



Queensland

# Credit (Commonwealth Powers) Bill 2009





## Queensland

# Credit (Commonwealth Powers) Bill 2009

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# 2009

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## A Bill

for

**An Act to refer certain matters relating to the provision of credit and certain other financial transactions to the Parliament of the Commonwealth for the purposes of section 51(xxxvii) of the Commonwealth Constitution, to repeal the *Consumer Credit (Queensland) Act 1994* and the regulations under that Act, to repeal the *Credit Act 1987* and the regulations under that Act, to provide for transitional and other matters relating to the referral of those matters and the repeal of those Acts and regulations, to continue to provide for a maximum annual percentage rate for credit contracts and to make consequential amendments to the Acts mentioned in the schedule**

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[s 1]

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**The Parliament of Queensland enacts—** 1

**Part 1 Preliminary** 2

**1 Short title** 3

This Act may be cited as the *Credit (Commonwealth Powers) Act 2009*. 4  
5

**2 Commencement** 6

The provisions of this Act, other than parts 2 and 5, 7  
commence on a day to be fixed by proclamation. 8

**Part 2 Reference of matters** 9

**3 Definitions for part** 10

In this part— 11

*amendment reference* means the reference under section 12  
4(1)(b). 13

*Commonwealth Credit instrument* means any instrument 14  
(whether or not of a legislative character) that is made or 15  
issued under the National Credit legislation. 16

*express amendment* of the National Credit legislation means 17  
the direct amendment of the text of the National Credit 18  
legislation (whether by the insertion, omission, repeal, 19  
substitution or relocation of words or matter) by another 20  
Commonwealth Act or by an instrument under a 21  
Commonwealth Act, but does not include the enactment by a 22  
Commonwealth Act of a provision that has or will have 23

- 
- substantive effect otherwise than as part of the text of the  
National Credit legislation. 1 2
- initial National Credit Code** means the text of Schedule 1 to  
the *National Consumer Credit Protection Bill 2009* under  
paragraph (a) of the definition of *tabled text*. 3 4 5
- initial reference** means the reference under section 4(1)(a). 6
- initial referred provisions** means the tabled text to the extent  
to which that text deals with matters that are included in the  
legislative powers of the Parliament of the State. 7 8 9
- National Credit legislation** means Commonwealth Acts  
enacted in the terms, or substantially in the terms, of the  
tabled text set out as— 10 11 12
- (a) the *National Consumer Credit Protection Bill 2009*; and 13
- (b) the *National Consumer Credit Protection (Transitional  
and Consequential Provisions) Bill 2009*; 14 15
- and as in force from time to time. 16
- reference** means— 17
- (a) the initial reference; or 18
- (b) the amendment reference. 19
- referred credit matter** means a matter relating to either of the  
following— 20 21
- (a) credit, being credit the provision of which would be  
covered by the expression ‘provision of credit to which  
this Code applies’ in the initial National Credit Code; 22 23 24
- (b) consumer leases, being consumer leases each of which  
would be covered by the expression ‘consumer lease to  
which Part 11 applies’ in the initial National Credit  
Code. 25 26 27 28
- tabled text** means the text of the following Bills for  
Commonwealth Acts— 29 30
- (a) *National Consumer Credit Protection Bill 2009*; 31

[s 4]

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- (b) *National Consumer Credit Protection (Transitional and Consequential Provisions) Bill 2009;* 1  
2  
as tabled, by or on behalf of the Minister for Corrections and 3  
Consumer Protection in the House of Assembly of Tasmania 4  
on 7 October 2009. 5

**4 Reference of matters** 6

- (1) The following matters are referred to the Parliament of the 7  
Commonwealth— 8
- (a) the matters to which the initial referred provisions 9  
relate, but only to the extent of the making of laws with 10  
respect to those matters by including the initial referred 11  
provisions in Acts enacted in the terms, or substantially 12  
in the terms, of the tabled text; 13
- (b) any referred credit matter, but only to the extent of the 14  
making of laws with respect to such a matter by making 15  
express amendments of the National Credit legislation. 16
- (2) The reference of a matter under subsection (1) has effect 17  
only— 18
- (a) if and to the extent that the matter is not included in the 19  
legislative powers of the Parliament of the 20  
Commonwealth (otherwise than by a reference under 21  
section 51(xxxvii) of the Constitution of the 22  
Commonwealth); and 23
- (b) if and to the extent that the matter is included in the 24  
legislative powers of the Parliament of the State. 25
- (3) The operation of each paragraph of subsection (1) is not 26  
affected by the other paragraph. 27
- (4) For the avoidance of doubt, it is the intention of the 28  
Parliament of the State that— 29
- (a) the National Credit legislation may be expressly 30  
amended, or have its operation otherwise affected, at 31  
any time after the commencement of this Act by 32  
provisions of Commonwealth Acts the operation of 33



