

WESTERN AUSTRALIA

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# ACTS AMENDMENT (CREDIT) ACT

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No. 47 of 1989

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AN ACT to amend the *Credit Act 1984* and the *Credit (Administration) Act 1984*.

[Assented to 9 January 1990]

The Parliament of Western Australia enacts as follows:

## PART 1—PRELIMINARY

### Short title

1. This Act may be cited as the *Acts Amendment (Credit) Act 1989*.

### Commencement

2. (1) Subject to this section this Act shall come into operation on the day on which it receives the Royal Assent.

(2) Section 3 shall be deemed to have come into operation on the day that section 18 of the *Credit Act 1984* came into operation.

(3) Sections 7 and 9 shall be deemed to have come into operation on the day that sections 4 and 55 of the *Credit (Administration) Act 1984* came into operation.

(4) Section 8 shall be deemed to have come into operation on the day that section 7 of the *Credit (Administration) Act 1984* came into operation.

#### PART 2—CREDIT ACT 1984

### Section 18 amended

3. Section 18 of the *Credit Act 1984*\* (in this Part referred to as the “principal Act”) is amended—

(a) in subsection (1) (b) by inserting after “*Credit Unions Act 1979*” the following—

“ or registered or incorporated under a law of any other Australian State or Territory ”; and

(b) by inserting after subsection (1) the following subsections—

“ (1a) The provisions of Parts III, IV, V, VI, VII and VIII do not apply to or with respect to a regulated contract where the credit provider is a credit union registered or incorporated under a law of any other Australian State or Territory.

(1b) Subsection (1a) ceases to have effect on and from the day fixed by the Minister by notice published in the *Government Gazette*. ”.

[\*Act No. 99 of 1984.]

**Section 85A inserted**

4. After section 85 of the principal Act the following section is inserted—

Application for declaration

“ 85A. (1) Where a debtor is not liable to pay—

(a) the credit charge under a regulated contract by virtue of section 42;

or

(b) a portion of the credit charge under a regulated continuing credit contract by virtue of section 67,

the debtor or the Commissioner may apply to the Tribunal for a declaration to that effect in relation to the contract in question and the Tribunal may make such a declaration.

(2) Any declaration made under subsection (1) is subject to any determination made under section 85, 86 or 86A that affects the regulated contract the subject of the declaration. ”.

**Section 86A inserted**

5. (1) After section 86 of the principal Act the following section is inserted—

Order in respect of minor errors etc

“ 86A. (1) If on application made by a credit provider the Tribunal is of the opinion that—

(a) any failure to include in any regulated contract any matter;

or

(b) any error or misdescription in any regulated contract of any matter,

required by this Act is of a minor nature and unlikely to mislead, deceive, or materially prejudice or disadvantage any debtor, the Tribunal may order that the contract shall be deemed to be a contract to which this section applies.

(2) An application under subsection (1) shall specify the details and extent of the breach or breaches in any contract the subject of the application.

(3) A contract that is the subject of an order under subsection (1) shall, to the extent of the matters specified in the order, be deemed to have complied with this Act as from the date of such contract.

(4) The Tribunal may make an order under subsection (1) in relation to one or more specified regulated contracts.

(5) Where an application is made under subsection (1) the applicant shall publish in a newspaper circulating throughout the State notice of the application as approved by the Tribunal.

(6) Nothing in this section—

- (a) prevents a credit provider from making a subsequent application under section 85 or 86 in relation to any contract the subject of an application under this section;
- (b) affects the liability of a person to be convicted of an offence under this Act or the *Credit (Administration) Act 1984*. ”.

(2) Nothing in section 86A of the principal Act as enacted by subsection (1)—

- (a) applies to any failure, error or misdescription in any regulated contract as defined in the principal Act that is the subject of an application made under section 85 or 86 of the principal Act before the day that this section comes into operation and that is pending on the day;
- (b) affects any final order made under section 85 or 86 of the principal Act before the day that this section comes into operation.

PART 3—*CREDIT (ADMINISTRATION) ACT 1984***Principal Act**

6. In this Part the *Credit (Administration) Act 1984\** is referred to as the principal Act.

[\*Act No. 100 of 1984 as amended by Act No. 98 of 1985.]

**Section 4 amended**

7. Section 4 of the principal Act is amended in the definition of “Commissioner” by inserting after “section 15 (1a)” the following—

“ of that Act ”.

**Section 7 amended**

8. Section 7 of the principal Act is amended in subsection (1)—

(a) by deleting “or” in paragraph (i); and

(b) by inserting after paragraph (i) the following paragraph—

“ (ia) a credit union registered or incorporated under a law of any other Australian State or Territory; or ”.

**Section 55 amended**

9. Section 55 of the principal Act is amended in subsection (6) by deleting “55” wherever it occurs and substituting in each place the following—

“ 54 ”.

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