



Consumer Credit (Queensland) Act 1994

Reprinted as in force on 31 July 2008

Reprint No. 1B

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This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of reprints is included in the endnotes.

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

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Queensland

Consumer Credit (Queensland) Act 1994

Contents

		Page
Part 1	Preliminary	
Division 1	Introductory	
1	Short title	5
2	Commencement	5
Division 2	Interpretation	
3	Definitions for Act (other than Code)	5
3A	Words and expressions in Act (other than Code)	6
Part 2	Consumer Credit (Queensland) Code and Consumer Credit (Queensland) Regulations	
4	Application in Queensland of the Consumer Credit Code	7
5	Application of regulations under Consumer Credit Code	7
6	Interpretation of expressions in the Consumer Credit (Queensland) Code and the Consumer Credit (Queensland) Regulations	8
Part 3	Conferral of judicial and administrative functions	
7	Conferral of judicial functions	8
8	Conferral of administrative functions	8
Part 4	Power to make regulations under Consumer Credit Code	
9	Interpretation	9
10	General regulation-making power for Code	9
11	Savings and transitional regulations for Code	9
Part 5	Miscellaneous	
11A	General regulation-making power for Queensland	10
12	Special savings and transitional regulations for Queensland	10
12A	Approval of forms for Queensland	11
13	Act binds all persons	11
14	Maximum annual percentage rate	11

Part 6	Control of credit providers' practices	
Division 1	Preliminary	
15	Purpose	12
16	District Court to exercise jurisdiction	12
Division 2	Unjust conduct by credit providers	
17	Meaning of unjust conduct	12
18	Dealing with unjust conduct	13
19	Conduct deeds	13
20	Register of conduct deeds	14
21	Court order restraining unjust conduct	14
22	Variation or discharge of restraining order	15
Division 3	Prohibition from acting as credit provider	
23	Court may make prohibition order	15
24	Variation or discharge of prohibition order	16
25	Effect of prohibition order on pre-existing credit contracts	17
26	Civil penalty for contravening prohibition order	17
Part 7	Investigation and enforcement	
Division 1	Inspectors	
27	Appointment of inspectors	18
28	Powers of inspectors	18
29	Identity card	18
30	Production and display of identity card	19
Division 2	Inspectors' general powers	
31	Entry to places	19
32	Consent to entry	20
33	Warrants to enter	21
34	Warrants—applications made other than in person	22
35	General powers after entering places	23
36	Power to seize evidence	24
37	Powers supporting seizure	24
38	Receipt for seized things	25
39	Return of seized things	25
40	Access to seized things	26
41	Powers to be exercised to cause least inconvenience	26
Division 3	Other investigative powers	
42	Power to require name and address	26
43	Power to require giving of information	27

44	Power to require production of certain documents	28
45	Unreadable documents	28
Division 4	Other enforcement matters	
46	False or misleading statements	29
47	Obstructing inspector	29
48	Impersonating inspector	29
49	Inspector to give notice of damage.	29
50	Compensation	30
Part 8	Consumer Credit Fund	
51	Establishment of fund.	31
52	Payments to fund	31
53	Payments from fund	32
54	Report on operations of fund	33
Part 9	Administration	
Division 1	Offences	
55	Application of division.	33
56	Offences are summary offences.	33
57	Start of offence proceedings	33
58	Liability for offences by corporations	33
Division 2	Miscellaneous	
59	Chief executive may intervene	34
60	Delegation	34
61	Secrecy	34
62	Evidence.	35
63	Protection from liability	36
64	Report on operation of consumer credit laws.	36
Part 10	Transitional provisions	
Division 1	Transitional provision for Consumer Credit Legislation Amendment Act 1996	
65	Transitional provision about undertakings and court orders.	36
Division 2	Transitional provision for Consumer Credit (Queensland) and Other Acts Amendment Act 2008, part 2	
66	Transitional provision about maximum annual percentage rate	37
Appendix	Consumer Credit Code	39
Endnotes		
1	Index to endnotes.	40

Consumer Credit (Queensland) Act 1994

2	Date to which amendments incorporated	40
3	Key	40
4	Table of reprints	41
5	List of legislation	41
6	List of annotations	41

Consumer Credit (Queensland) Act 1994

[as amended by all amendments that commenced on or before 31 July 2008]

An Act to regulate the provision of consumer credit

Part 1 Preliminary

Division 1 Introductory

1 Short title

This Act may be cited as the *Consumer Credit (Queensland) Act 1994*.

2 Commencement

- (1) This Act commences on a day to be fixed by proclamation.
- (2) Different days may be fixed for the commencement of different provisions of the Consumer Credit Code set out in the appendix to this Act.

Division 2 Interpretation

3 Definitions for Act (other than Code)

In this Act, other than the appendix—

annual report means the report on the department's operations during a financial year prepared by the department's accountable officer under the *Financial Administration and Audit Act 1977*.

conduct deed see section 19 of this Act.

consumer credit means credit to which the Consumer Credit (Queensland) Code or the *Credit Act 1987* applies.

consumer credit law means this Act or the *Credit Act 1987*.

Consumer Credit (Queensland) Code means the provisions applying because of section 4 of this Act.

Consumer Credit (Queensland) Regulations means the provisions applying because of section 5 of this Act.

credit business means a business of providing consumer credit, and includes a business of providing consumer credit as part of, or incidentally to, carrying on another business.

credit business place see section 31 of this Act.

executive officer, of a corporation, means a person who is concerned with, or takes part in, the corporation's management, whether or not the person is a director or the person's position is given the name of executive officer.

inspector means a person appointed as an inspector under section 27 of this Act.

Ministerial Council means the Ministerial Council established under the Uniform Consumer Credit Laws Agreement 1993.

occupier, of a place, includes a person who reasonably appears to be the occupier, or in charge, of the place.

place includes premises, a place on land or waters and a vehicle.

prohibition order means an order under section 23 of this Act.

public place means a place the public is entitled to use, is open to the public or is used by the public, whether or not on payment of money.

unjust conduct see section 17 of this Act.