- 
- which is based on legislative powers that the Parliament  
of the Commonwealth has apart from under the  
references under subsection (1); and
- (b) the National Credit legislation may have its operation  
affected, otherwise than by express amendment, at any  
time by provisions of Commonwealth Credit  
instruments.
- (5) Despite any other provision of this section, a reference under  
this section has effect for a period—
- (a) beginning when this section commences; and
- (b) ending at the end of the day fixed under section 5 as the  
day on which the reference is to terminate;
- but no longer.

## 5 Termination of references

- (1) The Governor may, at any time, by proclamation published in  
the gazette, fix a day as the day on which—
- (a) the references terminate; or
- (b) the amendment reference terminates.
- (2) The Governor may, by proclamation published in the gazette,  
revoke a proclamation published under subsection (1), in  
which case the revoked proclamation is taken (for the  
purposes of section 4) never to have been published.
- (3) A revoking proclamation has effect only if published before  
the day fixed under subsection (1).
- (4) The revocation of a proclamation published under subsection  
(1) does not prevent publication of a further proclamation  
under that subsection.
- (5) If the amendment reference has terminated, the expression *the  
references* in subsection (1)(a) refers only to the initial  
reference.

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<b>6</b>	<b>Effect of termination of amendment reference before initial reference</b>	1 2
(1)	If the amendment reference terminates before the initial reference terminates, the termination of the amendment reference does not affect—	3 4 5
(a)	laws that were made under the amendment reference (but not repealed) before that termination (whether or not they have come into operation before that termination); or	6 7 8 9
(b)	the continued operation in the State of the National Credit legislation as in operation immediately before that termination or as subsequently amended or affected by—	10 11 12 13
(i)	laws referred to in paragraph (a) that come into operation after that termination; or	14 15
(ii)	provisions referred to in section 4(4)(a) or (b).	16
(2)	Accordingly, the amendment reference continues to have effect for the purposes of subsection (1) unless the initial reference is terminated.	17 18 19
(3)	Subsection (1) does not apply to or in relation to an amendment of the National Credit legislation that is excluded from the operation of this section by the proclamation that terminates the amendment reference.	20 21 22 23
(4)	For the purposes of subsection (1)—	24
(a)	the laws referred to in subsection (1)(a) include Commonwealth Credit instruments; and	25 26
(b)	the reference in subsection (1)(b) to the National Credit legislation as in operation immediately before the termination of the amendment reference includes that legislation as affected by Commonwealth Credit instruments that have come into operation before that time.	27 28 29 30 31 32

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<b>7</b>	<b>Evidence</b>	1
(1)	A certificate of the Clerk of the House of Assembly of Tasmania certifying that a document is an accurate copy of the tabled text, or is an accurate copy of a particular part or of particular provisions of the tabled text, is admissible in evidence in any proceedings and is evidence—	2 3 4 5 6
(a)	of the matter certified; and	7
(b)	that the text of the proposed Commonwealth Bills was tabled in the House of Assembly of Tasmania as referred to in the definition of <i>tabled text</i> in section 3.	8 9 10
(2)	Subsection (1) does not affect any other way in which the tabling or content of the tabled text, or the accuracy of a copy of the tabled text or of a part or provisions of the tabled text, may be established.	11 12 13 14

## **Part 3**                      **Repeals**                      15

<b>8</b>	<b>Repeals</b>	16
	The following are repealed—	17
•	Consumer Credit (Queensland) Act 1994, No. 51	18
•	Consumer Credit (Queensland) Special Provisions Regulation 2008, SL No. 222	19 20
•	Consumer Credit Regulation 1995, SL No. 410	21
•	Credit Act 1987, No. 52	22
•	Credit Regulations 1988.	23

[s 9]

