

# **Consumer Credit (Queensland) and Another Act Amendment Bill 2007**

## **Explanatory Notes**

### **General Outline**

#### **Short Title**

The short title of the Bill is the *Consumer Credit (Queensland) and Another Act Amendment Bill 2007*.

#### **Policy Objectives of the Bill**

##### *Credit amendments*

The uniform *Consumer Credit Code* (the Code) is part of a uniform national legislative scheme which applies to most consumer credit products. It is an appendix to the *Consumer Credit (Queensland) Act 1994* and governs the provision of credit to consumers where its purpose is for personal, domestic or household purposes. The Code sets out rules to govern the transactional aspects of consumer credit business and provides remedies and penalties when those rules are not followed.

The national structure of the Code utilises a template which is held by Queensland. Under the Uniform Consumer Credit Laws Agreement 1993, any amendments to the Code must be made to the Queensland template legislation.

The Code is administered through the Uniform Consumer Credit Code Management Committee (UCCC Management Committee), a national group with representatives from all States and Territories, which reports to the Standing Committee of Officials of Consumer Affairs (SCOCA) and the Ministerial Council on Consumer Affairs (MCCA).

The objective of the Bill in relation to credit matters is to extend the sunset clause in the Code that relates to the Mandatory Comparison Rate (MCR) system by 2 years to 30 June 2009. This will provide government with

sufficient time to consider the recommendations arising from a review of the MCR system and determine the future of the MCR system.

### ***Corporation of Tourism Queensland***

The *Tourism Queensland Act 1979* (the TQ Act) provides for the establishment of Tourism Queensland, its functions and powers, for purposes related to the tourist and travel industry in Queensland. The policy objective of the Bill is to strengthen the leadership of the Corporation of Tourism Queensland.

## **Reasons for the Bill**

### ***Credit amendments***

On 1 July 2003, MCR became compulsory for all fixed term consumer credit. Broadly, the MCR scheme requires:

- all credit advertisements that contain an annual percentage rate to quote a comparison rate; and
- credit providers, “linked providers” and finance brokers to supply consumers with schedules of comparison rates.

The MCCA made a commitment the MCR provisions would be subject to a three year sunset clause, with a review prior to the sunset date. Pursuant to section 146D of the Code, the MCR provisions were to sunset on 30 June 2006.

In October 2004, the SCOCA gave approval to the UCCC Management Committee to proceed with a review of the MCR scheme by an independent consultant. The MCR review was required to follow the Council of Australian Government *Principles and Guidelines for National Standard Setting and Regulatory Action by Ministerial Councils and Standard-setting Bodies* to the satisfaction of the Office of Best Practice Regulation – the Commonwealth body which assesses the adequacy of national regulatory impact statements and approves their release.

The MCR review comprised a two stage process, the first being the public release of a consultation paper followed by the drafting of a Final Regulatory Impact Statement (RIS). The projected timeframe for the review initially scheduled completion in early 2006. However, a delay in the consultation phase of the review meant it could not be completed in time for the national forums of fair trading officials and Ministers to consider the final report before the provisions were to sunset on 30 June

2006. Consequently an amendment was made to the Code to extend the sunset date for 1 year to 30 June 2007.

The one year extension period has proven to be too short, as the RIS only recently received “clearance” from the Office of Best Practice Regulation in October 2006.

Although the RIS concludes there is a strong case for the MCR system to sunset, it also provides a contingent layer of recommendations for reform, should the MCR system continue. The fate of the MCR system is a serious issue because MCR provides a method of disclosure which can assist consumer choice in an aggressive market with complex products. This is particularly important for the many consumers who possess low levels of financial literacy.

The extension of 2 years will provide MCCA with sufficient time to give proper consideration to the RIS and determine the future of the MCR system. If the MCCA continues with the MCR system, but with modifications, additional regulatory impact assessment would be necessary. An extension of 2 years builds in time for this, should it be required. If an earlier decision is made, the sunset date can be brought forward by regulation.

Without the extension, the MCR system will expire before conclusion of the review and consideration of the RIS recommendations. The amendment will preserve the status quo to enable careful consideration of the future of the MCR system.

### ***Corporation of Tourism Queensland***

In relation to the amendments to the TQ Act, these are to strengthen the leadership of the Corporation of Tourism Queensland to assist with the implementation of the recently released Queensland Tourism Strategy. The strategy lays the foundation for the coordinated and sustainable development of tourism in Queensland and gives industry and government the vision, goals, targets and actions to meet the challenges and opportunities facing the industry over the next 10 years. The Department of Tourism, Fair Trading and Wine Industry Development has the principal responsibility for overseeing strategy implementation which will require an unprecedented level of collaboration and joint activity between the department and Tourism Queensland.

