



Australian Capital Territory

Fair Trading Regulation 2009

Subordinate Law SL2009-59

made under the

Fair Trading Act 1992

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1 Name of regulation

This regulation is the *Fair Trading Regulation 2009*.

2 Notes

A note included in these regulations is explanatory and is not part of these regulations.

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

3 Maximum annual percentage rate—Act, s 51D

- (1) The prescribed maximum annual percentage rate is 48% per annum for all credit contracts to which the code applies.
- (2) Interest charges, and all credit fees and charges, under a credit contract must be included in working out the maximum annual percentage rate under all credit contracts to which the code applies.
- (3) The maximum annual percentage rate must be worked out in accordance with section 4.
- (4) Despite subsection (2), any credit fees or charges arising from the establishment or maintenance of a temporary credit facility are not required to be included for working out the maximum annual percentage rate if—
 - (a) the credit provider is an authorised deposit-taking institution; and
 - (b) the debtor has or had an existing credit contract or debit account with the authorised deposit-taking institution when the temporary credit facility is or was established; and
 - (c) the temporary credit facility is related to the existing credit contract or debit account.

- (5) In this section:

temporary credit facility includes an overdraft facility and a short-term extension of the total amount of credit available under an existing credit contract.

Note This section is made under the Act, s 51D. The effect of a contravention of this section is set out in s 51D. The maximum interest rate is not part of the uniform provisions of the code in Australia.

4 Working out maximum annual percentage rate

- (1) For working out the maximum annual percentage rate under a credit contract, the rate must be worked out as a nominal rate for each year, together with the compounding frequency, in accordance with this section.
- (2) The maximum annual percentage rate is worked out as follows:

$$nr100\%$$

- (3) In subsection (2):

n is the number of repayments per year to be made under the credit contract annualised, except that—

- (a) if repayments are to be made weekly or fortnightly—**n** is to be 52.18 or 26.09, respectively; and
- (b) if the contract does not provide for a constant interval between repayments—**n** is to be derived from the interval selected for the purposes of the definition of **j** (see subsection (4)).

r is the solution of the following:

$$\sum_{j=0}^t \frac{A_j}{(1+r)^j} = \sum_{j=0}^t \frac{R_j + C_j}{(1+r)^j}$$

- (4) In subsection (3):

j is the time, measured as a multiple (not necessarily integral) of the interval between contractual repayments that will have elapsed since the first amount of credit is provided under the credit contract, except that if the contract does not provide for a constant interval between repayments an interval of any kind is to be selected by the credit provider as the unit of time.

t is the time, measured as a multiple of the interval between contractual repayments (or other interval so selected), that will elapse between the time when the first amount of credit is provided and the time when the last repayment is to be made under the contract.

A_j is the amount of credit to be provided under the contract at time j (the value of j for the provision of the first amount of credit is taken to be zero).

R_j is the repayment to be made at time j .

C_j is the fee or charge (if any) payable by the debtor at time j (j is taken to be zero for any such fee or charge payable before the time of the first amount of credit provided) in addition to the repayments R_j , being a credit fee or charge that is ascertainable when the annual percentage rate is worked out.

- (5) The maximum annual percentage rate must be correct to at least the nearest 0.001% for each year.
- (6) In applying the formulas in this section, reasonable approximations may be made if it would be impractical or unreasonably onerous to make a precise calculation.
- (7) The tolerances and assumptions under the code, section 158 to section 160 apply in working out the maximum annual percentage rate.

- (8) If the credit contract is a continuing credit contract (within the meaning of the code), the following assumptions also apply in working out the maximum annual percentage rate:
- (a) that the debtor has drawn down the maximum amount of credit that the credit provider has agreed to provide under the contract;
 - (b) that the debtor will pay the minimum repayments stated in the contract;
 - (c) if credit is provided for payment by the credit provider to a third person in relation to goods, services or cash supplied by the third person to the debtor from time to time—that the debtor will not be supplied with any more goods, services or cash;
 - (d) if credit is provided for cash supplied by the credit provider to the debtor—that the debtor will not be supplied with any more cash.
- (9) For the maximum annual percentage rate—
- (a) the amount of credit is the amount (or the maximum amount) required by the debtor; and
 - (b) the term for which credit is provided is the term (or the maximum term) required by the debtor.

Endnotes

1 **Making of regulation**

This regulation was made as part of the Justice and Community Safety Legislation Amendment Act 2009 (No 3) (see A2009-44, s 4 and sch 2).

2 **Republications of amended laws**

For the latest republication of amended laws, see www.legislation.act.gov.au.

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