3A Words and expressions in Act (other than Code)

- (1) Words and expressions used in this Act, other than the appendix—

- (a) in relation to credit to which the Consumer Credit (Queensland) Code applies—have the meanings given by the Code; or
 - (b) in relation to credit to which the *Credit Act 1987* applies—have the meanings given by that Act.
- (2) Subsection (1) applies except so far as the context or subject matter otherwise indicates or requires.

Part 2

Consumer Credit (Queensland) Code and Consumer Credit (Queensland) Regulations

4 Application in Queensland of the Consumer Credit Code

The Consumer Credit Code set out in the appendix to this Act,¹ as in force for the time being—

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

5 Application of regulations under Consumer Credit Code

The regulations in force for the time being under part 4 of this Act—

- (a) apply as regulations in force for the purposes of the Consumer Credit (Queensland) Code; and
- (b) as so applying may be referred to as the Consumer Credit (Queensland) Regulations.

¹ The Consumer Credit Code is reprinted as a separate reprint.

6 Interpretation of expressions in the Consumer Credit (Queensland) Code and the Consumer Credit (Queensland) Regulations

In the Consumer Credit (Queensland) Code and the Consumer Credit (Queensland) Regulations—

Legislature of this jurisdiction means the Legislative Assembly of Queensland.

the Code or *this Code* means the Consumer Credit (Queensland) Code.

the jurisdiction or *this jurisdiction* means the State of Queensland.

Part 3 Conferral of judicial and administrative functions

7 Conferral of judicial functions

- (1) The jurisdiction that is expressed to be exercisable by the Court under the Consumer Credit (Queensland) Code and the Consumer Credit (Queensland) Regulations in relation to a contract or other matter is exercisable by—
 - (a) if proceedings in relation to the contract or other matter have been instituted in, or are before, a court—that court; or
 - (b) in any other case—the court whose monetary jurisdiction is not exceeded by the total amount in dispute.
- (2) In this section—

court includes a Small Claims Tribunal.

8 Conferral of administrative functions

The chief executive of the department has the functions of the Government Consumer Agency under the Consumer Credit

(Queensland) Code and the Consumer Credit (Queensland) Regulations.

Part 4 Power to make regulations under Consumer Credit Code

9 Interpretation

In this part—

the Code means the Consumer Credit Code set out in the appendix to this Act, as in force for the time being.

10 General regulation-making power for Code

- (1) The Governor in Council may make regulations under the Code.
- (2) A regulation under this part may be made only on the recommendation of the Ministerial Council.
- (3) A regulation under this part may create an offence punishable by a penalty not exceeding 50 penalty units (within the meaning of the Code).
- (4) Schedule 2 to the Code applies in relation to a regulation under this part.

11 Savings and transitional regulations for Code

- (1) A regulation under this part may make provision of a savings or transitional nature consequent on the commencement of the Code or of a provision of the Code.
- (2) If the regulation so provides, it has effect despite any provision of the Code.
- (3) Without limiting subsection (1), a regulation may be made under this section for or with respect to the following—
 - (a) permitting for a limited period or periods provisions requiring the payment or debiting of interest charges in

- advance under credit contracts or classes of credit contracts;
- (b) permitting, subject to conditions, predetermined credit charges for a limited period or periods.
- (4) A provision of a regulation made under this section may, if the regulation so provides, take effect from the day of assent to this Act or from a later day.
 - (5) To the extent to which a provision takes effect from a day earlier than the day of the regulation's notification in the gazette, the provision does not operate to the disadvantage of a person (other than the State or a State authority) by—
 - (a) decreasing the person's rights; or
 - (b) imposing liabilities on the person.

Part 5 **Miscellaneous**

11A **General regulation-making power for Queensland**

The Governor in Council may make regulations under this Act, other than the appendix.

12 **Special savings and transitional regulations for Queensland**

- (1) The Governor in Council may make regulations of a savings or transitional nature consequent on the enactment of this Act.
- (2) If a regulation so provides, it has effect despite any provision of this Act, including the Consumer Credit (Queensland) Code.
- (3) A provision of a regulation made under this section may, if the regulation so provides, take effect from the day of assent to this Act or from a later day.
- (4) To the extent to which a provision takes effect from a day earlier than the day of the regulation's notification in the

gazette, the provision does not operate to the disadvantage of a person (other than the State or a State authority) by—

- (a) decreasing the person's rights; or
- (b) imposing liabilities on the person.

12A Approval of forms for Queensland

The chief executive may approve forms for use under this Act, other than the appendix.

13 Act binds all persons

This Act binds all persons, including the State and, so far as the legislative power of the Parliament permits, the Commonwealth and the other States.

14 Maximum annual percentage rate

- (1) The Governor in Council may make regulations prescribing a maximum annual percentage rate for a credit contract or class of credit contract, within the meaning of the Consumer Credit (Queensland) Code.
- (2) Part 2, division 2 of the Code (which limits the debtor's monetary obligations) applies in relation to a prescribed maximum annual percentage rate as if that rate had been prescribed by the Code.

Note—

The effect of subsection (2) is that a provision of a contract is void to the extent it imposes a monetary liability in excess of the maximum annual percentage rate prescribed under subsection (1) and that any excess amount paid under the contract may be recovered. In addition the credit provider commits an offence for entering into the contract.

- (3) A regulation may require that, for calculating the annual percentage rate of a credit contract for subsection (1), not only interest charges but all credit fees and charges under the credit contract are to be included.
- (4) If a provision of a contract is void to a particular extent because of this section and section 21(2) of the Code, nothing in this section affects the powers of the Court under part 4,

division 3 of the Code in relation to the other provisions of the contract.

Note—

Part 4, division 3 of the Code allows (among other things) the Court to reopen unjust transactions.