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<b>Part 4</b>	<b>Transitional provisions</b>	1
<b>Division 1</b>	<b>Preliminary</b>	2
<b>9</b>	<b>Definitions for part</b>	3
	In this part—	4
	<i>Consumer Credit Fund</i> means the Consumer Credit Fund under the repealed <i>Consumer Credit (Queensland) Act 1994</i> , section 51.	5 6 7
	<i>continued fund</i> means the Consumer Credit Fund as continued under section 14(1).	8 9
	<i>former consumer credit legislation</i> means the following as in force before their repeal—	10 11
	(a) the <i>Consumer Credit (Queensland) Act 1994</i> including the Consumer Credit (Queensland) Code;	12 13
	(b) the <i>Consumer Credit Regulation 1995</i> ;	14
	(c) the <i>Consumer Credit (Queensland) Special Provisions Regulation 2008</i> .	15 16
	<i>National Credit Code</i> means the <i>National Credit Code</i> in Schedule 1 of the <i>National Consumer Credit Protection Act 2009</i> (Cwlth).	17 18 19
	<i>National credit legislation</i> means—	20
	(a) the <i>National Consumer Credit Protection Act 2009</i> (Cwlth); and	21 22
	(b) the <i>National Consumer Credit Protection (Transitional and Consequential Provisions) Act 2009</i> (Cwlth).	23 24
	<i>repealed Consumer Credit (Queensland) Code</i> means the Appendix to the repealed <i>Consumer Credit (Queensland) Act 1994</i> .	25 26 27

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<b>10</b>	<b>Acts Interpretation Act, s 20 not limited</b>	1
	This part does not limit the <i>Acts Interpretation Act 1954</i> , section 20.	2 3
	<i>Note—</i>	4
	However, see the <i>National Consumer Credit Protection (Transitional and Consequential Provisions) Act 2009</i> (Cwlth), schedule 1, part 2 (Transition from the old Credit Codes to the new Credit Code).	5 6 7
<b>Division 2</b>	<b>Transitional provisions for the repeal of Credit Act 1987</b>	8 9
<b>11</b>	<b>Definition for division</b>	10
	In this division—	11
	<i>repealed Act</i> means the repealed <i>Credit Act 1987</i> .	12
<b>12</b>	<b>Continuation of effect of repealed Act</b>	13
(1)	Despite the repeal of the repealed Act, the repealed Act continues to apply as prescribed by the repealed Act, sections 21A and 21B in relation to persons, contracts and other matters to the same extent it applied before the repeal.	14 15 16 17
(2)	For the purpose of subsection (1), the repealed Consumer Credit (Queensland) Code continues to have effect for the purposes of sections 21A and 21B of the repealed Act as if the Consumer Credit (Queensland) Code had not been repealed.	18 19 20 21
(3)	Amounts payable under section 87B of the repealed Act to the Consumer Credit Fund are to be paid to the continued fund.	22 23
(4)	To remove any doubt, it is declared that a reference to the repealed Act in this section includes a reference to regulations made under the repealed Act.	24 25 26

[s 13]

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<b>Division 3</b>	<b>Transitional and other provisions for the repeal of Consumer Credit (Queensland) Act 1994</b>	1 2 3
<b>Subdivision 1</b>	<b>Preliminary</b>	4
<b>13</b>	<b>Definition for division</b>	5
	In this division—	6
	<i>repealed Act</i> means the repealed <i>Consumer Credit (Queensland) Act 1994</i> .	7 8
<b>Subdivision 2</b>	<b>Consumer Credit Fund</b>	9
<b>14</b>	<b>Continuation of Consumer Credit Fund</b>	10
(1)	The Consumer Credit Fund continues in existence despite the repeal of the repealed Act.	11 12
(2)	Accounts for the continued fund must be kept as part of the departmental accounts of the department.	13 14
(3)	Amounts received for the continued 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.	15 16 17 18
(4)	The chief executive may change the name by which the continued fund is known.	19 20
(5)	In this section—	21
	<i>departmental accounts</i> , of the department, means the accounts of the department under the <i>Financial Accountability Act 2009</i> , section 69.	22 23 24
	<i>departmental financial institution account</i> , of the department, means an account of the department kept under the <i>Financial Accountability Act 2009</i> , section 83.	25 26 27

