

TASMANIA

**CREDIT (COMMONWEALTH POWERS)
(TRANSITIONAL AND CONSEQUENTIAL
PROVISIONS) BILL 2009**

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**CREDIT (COMMONWEALTH POWERS)
(TRANSITIONAL AND CONSEQUENTIAL
PROVISIONS) BILL 2009**

This Public Bill originated in the House of Assembly, and, having this day passed, is now ready for presentation to the Legislative Council for its concurrence.

P. R. ALCOCK, *Clerk of the House*
4 November 2009

*(Brought in by the Minister for Corrections and Consumer
Protection, the Honourable Lisa Maria Singh)*

A BILL FOR

**An Act to amend and repeal certain Acts, rescind and
revoke certain other legislation and provide for matters of
a transitional nature consequent on the enactment of the
National Consumer Credit Protection Act 2009 of the
Commonwealth and for related purposes**

Be it enacted by His Excellency the Governor of Tasmania, by
and with the advice and consent of the Legislative Council and
House of Assembly, in Parliament assembled, as follows:

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Credit
(Commonwealth Powers) (Transitional and
Consequential Provisions) Act 2009*.

*Credit (Commonwealth Powers) (Transitional and
Consequential Provisions) Act 2009*
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Part 1 – Preliminary

2. Commencement

The provisions of this Act commence on a day or days to be proclaimed.

3. Interpretation

In this Act, unless the contrary intention appears –

“**ASIC**” means the Australian Securities and Investments Commission established by the *Australian Securities and Investments Commission Act 1989* of the Commonwealth and continued in existence by section 261 of the ASIC Act;

“**Director**” means the Director of Consumer Affairs and Fair Trading appointed under section 9 of the *Consumer Affairs Act 1988*;

“**former consumer credit legislation**” means any of the following (as in force immediately before its repeal by this Act):

- (a) the *Consumer Credit (Tasmania) Act 1996* (including the Consumer Credit (Tasmania) Code and the Consumer Credit (Tasmania) Regulations);

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- (b) the *Consumer Credit (Tasmania) (Jurisdiction of Courts) Regulations 2006*;
- (c) the *Consumer Credit (Tasmania) (Transitional) Regulations 2006*;

“National Credit legislation” means –

- (a) the *National Consumer Credit Protection Act 2009* of the Commonwealth; and
- (b) the *National Consumer Credit Protection (Transitional and Consequential Provisions) Act 2009* of the Commonwealth;

“proceedings” has the same meaning as in the *National Consumer Credit Protection (Transitional and Consequential Provisions) Act 2009* of the Commonwealth.

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Consequential Provisions) Act 2009*
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Part 2 – Transitional Provisions

PART 2 – TRANSITIONAL PROVISIONS

4. Court proceedings

Proceedings in a court that constitute old proceedings under item 4(1) of Schedule 1 to the *National Consumer Credit Protection (Transitional and Consequential Provisions) Act 2009* of the Commonwealth cease to be proceedings under a law of the State immediately after the commencement of that item of that Act.

5. Construction of references to former consumer credit legislation

(1) In this section –

“document” means any Act (other than this Act) or statutory instrument, or any other instrument, or any contract or agreement.

(2) In any document –

- (a) a reference to any former consumer credit legislation extends to the National Credit legislation; and
- (b) a reference to a provision of any former consumer credit legislation extends to the corresponding provision (if any) of the National Credit legislation.

PART 3 – MISCELLANEOUS

6. Provision of information and assistance to ASIC

Despite any other Act or law, the Director is authorised, on his or her own initiative or at the request of ASIC –

- (a) to provide ASIC with any document, or other information, in the possession or control of the Director that is reasonably required by ASIC in connection with the performance or exercise of its functions or powers under the National Credit legislation; and
- (b) to provide ASIC with such other assistance as is reasonably required by ASIC to perform or exercise a function or power under the National Credit legislation.

7. ASIC has certain functions and powers

- (1) The Minister, or a person authorised in writing by the Minister, may enter into an agreement or arrangement with ASIC for the performance of functions or the exercise of powers by ASIC as an agent of the State, even if those functions or powers are or may be conferred on another person or body by or under a law of the State.

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Part 3 – Miscellaneous

- (2) An agreement or arrangement of a kind referred to in subsection (1) has effect by force of this section despite any provision of a law of the State in respect of any function or power that is the subject of the agreement or arrangement.

8. Regulations

- (1) The Governor may make regulations containing provisions of a savings or transitional nature consequent on –
- (a) the enactment of this Act; or
 - (b) the transition from the application of the provisions of the former consumer credit legislation to the application of provisions of the National Credit legislation.
- (2) If such regulations so provide, the regulations have effect despite any other provision of this Act.
- (3) Regulations made under subsection (1) may take effect when this section commences or on a later day specified in the regulations, whether the day so specified is before, on or after the day on which the regulations are made.
- (4) To the extent to which regulations take effect under subsection (3) on a day that is earlier than the day on which the regulations are made, the

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regulations do not operate to the disadvantage of a person by –

- (a) decreasing the person's rights; or
- (b) imposing liabilities on the person.

