FAIR TRADING

FT301*

Consumer Credit (Western Australia) Act 1996

Consumer Credit Amendment Regulation 2000

Made by the Governor in Executive Council.

1. Citation

This regulation may be cited as the *Consumer Credit Amendment Regulation 2000*.

2. Commencement

This regulation comes into operation on 28 October 2000.

3. The regulations amended

The amendments in this regulation are to the *Consumer Credit Regulation 1996**.

[* *Reprinted as at 28 April 2000*.]

4. Section 1 repealed and replaced

Section 1 is repealed and the following section is inserted instead —

"

1. Citation

These regulations may be cited as the *Consumer Credit (Western Australia) Regulations 1996*.

".

5. Section 22 amended

(1) Section 22 is amended by inserting before "For the purposes" the subsection designation "(1)".

(2) At the end of section 22 the following subsection is inserted —

"

(2) Despite subsection (1), the matter in subsection (1)(h) and (i) relating to the total amount of repayments need only be included in the written notice given under section 65(3) of the Code if the contract concerned would, on the assumptions under sections 158 and 160 of the Code, be paid out within 7 years of the date on which credit is first provided under the contract.

".

6. Section 40 repealed and replaced

Section 40 is repealed and the following section is inserted instead —

"

40. Address for notices

(1) For the purposes of section 171(4) or (6) of the Code, a nomination is to be in the following form —

(a) the nomination is to contain the words "I/We nominate…….[full name of person nominated] to receive notices and other documents under the Consumer Credit Code on behalf of me/all of us";

(b) the nomination is to contain a prominent statement that each debtor/mortgagor/guarantor is entitled to receive a copy of any notice or other document under the Code and that by signing the form they are giving up the right to be provided with information direct from the credit provider;

(c) the nomination is to contain a prominent statement that any person who has signed the form can advise the credit provider at any time in writing that they wish to cancel their nomination.

(2) For the purposes of section 171(5) of the Code, a consent is to be in the following form —

(a) the consent is to contain the words "We consent to notices and other documents under the Consumer Credit Code to us being sent jointly to us at ……[address for service]";

(b) the consent is to contain a prominent statement that each debtor/mortgagor/guarantor is entitled to receive a copy of any notice or other document under the Code and that by signing the form they are giving up the right to be provided with information separately from the credit provider;

(c) the consent is to contain a prominent statement that any person who has signed the form can advise the credit provider at any time in writing that they wish to cancel their consent.

".

7. Section 58 amended

Section 58(5)(b) is amended by deleting "not later than 48 months after the commencement of the Code." and inserting instead —

" on or before 27 October 2000. ".

8. Section 59 amended

Section 59(4) is amended by deleting "not later than 48 months after the commencement of the Code." and inserting instead —

" on or before 27 October 2000. ".

9. Section 60 amended

Section 60(3) is amended by deleting "not later than 48 months after the commencement of the Code." and inserting instead —

" on or before 27 October 2000. ".

10. Section 61 amended

Section 61(2)(b) is amended by deleting "not later than 48 months after the commencement of the Code." and inserting instead —

" on or before 27 October 2000. ".

11. Section 62 amended

Section 62(2) is amended by deleting "not later than 48 months after the commencement of the Code." and inserting instead —

" on or before 27 October 2000. ".

12. Section 63 amended

Section 63(5) is amended by deleting "not later than 48 months after the commencement of the Code." and inserting instead —

" on or before 27 October 2000. ".

13. Section 64 amended

Section 64(2)(b) is amended by deleting "not later than 48 months after the commencement of the Code." and inserting instead —

" on or before 27 October 2000. ".

14. Section 65 amended

Section 65(2)(b) is amended by deleting "not later than 48 months after the commencement of the Code." and inserting instead —

" on or before 27 October 2000. ".

15. Section 66 amended

Section 66(3) is amended by deleting "not later than 48 months after the commencement of the Code." and inserting instead —

" on or before 27 October 2000. ".

16. Section 67 amended

Section 67(4) is amended by deleting "not later than 48 months after the commencement of the Code." and inserting instead —

" on or before 27 October 2000. ".

17. Section 68 amended

Section 68(3) is amended by deleting "not later than 48 months after the commencement of the Code." and inserting instead —

" on or before 27 October 2000. ".

18. Section 69 amended

Section 69(3) is amended by deleting "not later than 48 months after the commencement of the Code." and inserting instead —

" on or before 27 October 2000. ".

19. Section 70 amended

Section 70(5) is amended by deleting "not later than 48 months after the commencement of the Code." and inserting instead —

" on or before 27 October 2000. ".

20. Section 71 amended

Section 71(3) is amended by deleting "not later than 48 months after the commencement of the Code." and inserting instead —

" on or before 27 October 2000. ".

21. Section 72 amended

Section 72(3)(b) is amended by deleting "not later than 48 months after the commencement of the Code." and inserting instead —

" on or before 27 October 2000. ".