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

- 15 Amounts payable to continued fund**
- (1) This section applies to the following amounts—
- (a) a repealed Act amount;
  - (b) an amount, that corresponds to an amount mentioned in subsection (5), that is payable because of the application of the former consumer credit legislation as provided under section 30(2).
- (2) An amount mentioned in subsection (1)(a) continues to be payable to the continued fund.
- (3) An amount mentioned in subsection (1)(b) is payable to the continued fund.
- (4) The continued fund consists of the following—
- (a) amounts that are in the Consumer Credit Fund on the commencement of this subdivision;
  - (b) amounts payable into the fund.
- (5) A *repealed Act amount* is an amount payable under the repealed Act or the repealed *Credit Act 1987* to the Consumer Credit Fund or the continued fund including, for example—
- (a) an amount payable under the repealed Consumer Credit (Queensland) Code, section 106;
  - (b) an amount payable under the repealed *Credit Act 1987*, section 87B;
  - (c) another amount payable to the continued fund by a credit provider under the repealed Act;
  - (d) interest and other income derived from the investment of amounts standing to the credit of the continued fund;
  - (e) costs awarded to the chief executive by a court in a proceeding under the repealed Act;

[s 16]

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(f)	costs awarded to the registrar by a court in a proceeding under the repealed <i>Credit Act 1987</i> ;	1 2
(g)	interest and earnings from investments;	3
(h)	costs awarded to the chief executive.	4
(6)	However, an amount payable under subsection (5)(a) does not include an amount that is payable to the Commonwealth under the National Credit Code on the commencement of that Code.	5 6 7 8
<b>16</b>	<b>Payments from continued fund</b>	9
(1)	The chief executive may approve the payment of an amount from the continued fund, on terms the chief executive considers appropriate, for any of the following purposes—	10 11 12
(a)	engaging with consumers;	13
(b)	research for consumer policy;	14
(c)	general consumer education campaigns;	15
(d)	consumer surveys;	16
(e)	other consumer-related initiatives;	17
(f)	legal fees incurred by the chief executive, or costs awarded by a court against the chief executive, in a proceeding under the repealed Act;	18 19 20
(g)	legal fees incurred by the registrar, or costs awarded by a court against the registrar, in a proceeding under the repealed <i>Credit Act 1987</i> .	21 22 23
(2)	The continued fund is taken to be closed when all amounts in the fund are expended.	24 25
<b>17</b>	<b>Report on operations of continued fund</b>	26
	The department's annual report for a financial year must include a report on the operations of the continued fund during the year.	27 28 29



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<b>Division 4</b>	<b>General provisions</b>	1
<b>18</b>	<b>Continuation of maximum annual percentage rate for existing credit contracts</b>	2 3
(1)	Subsection (2) applies to an existing credit contract under the former consumer credit legislation.	4 5
(2)	The provisions of the former consumer credit legislation in relation to the maximum annual percentage rate under an existing credit contract continue to apply as if those provisions had not been repealed and were still in force.	6 7 8 9
(3)	Without limiting subsection (2), the following provisions of the former consumer credit legislation are applied in relation to the maximum annual percentage rate under an existing credit contract—	10 11 12 13
(a)	the provisions in relation to the enforcement of that rate;	14
(b)	the provisions in relation to any powers of investigation in relation to that rate;	15 16
(c)	the provisions in relation to the taking of any proceedings or action against a credit provider in relation to that rate.	17 18 19
(4)	In this section—	20
	<i>existing credit contract</i> means a credit contract to which the former consumer credit legislation applied immediately before the repeal of the <i>Consumer Credit (Queensland) Act 1994</i> .	21 22 23 24
<b>19</b>	<b>Proceedings</b>	25
	Any proceedings relating to any matter arising under the provisions of the former consumer credit legislation that were commenced before the commencement of this part, but were not finally decided as at the commencement, may continue to be dealt with or otherwise decided as if those provisions had not been repealed.	26 27 28 29 30 31

[s 20]

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<b>20</b>	<b>Offences</b>	1
(1)	This section applies if a person is alleged to have committed an offence against the former consumer credit legislation before the commencement of this part.	2 3 4
(2)	Despite the Criminal Code, section 11, proceedings for the offence may be started or continued, and the court may hear and decide the proceedings, as if this Act, other than this section, had not commenced.	5 6 7 8
(3)	However, proceedings may not be started under part 6, division 3 of the repealed <i>Consumer Credit (Queensland) Act 1994</i> .	9 10 11
	<i>Notes—</i>	12
1	See the <i>National Consumer Credit Protection Act 2009</i> (Cwlth), chapter 2 (Licensing of persons who engage in credit activities).	13 14
2	See also the note to section 10.	15
<b>21</b>	<b>Control of credit provider's practices</b>	16
(1)	This section applies if it appears to the chief executive that a credit provider has repeatedly engaged in unjust conduct under the repealed <i>Consumer Credit (Queensland) Act 1994</i> (the <b>repealed Act</b> ) before its repeal.	17 18 19 20
(2)	The provisions of part 6, division 2 of the repealed Act for the taking of any proceedings or action against a credit provider in relation to the unjust conduct mentioned in subsection (1) apply as if this Act, other than this section, had not commenced.	21 22 23 24 25
<b>22</b>	<b>Monitoring, enforcement and administration generally</b>	26
(1)	This section applies for the purpose of the monitoring, enforcement and administration generally of the repealed <i>Consumer Credit (Queensland) Act 1994</i> (the <b>repealed Act</b> ), including the repealed Act as continued in effect for any purpose.	27 28 29 30 31