Part 6 Control of credit providers' practices

Division 1 Preliminary

15 Purpose

This part provides for controls over credit providers' practices in addition to the controls provided for in the Consumer Credit (Queensland) Code and the *Credit Act 1987*.

16 District Court to exercise jurisdiction

- (1) The District Court has jurisdiction to hear and decide an application made under this part and to make an order authorised by this part.
- (2) While exercising its jurisdiction under this part, the District Court is to be constituted by a judge sitting alone.

Division 2 Unjust conduct by credit providers

17 Meaning of *unjust conduct*

For this part, any of the following conduct by a credit provider is *unjust conduct*—

- (a) dishonest or unfair conduct;

- (b) anything done, or omitted to be done, in breach of a contract, whether or not a proceeding in relation to the breach has been brought;
- (c) contravening a consumer credit law or the *Credit (Rural Finance) Act 1996*.

18 Dealing with unjust conduct

If it appears to the chief executive that a credit provider has repeatedly engaged in unjust conduct in the course of a credit business, the chief executive may—

- (a) ask the credit provider to execute a deed prepared by the chief executive under section 19 of this Act; or
- (b) apply to a court for an order under section 21 of this Act.

19 Conduct deeds

- (1) The chief executive may prepare a deed (a *conduct deed*), for execution by a credit provider, under which the credit provider agrees to—
 - (a) stop engaging in stated conduct; or
 - (b) conduct its credit business in a stated way; or
 - (c) rectify the consequences of its past conduct in a stated way and within a stated time.
- (2) A conduct deed may also contain other terms the chief executive considers appropriate.
- (3) A conduct deed must state that it is made under this section.
- (4) If a credit provider executes a conduct deed, the credit provider must comply with it.

Maximum penalty—500 penalty units.

- (5) The chief executive may not apply for an order under section 21 of this Act in relation to particular conduct by a credit provider if—
 - (a) the credit provider has executed a conduct deed; and
 - (b) the conduct happened before the deed's execution; and

- (c) the conduct is addressed by the deed; and
- (d) the credit provider has complied with the deed.

20 Register of conduct deeds

- (1) The chief executive must keep a register of conduct deeds.
- (2) If a credit provider executes a conduct deed, the chief executive must—
 - (a) keep the executed deed and give a copy to the credit provider; and
 - (b) record the prescribed particulars of the deed in the register.
- (3) The register may be inspected by anyone, free of charge, during office hours.

21 Court order restraining unjust conduct

- (1) On application by the chief executive, the court may make an order under this section if it is satisfied a credit provider has—
 - (a) repeatedly engaged in unjust conduct in the course of a credit business; or
 - (b) contravened a conduct deed it has executed.
- (2) The court may make an order it considers appropriate, including, for example, that the credit provider—
 - (a) stop engaging in stated conduct; or
 - (b) conduct its credit business in a stated way; or
 - (c) if it has contravened a conduct deed—comply with the deed; or
 - (d) rectify the consequences of its past conduct in a stated way and within a stated time.
- (3) If the credit provider is a corporation and the court is satisfied an executive officer of the corporation was involved in the unjust conduct or contravention of the conduct deed, the court may also make an order it considers appropriate about the officer's future involvement in the credit provider's conduct.

- (4) A credit provider or executive officer must comply with an order made under this section.

Maximum penalty—500 penalty units.

22 Variation or discharge of restraining order

A court may vary or discharge an order made under section 21 of this Act on the application of the chief executive, a credit provider or another person affected by the order.

Division 3 Prohibition from acting as credit provider

23 Court may make prohibition order

- (1) On application by the chief executive, the court may make an order—
- (a) prohibiting a person from providing consumer credit; or
 - (b) restricting the way a person may provide consumer credit.
- (2) The order—
- (a) may be made on terms the court considers appropriate; and
 - (b) may be for a stated time or without any time limit.
- (3) Subsection (1) applies if the court considers the person is not an appropriate person to provide consumer credit, or to provide consumer credit other than under a restriction stated in the order, having regard to whether the person—
- (a) has been convicted of an offence against a consumer credit law or the *Credit (Rural Finance) Act 1996*; or
 - (b) has been convicted of an offence involving dishonesty; or
 - (c) has carried on a business dishonestly or unfairly; or
 - (d) is or has been a credit provider under a credit contract—

- (i) the transaction giving rise to which has been reopened under the Consumer Credit (Queensland) Code, section 70² or the *Credit Act 1987*, part 9, division 3;³ or
- (ii) in relation to which a court has found, under the Consumer Credit (Queensland) Code, section 72,⁴ that a fee, charge or change in a rate was unconscionable; or
- (e) has repeatedly engaged in unjust conduct in the course of a credit business; or
- (f) has contravened a conduct deed the person has executed; or
- (g) was involved, as an executive officer of a corporation, in a matter mentioned in paragraphs (a) to (f) that applies to the corporation.

(4) A person must comply with an order under this section.

Maximum penalty—200 penalty units or 6 months imprisonment.

(5) In this section—

providing consumer credit includes being involved in providing consumer credit.

Examples of being involved in providing consumer credit—

- 1 Taking part in the management or control of a corporation or business that provides consumer credit.
- 2 Taking part in the negotiation of credit contracts as an employee or agent of a credit provider.

24 Variation or discharge of prohibition order

A court may vary or discharge a prohibition order on the application of the chief executive or a person affected by the order.

2 Section 70 (Court may reopen unjust transactions)

3 Part 9 (Control of credit providers' practices), division 3 (Reopening of regulated contracts and regulated mortgages)

4 Section 72 (Court may review unconscionable interest and other charges)

25 Effect of prohibition order on pre-existing credit contracts

A prohibition order made against a person does not operate in relation to a credit contract entered into before the order is made, so as to prevent the person—

- (a) receiving an amount under the contract; or
- (b) enforcing the contract; or
- (c) unless it is a continuing credit contract, providing consumer credit under the terms of the contract existing at the time the order is made; or
- (d) providing consumer credit under the contract as varied or deferred after the order is made, but only if the variation or deferral is made at the debtor's request to enable the debtor to comply with the contract.

