
Credit (Commonwealth Powers) Bill 2009

Amendments agreed to during Consideration

1 After clause 2

Page 4, line 9—

omit, insert—

‘Part 2 Adoption and reference of matters’.

2 Clause 3 (Definitions for part)

Page 4, after line 11—

insert—

‘adoption means the adoption under section 3A(1).’.

3 Clause 3 (Definitions for part)

Page 4, lines 12 and 13, ‘section 4(1)(b)’—

omit, insert—

‘section 4(1)’.

4 Clause 3 (Definitions for part)

Page 5, lines 3 to 19—

omit, insert—

‘National Credit legislation means—

(a) *the National Consumer Credit Protection Act 2009 (Cwlth); and*

(b) *the National Consumer Credit Protection (Transitional and Consequential Provisions) Act 2009 (Cwlth);*

as in force from time to time.’.

5 Clause 3 (Definitions for part)

Page 5, line 24, ‘initial’—
omit, insert—
‘relevant version of the’.

6 Clause 3 (Definitions for part)

Page 5, line 27, ‘initial’—
omit, insert—
‘relevant version of the’.

7 Clause 3 (Definitions for part)

Page 5, after line 28—
insert—

‘relevant version of the National Credit Code means the text of schedule 1 to the *National Consumer Credit Protection Act 2009* (Cwlth) as originally enacted, and as later amended by the *National Consumer Credit Protection Amendment Act 2010* (Cwlth).

relevant version of the National Credit legislation means—

- (a) the *National Consumer Credit Protection Act 2009* (Cwlth) as originally enacted, and as later amended by the *National Consumer Credit Protection Amendment Act 2010* (Cwlth); and
- (b) the *National Consumer Credit Protection (Transitional and Consequential Provisions) Act 2009* (Cwlth).’.

8 Clause 3 (Definitions for part)

Page 5, lines 29 to 31 and page 6, lines 1 to 5—
omit.

9 After clause 3

Page 6, after line 5—

insert—

‘3A Adoption of National Credit legislation

- ‘(1) The relevant version of the National Credit legislation is adopted within the meaning of section 51(xxxvii) of the Commonwealth Constitution.
- ‘(2) The adoption has effect for a period—
 - (a) beginning when this section commences; and
 - (b) ending at the end of the day fixed under section 3B as the day on which the adoption is to terminate;but no longer.

‘3B Termination of adoption

- ‘(1) The Governor may, at any time, by proclamation published in the gazette, fix a day as the day on which the adoption 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 3A) 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.’.

10 Clause 4 (Reference of matters)

Page 6, lines 7 to 16—

omit, insert—

- ‘(1) Subject to section 4A, any referred credit matter is referred to the Parliament of the Commonwealth, but only to the extent of

the making of laws with respect to such a matter by making express amendments of the National Credit legislation.’.

11 Clause 4 (Reference of matters)

Page 6, lines 26 to 33 and page 7, lines 1 to 13—

omit, insert—

- ‘(3) Despite any other provision, the reference 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 terminates;
- but no longer.’.

12 After clause 4

Page 7, after line 13—

insert—

‘4A Matters excluded from reference

- ‘(1) A matter referred by section 4(1) does not include—
- (a) the matter of making provision with respect to the imposition or payment of State taxes, duties, charges or other imposts, however described; or
 - (b) the matter of making provision with respect to the general system for the recording of estates or interests in land and related information; or
 - (c) the matter of providing for the priority of interests in real property; or
 - (d) the matter of making a law that excludes or limits the operation of a State law, to the extent the State law makes provision with respect to the creation, holding, transfer, assignment, disposal or forfeiture of a State statutory right.
- ‘(2) In this section—

forfeiture means confiscation, seizure, extinguishment, cancellation, suspension or any other forfeiture.

State law means—

- (a) any Act of the State or any instrument made under such an Act, whenever enacted or made and as in force from time to time; or
- (b) the general law, being the principles and rules of common law and equity to the extent they have effect in the State from time to time.

State statutory right means a right, entitlement or authority granted by or under any Act of the State or any instrument made under such an Act, whenever enacted or made and as in force from time to time, other than a right, entitlement or authority relating to—

- (a) credit covered by paragraph (a) of the definition of *referred credit matter* in section 3; or
- (b) a consumer lease covered by paragraph (b) of that definition.’.

13 Clause 5 (Termination of references)

Page 7, line 14, ‘references’—

omit, insert—

‘reference’.

14 Clause 5 (Termination of references)

Page 7, lines 16 to 18, from ‘which’ to ‘terminates’—

omit, insert—

‘which the amendment reference terminates’.

15 Clause 5 (Termination of references)

Page 7, lines 28 to 30—

omit.

16 After clause 5

Page 7, after line 30—

insert—

‘5A Amendment of Commonwealth law

‘For the avoidance of doubt, it is the intention of the Parliament of the State that—

- (a) the National Credit legislation may be expressly amended, or have its operation otherwise affected, at any time after the commencement of this Act by provisions of Commonwealth Acts the operation of which is based on any legislative powers that the Parliament of the Commonwealth has on account of a reference of any matters, or the adoption of the relevant version of the National Credit legislation, under section 51 (xxxvii) of the Commonwealth Constitution; and
- (b) the National Credit legislation may be expressly amended, or have its operation otherwise affected, at any time after the commencement of this Act by provisions of Commonwealth Acts the operation of which is based on legislative powers that the Parliament of the Commonwealth has apart from a reference of any matters, or the adoption of the relevant version of the National Credit legislation, under section 51(xxxvii) of the Commonwealth Constitution; and
- (c) the National Credit legislation may have its operation affected, otherwise than by express amendment, at any time by provisions of Commonwealth Credit instruments.’.

17 Clause 6 (Effect of termination of amendment reference before initial reference)

Page 8, line 2, ‘initial reference’—

omit, insert—

‘termination of adoption of Commonwealth Acts’.

18 Clause 6 (Effect of termination of amendment reference before initial reference)

Page 8, lines 3 and 4, from ‘terminates’, first mention, to ‘terminates’, second mention—

omit, insert—

‘is terminated but the adoption of the relevant version of the National Credit legislation is not terminated’.

19 Clause 6 (Effect of termination of amendment reference before initial reference)

Page 8, line 10, ‘the State’—

omit, insert—

‘this State’.

20 Clause 6 (Effect of termination of amendment reference before initial reference)

Page 8, line 16, ‘section 4(4)(a) or (b)’—

omit, insert—

‘section 5A(b) or (c)’.

21 Clause 6 (Effect of termination of amendment reference before initial reference)

Page 8, lines 18 and 19, ‘the initial reference’—

omit, insert—

‘the adoption’.

22 Clause 7 (Evidence)

Page 9, lines 1 to 14—

omit.

23 Clause 23 (References to superseded legislation and subordinate legislation)

Page 17, line 13, after ‘of’, first mention—

insert—

‘the adoption of matters under section 3A and’.

24 Long title

Page 3, long title, from ‘An Act’ to ‘Constitution’—

omit, insert—

‘An Act to adopt the *National Consumer Credit Protection Act 2009* (Cwlth) (as amended) and the *National Consumer Credit Protection (Transitional and Consequential Provisions) Act 2009* (Cwlth), and 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’.