- (2) The repealed Act, parts 7 and 9, and anything done under those parts, continues to apply as if the parts had not been repealed. 1  
2  
3
- (3) To remove any doubt, it is declared that a person holding an appointment as an inspector under section 30(3) is authorised to perform functions and exercise powers for the purposes of this division. 4  
5  
6  
7

**23 References to superseded legislation and subordinate legislation** 8  
9

- (1) This section applies— 10
- (a) unless the contrary intention appears or the context requires a different interpretation; and 11  
12
- (b) to take account of the referral of matters under section 4. 13
- (2) A reference in an Act, a statutory instrument, or any other kind of instrument or a contract, agreement or other document, to an Act, code or regulations stated in column 1 of the following table will have effect as if it were a reference to the Act, code or regulations stated opposite it in column 2 of the table. 14  
15  
16  
17  
18  
19

**Table** 20

<b>Column 1</b>	<b>Column 2</b>
<i>Consumer Credit (Queensland) Act 1994</i>	<i>National Consumer Credit Protection Act 2009 (Cwlth)</i>
<i>Consumer Credit (Queensland) Code</i>	<i>National Credit Code</i>
<i>Consumer Credit (Queensland) Regulation 1995 or Consumer Credit (Queensland) Special Provisions Regulation 2008</i>	Regulations made for the purposes of the <i>National Consumer Credit Protection Act 2009 (Cwlth)</i> (including the <i>National Credit Code</i> )

[s 24]

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<b>24</b>	<b>Transitional regulation-making power</b>	1
(1)	A regulation (a <i>transitional regulation</i> ) may make provision of a saving or transitional nature—	2 3
(a)	for which it is necessary to make provision to allow or facilitate the change from the operation of the provisions of the former consumer credit legislation to the operation of the provisions of the National credit legislation; and	4 5 6 7 8
(b)	for which this Act does not make provision or sufficient provision.	9 10
(2)	Without limiting subsection (1), a transitional regulation may continue the operation of a repealed provision.	11 12
(3)	A transitional regulation may have retrospective operation to a day not earlier than the commencement of this section.	13 14
(4)	To the extent to which a provision takes effect under subsection (3) 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 by—	15 16 17 18
(a)	decreasing the person's rights; or	19
(b)	imposing liabilities on the person.	20
(5)	A transitional regulation must declare it is a transitional regulation.	21 22
(6)	This section and a transitional regulation expire 2 years after the day the regulation commences.	23 24
(7)	In this section—	25
	<i>former consumer credit legislation</i> includes the following—	26
(a)	the <i>Credit Act 1987</i> ;	27
(b)	the <i>Credit Regulations 1988</i> .	28

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<b>Part 5</b>	<b>Provisions relating to ASIC</b>	1
<b>25</b>	<b>Provision of information and assistance to ASIC</b>	2
(1)	The Minister is authorised, on his or her own initiative or at the request of ASIC—	3 4
(a)	to provide ASIC with the documents and other information in the possession or control of the Minister that are reasonably required by ASIC in connection with the performance or exercise of its functions or powers under the National credit legislation; and	5 6 7 8 9
(b)	to provide ASIC with other assistance that is reasonably required by ASIC to perform or exercise a function or power under the National credit legislation.	10 11 12
(2)	Subsection (1) applies despite any other Act or law.	13
(3)	The Minister is authorised to do an act or thing under this section before the commencement of the National credit legislation.	14 15 16
<b>26</b>	<b>ASIC has particular functions and powers</b>	17
(1)	The Minister, or a person authorised in writing by the Minister, may enter into an agreement or arrangement with ASIC for the performance of functions or the exercise of powers by ASIC as an agent of the State, even if those functions or powers are or may be conferred on another person or body by or under a law of the State.	18 19 20 21 22 23
(2)	An agreement or arrangement of a kind mentioned in subsection (1) has effect by force of this section despite any provision of a law of the State in relation to any function or power that is the subject of the agreement or arrangement.	24 25 26 27
	<i>Note—</i>	28
	The <i>National Consumer Credit Protection (Transitional and Consequential Provisions) Act 2009</i> , Schedule 1, part 4, section 23 provides that ASIC has particular functions and powers that are expressed to be conferred on it by or under a law of a State.	29 30 31 32

