 1.177

**Presumption that Minister has consented**

s 115 am 2000 No 17 sch 1

**Investigation of certain applications to ACAT**

s 116 am 2000 No 2 sch; 2000 No 17 sch 1  
sub A2008-36 amdt 1.178

**Powers in relation to investigations**

div 7.3 hdg (prev pt 7 div 3 hdg) renum R3 LA

**Investigators**

s 117 sub 2000 No 17 sch 1; A2007-3 amdt 3.125

**Powers of entry and inspection**

s 118 am 2000 No 17 sch 1; 2001 No 70 amdt 1.2

## Endnotes

4 Amendment history

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### **Consent to entry**

s 119 am 2000 No 17 sch 1

### **Search warrants**

s 120 am 2000 No 17 sch 1

### **Power to obtain information or documents**

s 121 am 1998 No 47; 2000 No 17 sch 1; 2002 No 11 amdt 2.18,  
amdt 2.19

### **Retaining and copying documents produced**

s 122 am 2000 No 17 sch 1; 2001 No 70 amdt 1.3

### **Obstructing etc investigator**

s 123 am 2000 No 17 sch 1

### **Continuation of fund**

s 124 sub A2007-3 amdt 3.126

### **Payment into ACAT trust account**

s 125A ins A2008-37 amdt 1.94

### **Notification and review of decisions**

pt 8A hdg ins A2008-36 amdt 1.179

### **Meaning of *reviewable decision*—pt 8A**

s 128 am 2000 No 17 sch 1; paragraphs renum R3 LA; A2003-2  
s 26, s 27  
om A2008-36 amdt 1.180  
ins A2008-36 amdt 1.179

### **Reviewable decision notices**

s 129 am 2000 No 17 sch 1; paragraphs renum R3 LA; A2003-2  
s 28, s 29  
om A2008-36 amdt 1.180  
ins A2008-36 amdt 1.179

### **Applications for review**

s 130 am 2000 No 17 sch 1  
om A2008-36 amdt 1.180  
ins A2008-36 amdt 1.179

### **Review by credit tribunal**

div 9.1 hdg (prev pt 9 div 1 hdg) renum R3 LA  
om A2008-36 amdt 1.180

### **Application for review**

s 131 am 2000 No 17 sch 1  
om A2008-36 amdt 1.180

### **Review by tribunal**

s 132 am 2000 No 17 sch 1  
om A2008-36 amdt 1.180

**Operation and implementation of decision to be reviewed**

s 133 om 2000 No 2 sch

**General**div 9.2 hdg (prev pt 9 div 2 hdg) renum R3 LA  
om A2008-36 amdt 1.181**Secrecy**

s 134 am 2000 No 17 sch 1

**Conduct of agents**

s 136 am A2004-15 amdt 1.6, amdt 1.7

**Extensions of time**

s 137 am 2000 No 17 sch 1; A2008-36 amdt 1.182

**Registration—evidence**

s 138 am 2000 No 17 sch 1

**Joint liability**

s 138A (prev s 79) reloc and renum as s 138A A2008-36 amdt 1.167

**Compliance with approved forms**

s 139 om 2000 No 2 sch

**Determination of fees**s 140 am 2000 No 1 sch  
sub 2001 No 44 amdt 1.843**Approved forms**s 140A ins 2001 No 44 amdt 1.843  
am A2007-3 amdt 3.127**Regulation-making power**

s 141 sub 2000 No 2 sch; 2001 No 44 amdt 1.843

**Transitional provisions about tribunal members**s 142 ins 2000 No 2 sch  
exp 9 June 2000 (s 142 (5))**Existing complaints and investigations etc**s 143 ins 2000 No 17 sch 1  
exp 29 May 2002 (s 144 (1))**Expiry of s 143 and this section**s 144 ins 2000 No 17 sch 1  
sub 2001 No 70 amdt 1.4  
exp 29 May 2002 (s 144 (1))**Reviewable decisions**

