

South Australia

Consumer Credit (South Australia) Act 1995

An Act to make provision for a uniform legislative scheme to regulate the provision of consumer credit; and for other purposes.

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Legislative history

The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Consumer Credit (South Australia) Act 1995*.

3—Definitions

In this Act—

Consumer Credit Act means the *Consumer Credit (Queensland) Act 1994* of Queensland;

Consumer Credit (South Australia) Code means the provisions applying because of section 5;

Consumer Credit (South Australia) Regulations means the provisions applying because of section 6;

Ministerial Council means the Ministerial Council established under the Uniform Consumer Credit Laws Agreement 1993 .

4—References to Queensland Acts

In this Act, a reference to a Queensland Act includes a reference to—

- (a) that Queensland Act as amended and in force for the time being; and
- (b) an Act passed in substitution for that Act.

Part 2—*Consumer Credit (South Australia) Code and Consumer Credit (South Australia) Regulations*

5—Application in South Australia of the Consumer Credit Code

The Consumer Credit Code set out in the Appendix to the Consumer Credit Act as in force for the time being—

- (a) applies as a law of South Australia; and
- (b) as so applying may be referred to as the *Consumer Credit (South Australia) Code*.

6—Application of regulations

- (1) The regulations in force for the time being under Part 4 of the Consumer Credit Act—
 - (a) apply as regulations in force for the purposes of the *Consumer Credit (South Australia) Code*; and
 - (b) as so applying may be referred to as the *Consumer Credit (South Australia) Regulations*.
- (2) Schedule 2 to the *Consumer Credit (South Australia) Code* applies in relation to any such regulation.
- (3) To the extent to which a provision of any such regulation of a savings or transitional nature takes effect from a day earlier than the day of the regulation's notification in the Government Gazette of Queensland, the provision does not operate in this State to the disadvantage of a person (other than the State or a State authority) by—
 - (a) decreasing the person's rights; or
 - (b) imposing liabilities on the person.

7—Interpretation of some expressions in the Code and Regulations

- (1) In the *Consumer Credit (South Australia) Code* and the *Consumer Credit (South Australia) Regulations*—
Legislature of this jurisdiction means the Legislature of South Australia;
the Code or *this code* means the *Consumer Credit (South Australia) Code*;
the jurisdiction or *this jurisdiction* means South Australia.
- (2) The *Acts Interpretation Act 1954*, and other Acts, of Queensland do not apply to—
 - (a) the Consumer Credit Code set out in the Appendix to the Consumer Credit Act in its application as a law of South Australia; or
 - (b) the regulations in force for the time being under Part 4 of the Consumer Credit Act in their application as regulations in force for the purposes of the *Consumer Credit (South Australia) Code*.

Part 3—Conferral of judicial and administrative functions

8—Conferral of judicial functions on District Court

The jurisdiction that is expressed to be exercisable by "the Court" under the *Consumer Credit (South Australia) Code* and the *Consumer Credit (South Australia) Regulations* is exercisable by—

- (a) in the case of an application under Part 6 of the Code—only the Administrative and Disciplinary Division of the District Court of South Australia; or
- (b) in the case of an application under any other section of the Code—only the District Court of South Australia.

9—Conferral of administrative functions

The Commissioner for Consumer Affairs has the functions of the Government Consumer Agency under the *Consumer Credit (South Australia) Code* and the *Consumer Credit (South Australia) Regulations*.

Part 4—General

10—Special savings and transitional regulations for South Australia

- (1) The Governor may make regulations of a savings or transitional nature consequent on the enactment of this Act or of an Act of Queensland amending the Consumer Credit Code set out in the Appendix to the Consumer Credit Act.
- (2) If such a regulation so provides, it has effect despite any provision of this Act, including the *Consumer Credit (South Australia) Code*.
- (3) A provision of a regulation made under this section may, if the regulation so provides, take effect from the day of assent to the Act concerned or from a later day.

- (4) To the extent to which a provision takes effect from a day earlier than the day of the regulation's publication in the Gazette, the provision does not operate to the disadvantage of a person (other than the State or a State authority) by—
- (a) decreasing the person's rights; or
 - (b) imposing liabilities on the person.

11—Crown is bound

This Act binds the Crown in right of the State and, so far as the legislative power of Parliament permits, the Crown in all its other capacities.

12—Maximum annual percentage rate

- (1) The Governor may make regulations prescribing a maximum annual percentage rate for any credit contract or class of credit contract, within the meaning of the *Consumer Credit (South Australia) Code*.
- (2) Division 2 of Part 2 of the Code (which limits the debtor's monetary obligations) applies in relation to a prescribed maximum annual percentage rate as if that rate had been prescribed by the Code.

Schedule—Transitional

1—Interpretation

- (1) In this Schedule—
commencement date means the date of commencement of this Act;
repealed Act means the *Consumer Credit Act 1972*.
- (2) All other words and expressions used in this Schedule have the same respective meanings as in the *Consumer Credit (South Australia) Code*.

3—Contracts and securities entered into before commencement date

The repealed Act applies (subject to any modifications prescribed by regulation) to contracts and securities entered into before the commencement date.

4—Revolving charge accounts

- (1) The repealed Act applies (subject to any modifications prescribed by regulation) to credit provided on a revolving charge account established before the commencement date until the date of transition fixed in the regulations (*the date of transition*).
- (2) However, as from the date of transition the *Consumer Credit (South Australia) Code* applies to credit provided in accordance with this clause, subject to any modifications prescribed by regulation.

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.

Repeal of Act

The *Consumer Credit (South Australia) Act 1995* was repealed by Sch 1 cl 7 of the *Credit (Transitional Arrangements) Act 2010* on 1.7.2010.

Legislation repealed by principal Act

The *Consumer Credit (South Australia) Act 1995* repealed the following:

Consumer Credit Act 1972

Principal Act

Year	No	Title	Assent	Commencement
1995	34	<i>Consumer Credit (South Australia) Act 1995</i>	27.4.1995	1.11.1996 (<i>Gazette</i> 26.9.1996 p1209)

Provisions amended

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
Pt 1		
s 2	<i>omitted under Legislation Revision and Publication Act 2002</i>	
Sch		
cl 2	<i>omitted under Legislation Revision and Publication Act 2002</i>	