26 Civil penalty for contravening prohibition order

- (1) This section applies if a person (the *prohibited person*) provides consumer credit under a credit contract in contravention of a prohibition order.
- (2) The prohibited person is not entitled to payment of any amount under the credit contract.
- (3) Anyone who pays an amount under the credit contract to the prohibited person may recover the amount as a debt payable by the prohibited person.
- (4) This section does not affect the liability of the prohibited person to be convicted of an offence.

Part 7 Investigation and enforcement

Division 1 Inspectors

27 Appointment of inspectors

- (1) The chief executive may appoint an officer or employee of the department as an inspector if—
 - (a) the chief executive believes the officer or employee has the necessary expertise or experience to be an inspector; or
 - (b) the officer or employee has satisfactorily completed a course of training approved by the chief executive.
- (2) An inspector holds office for the term, and on the conditions, stated in the inspector's instrument of appointment.

28 Powers of inspectors

- (1) An inspector—
 - (a) has the powers given under this Act; and
 - (b) is subject to the chief executive's directions in exercising the powers.
- (2) An inspector's powers may be limited—
 - (a) under a regulation; or
 - (b) under a condition of appointment; or
 - (c) by written notice given by the chief executive to the inspector.

29 Identity card

- (1) The chief executive must give each inspector an identity card.
- (2) The identity card must—
 - (a) contain a recent photograph of the inspector; and
 - (b) be signed by the inspector; and

- (c) identify the person as an inspector for the consumer credit laws.
- (3) A person who stops being an inspector must return the person's identity card to the chief executive as soon as possible (but within 21 days) after the person stops being an inspector, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

- (4) This section does not prevent the giving of a single identity card to a person for the consumer credit laws and other Acts or for other purposes.

30 Production and display of identity card

- (1) An inspector may exercise a power in relation to someone only if the inspector—
 - (a) first produces his or her identity card for the person's inspection; or
 - (b) has the identity card displayed so that it is clearly visible to the person.
- (2) However, if for any reason it is not practicable to comply with subsection (1) before exercising the power, the inspector must produce the identity card for inspection by the person at the first reasonable opportunity.

Division 2 Inspectors' general powers

31 Entry to places

- (1) An inspector may enter a place if—
 - (a) the inspector believes on reasonable grounds that the place is a credit business place and the entry is made when the place is open for the conduct of business or otherwise open for entry; or
 - (b) its occupier consents to the entry; or
 - (c) it is a public place; or
 - (d) the entry is authorised by warrant.

- (2) An inspector may also enter land around premises to gain access to the premises or to ask its occupier for consent to enter the premises.
- (3) In this section—
credit business place means a place, other than a private dwelling, at which—
 - (a) a credit business is carried on; or
 - (b) there are documents relating to a credit business.

32 Consent to entry

- (1) This section applies if an inspector intends to ask an occupier of a place for consent to enter the place.
- (2) Before asking for the consent, the inspector must tell the occupier—
 - (a) the purpose of the entry; and
 - (b) that the occupier is not required to consent.
- (3) If the consent is given, the inspector may ask the occupier to sign an acknowledgment of the consent.
- (4) The acknowledgment must state the following—
 - (a) that the occupier was told—
 - (i) the purpose of the entry; and
 - (ii) that the occupier was not required to consent;
 - (b) the purpose of the entry;
 - (c) that the occupier gives the inspector consent to enter the place and exercise powers under this part;
 - (d) the time and date the consent was given.
- (5) If the occupier signs the acknowledgment, the inspector must immediately give a copy to the occupier.
- (6) Subsection (7) applies to a court if—
 - (a) an issue arises, in a proceeding in or before the court, whether the occupier of a place consented to an inspector entering the place under this part; and

- (b) an acknowledgment under this section is not produced in evidence for the entry; and
 - (c) it is not proved the occupier consented to the entry.
- (7) The court may presume the occupier did not consent.

33 Warrants to enter

- (1) An inspector may apply to a magistrate for a warrant for a place.
- (2) The application must be sworn and state the grounds on which the warrant is sought.
- (3) The magistrate may refuse to consider the application until the inspector gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

Example—

The magistrate may require additional information supporting the application to be given by statutory declaration.

- (4) The magistrate may issue the warrant only if the magistrate is satisfied there are reasonable grounds for suspecting—
 - (a) there is a particular thing or activity (the *evidence*) that may provide evidence of an offence against a consumer credit law; and
 - (b) the evidence is, or may be within the next 7 days, at the place.
- (5) The warrant must state the following—
 - (a) that a stated inspector may, with necessary and reasonable help and force, enter the place and exercise the inspector's powers under this part;
 - (b) the offence for which the warrant is sought;
 - (c) the evidence that may be seized under the warrant;
 - (d) the hours of the day or night when the place may be entered;
 - (e) the date, within 14 days after the warrant's issue, that the warrant ends.

