

Draft Proposal for a Consumer Credit (Queensland) Amendment Bill

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Draft Proposal for a Consumer Credit (Queensland) Amendment Bill

1. *Short title*

This Act may be cited as the *Consumer Credit (Queensland) Amendment Act 2004*.

2. *Commencement*

This Act commences on a day to be fixed by proclamation.

3. *Code amended*

This Act amends the Consumer Credit Code set out in the appendix to the *Consumer Credit (Queensland) Act 1994*.

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4. Alteration of contract document

For section 17(1) of the Consumer Credit Code **substitute—**

"(1) An alteration of (including an addition to) a contract document by the credit provider after it is signed by the debtor is presumed to be ineffective unless the debtor has agreed in writing to the alteration."

5. Legibility and language

In section 162(1) of the Consumer Credit Code—

- (a) in paragraph (b), after "typed" **insert** "on paper".
- (b) in paragraph (c), for "expressed." **substitute** "expressed; and";
- (c) after paragraph (c) **insert—**

"(d) must conform with the provisions of the regulations, if any, as to content, legibility and accompanying information."

6. Copies of documents

Section 163(3) of the Consumer Credit Code is **repealed**.

7. New section 164A inserted

In Division 2 of Part 11 of the Consumer Credit Code, after section 164 **insert—**

"164A. Electronic transactions and documents

- (1) Without limiting the provisions of this Code, it is declared that any contract, mortgage or guarantee referred to in this Code may be made in accordance with the laws of this jurisdiction in relation to electronic transactions.

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- (2) Without limiting the provisions of this Code, it is declared that any requirement or permission by or under this Code—
- (a) to give information in writing; or
 - (b) to give a written notice or statement; or
 - (c) to give or provide a copy of any document; or
 - (d) that a document be signed; or
 - (e) to produce a document; or
 - (f) to record information in writing; or
 - (g) to retain a document—
- may be met in accordance with the laws of this jurisdiction in relation to electronic transactions.

- (3) The regulations may provide that—
- (a) a specified transaction, or a specified class of transactions; or
 - (b) a specified document, or a specified class of documents; or
 - (c) specified information, or a specified class of information—

referred to by or under this Code must not be made, given or provided by means of an electronic communication."

8. *Giving notice or other document*

In section 171(2)(a) of the Consumer Credit Code, for "post, telex, facsimile or similar facility" **substitute** "post or telex".

9. Manner of giving notice

(1) In section 172(1) of the Consumer Credit Code—

- (a) in paragraph (a)(ii), for "post, telex, facsimile or similar facility" **substitute** "post or telex";
- (b) in paragraph (b)(ii), for "post, telex, facsimile or similar electronic facility" **substitute** "post or telex".

(2) After section 172(3) of the Consumer Credit Code **insert**—

"(3A) If a person nominates an address under subsection (2)(a) or (3)(a), the person may, by notice in writing to the person giving the notice or other document referred to in subsection (1), change the nominated address or cancel the nomination.

Note: A nominated address may be an electronic address.

(3B) If this Code requires or permits a notice or other document to be given to a debtor by a credit provider (whether the expression "deliver", "serve", "notify", "send" or "give" or another expression is used), the notice or other document may, with the written consent of the debtor, be given by—

- (a) making it available on the credit provider's electronic address for retrieval by electronic communication to the debtor; and
- (b) promptly notifying the debtor by electronic communication that the information is available for retrieval on that address and the nature of the information; and

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- (c) providing the debtor with the ability to readily retrieve the information by electronic communication.
- (3C) Without derogating from any other laws of this jurisdiction in relation to electronic transactions, if a notice or other document is given by sending it to a nominated electronic address or by the process in sub-section (3B)—
- (a) the notice or other document must be in a format that enables the notice or other document to be printed or saved to an electronic file; and
 - (b) at the time the notice or other document was sent, it was reasonable to expect that the intended recipient would be readily able to print the notice or document or to save it to an electronic file.
- (3D) The regulations may provide for or with respect to—
- (a) the electronic retention of documents under this Code that have been given by electronic communication or by the process in sub-section (3B); and
 - (b) electronic access to those documents by the relevant debtor."

10. *Date of notice or other document*

For section 173(1)(c) of the Consumer Credit Code **substitute**—

- "(c) in the case of a notice or other document given in accordance with section 172(3B)— at the time of receipt (as provided for by the laws of this jurisdiction in relation to electronic transactions) by the debtor of the
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electronic communication referred to in section 172(3B)(b); or

- (d) in the case of a notice or other document given in accordance with the laws of this jurisdiction in relation to electronic transactions—at the time of receipt provided for by those laws."

11. Consequential amendment

In schedule 1, part 1 of the **Electronic Transactions (Queensland) Act 2001** omit "*Consumer Credit Code*".