sch 1 ins A2008-36 amdt 1.183

## Endnotes

4 Amendment history

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### Dictionary

dict

ins A2007-3 amdt 3.128  
am A2008-28 amdt 3.63; A2008-36 amdt 1.184  
def **ACAT trust account** ins A2008-37 amdt 1.95  
def **commissioner** ins 2000 No 17 sch 1  
reloc from s 3 A2007-3 amdt 3.114  
def **consumer credit** reloc from s 3 A2007-3 amdt 3.114  
def **consumer credit legislation** sub 2001 No 44 amdt 1.806  
reloc from s 3 A2007-3 amdt 3.114  
def **consumer member** ins 2000 No 2 sch  
reloc from s 3 A2007-3 amdt 3.114  
om A2008-36 amdt 1.185  
def **Credit Code** reloc from s 3 A2007-3 amdt 3.114  
def **credit provider** ins A2007-3 amdt 3.128  
sub A2007-16 amdt 3.20  
am A2008-36 amdt 1.186  
def **debtor** reloc from s 3 A2007-3 amdt 3.114  
def **decision** reloc from s 3 A2007-3 amdt 3.114  
def **defined influential person** reloc from s 3 A2007-3  
amdt 3.114  
def **deputy president** ins 2000 No 2 sch  
reloc from s 3 A2007-3 amdt 3.114  
om A2008-36 amdt 1.187  
def **finance broker** reloc from s 3 A2007-3 amdt 3.114  
also ins A2007-3 amdt 3.128  
sub A2007-16 amdt 3.21  
am A2008-36 amdt 1.188  
def **finance broking** reloc from s 3 A2007-3 amdt 3.114  
def **financial institution** am 1999 No 33 sch; A2002-45  
amdt 6.2  
reloc from s 3 A2007-3 amdt 3.114  
def **industry member** ins 2000 No 17 sch 1  
reloc from s 3 A2007-3 amdt 3.114  
om A2008-36 amdt 1.189  
def **investigator** ins 2000 No 17 sch 1  
reloc from s 3 A2007-3 amdt 3.114  
def **member** ins 2000 No 2 sch  
reloc from s 3 A2007-3 amdt 3.114  
om A2008-36 amdt 1.189  
def **non-presidential member** ins 2000 No 2 sch  
reloc from s 3 A2007-3 amdt 3.114  
om A2008-36 amdt 1.189  
def **premises** am 2000 No 17 sch 1  
reloc from s 3 A2007-3 amdt 3.114  
def **president** ins 2000 No 2 sch  
reloc from s 3 A2007-3 amdt 3.114  
om A2008-36 amdt 1.189

def **presidential member** ins 2000 No 2 sch  
reloc from s 3 A2007-3 amdt 3.114  
om A2008-36 amdt 1.189

def **proceeding** reloc from s 3 A2007-3 amdt 3.114  
om A2008-36 amdt 1.189

def **registered credit provider** reloc from s 3 A2007-3  
amdt 3.114

def **registered finance broker** reloc from s 3 A2007-3  
amdt 3.114

def **registrar** sub 1999 No 66 sch 3  
reloc from s 3 A2007-3 amdt 3.114  
om A2008-36 amdt 1.189

def **registration** reloc from s 3 A2007-3 amdt 3.114

def **reviewable decision** ins A2008-36 amdt 1.190

def **tribunal** sub 1999 No 66 sch 3  
reloc from s 3 A2007-3 amdt 3.114  
om A2008-36 amdt 1.191

def **unjust conduct** reloc from s 3 A2007-3 amdt 3.114

## 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. Electronic and printed versions of an authorised republication are identical.

Republication No	Amendments to	Republication date
1	Act 1998 No 54	28 February 1999
2	Act 2000 No 17	15 December 2000
3	Act 2001 No 70	26 February 2002
4	Act 2002 No 11	29 May 2002
5	Act 2002 No 11	30 May 2002
6	Act 2002 No 27	10 September 2002
7	A2003-2	31 March 2003
8*	A2003-2	5 June 2003
9	A2004-15	9 April 2004

## Endnotes

5 Earlier republications

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<b>Republication No</b>	<b>Amendments to</b>	<b>Republication date</b>
10	A2004-60	10 January 2005
11	A2005-53	23 November 2005
12	A2005-53	11 January 2006
13	A2006-40	29 September 2006
14	A2006-40	24 November 2006
15	A2007-3	12 April 2007
16	A2007-16	11 July 2007
17	A2008-28	26 August 2008

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