Queensland

CREDIT AMENDMENT BILL 1994

Queensland

CREDIT AMENDMENT BILL 1994

TABLE OF PROVISIONS

1994

A BILL

FOR

An Act to amend the *Credit Act 1987*

The Parliament of Queensland enacts—

Short title

1. This Act may be cited as the *Credit Amendment Act 1994*.

Act amended

2. This Act amends the *Credit Act 1987*.

Amendment of s 7 (Interpretation)

3. Section 7(1)—

insert—

‘ **“Fund”** means the Consumer Credit Fund established under Part 9A.’.

Amendment of s 86 (Credit provider may apply to court for reduction of loss for contravention of Act)

4.(1) Section 86—

insert—

‘**(3A)** Subsection (3) does not apply if the court acts under section 87B(2).’.

(2) Section 86—

insert—

‘**(6)** This section is subject to section 87B (Court may direct payment to the Fund).’.

Insertion of new s 87B

5. After section 87A—

insert—

‘Court may direct payment to the Fund

‘**87B.(1)** If a court makes a determination mentioned in section 87(1)(a), (b) or (c) because of a contravention of, or failure to comply with, this Act, it may direct that the credit provider must pay into the Fund an amount decided by the court.

‘**(2)** However, the direction may be given only if the court is satisfied that—

(a) the contravention or failure, and the relevant circumstances mentioned in section 86(2), are serious enough to justify the credit provider being penalised; and

(b) it would be unreasonable (whether because of the number of contracts concerned, the small amount owing to each debtor, or for another reason), to require the credit provider to adjust the debtors’ accounts, or to refund amounts to the debtors, to give effect to a reduction in liability that would happen if the credit charges were reduced.

‘**(3)** The direction may be given about all or only some of the regulated contracts to which the determination relates.

‘**(4)** The court must decide the amount having regard to the number (or estimated number) of the regulated contracts about which the direction is given.

‘**(5)** The direction must be included in the court’s order under section 86.’.

Insertion of new Pt 9A

6. After section 153—

insert—

‘PART 9A—CONSUMER CREDIT FUND

‘Establishment of Fund

‘**153A.** There is established, within the Trust and Special Funds of the public accounts, a fund called the Consumer Credit Fund.

‘Purpose of Fund

‘**153B.** The Fund is established to provide counselling and information services to consumers on financial issues.

‘What Fund consists of

‘**153C.** The Fund consists of—

(a) amounts paid to the Fund under section 87B; and

(b) interest and other income derived from the investment of amounts standing to the credit of the Fund; and

(c) costs awarded to the Registrar by a court in proceedings in which the Registrar appeared or intervened; and

(d) all other amounts lawfully paid into the Fund.

‘Investment of Fund

‘**153D.** Amounts standing to the credit of the Fund may be invested in any way the Treasurer approves.

‘Payment out of the Fund

‘**153E.(1)** The Registrar may pay amounts out of the Fund for or in connection with its purposes, including, for example, to fund—

(a) providing face to face financial counselling services to consumers; and

(b) providing legal advice to consumers about the giving of credit to consumers (**“consumer credit”**); and

(c) research into, or projects about, anything relevant to improving consumers’ knowledge about consumer credit; and

(d) education about consumer credit; and

(e) anything promoting consumers’ interests.

‘**(2)** The Registrar may also pay the following out of the Fund—

(a) legal fees incurred by the Registrar in appearing or intervening in a proceeding before a court;

(b) all expenses incurred in administering the Fund.

‘Report by Registrar

‘**153F.(1)** As soon as practicable after the end of each financial year, but within 4 months after the end of the year, the Registrar must give to the Minister a report on the operations of the Fund during the year.

‘**(2)** The Minister must table a copy of the report in the Legislative Assembly within 14 sitting days after the Minister receives the report.’.

Amendment of Sch 8 (Further transitional and other special provisions)

7.(1) Schedule 8, before clause 1—

insert—

‘PART 1—PROVISIONS BECAUSE OF THE ENACTMENT OF THE CREDIT ACT 1987’.

(2) Schedule 8, at the end—

insert—

‘PART 2—PROVISIONS BECAUSE OF THE ENACTMENT OF THE CREDIT AMENDMENT ACT 1994

‘Application of amendments to existing proceedings

‘**5.** The amendments of this Act made by the *Credit Amendment Act 1994* apply to proceedings started before, as well as after, the commencement of the amendments.’.