

Passed by both Houses



New South Wales

Consumer Credit (New South Wales) Amendment (Pay Day Lenders) Bill 2001

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I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney, , 2001*



New South Wales

Consumer Credit (New South Wales) Amendment (Pay Day Lenders) Bill 2001

Act No , 2001

An Act to amend the *Consumer Credit (New South Wales) Act 1995* with respect to the provision of short term credit; and for other purposes.

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

Chairman of Committees of the Legislative Assembly.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Consumer Credit (New South Wales) Amendment (Pay Day Lenders) Act 2001*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Amendment of Consumer Credit (New South Wales) Act 1995 No 7

The *Consumer Credit (New South Wales) Act 1995* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Section 3)

[1] Sections 10A and 10B

Insert after section 10:

10A Consumer credit exemptions relating to short term loans and credit without prior agreement

(1) The *Consumer Credit Code* set out in the Appendix to the *Consumer Credit (Queensland) Act*, as applied by section 5 of this Act, applies as if section 7 (Provision of credit to which this Code does not apply) of that Code were amended by omitting section 7 (1) and (2) and by inserting instead the following provisions:

- (1) **Short term credit.** This Code does not apply to the provision of credit by an authorised deposit-taking institution limited by the contract to a total period that does not exceed 62 days. This Code does not apply to the provision of credit by any other person if, under the contract:
 - (a) the provision of credit is limited to a total period that does not exceed 62 days, and
 - (b) the maximum amount of credit fees and charges that may be imposed or provided for does not exceed 5% of the amount of credit, and
 - (c) the maximum amount of interest charges that may be imposed or provided for does not exceed an amount (calculated as if the Code applied to the contract) equal to the amount payable if the annual percentage rate were 24% per annum.
- (2) **Credit without express prior agreement.** This Code does not apply to the provision of credit if, before the credit was provided, there was no express agreement between the credit provider and the debtor for the provision of credit. For example, when a cheque

account becomes overdrawn but there is no expressly agreed overdraft facility or when a savings account falls into debit.

- (2) This section applies despite section 5 and a reference in this Act to the *Consumer Credit (New South Wales) Code* includes a reference to the Code referred to in subsection (1) as modified by this section.
- (3) This section does not apply to the provision of credit if the contract is entered into before the commencement of this section.
- (4) The provisions of this section are repealed on a day or days to be appointed by proclamation.

10B Disclosure of cost of credit as annual percentage rate

- (1) This section applies to a credit contract to which the *Consumer Credit (New South Wales) Code* applies because of section 10A of this Act or any other contract of a kind prescribed by the regulations.
- (2) For the purposes of the application of section 15 (C) of the *Consumer Credit (New South Wales) Code*, and for the avoidance of doubt, the credit contract document must state an annual percentage rate calculated on the basis of charges under the contract that are in the nature of interest charges (whether or not they are expressed to be interest charges).
- (3) For the purposes of section 15 (E) of the *Consumer Credit (New South Wales) Code*, the total amount of interest charges includes any amount that is in the nature of an interest charge (whether or not it is expressed to be an interest charge).
- (4) For the purposes of section 14 of the *Consumer Credit (New South Wales) Code*, the pre-contractual statement must also set out the matters referred to in subsections (2) and (3).
- (5) The requirements of this section are in addition to any other requirements of section 14 or 15 of the *Consumer Credit (New South Wales) Code*.
- (6) The provisions of this section are repealed on a day or days to be appointed by proclamation.

[2] Section 11 Maximum annual percentage rate

Insert after section 11 (1):

- (1A) In the case of a short term credit contract, the regulations may require interest charges and all credit fees and charges under the contract to be included for the purpose of calculating the maximum annual percentage rate under the contract for the purposes of subsection (1).

[3] Section 11 (4)

Insert at the end of section 11:

- (4) In this section:

short term credit contract means a contract:

- (a) for the provision of credit limited to a total period that does not exceed 62 days that is not exempted from the Code under the provisions applied by section 10A, or
- (b) a contract of a kind prescribed by the regulations.

[4] Section 14 Special savings and transitional regulations for New South Wales

Insert “, the *Consumer Credit (New South Wales) Amendment (Pay Day Lenders) Act 2001*” after “this Act” in section 14 (1).