

South Australia

## Consumer Credit (South Australia) (Savings and Transitional) Regulations 1996

under the *Consumer Credit (South Australia) Act 1995*

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### Contents

- 1 Short title
- 2 Commencement
- 3 Revocation
- 4 Interpretation
- 5 Effect of regulations
- 6 Application of former laws to pre-Code credit contracts
- 7 Application of former laws to credit contracts made within one month of commencement of Act
- 8 Application of former laws to pre-Code continuing credit contracts
- 9 Application of certain provisions of Code to contracts governed by former laws

Schedule 1—Provisions of Code that may be substituted

Schedule 2—Provisions of Code that may be added

Legislative history

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#### 1—Short title

These regulations may be cited as the *Consumer Credit (South Australia) (Savings and Transitional) Regulations 1996*.

#### 2—Commencement

These regulations will come into operation on the day on which section 10 of the *Consumer Credit (South Australia) Act 1995* comes into operation.

#### 3—Revocation

The *Consumer Credit Regulations 1996* (see *Gazette 15.8.1996 p549*) are revoked.

#### 4—Interpretation

- (1) In these regulations—

*Act* means the *Consumer Credit (South Australia) Act 1995*;

*Code* means the *Consumer Credit (South Australia) Code*;

*former laws* means the *Consumer Credit Act 1972* and the *Consumer Transactions Act 1972* as in force immediately before the commencement of the Code.

- (2) All other words and expressions used in these regulations have the same respective meanings as in Part 11 of the *Consumer Credit (South Australia) Regulations*.

### **5—Effect of regulations**

These regulations are made pursuant to section 10 of the Act and have effect despite any provision of the Act, including the Code.

### **6—Application of former laws to pre-Code credit contracts**

- (1) The former laws apply to the provision of credit under a pre-Code contract (other than a continuing credit contract) and to the contract and related matters.
- (2) This regulation has effect even though credit is provided after the commencement of the Code.

### **7—Application of former laws to credit contracts made within one month of commencement of Act**

If a contract (other than a continuing credit contract) entered into within one month after the commencement of the Code complies with the former laws but not the Code, the former laws (rather than the Code) apply to the provision of credit under the contract and to the contract and related matters.

### **8—Application of former laws to pre-Code continuing credit contracts**

Despite clause 4 of the Schedule of the Act, the former laws apply to the provision of credit under a pre-Code continuing credit contract (and to the contract and related matters) but only in respect of anything done or omitted to be done before commencement of the Code.

### **9—Application of certain provisions of Code to contracts governed by former laws**

- (1) A credit provider under a contract to which the former laws continue to apply may—
- (a) elect to have the provisions of the Code listed in the second column of Schedule 1 applied in relation to the provision of credit under the contract (and to the contract and related matters) in substitution for the provision or provisions of the former laws listed opposite in the first column of Schedule 1; or
  - (b) elect to have any of the provisions of the Code listed in Schedule 2 applied in relation to the provision of credit under the contract (and to the contract and related matters) in addition to the provisions of the former laws.
- (2) An election under subregulation (1) may be made—
- (a) by notice in writing to each of the other parties to the contract; or
  - (b) if the credit provider intends to make an election under this regulation in relation to all relevant contracts under which credit is or has been provided by that credit provider—by public notice in a newspaper circulating throughout the State, published on at least two separate occasions.

- (3) If an election is made under subregulation (1)(a), any subsequent action purportedly taken by a debtor, mortgagor or guarantor under a provision of the former laws that no longer applies because of the election will be assumed to have been taken under the substituted Code provision.

## Schedule 1—Provisions of Code that may be substituted

<b>Provisions of former laws</b>	<b>Provisions of Code that may be applied in substitution</b>
section 47(1) and (3) of <i>Consumer Credit Act 1972</i>	sections 34 and 35
section 38 of <i>Consumer Transactions Act 1972</i>	sections 66, 67, 68 and 69
section 30 of the <i>Consumer Transactions Act 1972</i>	sections 78 and 79
sections 27, 28, 29 and 30 of the <i>Consumer Transactions Act 1972</i>	sections 80, 81, 82, 83, 94, 95, 96, 97, 98 and 99
section 31 of the <i>Consumer Transactions Act 1972</i>	section 90
section 34 of the <i>Consumer Transactions Act 1972</i>	section 91, 92, 93
section 47(2) and (3) of the <i>Consumer Credit Act 1972</i>	section 163
section 60 of the <i>Consumer Credit Act 1972</i>	sections 171, 172 and 173
section 49 of the <i>Consumer Transactions Act 1972</i>	sections 171, 172 and 173

## Schedule 2—Provisions of Code that may be added

### Code Provision

sections 84 and 85

sections 86, 87, 88 and 89

## Legislative history

### Notes

- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or [www.legislation.sa.gov.au](http://www.legislation.sa.gov.au).

### Revocation of regulations

These regulations became obsolete on the repeal of the *Consumer Credit (South Australia) Act 1995* on 1.7.2010.

### Principal regulations

Year	No	Reference	Commencement
1996	228	<i>Gazette 17.10.1996 p1388</i>	1.11.1996: r 2