

SOUTH AUSTRALIA

CONSUMER CREDIT REGULATIONS 1996

SUMMARY OF PROVISIONS

1. Citation
2. Commencement
3. Revocation
4. Interpretation
5. Authorised charges
6. Default charges need not be included in interest rate
7. Exemption for credit providers whose interest rates do not exceed 10%—determination of interest rate
8. Information about interest rate
9. Form of notices to consumers
10. Scale of procurement charges
11. Print type

SCHEDULE 1

Interest rate information

SCHEDULE 2

Form of notices to consumers

SCHEDULE 3

Scale of procurement charges

SCHEDULE 4

Print type

REGULATIONS UNDER THE CONSUMER CREDIT ACT 1972

Consumer Credit Regulations 1996

being

No. 184 of 1996: *Gaz.* 15 August 1996, p. 549¹

¹ Came into operation 1 September 1996: reg. 2.

Citation

1. These regulations may be cited as the *Consumer Credit Regulations 1996*.

Commencement

2. These regulations will come into operation on 1 September 1996.

Revocation

3. All regulations previously made under the *Consumer Credit Act 1972* are revoked.

Interpretation

4. In these regulations—

"Act" means the *Consumer Credit Act 1972*.

Authorised charges

5. The following charges are authorised for the purposes of the definition of "credit charge" in section 5 of the Act and for the purposes of section 53(2)(c) of the Act:

- (a) a sum lawfully agreed to be paid in respect of the valuation of land given as security for the repayment of the loan or of the amount of credit to which the Act applies to the extent only that the sum does not exceed the amount payable for such a valuation under a scale of fees, if any, for the time being fixed or recommended by the Australian Institute of Valuers and Land Economists Inc.;
- (b) an insurance premium actually paid or to be paid by a credit provider or supplier to an insurer for insurance against loss of title in respect of the security not exceeding the premium fixed by a scale of charges authorised from time to time by the Commissioner;
- (c) a fee actually paid or to be paid under the *Goods Securities Act 1986* by a credit provider for registration of an interest in goods given as security for the repayment of an amount owed under the credit contract.

Default charges need not be included in interest rate

6. Charges that are made of a consumer under a credit contract on default by the consumer in due compliance with the terms of the contract are not to be taken into account in determining rates of interest for the purposes of the Act.

Exemption for credit providers whose interest rates do not exceed 10%—determination of interest rate

7. For the purposes of section 6(1)(i) of the Act, the rate of interest at which credit is provided is the nominal annual percentage rate that, when applied to the unpaid balances of the principal calculated according to the actuarial method, yields a sum equal to the total amount of the credit charge.

Information about interest rate

8. For the purposes of sections 40(1)(c) and 41(1)(c) of the Act, the information in relation to the rate at which the credit charge accrues on the principal that must be contained in the credit contract is a rate (expressed as a rate per cent per annum) that is not less than the rate calculated in accordance with Schedule 1 or some other method approved by the Commissioner.

3.

Form of notices to consumers

9. (1) Schedule 2 sets out the prescribed form of notices for the purposes of sections 40(5) and 41(4) of the Act.

(2) For the purposes of those sections, notices in print must—

(a) be printed in type prescribed by Schedule 4; and

(b) be paragraphed and set out in the contrasting print of upper and lower case as appears in the relevant notice in Schedule 2.

Scale of procurement charges

10. Schedule 3 fixes a scale of procurement charges for the purposes of section 45 of the Act.

Print type

11. For the purposes of section 56 of the Act, a document must be printed in type prescribed by Schedule 4.

SCHEDULE 1*Interest rate information***Actuarial method**

1. The rate at which the credit charge accrues on the principal is the nominal annual percentage rate (correct to within 0.5%) that, when applied to the unpaid balances of the principal calculated according to the actuarial method, yields a sum equal to the total amount of the credit charge.

Alternative method

2. (1) If repayment of the principal and charges is to be made by equal regular periodic payments, the first of which is to fall due at the end of the first period, the nominal annual percentage rate may be calculated in accordance with the following formulae (in lieu of applying the actuarial method):

(a) to calculate the flat rate of interest per cent:

$$F = \frac{100c \times t}{n \times L}$$

(b) to convert the flat rate of interest per cent into the nominal annual percentage rate:

$$R = \frac{2nF (300c + nF)}{2n^2F + 300c (n + 1)}$$

Where (in each case)—

F	is the flat rate of interest per cent
c	is the number of payments per annum
t	is the total amount of the credit charge
n	is the number of payments
L	is the amount of the principal
R	is the nominal annual percentage rate.