34 Warrants—applications made other than in person

- (1) An inspector may apply for a warrant by phone, fax, radio or another form of communication if the inspector considers it necessary because of—
 - (a) urgent circumstances; or
 - (b) other special circumstances, including, for example, the inspector's remote location.
- (2) Before applying for the warrant, the inspector must prepare an application stating the grounds on which the warrant is sought.
- (3) The inspector may apply for the warrant before the application is sworn.
- (4) After issuing the warrant, the magistrate must immediately fax a copy to the inspector if it is reasonably practicable to do so.
- (5) If it is not reasonably practicable to fax a copy to the inspector—
 - (a) the magistrate must tell the inspector—
 - (i) what the terms of the warrant are; and
 - (ii) the date and time the warrant was issued; and
 - (b) the inspector must complete a form of warrant (the **warrant form**) and write on it—
 - (i) the magistrate's name; and
 - (ii) the date and time the magistrate issued the warrant; and
 - (iii) the terms of the warrant.
- (6) The facsimile warrant, or the warrant form properly completed by the inspector, authorises the entry and the exercise of the other powers stated in the warrant issued by the magistrate.
- (7) The inspector must, at the first reasonable opportunity, send to the magistrate—
 - (a) the sworn application; and

- (b) if the inspector completed a warrant form—the completed warrant form.
- (8) On receiving the documents, the magistrate must attach them to the warrant.
- (9) Subsection (10) applies to a court if—
 - (a) an issue arises, in a proceeding in or before the court, whether a power exercised by an inspector was authorised by a warrant issued under this section; and
 - (b) the warrant is not produced in evidence.
- (10) The court must presume that the exercise of the power was not authorised by a warrant issued under this section, unless the contrary is proved.

35 General powers after entering places

- (1) This section applies to an inspector who enters a place under section 31(1) of this Act.⁵
- (2) For monitoring or enforcing compliance with a consumer credit law, the inspector may—
 - (a) search any part of the place; or
 - (b) inspect or photograph any part of the place or anything at the place; or
 - (c) inspect, copy or take an extract from a document at the place; or
 - (d) take to the place any persons, equipment or materials the inspector reasonably needs to exercise a power under this part; or
 - (e) require the occupier of the place, or a person at the place, to give the inspector reasonable help to exercise the powers under paragraphs (a) to (d).
- (3) A person must comply with a requirement under subsection (2)(e) unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

⁵ Section 31 (Entry to places)

- (4) A requirement under subsection (2)(e) does not include a requirement to give information about an offence against a consumer credit law or to produce a document.⁶
- (5) A person does not commit an offence under subsection (3) for failing to comply with a requirement unless the inspector has first warned the person it is an offence to fail to comply with the requirement unless the person has a reasonable excuse.

36 Power to seize evidence

- (1) An inspector who enters a place under section 31(1) of this Act, other than under a warrant, may seize a thing at the place if—
 - (a) the inspector reasonably believes the thing is evidence of an offence against a consumer credit law; and
 - (b) if the entry was made with the occupier's consent—seizure of the thing is consistent with the purpose of the entry as told to the occupier when asking for the consent.
- (2) An inspector who enters a place under a warrant may seize the evidence for which the warrant was issued.
- (3) The inspector may also seize anything else at the place if the inspector reasonably believes—
 - (a) the thing is evidence of an offence against a consumer credit law and the seizure is necessary to prevent the thing being hidden, lost, destroyed or used to continue or repeat the offence; or
 - (b) the thing has just been used in committing an offence against a consumer credit law.

37 Powers supporting seizure

- (1) Having seized a thing under this part, an inspector may—

⁶ For the power to require information about an offence against a consumer credit law, see section 43 of this Act. For the power to require documents to be produced, see section 44 of this Act.

- (a) move the thing from the place where it was seized (the *place of seizure*); or
- (b) leave the thing at the place of seizure but take reasonable action to restrict access to it.

Examples of restricting access to a thing—

- 1 Sealing a thing and marking it to show access to it is restricted.
 - 2 Sealing the entrance to a room where the seized thing is situated and marking it to show access to it is restricted.
- (2) If an inspector restricts access to a seized thing, a person must not tamper, or attempt to tamper, with the thing or something restricting access to the thing without an inspector's approval.
- Maximum penalty—50 penalty units.

38 Receipt for seized things

- (1) As soon as practicable after an inspector seizes a thing, the inspector must give a receipt for it to the person from whom it was seized.
- (2) However, if for any reason it is not practicable to comply with subsection (1), the inspector must leave the receipt in a conspicuous position and in a reasonably secure way at the place of seizure.
- (3) The receipt must describe generally each thing seized and its condition.
- (4) This section does not apply to a thing if it is impracticable or would be unreasonable to give the receipt required by the section (given the thing's nature, condition and value).

39 Return of seized things

- (1) An inspector must return a seized thing to its owner—
 - (a) within a reasonable time; or
 - (b) if a proceeding for an offence involving the thing is started within a reasonable time—at the end of the proceeding and any appeal from the proceeding.

- (2) Despite subsection (1), an inspector must immediately return a thing seized as evidence to its owner if the inspector stops being satisfied its continued retention as evidence is necessary.

40 Access to seized things

- (1) Until a seized thing is returned, an inspector must allow its owner, or an agent of its owner, to inspect it and, if it is a document, to copy it.
- (2) Subsection (1) does not apply if it is impracticable or would be unreasonable to allow the inspection or copying.

41 Powers to be exercised to cause least inconvenience

An inspector must exercise a power under this division, in relation to a credit provider, in a way that causes as little inconvenience to the credit provider's business as is practicable, having regard to the purpose for which the power is exercised.

Division 3 Other investigative powers

42 Power to require name and address

- (1) This section applies if—
 - (a) an inspector finds a person committing an offence against a consumer credit law; or
 - (b) an inspector finds a person in circumstances that lead, or has information that leads, the inspector to reasonably suspect the person has just committed an offence against a consumer credit law.
- (2) The inspector may require the person to state the person's name and residential address.
- (3) When making the requirement, the inspector must warn the person it is an offence to fail to state the person's name or residential address, unless the person has a reasonable excuse.

- (4) The inspector may require the person to give evidence of the correctness of the stated name or residential address if the inspector reasonably suspects the stated name or address is false.
- (5) A person must comply with a requirement under subsection (2) or (4), unless the person has a reasonable excuse.
Maximum penalty—50 penalty units.
- (6) A person does not commit an offence against subsection (5) if—
 - (a) the person was required to state the person's name and address by an inspector who suspected the person had committed an offence; and
 - (b) the person is not proved to have committed the offence.