22. Section 73 amended

Section 73 is amended by deleting "not later than 48 months after the commencement of the Code." and inserting instead —

" on or before 27 October 2000. ".

23. Section 74 amended

Section 74(3) is amended by deleting "not later than 48 months after the commencement of the Code." and inserting instead —

" on or before 27 October 2000. ".

24. Section 75 amended

(1) Section 75(3) is amended by inserting after "writing" —

"

, before the commencement of section 169A of the Code (as inserted by the amending Act),

".

(2) Section 75(6) is amended by deleting "entered into not later than 48 months after the commencement of the Code" and inserting instead —

"

entered into before the commencement of section 169A of the code (as inserted by the amending Act)

".

(3) At the end of section 75 the following subsection is inserted —

"

(7) In this section —

"amending Act" means the *Consumer Credit (Western Australia) Amendment Act 2000*.

".

25. Part 11 amended

At the end of Part 11 the following division is inserted —

"

Division 4 — Transitional provisions arising from amending Act

78. Definition

In this division —

"amending Act" means the *Consumer Credit (Western Australia) Amendment Act 2000*.

79. Inclusion of additional information in financial table

Information relating to the period over which repayments are to be made may continue to be, but need not be, included in the information required to be provided in the precontractual statement, as set out in section 13 of this regulation, despite the amendment of section 15F of the Code by the amending Act.

80. Changes to key requirements

Nothing done by the amending Act affects any liability of a person under Part 6 Division 1 in respect of a contravention of a key requirement that occurred before the amendment by that Act of the provision containing the key requirement.

81. Limitation of guarantor's liability

Section 55 of the Code, as in force before its amendment by the amending Act, continues to apply to a guarantee signed before the commencement of the amendment but ceases to so apply if the guarantor's liabilities are increased in accordance with section 56 of the Code.

82. Nominations to receive notices

A nomination given under section 171(3) of the Code, and in force immediately before the repeal of that provision, is taken to have been given under section 171(4) of the Code, as inserted by the amending Act. Any such nomination may be withdrawn by the person who gave it.

".

26. Schedule amended — Form 2

(1) The Schedule is amended in Form 2 by deleting clauses 2 and 3 and inserting the following clauses instead —

"

2. How can I get a copy of the final contract?

If the contract document is to be signed by you and returned to your credit provider, you must be given a copy to keep.

Also, the credit provider must give you a copy of the final contract within 14 days after it is made. This rule does not, however, apply if the credit provider has previously given you a copy of the contract document to keep.

If you want another copy of your contract write to your credit provider and ask for one. Your credit provider may charge you a fee. Your credit provider has to give you a copy —

- within 14 days of your written request if the original contract came into existence 1 year or less before your request; or
- otherwise within 30 days of your written request.

3. Can I terminate the contract?

Yes. You can terminate the contract by writing to the credit provider so long as —

- you have not obtained any credit under the contract; or
- a card or other means of obtaining credit given to you by your credit provider has not been used to acquire goods or services for which credit is to be provided under the contract.

However, you will still have to pay any fees or charges incurred before you terminated the contract.

".

(2) The Schedule is amended in Form 2 by deleting from clause 8 "30 days" and inserting instead —

" 20 days ".

(3) The Schedule is amended in Form 2 by deleting from clause 16 "if, when the credit provider gives you a copy of the mortgage document to sign and return to the credit provider, you are also given a copy of the mortgage document to keep" and inserting instead —

"

if the credit provider has previously given you a copy of the mortgage document to keep

".

27. Schedule amended — Form 3A

The Schedule is amended in Form 3A by deleting from the first item under "THINGS YOU MUST KNOW", "(or try to obtain) any credit" and inserting instead —

"

credit, or a card or other means is used to obtain goods or services for which credit is to be provided under the contract,

".

28. Schedule amended — Form 3B

The Schedule is amended in Form 3B by deleting from the first item under "THINGS YOU MUST KNOW", "(or try to obtain) any credit" and inserting instead —

"

credit, or a card or other means is used to obtain goods or services for which credit is to be provided under the contract,

".

29. Schedule amended — Form 5A

The Schedule is amended in Form 5A by inserting in clause 3, after "the signed guarantee" —

" (if you do not already have a copy of the guarantee) ".

30. Schedule amended — Form 6

The Schedule is amended in Form 6, in the paragraph headed "FINALISING THE CONTRACT", as follows:

(a) by deleting from the fourth dot point "enforcing the mortgage." and inserting instead —

" enforcing the mortgage; and ";

(b) by inserting after the fourth dot point the following dot point —

"

- the expenses reasonably incurred by the credit provider in connection with the possession and sale of the mortgaged goods.

";

(c) by deleting the last dot point and inserting instead —

"

- amount required to pay out the credit contract or the amount due under the guarantee.

".

31. Schedule amended — Form 11

The Schedule is amended in Form 11 clause 1 by inserting after "enters into the consumer lease" —

" , unless you already have a copy of the consumer lease ".

By Command of the Governor,

M. C. WAUCHOPE, Clerk of the Executive Council.