

Subordinate Legislation 2004 No. XX

Consumer Credit (Queensland) Act 1994

DRAFT PROPOSAL FOR A CONSUMER CREDIT AMENDMENT REGULATION (No.1) 2004

1 Short title

This regulation may be cited as the *Consumer Credit Amendment Regulation (No.1) 2004*.

2 Commencement

This regulation commences on [].

3 Regulation amended

This regulation amends the *Consumer Credit Regulation 1995*.

4 Amendment of s 13 (Precontractual statement)

Section 13(5)—

omit, insert—

'(5) The financial table is to be set out at the beginning of the precontractual statement. If the precontractual statement consists of more than one document, the financial table need not be repeated. If the precontractual statement is not a separate document, it is to be set out at the beginning of the proposed contract document.'

5 Amendment of s 15 (Additional disclosures about credit contracts to be signed by debtor)

Section 15(3)(b) and (c)—

omit, insert—

'(b) they are to be set out immediately above (and on the same page as) each place where the debtor is to sign the contract document or, if a contract is made by electronic communication, the warning must be prominently displayed when (but not after) the debtor (or if 2 or more debtors, each debtor) signs.'

6 Amendment of s 34 (Declaration about purpose of leases)

Section 34(2), after 'above words'—

insert—

'or, if a consumer lease is made by electronic communication, prominently displayed when (but not after) the person signs'.

7 Insertion of new ss 40AA to 40AC

Part 10, after section 40—

insert—

'40AA Additional provisions for electronic communications

Where a debtor, mortgagor, guarantor or consumer lessee nominates an electronic address under section 172(2)(a) of the Code to a credit provider, the credit provider must notify the debtor, mortgagor, guarantor or consumer lessee within 14 days of their right to change the nominated address or cancel the nomination.

'40AB Exemptions

For the purposes of section 164A(3) of the Code, the following transactions, documents or information must not be made, given or provided by means of an electronic communication—

- (a) a guarantee to which the Code applies under section 9 of the Code;
- (b) a default notice under section 80(1) of the Code;
- (c) a default notice under section 80(2) of the Code;
- (d) a demand made on the supplier under section 120(5)(a) of the Code;
- (e) a demand made on the supplier under section 120(6)(a) of the Code; and
- (f) a notice under section 156(1) of the Code (Notice of repossession).

'40AC Legibility etc.

For the purposes of section 162(1)(d) of the Code, if a credit contract, guarantee or a notice given by a credit provider under the Code is given by electronic communication—

- (a) the writing in the credit contract, guarantee or notice must be capable of being viewed legibly; and
- (b) the electronic communication must not incorporate any image, message, advertisement or other feature that distracts, or is reasonably likely to distract, the debtor or otherwise reduces or interferes, or is reasonably likely to reduce or interfere, with the debtor's ability to understand the credit contract, guarantee or notice; and
- (c) if an image, message, advertisement or other feature accompanies or is associated with the electronic communication, the debtor must be readily able to distinguish the image, message, advertisement or other feature from the credit contract, guarantee or notice; and
- (d) the debtor must be readily able to scroll through the whole of the credit contract, guarantee or notice; and
- (e) the full address (not being a post office box) and telephone number at which the credit provider or lessor may be contacted must be included in the credit contract, guarantee or notice.'

ENDNOTES