(2) For the purposes of subclause (1), all payments will be taken to be equal if the variance between any one payment only and all other payments does not exceed 5%.

SCHEDULE 2

Form of notices to consumers

Notice to consumer under section 40(5) of the Act:

CREDIT CONTRACT (NOT BEING A SALE BY INSTALMENT)—NOTICE TO CONSUMER

THE CONSUMER CREDIT ACT 1972 AND THE CONSUMER TRANSACTIONS ACT 1972 AFFORD PROTECTION TO CONSUMERS IN A NUMBER OF WAYS

1. THE DOCUMENTS: You are entitled to receive this notice, a copy of your credit contract and notice of any variations of your credit contract within 14 days of such contract or variations.

The credit contract itself must be printed in the prescribed printing size and signed by you. It must contain clear information about your financial obligations including—

- (a) the amount of principal borrowed;
- (b) where and to whom you make repayments;
- (c) the number of instalments (if any) and the amount of each;
- (d) when instalments are payable;
- (e) the total amount of the credit charge to be paid;
- (f) details of other charges, like title insurance fee (if chattels), valuation fee (if real estate), permissible stamp duty, registration fees, legal costs and broker's charges;
- (g) the important matter of the rate at which the credit charge accrues on the principal, that is to say, what interest you are paying.

2. WHERE THE SALE OF GOODS IS INVOLVED, IT IS POSSIBLE TO RESCIND (that is, cancel) your goods contract with your goods supplier within seven days of delivery of the goods (and—if the credit provider is linked with the supplier—your credit contract with your credit provider within the same time), if the goods do not comply with various compulsorily implied conditions required of the supplier as to—

- (a) goods title;
- (b) description and sample;
- (c) merchantable quality;
- (d) fitness for the particular purpose made known to the supplier.

3. DAMAGES may be obtained against both the supplier of goods or services and any linked credit provider for misrepresentation or breach of warranty.

4. TEMPORARY INABILITY TO MEET PAYMENTS and other obligations can be excused in genuine cases where something unexpected has happened. You should first see the credit provider about this but if unsuccessful the Office of Consumer and Business Affairs will assist in negotiations in proper cases. Requests for assistance should be made at the Consumer Affairs Branch of the Office of Consumer and Business Affairs.

Where you are in default your contract can be reinstated if you make good the default even after goods are repossessed.

5. INFORMATION ABOUT YOUR PAYMENTS and a copy of any documents signed by you must be given to you on written request to the credit provider and payment of small fees. You can also direct that any payment made by you be credited to the account of your choice.

6. REPOSSESSION OF THE GOODS cannot be effected generally speaking even if you are in arrears unless the credit provider gives you seven days notice of intention to repossess. Sale cannot be effected thereafter without a further written notice.

7. COMPOUND INTEREST is prohibited; simple interest may be charged on amounts in default.

6.

8. HARSH TERMS AND EXCESSIVE INTEREST although rarely encountered in responsible business dealings may be avoided on application to the courts. You should first consult the Office of Consumer and Business Affairs.

9. PROCUREMENT CHARGES are generally prohibited for arranging your credit with a credit provider.

10. WHERE THE CREDIT CONTRACT COMES TO AN END EARLIER THAN ORIGINALLY INTENDED (whether by agreement or by breach) the total credit charge must be reduced by rebating as set out in section 43 of the *Consumer Credit Act 1972*.

11. INSURANCE. You are not obliged to insure with any particular company, agree to any unreasonable terms or premiums, nor submit to arbitration.

Notice to consumer under section 41(4) of the Act:

CREDIT CONTRACT THAT IS A SALE BY INSTALMENT—NOTICE TO CONSUMER

THE CONSUMER CREDIT ACT 1972 AND THE CONSUMER TRANSACTIONS ACT 1972 AFFORD PROTECTION TO CONSUMERS IN A NUMBER OF WAYS

1. THE DOCUMENTS. You are entitled to receive this notice, a copy of your credit contract and notice of any variations of your credit contract within 14 days of such contracts or variations.

