



Queensland

Consumer Credit (Queensland) Special Provisions Regulation 2008

Subordinate Legislation 2008 No. ...

made under the

Consumer Credit (Queensland) Act 1994

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*Consumer Credit (Queensland) Special Provisions
Regulation 2008*

1 Short title

This regulation may be cited as the *Consumer Credit (Queensland) Special Provisions Regulation 2008*.

2 Maximum annual percentage rate—Act, s 14

- (1) The maximum annual percentage rate for a credit contract to which the Code applies is 48%.
- (2) The annual percentage rate of a credit contract is to be calculated in accordance with section 3.
- (3) For calculating the annual percentage rate, not only interest charges but all credit fees and charges under the credit contract are to be included.
- (4) Despite subsection (3), any credit fees or charges arising from the establishment or maintenance of a temporary credit facility are not required to be included for calculating the annual percentage rate if—
 - (a) the credit provider is an authorised deposit-taking institution; and
 - (b) the debtor has or had an existing credit contract or debit account with the authorised deposit-taking institution at the time the temporary credit facility is or was established; and
 - (c) the temporary credit facility is related to the existing credit contract or debit account.
- (5) In this section—

temporary credit facility includes, but is not limited to, an overdraft facility and a short term extension of the total amount of credit available under an existing credit contract.

Note—

This section is made under section 14 of the Act. The effect of a contravention of this section is set out in section 14 of the Act. The maximum annual percentage rate is not part of the uniform provisions of the Code in Australia.

3 Calculating annual percentage rate of credit contracts

- (1) The annual percentage rate of a credit contract must be calculated as a nominal rate per annum, together with the compounding frequency, in accordance with this section.
- (2) The annual percentage rate is given by the following formula—

$$i = n \times r \times 100\%$$

where—

n is the number of repayments per annum to be made under the credit contract (annualised if the term of the contract is less than 12 months), except that—

- (a) if repayments are to be made weekly or fortnightly—*n* is to be 52.18 or 26.09, respectively; and
- (b) if the contract does not provide for a constant interval between repayments—*n* is to be derived from the interval selected for the purposes of the definition of *j* mentioned below.

r is the solution of the following—

$$\sum_{j=0}^t \frac{A_j}{(1+r)^j} = \sum_{j=0}^t \frac{R_j + C_j}{(1+r)^j}$$

where—

j is the time, measured as a multiple (not necessarily integral) of the interval between contractual repayments that will have elapsed since the first amount of credit is provided under the credit contract, except that if the contract does not provide for a constant interval between repayments an interval of any kind is to be selected by the credit provider as the unit of time.

t is the time, measured as a multiple of the interval between contractual repayments (or other interval so selected) that will elapse between the time when the first amount of credit is provided and the time when the last repayment is to be made under the contract.

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A_j is the amount of credit to be provided under the contract at time j (the value of j for the provision of the first amount of credit is taken to be zero).

R_j is the repayment to be made at time j .

C_j is the fee or charge (if any) payable by the debtor at time j (j is taken to be zero for any fee or charge payable by the debtor at time j before the time of the first amount of credit provided) in addition to the repayments R_j , being a credit fee or charge that is ascertainable when the annual percentage rate is calculated.

- (3) The annual percentage rate must be correct to at least the nearest one hundredth of 1% per annum.
- (4) In the application of the above formulae, reasonable approximations may be made if it would be impractical or unreasonably onerous to make a precise calculation.
- (5) The tolerances and assumptions under sections 158 to 160 of the Code apply to the calculation of the annual percentage rate.
- (6) If the credit contract is a continuing credit contract within the meaning of the Code, the following assumptions also apply to the calculation of the annual percentage rate—
 - (a) that the debtor has drawn down the maximum amount of credit that the credit provider has agreed to provide under the contract;
 - (b) that the debtor will pay the minimum repayments stated in the contract;
 - (c) if credit is provided in relation to payment by the credit provider to a third person in relation to goods or services or cash supplied by that third person to the debtor from time to time—that the debtor will not be supplied with any further goods or services or cash;
 - (d) if credit is provided in relation to cash supplied by the credit provider to the debtor from time to time—that the debtor will not be supplied with any further cash.
- (7) For calculating the annual percentage rate—

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- (a) the amount of credit is the amount (or the maximum amount) required by the debtor; and
- (b) the term for which credit is provided is the term (or the maximum term) required by the debtor.

4 Application of ss 2 and 3 to particular contracts entered into before commencement

Sections 2 and 3 of this regulation apply to a credit contract entered into before the commencement of this regulation if, after the commencement—

- (a) the interest charges or credit fees or charges under the credit contract are increased, or a new fee or charge is imposed, whether or not the increase is made, or a new fee or charge is imposed, under the contract; or
- (b) the period of the credit contract is extended, whether or not under the contract, other than under section 66 of the Code.

ENDNOTES

- 1 Made by the Governor in Council on . . .
- 2 Notified in the gazette on . . .
- 3 Laid before the Legislative Assembly on . . .
- 4 The administering agency is the Department of Justice and Attorney-General.