

CE302*

Consumer Credit (Western Australia) Act 1996

**Consumer Credit (Western Australia) Code
Regulations Amendment Order (No. 4) 2006**

Made by the Governor in Executive Council under section 6 of the Act.

1. Citation

This order is the *Consumer Credit (Western Australia) Code Regulations Amendment Order (No. 4) 2006*.

2. The regulations amended

The amendments in this order are to the *Consumer Credit (Western Australia) Code Regulations**.

[* *The regulations in force under Part 4 of the Consumer Credit (Queensland) Act 1994 on 9 July 2003 as applied, and amended under, section 6 of the Consumer Credit (Western Australia) Act 1996. For amendments to 24 July 2006 see Western Australian Legislation Information Tables for 2005, Table 4, p. 66 and Gazette 13 June 2006.*]

3. Commencement

This order comes into operation on —

- (a) if it is published in the *Gazette* on or before the day on which the *Queensland Consumer Credit and Trade Measurement Amendment Act 2006* section 4 comes into operation — that day; or
- (b) if it is published in the *Gazette* after that day — the day on which it is published in the *Gazette*.

4. Section 10 amended

Section 10(2) is amended by inserting after “above words” —

“

or, if the declaration is to be made by electronic communication, prominently displayed when (but not after) the person signs

”.

5. Section 13 amended

Section 13(5) is repealed and the following subsection is inserted instead —

“

- (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, the financial table is to be set out at the beginning of the proposed contract document. The financial table may be preceded by information necessary to identify the loan.

”.

6. Section 15 amended

Section 15(3) is amended by deleting paragraphs (b) and (c) and inserting the following paragraph instead —

“

- (b) they are to be set out immediately above (and on the same page as) each place where the debtor (or at least 1 of the debtors) is to sign the contract document or, if a contract is made by electronic communication, the information and warnings must be prominently displayed when (but not after) the debtor (or if 2 or more debtors, each debtor) signs.

”.

7. Section 34 amended

Section 34 is amended by inserting after “above words” —

“

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

”.

8. Section 39 amended

- (1) Section 39 is amended by inserting before “For” the subsection designation “(1)”.
- (2) After the note in section 39 the following subsection is inserted —

“

- (2) For the purposes of section 162(1A)(b) of the Code, if a credit contract, mortgage or guarantee or a notice transmitted by a credit provider under the Code is transmitted by electronic communication —
 - (a) the electronic communication must not incorporate any image, message, advertisement or other feature that distracts, or is reasonably likely to distract, the recipient or otherwise reduces or interferes, or is reasonably likely to reduce or interfere, with the recipient’s ability to understand the credit contract, mortgage or guarantee or notice; and

- (b) if an image, message, advertisement or other feature accompanies or is associated with the electronic communication, it must be readily distinguishable from the credit contract, mortgage or guarantee or notice; and
- (c) the recipient must be readily able to scroll through the whole of the credit contract, mortgage or guarantee or notice; and
- (d) the full address (not being a post office box) and telephone number at which the credit provider may be contacted must be included in the credit contract, mortgage or guarantee or notice.

”.

9. Section 39A inserted

After section 39 the following section is inserted —

“

39A. Exemptions in relation to electronic communications

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

- (a) a guarantee to which the Code applies under section 9 of the Code;
- (b) a copy of a guarantee given under section 52(1)(a) of the Code;
- (c) a copy of a credit contract given under section 52(1)(b) of the Code;
- (d) a copy of a contract document given under section 54(2)(a) of the Code;
- (e) a notice setting out particulars of the change in the terms of the credit contract under section 56(1)(a) of the Code;
- (f) a default notice under section 80(1) of the Code;
- (g) a default notice under section 80(2) of the Code;
- (h) information concerning the provisions of section 91 of the Code provided to the occupier of premises under section 91(1)(b) of the Code;
- (i) a request for entry to premises under section 24(a) of these regulations;
- (j) a consent to enter premises under section 24(c) of these regulations;

- (k) a notice under section 94(1) of the Code;
- (l) a demand made on the supplier under section 120(5)(a) of the Code;
- (m) a demand made on the supplier under section 120(6)(a) of the Code;
- (n) a notice of intention to repossess under section 156(1) of the Code;
- (o) a transaction on which duty is only charged under the laws of this jurisdiction if the transaction is effected or evidenced by an instrument or document in hard copy form;
- (p) an instrument on which duty is only charged under the laws of this jurisdiction if the instrument is in hard copy form.

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Note: A draft Order (the Consumer Credit (Western Australia) Code Regulations Amendment Order (No. 2) 2006) containing these provisions was approved by the Legislative Assembly on 28 June 2006 (see Hansard p. 4458-9) and by the Legislative Council on 29 June 2006 (see Hansard p. 4546-9).

By Command of the Governor,

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