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[s 27]

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<b>Part 6</b>	<b>Maximum annual percentage rate for credit contracts</b>	1 2
<b>27</b>	<b>Definitions for part</b>	3
	In this part—	4
	<i>former consumer credit legislation</i> means the following as in force before their repeal—	5 6
	(a) the <i>Consumer Credit (Queensland) Act 1994</i> including the Consumer Credit (Queensland) Code;	7 8
	(b) the <i>Consumer Credit Regulation 1995</i> ;	9
	(c) the <i>Consumer Credit (Queensland) Special Provisions Regulation 2008</i> .	10 11
	<i>National Credit Code</i> means the <i>National Credit Code</i> in Schedule 1 of the <i>National Consumer Credit Protection Act 2009</i> (Cwlth).	12 13 14
	<i>repealed Consumer Credit (Queensland) Code</i> means the Appendix to the repealed <i>Consumer Credit (Queensland) Act 1994</i> .	15 16 17
<b>28</b>	<b>Words have meanings given by Consumer Credit (Queensland) Code</b>	18 19
	Words used in this part and defined under the Consumer Credit (Queensland) Code immediately before its repeal have the same meanings as they had under the Code before its repeal.	20 21 22 23
<b>29</b>	<b>Maximum annual percentage rate for new credit contracts</b>	24
	(1) A credit provider must not enter into a credit contract if the annual percentage rate for the credit contract is more than 48% (the <i>maximum annual percentage rate</i> ) as calculated under section 31.	25 26 27 28
	Maximum penalty—100 penalty units.	29

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- (2) A provision of a credit contract that imposes an annual percentage rate that exceeds the maximum annual percentage rate is void to the extent that it does so.
- (3) If an amount prohibited by subsection (1) is paid, it may be recovered.
- (4) Interest charges and all credit fees and charges (other than a government fee, charge or duty) under the credit contract are to be included in calculating the maximum annual percentage rate of the credit contract under section 31.
- (5) Despite subsection (4), any credit fees or charges arising from the establishment or maintenance of a temporary credit facility are not required to be included for calculating 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 at the time the temporary credit facility is or was established; and
  - (c) the temporary credit facility is related to the existing credit contract or debit account.
- (6) In this section—
- temporary credit facility*** includes, but is not limited to, an overdraft facility and a short term extension of the total amount of credit available under an existing credit contract.
- Note—*
- This part substantially continues in existence the provisions of the *Consumer Credit (Queensland) Act 1994* and the provisions of the *Consumer Credit (Queensland) Special Provisions Regulation 2008* relating to the same subject matter.

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**30 Enforcement of maximum annual percentage rate**

(1) The provisions of the former consumer credit legislation that—

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- (a) confer jurisdiction on the courts in relation to the  
contravention of an obligation involving the maximum  
annual percentage rate imposed under the legislation;  
and
- (b) relate to the enforcement of that rate;
- apply, despite the repeal of those provisions and with any  
necessary changes, in relation to the maximum annual  
percentage rate under this part in the same way that those  
provisions applied to the maximum annual percentage rate  
under the legislation before their repeal.
- (2) Without limiting subsection (1), the following provisions are  
applied to the enforcement of the maximum annual  
percentage rate under this part—
- (a) the following provisions of the repealed *Consumer  
Credit (Queensland) Act 1994*—
- section 7
  - section 8
  - part 6, divisions 1 and 2
  - part 7
  - part 9, divisions 1 and 2;
- (b) the following provisions of the repealed *Consumer  
Credit (Queensland) Code*—
- section 7
  - section 11
  - section 21
  - part 6, to the extent it relates to section 21
  - part 11, division 4.
- (3) An appointment as an inspector under the repealed *Consumer  
Credit (Queensland) Act 1994*, section 27, in force  
immediately before the commencement of this part, continues  
in force from the commencement until it is ended under the  
repealed Act as applied for this part.



- (4) The chief executive may appoint an officer or employee as an inspector under the repealed *Consumer Credit (Queensland) Act 1994*, section 27 as applied for this part.