The amendments will increase the membership to include the chief executive of the department administering the Act and also enable the Governor in Council to appoint the Deputy Chairperson in a similar way to

the appointment of the Chairperson. In order to ensure continuity of membership for experienced members who make a significant contribution to the Corporation's activities, the current limitation on membership of six consecutive years service will be lifted. The limitation stifles the promotion of members and means membership must end for the most experienced appointees.

An energetic and visionary Corporation is vital to the success of the Government's Queensland Tourism Strategy. To ensure this is achieved, the Government needs to be confident the Corporation has the most able and appropriate leadership.

### **Achieving the Objectives**

The extension of the sunset clause in relation to the MCR system can only occur by amending the Code.

Changes to the membership of the Corporation of Tourism Queensland similarly require legislative amendment.

### **Administrative Costs**

The MCR amendment will maintain the status quo, therefore no additional costs will be imposed. No additional costs will be incurred through the appointment of the chief executive of the department in which the TQ Act is administered to the Corporation of Tourism Queensland.

### **Fundamental Legislative Principles**

The proposed MCR amendment is consistent with Fundamental Legislative Principles. There may be concern the TQ Act amendments to validate certain appointments of members operates retrospectively. The retrospective nature of these amendments does not adversely affect any rights or liberties or impose new obligations on any persons beyond what is already able to be done had the appointments been valid.

### **Consultation**

#### *Community*

While no consultation has taken place on the extension of the sunset date, both consumers and industry stakeholders were consulted during

development of the RIS. Consultation in relation to the TQ Act amendments was not considered appropriate.

## **Government**

All Queensland Government Departments have been consulted on the proposed MCR amendments including the Department of the Premier and Cabinet, Queensland Treasury, and the Office of Regulatory Efficiency in the Department of State Development. No concerns have been raised in relation to the proposed amendment.

Queensland Treasury and the Departments of the Premier and Cabinet and Employment and Industrial Relations have been consulted on the amendments to the Tourism Queensland Act and have raised no issues.

## **Notes on Provisions**

### **Part 1                      Preliminary**

Clause 1 sets out the short title of the Bill.

Clause 2 provides that part 2 of the Bill commences on 29 June 2007.

### **Part 2                      Amendment of Consumer Credit Code**

Clause 3 provides that part 2 amends the Consumer Credit Code set out in the appendix to the *Consumer Credit (Queensland) Act 1994*.

Clause 4 amends section 146D of the Consumer Credit Code to extend the sunset provision in relation to the mandatory comparison system by two years to 30 June 2009, or such earlier date as is prescribed by regulation.

## **Part 3                      Amendment Of Tourism Queensland Act 1979**

Clause 5 provides that part 3 amends the *Tourism Queensland Act 1979*.

Clause 6 amends the definitions to clarify there is a difference between appointed members and the chief executive of the department administering the Act, who is also a member, but not an appointed member.

Clause 7 provides that the chief executive of the department administering the Act is to be a member of the Corporation of Tourism Queensland and that the Corporation has a maximum of nine other members who are appointed by the Governor in Council.

Clause 8 inserts a new section 7A which provides for the appointment of one of the members as chairperson and another member as deputy chairperson by the Governor in Council. The section clarifies the person holding the office of chairperson or deputy chairperson may only continue in that position while they are also appointed as a member. A member may resign from the office of chairperson or deputy chairperson without affecting their membership.

Clause 9 clarifies the appointment term relates to appointed members and not to the chief executive's membership. Also, an appointed member is eligible for reappointment if otherwise qualified.

Clause 10 omits the position of observer at the Corporation's meetings.

Clause 11 clarifies the provisions relating to the vacation of office relate to appointed members.

Clause 12 clarifies that only appointed members are eligible for remuneration under subsection (1) and that all members including the chief executive, may be eligible for expenses necessarily incurred under subsection (2).

Clause 13 inserts a new section which enables the chief executive to appoint a representative to attend meetings who will have the same standing as the chief executive at the meeting under this division of the Act including undertaking a role as chairperson or deputy chairperson.

Clause 14 makes minor consequential amendments.

Clause 15 makes minor consequential amendments.

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Clause 16 inserts new section 34A which validates appointment periods where the previous time limit on service may be relevant and validates that an appointment period as chairperson was also an appointment period as a member.

Clause 17 inserts a new part 5, division 3 which has transitional provisions to confirm current member appointment periods.