

FIRST PRINT

**CREDIT (MAXIMUM ANNUAL PERCENTAGE RATE)  
AMENDMENT BILL 1993**

NEW SOUTH WALES



**EXPLANATORY NOTE**

**(This Explanatory Note relates to this Bill as introduced into Parliament)**

The object of this Bill is to amend the Credit Act 1984:

- (a) to prohibit a credit provider from entering into a regulated contract which has an annual percentage rate exceeding 48% (except in special circumstances) and to provide that such a contract is unenforceable; and
- (b) to repeal section 170 which empowers the Commercial Tribunal to fix maximum annual percentage rates in respect of regulated contracts. This power has not been exercised by the Tribunal in the past.

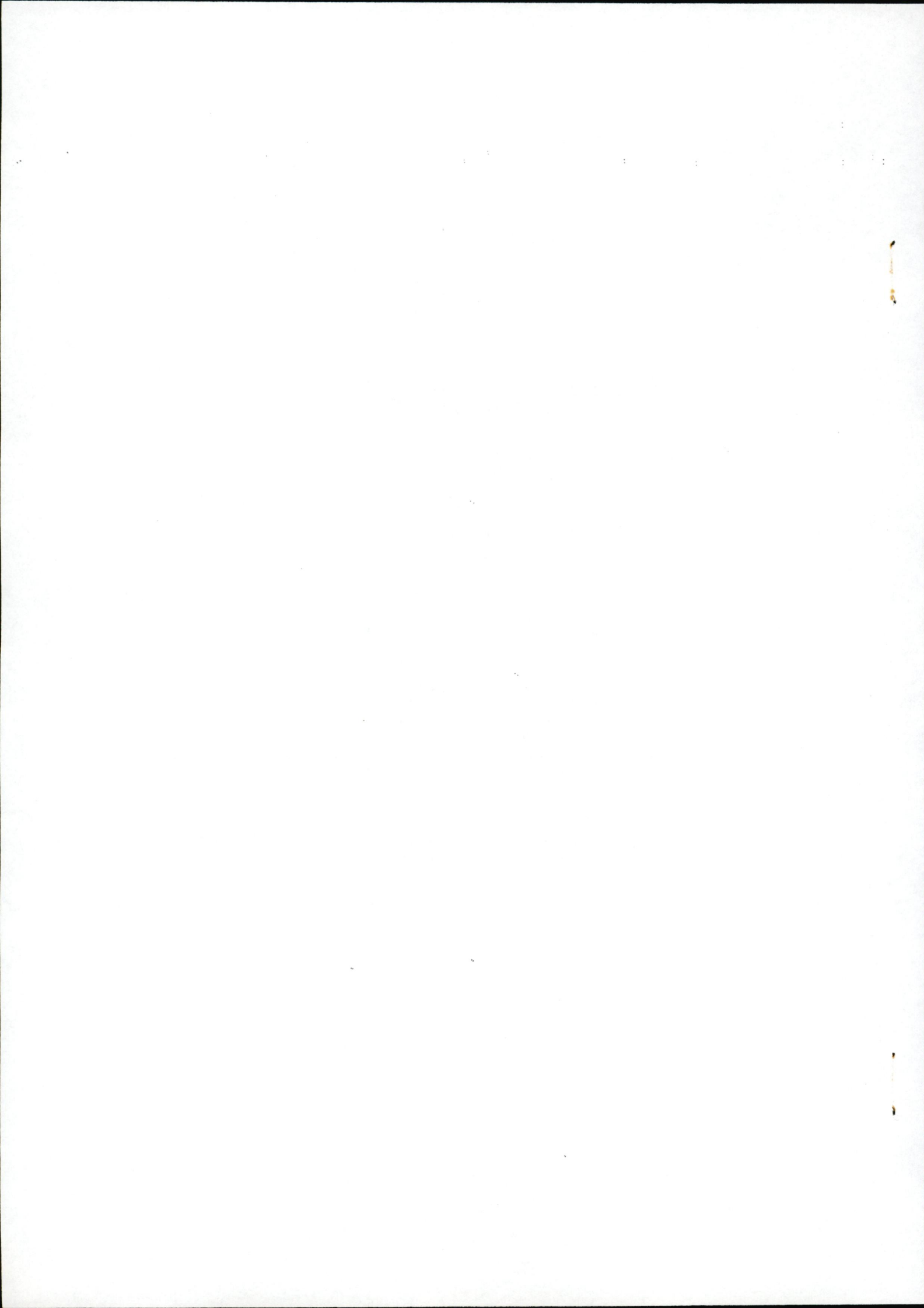
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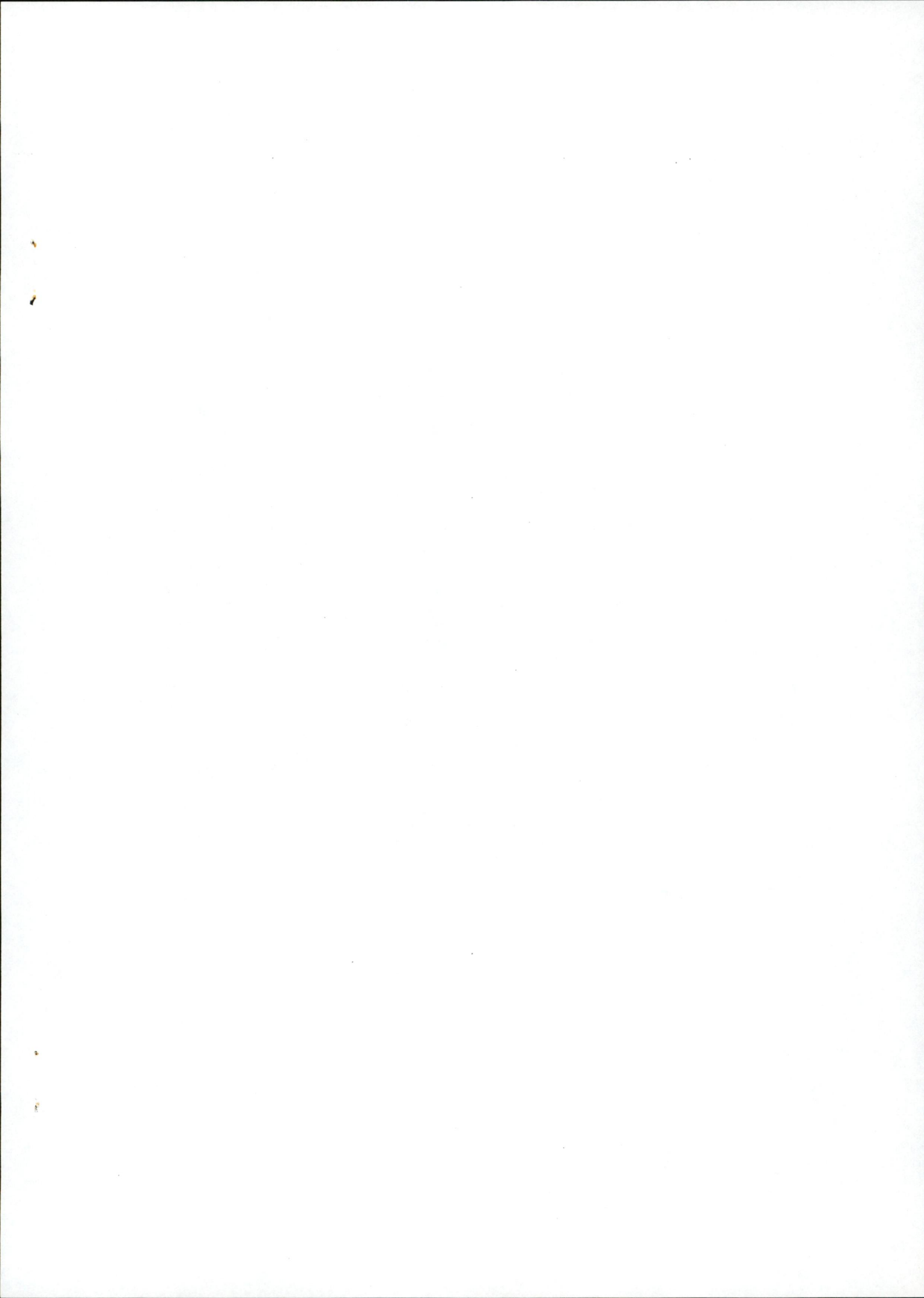
Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act will commence 3 months after the date of assent, unless commenced sooner by proclamation.