**31 Calculating annual percentage rate of credit contracts**

- (1) For the purpose of calculating the annual percentage rate under a credit contract to which this part applies, the rate must be calculated as a nominal rate per annum, together with the compounding frequency, in accordance with this section.
- (2) The annual percentage rate is given by the following formula—

$$i = n \times r \times 100\%$$

where—

*i* is the annual percentage rate.

*n* is the number of repayments per annum to be made under the credit contract (annualised if the term of the contract is less than 12 months), 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* mentioned below.

*r* is the solution of the following—

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

where—

*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

[s 31]

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- 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 fee or charge payable by the debtor at time  $j$  before the time of the first amount of credit provided) in addition to the repayments  $R_j$ , being a credit fee or charge (other than a government fee, charge or duty) that is ascertainable when the annual percentage rate is calculated.
- (3) The annual percentage rate must be correct to at least the nearest one hundredth of 1% per annum.
- (4) In the application of the above formulae, reasonable approximations may be made if it would be impractical or unreasonably onerous to make a precise calculation.
- (5) The tolerances that would apply under section 181 of the National Credit Code in relation to the calculation of an amount of interest for the purposes of that Code are taken to apply to the calculation of the annual percentage rate for the purposes of this part.
- (6) If the credit contract is a continuing credit contract, the following assumptions also apply to the calculation of the 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>Schedule</b>	<b>Consequential amendments of other Acts</b>	1 2
	section 32	3
	<b>Bills of Sale and Other Instruments Act 1955</b>	4
<b>1</b>	<b>Section 6—</b>	5
	<i>insert—</i>	6
	<i>‘National Credit Code means the National Credit Code in Schedule 1 of the National Consumer Credit Protection Act 2009 (Cwlth).’.</i>	7 8 9
<b>2</b>	<b>Section 19(1A), ‘Consumer Credit Code’—</b>	10
	<i>omit, insert—</i>	11
	<i>‘National Credit Code’.</i>	12
<b>3</b>	<b>Section 19A(3), ‘Consumer Credit Code’—</b>	13
	<i>omit, insert—</i>	14
	<i>‘National Credit Code’.</i>	15
<b>4</b>	<b>Section 20(1), ‘Consumer Credit Code’—</b>	16
	<i>omit, insert—</i>	17
	<i>‘National Credit Code’.</i>	18
<b>5</b>	<b>Section 21(4), ‘Consumer Credit Code’—</b>	19
	<i>omit, insert—</i>	20
	<i>‘National Credit Code’.</i>	21

<b>6</b>	<b>Section 45(3), ‘Consumer Credit Code’—</b>	1
	<i>omit, insert—</i>	2
	‘National Credit Code’.	3
<b>7</b>	<b>Schedule 5, section 1(4), ‘sections 96 and 108 of the Credit Act 1987’—</b>	4
	<i>omit, insert—</i>	5
	‘sections 96 and 108 of the repealed Credit Act 1987 as continued’.	6
		7
		8
<b>8</b>	<b>Schedule 5, after section 1(4)—</b>	9
	<i>insert—</i>	10
	‘Note—	11
	The provisions of the <i>Credit Act 1987</i> are continued by the <i>Credit (Commonwealth Powers) Act 2009</i> , section 12.’.	12
		13
<b>9</b>	<b>Schedule 5, section 1(4), ‘Consumer Credit (Queensland) Code, sections 80 and 91’</b>	14
	<i>omit, insert—</i>	15
		16
	‘National Credit Code, sections 88 and 99’.	17
		18
	<b>Credit (Rural Finance) Act 1996</b>	18
<b>1</b>	<b>Section 5(3)(a), ‘Consumer Credit (Queensland) Code applies;’—</b>	19
	<i>omit, insert—</i>	20
		21
	‘National Credit Code applies;’.	22
<b>2</b>	<b>Section 5(3)(a), footnote—</b>	23
	<i>omit.</i>	24

