

4. *Consumer Credit (Victoria) Act 1995*

**Reprint No. 1**  
**Consumer Credit (Victoria) Act 1995**  
**Act No. 41/1995**

Reprinted incorporating amendments as at 1 July 1998

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**The Parliament of Victoria enacts as follows:**

**PART 1—PRELIMINARY**

**1. Purpose**

The purpose of this Act is to regulate the provision of credit.

**2. Commencement**

- (1) This Part and sections 43, 44, 53, 54 and 58 come into operation on the day on which this Act receives the Royal Assent.
- (2) The remaining provisions of this Act come into operation on a day or days to be proclaimed.

**3. Definitions**

- (1) In this Act—

**"Authority"** means the Business Licensing Authority established under the **Business Licensing Authority Act 1998**;

S. 3(1) def. of "Authority" substituted by No. 52/1998 s. 4(a).

**"Consumer Credit (Queensland) Act"** means the Consumer Credit (Queensland) Act 1994 of Queensland;

**"Consumer Credit (Victoria) Code"** means the provisions applying because of section 5 of this Act;

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**"Consumer Credit (Victoria) Regulations"**

means the provisions applying because of section 6 of this Act;

S. 3(1) def. of "Credit Tribunal" repealed by No. 52/1998 s. 4(b).

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**"Director"** means the Director of the Office of Fair Trading and Business Affairs in the Department of Justice;

**"exempt credit provider"** means a credit provider referred to in section 12(1) or a person who under section 10 is a person to whom Part 4 does not apply;

**"Ministerial Council"** means the Ministerial Council established under the Uniform Consumer Credit Laws Agreement 1993;

S. 3(1) def. of "Registrar" substituted by No. 52/1998 s. 4(c).

**"Registrar"** means the Registrar of the Authority appointed under the **Business Licensing Authority Act 1998**;

S. 3(1) def. of "Tribunal" inserted by No. 52/1998 s. 4(d).

**"Tribunal"** means Victorian Civil and Administrative Tribunal established by the **Victorian Civil and Administrative Tribunal Act 1998**.

- (2) In this Act, a reference to carrying on a business of providing credit includes a reference to carrying on the provision of credit in the course of or as part of or as incidental to or in connection with the carrying on of another business.
- (3) Words and expressions used in the Consumer Credit (Victoria) Code and in this Act have the same meanings in this Act as they have in that Code.

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- (4) Sub-section (3) does not apply to the extent that the context or subject matter otherwise indicates or requires.

**4. *Crown to be bound***

This Act binds the Crown, not only in right of Victoria but also, so far as the legislative power of the Parliament permits, the Crown in all its other capacities.

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**PART 2—CONSUMER CREDIT (VICTORIA) CODE AND  
CONSUMER CREDIT (VICTORIA) REGULATIONS****5. *Application in Victoria of the Consumer Credit Code***

The Consumer Credit Code set out in the Appendix to the Consumer Credit (Queensland) Act as in force for the time being—

- (a) applies as a law of Victoria; and
- (b) as so applying may be referred to as the Consumer Credit (Victoria) Code.

**6. *Application of uniform regulations under the Consumer Credit Code***

- (1) The regulations in force for the time being under Part 4 of the Consumer Credit (Queensland) Act—
    - (a) apply as regulations in force for the purposes of the Consumer Credit (Victoria) Code; and
    - (b) as so applying may be referred to as the Consumer Credit (Victoria) Regulations.
  - (2) Schedule 2 to the Consumer Credit (Victoria) Code applies in relation to any such regulation.
  - (3) To the extent to which a provision of any such regulation of a savings or transitional nature takes effect from a day earlier than the day of the regulation's notification in the Government Gazette of Queensland, the provision does not operate in this State to the disadvantage of a person (other than the State or a State authority) by—
    - (a) decreasing the person's rights; or
    - (b) imposing liabilities on the person.
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**7. Interpretation of expressions in the Consumer Credit (Victoria) Code and the Consumer Credit (Victoria) Regulations**

- (1) In the Consumer Credit (Victoria) Code and the Consumer Credit (Victoria) Regulations—

**"Legislature of this jurisdiction"** means the Legislature of Victoria;

**"the Code"** or **"this Code"** means the Consumer Credit (Victoria) Code;

**"the jurisdiction"** or **"this jurisdiction"** means Victoria.

- (2) The Acts Interpretation Act 1954, and other Acts, of Queensland do not apply to—

(a) the Consumer Credit Code set out in the Appendix to the Consumer Credit (Queensland) Act in its application as a law of Victoria; or

(b) the regulations in force for the time being under Part 4 of the Consumer Credit (Queensland) Act in their application as regulations in force for the purposes of the Consumer Credit (Victoria) Code.