43 Power to require giving of information

- (1) This section applies if an inspector reasonably believes—
 - (a) an offence against a consumer credit law has just been committed; and
 - (b) a person may be able to give information about the offence.
- (2) The inspector may, by written notice given to the person, require the person to give information about the offence.
- (3) The notice must state that—
 - (a) it is an offence to fail to give the information unless the person has a reasonable excuse; and
 - (b) it is a reasonable excuse for a person to fail to give information if complying with the requirement might tend to incriminate the person.
- (4) The person must give the information, unless the person has a reasonable excuse.
Maximum penalty—50 penalty units.
- (5) It is a reasonable excuse for a person to fail to give information if complying with the requirement might tend to incriminate the person.

44 Power to require production of certain documents

- (1) An officer may, by written notice given to a person, require the person to make available for inspection by an officer, or produce to the officer for inspection, at a reasonable time and place nominated by the officer, a document relating to a credit business.
- (2) The notice must state that—
 - (a) it is an offence to fail to comply with the requirement unless the person has a reasonable excuse; and
 - (b) it is a reasonable excuse for a person to fail to comply with the requirement if complying with the requirement might tend to incriminate the person.
- (3) A person must comply with the requirement unless the person has a reasonable excuse.
Maximum penalty—50 penalty units.
- (4) It is a reasonable excuse for a person to fail to comply with the requirement if complying with the requirement might tend to incriminate the person.
- (5) The officer may keep the document to copy it.
- (6) If the officer copies the document, or an entry in the document, the officer may require the person responsible for keeping the document to certify the copy as a true copy of the document or entry.
- (7) A person must comply with a requirement under subsection (6) unless the person has a reasonable excuse for not complying.
Maximum penalty—50 penalty units.
- (8) The officer must return the document to the person as soon as practicable after copying it.
- (9) In this section—
officer means an inspector or the chief executive.

45 Unreadable documents

- (1) A power under section 44 of this Act to require production of a document includes, for an unreadable document, the power

to require production of a printed document in the English language stating the information contained in the unreadable document.

(2) In subsection (1)—

unreadable document means a document that is not in writing, not written in the English language or is not decipherable on sight.

Division 4 Other enforcement matters

46 False or misleading statements

(1) A person must not state anything to an inspector that the person knows is false or misleading in a material particular.

Maximum penalty—50 penalty units.

(2) It is enough for a complaint against a person for an offence against subsection (1) to state that the statement made was false or misleading to the person's knowledge.

47 Obstructing inspector

A person must not obstruct an inspector in the exercise of a power, unless the person has a reasonable excuse for the obstruction.

Maximum penalty—50 penalty units.

48 Impersonating inspector

A person must not pretend to be an inspector.

Maximum penalty—100 penalty units or 6 months imprisonment.

49 Inspector to give notice of damage

(1) This section applies if—

(a) an inspector damages something when exercising or purporting to exercise a power; or

- (b) a person (the *other person*) acting under the direction of an inspector damages something.
- (2) The inspector must promptly give written notice of particulars of the damage to the person who appears to be the owner of the thing.
- (3) If the inspector believes the damage was caused by a latent defect in the thing or circumstances beyond the inspector's or other person's control, the inspector may state it in the notice.
- (4) If, for any reason, it is impracticable to comply with subsection (2), the inspector must leave the notice in a conspicuous position and in a reasonably secure way where the damage happened.
- (5) This section does not apply to damage the inspector reasonably believes is trivial.
- (6) In this section—
owner, of a thing, includes the person in possession or control of it.

50 Compensation

- (1) A person may claim compensation from the State if the person incurs loss or expense because of the exercise or purported exercise of a power under this part, including, for example, in complying with a requirement made of the person.
- (2) Compensation may be claimed and ordered in a proceeding—
 - (a) brought in a court with jurisdiction for the recovery of the amount of compensation claimed; or
 - (b) for an offence brought against the person claiming compensation.
- (3) A court may order compensation to be paid only if satisfied it is just to make the order in the circumstances of the particular case.
- (4) A regulation may prescribe matters that may, or must, be taken into account by the court when considering whether it is just to make the order.

Part 8 Consumer Credit Fund

51 Establishment of fund

- (1) The Consumer Credit Fund is continued in existence subject to the *Financial Administration and Audit Act 1977*, part 8, division 2.⁷
- (2) Accounts for the fund must be kept as part of the departmental accounts of the department.
- (3) Amounts received for the fund must be deposited in a departmental financial-institution account of the department but may be deposited in an account used for depositing other amounts of the department.
- (4) In this section—

Consumer Credit Fund means the fund established under the *Credit Act 1987*, section 153A, and subsequently continued in existence.

departmental accounts, of a department, means the accounts of the department under the *Financial Administration and Audit Act 1977*, section 12.

departmental financial-institution account, of a department, means an account of the department kept under the *Financial Administration and Audit Act 1977*, section 18.

other amounts, of a department, means amounts received by the department other than amounts received for the fund.

52 Payments to fund

- (1) The fund is the fund established and operated for the Consumer Credit (Queensland) Code, section 106.⁸
- (2) The fund also consists of any other amounts paid into the fund including, for example, any of the following amounts—

⁷ *Financial Administration and Audit Act 1977*, part 8 (Transitional provisions), division 2 (Transitional provisions for *Financial Administration Legislation Amendment Act 1999*)

⁸ Section 106 (Payment of penalty to fund)

- (a) an amount paid to the fund under the *Credit Act 1987*, section 87B;⁹
- (b) another amount paid to the fund by a credit provider;
- (c) interest and other income derived from the investment of amounts standing to the credit of the fund;
- (d) costs awarded to the chief executive by a court in a proceeding under this Act;
- (e) costs awarded to the registrar by a court in a proceeding under the *Credit Act 1987*.