Clause 3 gives effect to the Schedule of amendments to the Credit Act 1984. Schedule 1 amends the Credit Act 1984 in the manner described above.

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*Credit (Maximum Annual Percentage Rate) Amendment 1993*

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SCHEDULE 1—AMENDMENTS—*continued*

- (c) the annual percentage rate calculated by reference to the credit charge payable under the contract reduced by an amount which is the lesser of 7% of the amount financed or \$35 does not exceed the rate in subsection (1). 5
- (4) For the purposes of subsection (1), the prescribed rate is that percentage rate obtained by adding 28 to the 90 day bank bill discount rate applicable on the first day of the calendar month preceding the date of the contract, such rate to be rounded up to the nearest whole percent. 10
- (5) It shall be an offence for a credit provider to provide to a debtor an offer to enter into a regulated contract (being a contract involving an annual percentage rate in excess of 48% in the circumstances permitted by subsection (3)), and whether signed by the credit provider or to be signed by the debtor, which does not contain the following statement: 15
- The law requires that the annual percentage rate on this contract shall not exceed 48%, except in special circumstances. The credit provider says that those circumstances apply to this contract. 20
- If the rate on this contract is too high, you do not have to repay any money.
- If you want advice as to your rights, you should contact a solicitor, a financial counsellor or the Commissioner for Consumer Affairs. 25
- Penalty: 25 penalty units.
- (2) Section 170 (Tribunal may fix maximum annual percentage rates): 30
- Omit the section.
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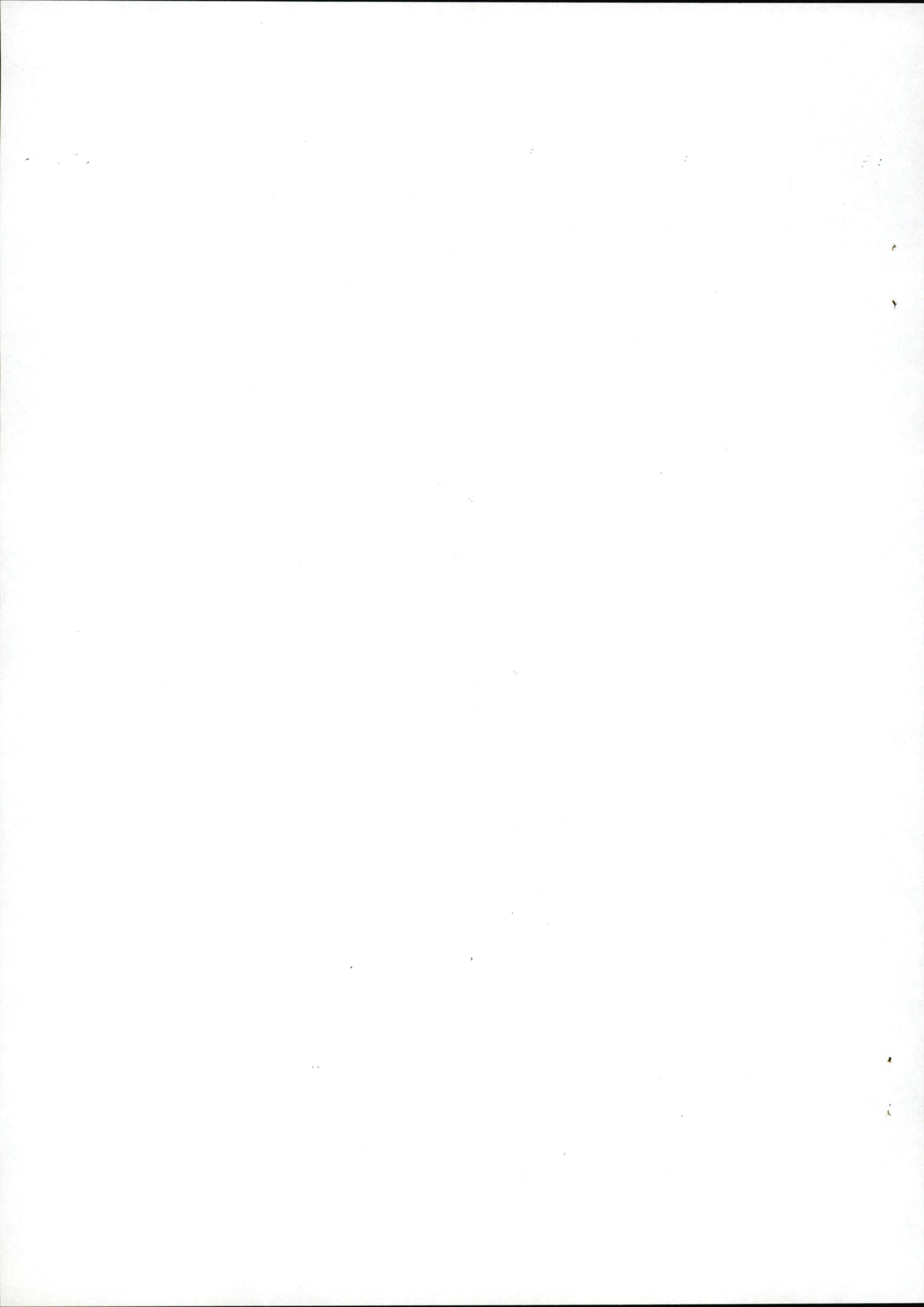