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**PART 3—CONFERRAL OF JUDICIAL AND  
ADMINISTRATIVE FUNCTIONS**

**8. *Conferral of judicial functions***

(1) The jurisdiction that is expressed to be exercisable by "the Court" under the Consumer Credit (Victoria) Code and the Consumer Credit (Victoria) Regulations is exercisable by—

S. 8(1)(a)  
amended by  
No. 52/1998  
s. 5.

(a) in the case of any jurisdiction under section 36(6) or (7), 47(3), 68, 69, 70, 71, 72, 74, 77, 83(1), 88, 89 or 162 or Division 1 or 2 of Part 6 of the Code—only the Tribunal; or

S. 8(1)(b)  
amended by  
No. 52/1998  
s. 5.

(b) in any other case—either the Tribunal or any court.

S. 8(2)  
amended by  
No. 52/1998  
s. 5.

(2) The jurisdiction conferred on a court by this section (other than the Tribunal) is subject to the court's general jurisdictional limits (so far as they relate to the amounts, or the value of property, with which the court may deal), but is not subject to the court's other jurisdictional limits.

S. 8(3)  
amended by  
No. 52/1998  
s. 5.

(3) The regulations may make provision for or with respect to the transfer of proceedings between the Tribunal and other courts or between other courts.

(4) The Governor in Council may make regulations for the purposes of this section.

**9. *Conferral of administrative functions***

The Director has the functions of the Government Consumer Agency under the Consumer Credit (Victoria) Code and the Consumer Credit (Victoria) Regulations.

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**PART 4—REGISTRATION**

**10. *Exemption from this Part***

- (1) The Governor in Council may, by Order published in the Government Gazette, declare that the provisions of this Part do not have effect in relation to a specified person or to a specified class of persons.
- (2) An Order made under sub-section (1)—
  - (a) may specify the period during which the Order shall remain in force;
  - (b) may provide that its operation is subject to such terms and conditions as are specified in the Order; and
  - (c) may specify the circumstances under which a person to whom the Order applies is by reason of the Order to be deemed to be an exempt credit provider for the purposes of this Act and the Consumer Credit (Victoria) Code.
- (3) The Governor in Council may, by Order published in the Government Gazette, revoke or vary an Order made under this section.
- (4) An Order under this section, including an Order that is varied under this section, has effect according to its tenor.

**11. *Certain persons not to carry on business as credit provider***

- (1) Subject to this Act, a person must not carry on a business of providing credit under credit contracts unless registered as a credit provider under this Part.

Penalty: 500 penalty units.

- (2) Subject to this Act, a person must not hold himself, herself or itself out as a person who carries on a business of providing credit under credit contracts unless registered as a credit provider under this Part.

Penalty: 250 penalty units.

**12. Section 11 not to apply in certain cases**

- (1) Section 11 does not apply to—
- (a) the Crown or a public or local body or authority constituted by or under an Act;
  - (b) a bank;
  - (c) a body corporate registered under the Life Insurance Act 1945 of the Commonwealth;
  - (d) a body corporate authorised under the Insurance Act 1973 of the Commonwealth to carry on insurance business;
  - (e) unless Part VII of the Insurance Act 1973 of the Commonwealth has ceased to have effect—a Lloyd's underwriter, being an underwriter of the society known as Lloyd's incorporated by the Imperial Act known as Lloyd's Act 1971;
  - (f) the holder of a pawnbroker's business premises licence under the **Second-Hand Dealers and Pawnbrokers Act 1989**;
  - (g) a body corporate incorporated or empowered by an Act or an Act of the Parliament of the Commonwealth to lend money or provide credit, in respect of the lending of money or provision of credit in accordance with that Act or Act of the Parliament of the Commonwealth;
  - (h) a person, not being a body corporate, authorised by an Act or an Act of the
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Parliament of the Commonwealth to lend money or provide credit, in respect of the lending of money or provision of credit in accordance with that Act or Act of the Parliament of the Commonwealth;

- (i) a council within the meaning of the **Local Government Act 1989**;
  - (j) a pastoral finance company.
- (2) A reference in section 11 to providing credit does not include a reference to providing credit otherwise than under credit contracts.

**13. Application for registration**

- (1) An application for registration as a credit provider may be made to the Registrar in a form approved by the Registrar—
  - (a) by a natural person of or over the age of 18 years; or
  - (b) by a body corporate.
- (2) The application must specify—
  - (a) the name and address of the applicant;
  - (b) if the applicant is a body corporate, the name and address of each director of the body corporate;
  - (c) the principal place of business of the applicant in Victoria;
  - (d) each other place where the applicant carries on, or intends to carry on, a business of providing credit in Victoria;
  - (e) the name or names under which the applicant carries on, or intends to carry on, a business of providing credit;