

TASMANIA

**CONSUMER CREDIT (LIMITATION ON
ADVERTISING) BILL 2008**

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CONSUMER CREDIT (LIMITATION ON ADVERTISING) BILL 2008

*(Brought in by the Minister for Corrections and Consumer
Protection, the Honourable David Edward Llewellyn)*

A BILL FOR

An Act to limit advertising by high-cost credit providers 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:

1. Short title

This Act may be cited as the *Consumer Credit
(Limitation on Advertising) Act 2008*.

2. Commencement

This Act commences on a day to be proclaimed.

3. Interpretation

(1) In this Act –

“**broadcast**”, in relation to an advertisement,
means broadcast the advertisement by
wireless transmission or television or
cause it to be so broadcast;

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“Code” means the Consumer Credit (Tasmania) Code;

“comparison rate”, in relation to a consumer credit product, means the comparison rate for that product calculated in accordance with the regulations;

“consumer credit product” means any form of facility for the provision of credit (other than under a continuing credit contract) provided to debtors by a credit provider;

“credit advertisement” means an advertisement that states or implies that credit is available;

“high-cost credit provider” means a credit provider that offers a consumer credit product with a comparison rate greater than 40%;

“publish”, in relation to an advertisement, means to –

- (a) insert the advertisement in a newspaper or periodical or cause it to be so inserted; or
- (b) include the advertisement on an internet site; or
- (c) publicly exhibit the advertisement or cause it to be publicly exhibited;

“regulations” means the regulations made and in force under this Act.

- (2) Unless the contrary intention appears, expressions used in this Act have the same meaning as they have in the Code.

4. Application of Act

This Act applies to the provision of credit to which the Code applies.

5. Restriction on advertisements

A high-cost credit provider must not publish or broadcast a credit advertisement unless that advertisement complies with section 6.

Penalty: In the case of –

- (a) a first offence, a fine not exceeding 100 penalty units; or
- (b) a subsequent offence, a fine not exceeding 300 penalty units.

6. Format and content of advertisements

- (1) A credit advertisement must not contain anything other than the following:
- (a) the name of the credit provider;

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- (b) the business address of the credit provider;
 - (c) the wording “short-term finance is available”;
 - (d) the telephone number of the credit provider.
- (2) The printing or typewriting in a credit advertisement must be the same point size, other than the name of the credit provider.

7. Relationship with the Code

The provisions of this Act are in addition to, and not in derogation of, the provisions of the Code.

8. Exemptions

- (1) The Minister may, by order published in the *Gazette*, exempt a person or class of persons from the operation of this Act, or a provision of this Act.
- (2) An order under this section is not a statutory rule within the meaning of the *Rules Publication Act 1953*.
- (3) An exemption under subsection (1) may be unconditional or subject to conditions.
- (4) A person must not contravene a condition of an exemption.

Penalty: Fine not exceeding 100 penalty units.

9. Regulations

- (1) The Governor may make regulations for the purposes of this Act.
- (2) Regulations made under this Act may –
 - (a) authorise any matter to be determined, applied or regulated by a person or body specified in the regulations; and
 - (b) be made subject to conditions or so as to apply differently according to such factors as are specified in the regulations; and
 - (c) confer a power and impose a duty on a specified person or class of persons.

10. Administration of Act

Until provision is made in relation to this Act by order 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.

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11. Expiry of Act

This Act expires –

- (a) 2 years after the day on which it commences, inclusive of that day; or
- (b) on such earlier date as may be fixed by proclamation.

12. Transitional provisions

- (1) In this section –

“transitional period” means the 3-month period immediately following the day on which this Act commences.

- (2) This Act does not apply to a credit advertisement that is published or broadcast during the transitional period if it is published or broadcast pursuant to a contract entered into before that period.

13. Consequential amendments

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

14. Expiry of amendments

The amendment to section 3A of the *Consumer Affairs Act 1988* effected by section 13 of this Act expires immediately before this Act expires.

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SCHEDULE 1 – CONSEQUENTIAL AMENDMENTS

Section 13

Consumer Affairs Act 1988

1. Section 3A is amended by inserting “the *Consumer Credit (Limitation on Advertising) Act 2008*,” after “*Collections for Charities Act 2001*,”.