**TABLE OF PROVISIONS**

1. Short title
2. Commencement
3. Amendment of Credit Act 1984 No. 94

**SCHEDULE 1—AMENDMENTS**

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**CREDIT (MAXIMUM ANNUAL PERCENTAGE RATE)  
AMENDMENT BILL 1993**

NEW SOUTH WALES



No. , 1993

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**A BILL FOR**

An Act to amend the Credit Act 1984 to set a maximum annual percentage rate for regulated contracts, and for other purposes.

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*Credit (Maximum Annual Percentage Rate) Amendment 1993*

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**The Legislature of New South Wales enacts:**

**Short title**

1. This Act may be cited as the Credit (Maximum Annual Percentage Rate) Amendment Act 1993.

**5 Commencement**

2. This Act commences 3 months after the date of assent, unless commenced sooner by proclamation.

**Amendment of Credit Act 1984 No. 94**

3. The Credit Act 1984 is amended as set out in Schedule 1.

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**SCHEDULE 1—AMENDMENTS**

(Sec. 3)

(1) Section 150A:

After section 150, insert:

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**Contract unenforceable if rate exceeds 48% or prescribed rate**

150A. (1) A credit provider shall not enter into a regulated contract where the annual percentage rate in respect of the contract exceeds 48% or the prescribed rate, whichever is higher.

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(2) A regulated contract entered into in contravention of subsection (1) shall be unenforceable.

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(3) It shall not be a contravention of subsection (1) for a credit provider to enter into a regulated contract where the annual percentage rate in respect of the contract exceeds the rate in subsection (1) where:

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- (a) the amount financed under the contract does not exceed \$2,000;
- (b) the credit provider has not within the two years prior to the date of the contract engaged in any business with respect to the provision of credit to the debtor, the debtor's spouse or any member of the debtor's family residing with the debtor at the date of the contract; and