9. Administration of Act

Until provision is made in relation to this Act under section 4 of the *Administrative Arrangements Act 1990* –

- (a) the administration of this Act is assigned to the Minister for Corrections and Consumer Protection; and
- (b) the department responsible to that Minister in relation to the administration of this Act is the Department of Justice.

10. Consequential amendments

The legislation specified in Schedule 1 is amended as specified in that Schedule.

11. Legislation repealed

The legislation specified in Schedule 2 is repealed.

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Consequential Provisions) Act 2009*
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Part 3 – Miscellaneous

12. Legislation rescinded

The legislation specified in Schedule 3 is rescinded.

13. Legislation revoked

The legislation specified in Schedule 4 is revoked.

14. Effect of certain consequential amendments

The amendment of an order under Schedule 1 does not bar its further amendment by a subsequent order.

SCHEDULE 1 – CONSEQUENTIAL AMENDMENTS

Section 10

Acts Interpretation Act 1931

1. Section 46BA is repealed.

Bills of Sale Act 1900

1. Section 4A is repealed.

Consumer Affairs Act 1988

1. Section 3A is amended by omitting “the Consumer Credit (Tasmania) Code,”.
2. Section 16 is amended as follows:
 - (a) by omitting from subsection (3) “the Consumer Credit (Tasmania) Code,”;
 - (b) by omitting from subsection (4) “the Consumer Credit (Tasmania) Code,”.

Justices Order 2004

1. Clause 4 is amended by omitting paragraph (j).

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Police Offences Act 1935

- 1.** Section 37L(3) is amended as follows:
 - (a) by omitting “section 37Y(5)” and substituting “section 37Y(3)”;
 - (b) by omitting “Consumer Credit (Tasmania) Code.” and substituting “*National Credit Code* as set out in Schedule 1 to the *National Consumer Credit Protection Act 2009* of the Commonwealth.”.

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SCHEDULE 2 – LEGISLATION REPEALED

Section 11

Consumer Credit (Tasmania) Act 1996 (No. 25 of 1996)

Consumer Credit (Tasmania) Amendment Act 2003 (No. 20 of 2003)

Consumer Credit (Tasmania) Amendment Act 2007 (No. 40 of 2007)

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SCHEDULE 3 – LEGISLATION RESCINDED

Section 12

Consumer Credit (Tasmania) Amendment Regulations 1999
(No. 82 of 1999)

*Consumer Credit (Tasmania) (Jurisdiction of Courts)
Regulations 2006* (No. 94 of 2006)

Consumer Credit (Tasmania) (Transitional) Regulations 2006
(No. 127 of 2006)

SCHEDULE 4 – LEGISLATION REVOKED

Section 13

Consumer Credit (Tasmania) Order 1996 (No. 149 of 1996)

Consumer Credit (Tasmania) Order (No. 2) 1996 (No. 172 of 1996)

Consumer Credit (Tasmania) Order 1997 (No. 1 of 1997)

Proclamation under the Consumer Credit (Tasmania) Act 1996 (No. 7 of 1997)

Proclamation under the Consumer Credit (Tasmania) Act 1996 (No. 145 of 1997)

Proclamation under the Consumer Credit (Tasmania) Act 1996 (No. 52 of 1998)

Proclamation under the Consumer Credit (Tasmania) Act 1996 (No. 158 of 1998)

Proclamation under the Consumer Credit (Tasmania) Act 1996 (No. 159 of 1998)

Proclamation under the Consumer Credit (Tasmania) Act 1996 (No. 38 of 1999)

Proclamation under the Consumer Credit (Tasmania) Act 1996 (No. 153 of 1999)

Proclamation under the Consumer Credit (Tasmania) Act 1996 (No. 158 of 2002)

Proclamation under the Consumer Credit (Tasmania) Act 1996 (No. 159 of 2002)

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*Proclamation under the Consumer Credit (Tasmania) Act
1996 (No. 18 of 2003)*

*Proclamation under the Consumer Credit (Tasmania) Act
1996 (No. 19 of 2003)*

*Proclamation under the Consumer Credit (Tasmania) Act
1996 (No. 80 of 2005)*

*Proclamation under the Consumer Credit (Tasmania) Act
1996 (No. 76 of 2006)*

*Proclamation under the Consumer Credit (Tasmania) Act
1996 (No. 116 of 2006)*

*Proclamation under the Consumer Credit (Tasmania) Act
1996 (No. 149 of 2006)*

*Proclamation under the Consumer Credit (Tasmania) Act
1996 (No. 38 of 2008)*