53 Payments from fund

- (1) The Minister may approve the payment of an amount from the fund, on terms the Minister considers appropriate, for any of the following purposes—
 - (a) providing financial counselling services to consumers;
 - (b) giving legal advice to consumers about consumer credit;
 - (c) improving knowledge about consumer credit.
- (2) The chief executive may approve the payment of an amount from the fund for—
 - (a) legal fees incurred by the chief executive, or costs awarded by a court against the chief executive, in a proceeding under this Act; or
 - (b) legal fees incurred by the registrar, or costs awarded by a court against the registrar, in a proceeding under the *Credit Act 1987*; or
 - (c) other expenses incurred in administering the consumer credit laws including, for example, salaries and training costs for officers of the department who administer or execute the laws.
- (3) However, the total of all payments approved under subsection (2)(c) for a financial year must not be more than 30% of the highest balance of the fund for the financial year.

⁹ *Credit Act 1987*, section 87B (Court may direct payment to the Fund)

54 Report on operations of fund

The department's annual report for a financial year must include a report on the operations of the fund during the year.

Part 9 Administration**Division 1 Offences****55 Application of division**

This division does not apply to an offence against the Consumer Credit (Queensland) Code.¹⁰

56 Offences are summary offences

An offence against a consumer credit law is a summary offence.

57 Start of offence proceedings

A proceeding for an offence against a consumer credit law may be started within 3 years after the offence is committed.

58 Liability for offences by corporations

- (1) The executive officers of a corporation must ensure the corporation complies with the consumer credit laws.
- (2) If a corporation commits an offence against a provision of a consumer credit law, each of the corporation's executive officers also commits an offence, namely, the offence of failing to ensure the corporation complies with the provision.

¹⁰ For the relevant provisions applying to the Code, see the Consumer Credit (Queensland) Code, part 11 (Miscellaneous), division 4 (Provisions relating to offences).

Maximum penalty—the penalty prescribed for the contravention of the provision by an individual.

- (3) Evidence that a corporation has been convicted of an offence against a provision of a consumer credit law is evidence each of the corporation's executive officers committed the offence of failing to ensure the corporation complies with the provision.
- (4) However, it is a defence for an executive officer to prove—
 - (a) the officer was not in a position to influence the corporation's conduct in relation to the offence; or
 - (b) if the officer was in a position to influence the corporation's conduct in relation to the offence—the officer exercised reasonable diligence to ensure the corporation complied with the provision.
- (5) In this section—

convicted, of an offence, means the corporation has been found guilty of the offence, on a plea of guilty or otherwise, whether or not a conviction was recorded.

Division 2 Miscellaneous

59 Chief executive may intervene

The chief executive may intervene in a proceeding before a court under a consumer credit law and, on intervening, has standing to represent the public interest.

60 Delegation

The chief executive may delegate the chief executive's powers under a consumer credit law to an appropriately qualified officer or employee of the department.

61 Secrecy

- (1) A person who is, or has been, an officer of the department must not—

- (a) make a record of protected information; or
- (b) disclose to a person protected information about another person.

Maximum penalty—50 penalty units.

- (2) However, subsection (1) does not apply if the record is made or the information disclosed—
 - (a) in the performance of a function under, or for, a consumer credit law; or
 - (b) in a legal proceeding; or
 - (c) with the consent of the person to whom the protected information relates; or
 - (d) by the chief executive under subsection (3).
- (3) If the chief executive considers it appropriate, the chief executive may disclose protected information to an officer of a Commonwealth department, or a department of another State, for the administration or execution of a law of the jurisdiction about providing credit to consumers.
- (4) In this section—

officer, of a department, includes the chief executive and an employee of the department.

protected information means information about a person that comes to an officer's knowledge in the course of, or because of, the officer's functions under, or for, a consumer credit law.

62 Evidence

- (1) In a proceeding under a consumer credit law, there is no need to prove the appointment of the Minister, the chief executive or an inspector.
- (2) A signature purporting to be the signature of the Minister, the chief executive, an inspector or an officer or employee of the department is evidence of the signature it purports to be.
- (3) A certificate stating that a stated document is an appointment or approval, or a copy of an appointment or approval, is evidence of the matter.

63 Protection from liability

- (1) In this section—
official means—
- (a) the chief executive; or
 - (b) an inspector; or
 - (c) a person acting under an inspector's direction.
- (2) An official does not incur civil liability for an act done, or omission made, honestly and without negligence under a consumer credit law.
- (3) A liability that would, apart from this section, attach to an official attaches instead to the State.

64 Report on operation of consumer credit laws

The department's annual report for a financial year must include a report about the administration of the consumer credit laws during the year.

Part 10 Transitional provisions**Division 1 Transitional provision for Consumer Credit Legislation Amendment Act 1996****65 Transitional provision about undertakings and court orders**

- (1) A deed executed by a credit provider under the *Credit Act 1987*, section 143 is taken to be a conduct deed executed under section 19 of this Act.¹¹

11 Section 19 (Conduct deeds)

- (2) The register of undertakings kept under the *Credit Act 1987*, section 144 is continued under this Act as the register of conduct deeds kept under section 20 of this Act.¹²
- (3) An application by the registrar for a court order under the *Credit Act 1987*, section 145 that, at the commencement, had not been decided by the court, is taken to have been made under section 21 of this Act.¹³
- (4) A court order under the *Credit Act 1987*, section 145 is taken to have been made under section 21 of this Act.
- (5) An application by the registrar for a court order under the *Credit Act 1987*, section 147 that, at the commencement, had not been decided by the court, is taken to have been made under section 23 of this Act.¹⁴
- (6) A court order under the *Credit Act 1987*, section 147 is taken to be an order made under section 23 of this Act.