The credit contract itself must be printed in the prescribed printing size and signed by you. It must contain clear information about—

- (a) the number of instalments and the amount of each; and
- (b) where and to whom you make payments; and
- (c) when instalments are payable; and
- (d) a description of the goods sufficient to identify them; and
- (e) a description of any consideration other than cash; and
- (f) the price at which you could have bought for cash; and
- (g) details of other charges, like permissible stamp duty, maintenance and delivery charges, registration and licensing fees, goods and title insurance; and
- (h) total deposit, mentioning separately cash and trade-in; and
- (i) the amount of the credit charge; and
- (j) the important matter of the rate at which the credit charge accrues on the principal, that is to say, what percentage credit charge you are paying.

2. AS THE SALE OF GOODS IS INVOLVED, IT IS POSSIBLE TO RESCIND (that is, cancel) your goods contract with your goods supplier within 7 days of delivery of the goods (and—if the credit provider is linked with the supplier—your credit contract with your credit provider within the same time), if the goods do not comply with various compulsorily implied conditions required of the supplier as to—

- (a) goods title;
- (b) description and sample;
- (c) merchantable quality;
- (d) fitness for the particular purpose made known to the supplier.

3. DAMAGES may be obtained against both the supplier of goods and any linked credit provider for misrepresentation or breach of warranty.

7.

4. TEMPORARY INABILITY TO MEET PAYMENTS and other obligations can be excused in genuine cases where something unexpected has happened. You should first see the credit provider about this but if unsuccessful the Office of Consumer and Business Affairs will assist in negotiations in proper cases. Request of assistance should be made at the Consumer Affairs Branch of the Office of Consumer and Business Affairs.

Where you are in default your contact can be reinstated if you make good the default even after goods are repossessed.

5. INFORMATION ABOUT YOUR PAYMENTS and a copy of any documents signed by you must be given to you on written request to the credit provider and payment of small fees. You can also direct that any payment made by you be credited to the account of your choice.

6. REPOSSESSION OF THE GOODS cannot be effected, generally speaking, even if you are in arrears unless the credit provider gives you seven days notice of intention to repossess. Sale cannot be effected thereafter without a further written notice.

7. COMPOUND INTEREST is prohibited; simple interest may be charged on amounts in default.

8. HARSH TERMS AND EXCESSIVE INTEREST although rarely encountered in responsible business dealings may be avoided on application to the courts or the Commercial Tribunal. You should first consult the Office of Consumer and Business Affairs.

9. PROCUREMENT CHARGES are generally prohibited for arranging your credit with a credit provider.

10. WHERE THE CREDIT CONTRACT COMES TO AN END EARLIER THAN ORIGINALLY INTENDED (whether by agreement or by breach) the total credit charge as well as any insurance and maintenance charge must be reduced by rebating as set out in section 43 of the *Consumer Credit Act 1972*.

11. INSURANCE can be effected with the company of your choice. You are not obliged to insure with any particular insurance company, agree to any unreasonable terms or premiums, nor submit to arbitration.

SCHEDULE 3

Scale of procurement charges

Credit procured from a credit provider

1. In the case of credit procured from a credit provider—

(a) if—

(i) the amount of the principal of the loan exceeds \$20 000; and

(ii) the credit is provided on the security of land; and

(iii) the consumer has made a statutory declaration that the consumer does not use or propose to use the land or any part of the land as a place of residence for the consumer's own personal occupation,

a procurement charge of an agreed amount may be charged;

(b) in any other case—no procurement charge may be charged.

Credit procured from any other source

2. In the case of credit procured from a person who is not a credit provider—

(a) if the amount of the credit does not exceed \$30 000—a procurement charge not exceeding 1% of the amount of the credit may be charged;

(b) if the amount of the credit exceeds \$30 000—a procurement charge of an agreed amount may be charged.

Renewal or extension of credit

3. If a loan between the same parties is renewed or extended, a procurement charge may only be charged, in accordance with this schedule, in relation to further money advanced under the renewal or extension.

Non-application to bodies corporate

4. This schedule does not apply in relation to a loan made to a body corporate.

SCHEDULE 4

Print type

1. Subject to this schedule, the following types are prescribed:

- (a) any print or type that is produced directly or indirectly by a method or process under which each character occupies a space of the same width, if that print or type is not smaller than 12-pitch;
- (b) any print or type produced by a method or process other than that referred to in paragraph (a) if it is in one of the permitted type faces or a larger type size of one of the permitted type faces referred to in clause 4.