Schedule

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<b>3</b>	<b>Section 5(3)(b), ‘Credit Act 1987’—</b>	1
	<i>omit, insert—</i>	2
	‘the repealed Credit Act 1987 as continued’.	3
<b>4</b>	<b>After section 5(3)(b)—</b>	4
	<i>insert—</i>	5
	<i>Note—</i>	6
	The provisions of the <i>Credit Act 1987</i> are continued by the <i>Credit (Commonwealth Powers) Act 2009</i> , section 12.’	7 8
<b>5</b>	<b>Schedule—</b>	9
	<i>insert—</i>	10
	‘ <i>National Credit Code</i> means the <i>National Credit Code</i> in	11
	Schedule 1 of the <i>National Consumer Credit Protection Act</i>	12
	2009 (Cwlth).’.	13
	<b>Forestry Act 1959</b>	14
<b>1</b>	<b>Section 61E(12), ‘see Consumer Credit (Queensland) Act 1994’—</b>	15 16
	<i>omit, insert—</i>	17
	‘see the National Credit Code’.	18
<b>2</b>	<b>Schedule 3—</b>	19
	<i>insert—</i>	20
	‘ <i>National Credit Code</i> means the <i>National Credit Code</i> in	21
	Schedule 1 of the <i>National Consumer Credit Protection Act</i>	22
	2009 (Cwlth).’.	23

<b>Hire-purchase Act 1959</b>		1
<b>1</b>	<b>Section 2(1)—</b>	2
	<i>insert—</i>	3
	<i>‘National Credit Code means the National Credit Code in Schedule 1 of the National Consumer Credit Protection Act 2009 (Cwlth).’.</i>	4 5 6
<b>2</b>	<b>Section 2(1), definition <i>hire-purchase agreement</i>, after paragraph (c)—</b>	7 8
	<i>insert—</i>	9
	<i>‘Note—</i>	10
	<i>The provisions of the Credit Act 1987 are continued by the Credit (Commonwealth Powers) Act 2009, section 12.’.</i>	11 12
<b>3</b>	<b>Section 2(1), definition <i>hire-purchase agreement</i>, paragraphs (c) and (d) and (4), ‘Credit Act 1987’—</b>	13 14
	<i>omit, insert—</i>	15
	<i>‘repealed Credit Act 1987 as continued’.</i>	16
<b>4</b>	<b>Section 2(1), definition <i>hire-purchase agreement</i>, paragraph (f), ‘Consumer Credit (Queensland) Code, section 10(1)’—</b>	17 18 19
	<i>omit, insert—</i>	20
	<i>‘National Credit Code, section 9(1)’.</i>	21
<b>5</b>	<b>Section 2(1), definition <i>hire-purchase agreement</i>, paragraph (e) and (4), ‘Consumer Credit (Queensland) Code’—</b>	22 23 24
	<i>omit, insert—</i>	25
	<i>‘National Credit Code’.</i>	26

<b>Legal Aid Queensland Act 1997</b>	1
<b>1 Section 36(4)—</b>	2
<i>omit.</i>	3
<b>Mineral Resources Act 1989</b>	4
<b>1 Schedule—</b>	5
<i>insert—</i>	6
‘ <i>National Credit Code</i> means the <i>National Credit Code</i> in	7
Schedule 1 of the <i>National Consumer Credit Protection Act</i>	8
2009 (Cwlth).’.	9
<b>2 Schedule, definition <i>credit provider</i>—</b>	10
<i>omit, insert—</i>	11
‘ <i>credit provider</i> see the National Credit Code.’.	12
<b>Police Powers and Responsibilities Act 2000</b>	13
<b>1 Section 73, ‘Consumer Credit Code’—</b>	14
<i>omit, insert—</i>	15
‘National Credit Code’.	16
<b>2 Chapter 22, part 1, division 3, heading, ‘Consumer Credit</b>	17
<b>Code’—</b>	18
<i>omit, insert—</i>	19
‘National Credit Code’.	20



<b>3</b>	<b>Section 753, ‘Consumer Credit Code’—</b>	1
	<i>omit, insert—</i>	2
	‘National Credit Code’.	3
<b>4</b>	<b>Schedule 6—</b>	4
	<i>insert—</i>	5
	‘ <i>National Credit Code</i> means the <i>National Credit Code</i> in	6
	Schedule 1 of the <i>National Consumer Credit Protection Act</i>	7
	<i>2009 (Cwlth)</i> .’.	8
	 <b>Property Agents and Motor Dealers Act 2000</b>	9
<b>1</b>	<b>Section 347(4), ‘Consumer Credit Code’—</b>	10
	<i>omit, insert—</i>	11
	‘National Credit Code’.	12
<b>2</b>	<b>Section 347(5)—</b>	13
	<i>insert—</i>	14
	‘ <i>National Credit Code</i> means the <i>National Credit Code</i> in	15
	Schedule 1 of the <i>National Consumer Credit Protection Act</i>	16
	<i>2009 (Cwlth)</i> .’.	17