Division 2 Transitional provision for Consumer Credit (Queensland) and Other Acts Amendment Act 2008, part 2

66 Transitional provision about maximum annual percentage rate

- (1) This section applies if a maximum annual percentage rate is prescribed for a credit contract or class of credit contract under section 14(1) after the commencement of this section.
- (2) A regulation may provide that the prescribed maximum annual percentage rate applies to a credit contract entered into before the day the maximum annual percentage rate is prescribed if, after the day—
 - (a) the interest charges or credit fees or charges under the credit contract are increased, or a new fee or charge is

12 Section 20 (Register of conduct deeds)

13 Section 21 (Court order restraining unjust conduct)

14 Section 23 (Court may make prohibition order)

- imposed, whether or not the increase is made, or a new fee or charge is imposed, under the contract; or
- (b) the period of the credit contract is extended, whether or not under the contract, other than under section 66 of the Code.

Appendix Consumer Credit Code

[The Consumer Credit Code is reprinted as a separate reprint]

Endnotes

1 Index to endnotes

	Page
2 Date to which amendments incorporated	40
3 Key	40
4 Table of reprints	41
5 List of legislation	41
6 List of annotations	41

2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 31 July 2008. Future amendments of the Consumer Credit (Queensland) Act 1994 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No. [X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
num	= numbered	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 2002
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
prev	= previous		

4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments to	Effective	Reprint date
1	1996 Act No. 38	1 November 1996	1 November 1996
1A	1999 Act No. 29	1 July 1999	3 September 1999

Reprint No.	Amendments included	Effective	Notes
1B	2008 Act No. 26	31 July 2008	

5 List of legislation

Consumer Credit (Queensland) Act 1994 No. 51

date of assent 14 September 1994

ss 1–2 commenced on date of assent

remaining provisions commenced 1 November 1996 (1996 SL No. 152)

amending legislation—

Consumer Credit Legislation Amendment Act 1996 No. 38 ss 1–2, pt 3

date of assent 1 November 1996

commenced on date of assent

Statute Law (Miscellaneous Provisions) Act 1999 No. 19 ss 1–3 sch

date of assent 30 April 1999

commenced on date of assent

Financial Administration Legislation Amendment Act 1999 No. 29 ss 1–2, 50 sch

date of assent 16 June 1999

ss 1–2, 50 commenced on date of assent

remaining provisions commenced 1 July 1999 (1999 SL No. 122 and see 1999 SL No. 119, 1999 SL No. 70 s 2(3))

Consumer Credit (Queensland) and Other Acts Amendment Act 2008 No. 26 ss 1–2(1), pt 2

date of assent 9 May 2008

ss 1–2 commenced on date of assent

remaining provisions commenced 31 July 2008 (2008 SL No. 221)

6 List of annotations

Definitions for Act (other than Code)

s 3 sub 1996 No. 38 s 15

Words and expressions in Act (other than Code)

s 3A ins 1996 No. 38 s 15

General regulation-making power for Queensland

s 11A ins 1996 No. 38 s 16

Approval of forms for Queensland

s 12A ins 1996 No. 38 s 17

Maximum annual percentage rate

s 14 amd 2008 No. 26 s 4

PART 6—CONTROL OF CREDIT PROVIDERS' PRACTICES

pt hdg ins 1996 No. 38 s 18

Division 1—Preliminary

div hdg ins 1996 No. 38 s 18

Purpose

s 15 ins 1996 No. 38 s 18

District Court to exercise jurisdictions 16 ins 1996 No. 38 s 18
amd 1999 No. 19 s 3 sch**Division 2—Unjust conduct by credit providers**

div 2 (ss 17–22) ins 1996 No. 38 s 18

Division 3—Prohibition from acting as credit provider

div 3 (ss 23–26) ins 1996 No. 38 s 18

PART 7—INVESTIGATION AND ENFORCEMENT

pt hdg ins 1996 No. 38 s 18

Division 1—Inspectors

div 1 (ss 27–30) ins 1996 No. 38 s 18

Division 2—Inspectors' general powers

div hdg ins 1996 No. 38 s 18

Entry to places

s 31 ins 1996 No. 38 s 18

Consent to entry

s 32 ins 1996 No. 38 s 18

Warrants to enter

s 33 ins 1996 No. 38 s 18

Warrants—application made other than in person

s 34 ins 1996 No. 38 s 18

General powers after entering places

s 35 ins 1996 No. 38 s 18

Power to seize evidence

s 36 ins 1996 No. 38 s 18

Powers supporting seizure

s 37 ins 1996 No. 38 s 18

Receipt for seized thingss 38 ins 1996 No. 38 s 18
amd 1999 No. 19 s 3 sch**Return of seized things**

s 39 ins 1996 No. 38 s 18

Access to seized things

s 40 ins 1996 No. 38 s 18

Powers to be exercised to cause least inconvenience

s 41 ins 1996 No. 38 s 18

Division 3—Other investigative powers

div 3 (ss 42–45) ins 1996 No. 38 s 18

Division 4—Other enforcement matters

div 4 (ss 46–50) ins 1996 No. 38 s 18

PART 8—CONSUMER CREDIT FUND

pt hdg ins 1996 No. 38 s 18

Establishment of funds 51 ins 1996 No. 38 s 18
sub 1999 No. 29 s 50 sch**Payments to fund**

s 52 ins 1996 No. 38 s 18

Payments from fund

s 53 ins 1996 No. 38 s 18

Report on operations of fund

s 54 ins 1996 No. 38 s 18

PART 9—ADMINISTRATION

pt 9 (ss 55–64) ins 1996 No. 38 s 18

PART 10—TRANSITIONAL PROVISIONSpt hdg ins 1996 No. 38 s 18
sub 2008 No. 26 s 5**Division 1—Transitional provision for Consumer Credit Legislation Amendment Act 1996**

div hdg ins 2008 No. 26 s 5

Transitional provision about undertakings and court orders

s 65 ins 1996 No. 38 s 18

Division 2—Transitional provision for Consumer Credit (Queensland) and Other Acts Amendment Act 2008, part 2

div 2 (s 66) ins 2008 No. 26 s 6