2. (1) Subject to subclause (2), no document will be regarded as printed in a type prescribed for the purposes of this schedule unless every provision and every portion of every provision of that document is printed in a type prescribed for the purposes of this schedule.

(2) If a document is printed in print or type of a kind prescribed for the purposes of this schedule and the document contains blank spaces for the subsequent insertion of additional information and additional information is subsequently inserted in those blank spaces by a printing or typing method or process under which each character occupies a space of the same width, that additional information may be in print or type not smaller than 13-pitch.

3. If print or type of a kind prescribed for the purposes of this schedule is, by whatever method or process, photographed, reproduced or copied, the print or type in the photograph, reproduction or copy will be taken to comply with the regulations if its face measurement is of dimensions not less than 95% of the dimensions of the face measurement of the print or type so photographed, reproduced or copied.

4. For the purposes of this schedule—

"**character**" includes a letter, a figure, a symbol, a punctuation mark and a space between adjoining characters;

"**12-pitch**" means of dimensions such that any selected passage of such print or type 25 mm in length includes no more than 12 characters and "**13-pitch**" has a corresponding meaning;

"**permitted type faces**" means any of the following:

- 10-point Avante Garde
- 10-point Avante Garde Book
- 10-point Avante Garde Medium Bold
- 10-point American Typewriter
- 10-point American Typewriter Medium
- 10-point American Typewriter Bold
- 10-point Baskerville
- 10-point Baskerville Roman
- 10-point Baskerville Roman Italic
- 10-point Baskerville Roman Bold
- 10-point Bembo
- 10-point Bembo Roman
- 10-point Bembo Roman Italic
- 10-point Bembo Bold
- 10-point Bodoni
- 10-point Bodoni Roman
- 10-point Bodoni Roman Italic
- 10-point Bodoni Bold
- 10-point Century Old Style
- 10-point Century Old Style Roman

10-point Century Old Style Roman Italic
10-point Century Old Style Roman Bold
10-point Century School Book
10-point Century School Book Roman
10-point Century School Book Roman Italic
10-point Century School Book Bold
10-point Clarendon
10-point Clarendon Roman
10-point Clarendon Roman Italic
10-point Clarendon Bold
10-point Claro
10-point Claro Light
10-point Claro Medium
10-point Claro Medium Italic
10-point Claro Demi-Bold
10-point De Vinne
10-point De Vinne Roman
10-point De Vinne Roman Italic
10-point De Vinne Bold
10-point Gill Sans
10-point Gill Sans Medium
10-point Gill Sans Medium Italic
10-point Gill Sans Bold
10-point Gloucester Old Style
10-point Gloucester Old Style Roman
10-point Gloucester Old Style Roman Italic
10-point Gloucester Old Style Bold
10-point Helvetica
10-point Helvetica Light
10-point Helvetica Medium
10-point Helvetica Medium Italic
10-point Helvetica Bold
10-point ITC Cheltenham Light
10-point ITC Cheltenham Bold
10-point Karnak Intermediate
10-point Karnak Intermediate Roman
10-point Karnak Intermediate Roman Italic
10-point Karnak Intermediate Bold
10-point Megaron
10-point Megaron Light
10-point Megaron Medium
10-point Megaron Medium Italic
10-point Megaron Bold
10-point Metro
10-point Metro Italic
10-point Metro Bold
10-point Musica
10-point Musica Roman
10-point Musica Roman Italic
10-point Musica Bold
10-point Old Style
10-point Old Style Roman
10-point Old Style Roman Italic
10-point Old Style Bold
10-point Optima
10-point Optima Roman
10-point Optima Roman Italic

10-point Optima Bold
10-point Plantin
10-point Plantin Roman
10-point Plantin Roman Italic
10-point Plantin Bold
10-point Press Roman Bold
10-point Press Roman Medium
10-point Record Gothic
10-point Rockwell Light
10-point Rockwell Bold
10-point Souvenir
10-point Souvenir Light
10-point Souvenir Light Italic
10-point Souvenir Bold
10-point Souvenir Medium
10-point Times (or English)
10-point Times (or English) Roman
10-point Times (or English) Roman Italic
10-point Times (or English) Bold
10-point Univers
10-point Univers Light
10-point Univers Medium
10-point Univers Medium Italic
10-point Univers Bold
10-point Zapf
10-point Zapf Medium