

Fair Trading Amendment (Responsible Credit) Bill 2005

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Fair Trading Act 1987* (the **Principal Act**) to impose obligations on credit providers (additional to those obligations under the *Consumer Credit (New South Wales) Code*) with respect to credit card contracts and increases in credit card limits.

The Bill provides for the following (in relation to credit cards only):

- (a) a requirement that a credit provider must not enter into any credit contract or increase the credit limit or amount of credit under an existing credit contract if the credit provider knows or ought, after reasonable enquiry, to have known that the debtor does not have the capacity to pay the amounts required under the contract or would incur substantial hardship in paying such amounts,
- (b) a requirement that a statement of account which includes a minimum repayment also include details of the time period required to repay the total amount by making the minimum repayments and the total amount of interest that will be paid during this time, Explanatory note page 2
- (c) requirement that a statement of account clearly show any “interest free” amount or period and details of any fees or charges that relate to that “interest free” amount or period,
- (d) the prohibition of the provision of credit in excess of the amount of credit or credit limit specified in the credit contract (except with the written consent of the debtor or if the excess credit does not exceed 10% of the amount of credit or credit limit).

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent.

Clause 3 is a formal provision that gives effect to the amendments to the *Fair Trading Act 1987* set out in Schedule 1.

Clause 4 is a formal provision that gives effect to the amendment to the *Consumer Credit (New South Wales) Act 1995* set out in Schedule 2.

Schedule 1 Amendment of Fair Trading Act 1987

Schedule 1 [1] inserts proposed Part 5E into the Principal Act, giving effect to the modifications to the *Consumer Credit (New South Wales) Code* that are made by proposed Schedule 4B and providing for transitional matters.

Schedule 1 [2] sets out the provisions to be inserted into the *Consumer Credit (New South Wales) Code*, which have the effect described in the above overview.

Schedule 2 Amendment of Consumer Credit (New South Wales) Act 1995

Schedule 2 makes a consequential amendment.