

Queensland



Credit Act 1987

CREDIT (CONTINUING CREDIT CONTRACTS—FEES AND CHARGES) ORDER 1993

**Reprinted as in force on 5 October 1993
(includes amendments up to SL No. 362 of 1993)**

Reprint No. 1 *

This reprint is prepared by
the Office of the Queensland Parliamentary Counsel
Warning—This reprint is not an authorised copy

NOT FURTHER AMENDED
LAST REPRINT BEFORE REPEAL
See SIA s 54

* Minor differences in style between this reprint and another reprint with the same number are due to the conversion to another software program. The content has not changed.

Information about this reprint

This order is reprinted as at 5 October 1993. The reprint—

- shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c))
- incorporates all necessary consequential amendments, whether of punctuation, numbering or another kind (Reprints Act 1992 s 5(d)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 have been made to use aspects of format and printing style consistent with current drafting practice (s 35).

Also see endnotes for information about when provisions commenced.

Queensland



**CREDIT (CONTINUING CREDIT
CONTRACTS—FEES AND CHARGES)
ORDER 1993**

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CREDIT (CONTINUING CREDIT CONTRACTS—FEES AND CHARGES) ORDER 1993

[as amended by all amendments that commenced on or before 5 October 1993]

1 Short title

This order in council may be cited as the *Credit (Continuing Credit Contracts—Fees and Charges) Order 1993*.

2 Commencement

This order in council commences on 1 August 1993.

3 Variation of application of Act (s.21 of Act)

It is declared that, in relation to the provision of credit under a continuing credit contract, the provisions of the Act do not prevent—

- (a) the imposition and collection under the contract of charges or fees (in addition to interest) by the credit provider for the provision and operation of the contract if the credit provider complies with section 4 and, if applicable, section 8; and
- (b) the variation of the contract and the giving of notice of the variation under sections 3(c) and 5 instead of the manner otherwise required under the Act; and
- (c) a credit provider varying the contract without prior notice if the variation is limited to one or more of the following—
 - (i) a variation of the annual percentage rate that reduces the annual percentage rate;
 - (ii) a variation that otherwise reduces the debtor's monetary obligation under the contract;
 - (iii) a variation that increases the time for payment of the amount that is or may be standing to the debit of the account kept for the purposes of the contract; and

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- (d) a credit provider from lawfully entering into an account kept for the purposes of the contract or from including in a statement of account an amount that exceeds the cash price if the amount entered or included is the amount charged by the supplier for the supply of the goods or services to the debtor and in such circumstances the amount entered or included is taken to be the cash price; and
- (e) a credit provider from using a method that is permitted under section 7(2) to calculate the maximum amount of the credit charge for a billing cycle; and
- (f) a credit provider, without giving a statement in writing under section 70 of the Act or a statement of net balance due under section 105 of the Act, from entering into an account (whether as an opening balance or otherwise) under a new contract that was made in consideration of the discharge of a previous contract with the debtor—
 - (i) an amount equivalent to the amount owed under the previous contract when it was discharged; and
 - (ii) any additional amounts that could have been entered into the account kept by the credit provider for the purposes of the previous contract if the contract had not been discharged.

4 Application of s.3(a)

Section 3(a) only applies if—

- (a) in the case of a contract entered into that on formation includes terms and conditions that impose fees or charges (in addition to interest)—the credit provider in or with the notice given to the debtor under section 60 of the Act discloses the cost of the credit to the debtor in the form set out in the Schedule or in a substantially similar form to that form—
 - (i) specifying the amounts of all fees and charges or, if the fees and charges cannot be specified, supplying a brief description of the basis on which the fees and charges are calculated; and
 - (ii) specifying when all fees and charges will become payable; and

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- (b) any fee or charge included in the closing balance of a statement of account given under section 62 of the Act is disclosed in the statement of account for the billing cycle in which the fee or charge is debited.

5 Alteration of s.61 notice

(1) It is declared that a credit provider is taken to have given sufficient notice in respect of a variation under section 61(1)(a) of the Act for a variation to take effect on the expiry of the notice period if—

- (a) the credit provider—
- (i) gives at least 28 clear days notice of the variation to the debtor by publishing a press advertisement outlining the variation in a newspaper circulating generally in Queensland; and
 - (ii) advises the debtor of the variation in writing not later than the date when the next statement of account is given to the debtor under section 62 of the Act after the end of the notice period mentioned in subparagraph (i); or
- (b) the credit provider gives at least 28 clear days notice of the variation to the debtor in writing.

(2) It is declared that if a credit provider gives notice of a variation in writing under subsection (1), section 61(2) of the Act has no effect.

6 Alteration of form 6 notice

It is declared that, for the purposes of complying with section 59 of the Act, a credit provider may include the following paragraph instead of paragraph 5 in form 6 under the *Credit Regulation 1988*—

‘Generally, you get at least 7 clear days notice. However, if the change increases the interest rate, increases the credit charge, increases your repayments or shortens the time for repayment, 28 clear days notice of the variation must be given by press advertisement or in writing.’

7 Maximum amount of credit charge

- (1) In this section—

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“daily percentage rate”, in relation to a continuing credit contract, means the rate determined by dividing the annual percentage rate under the contract by 365;

“periodic percentage rate”, in relation to a continuing credit contract, means the rate determined by dividing the annual percentage rate under the contract by the number of billing cycles that would occur under the contract if it were in force for 1 year.

(2) It is declared that the maximum amount of the credit charge in respect of the billing cycle of a contract may be calculated—

- (a) as the sum of the amounts obtained by—
 - (i) applying the daily percentage rate to the unpaid daily balances during the billing cycle relating to any or all of the amounts owed by the debtor under the contract; or
 - (ii) applying the periodic percentage rate to any or all of the amounts owed by the debtor under the contract immediately before the start of the billing cycle; or
 - (iii) applying the periodic percentage rate to the average of the daily balances for the billing cycle relating to any or all of the amounts owed by the debtor under the contract; or
- (b) by applying a combination of the methods of calculation mentioned in paragraph (a), but not so as to apply more than one method to any particular amount in respect of any particular period; or
- (c) by another method of calculation if the maximum amount of credit charge in respect of a billing cycle derived using the method does not exceed the maximum amount that could become payable if any of the methods of calculation mentioned in paragraph (a) or (b) were used.

8 Further application of s.3(a)

(1) This section applies if—

- (a) a credit provider, under section 3(a), varies a contract entered into before 1 August 1993 to impose an annual charge for the first time; and

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- (b) the variation has effect so that the annual charge becomes payable without the debtor, after being notified of the variation, first agreeing in writing to the variation or using the contract to access further credit.

(2) It is a condition of the variation that the credit provider must cause the annual charge to be refunded to the debtor or credited to the debtor's account if—

- (a) before 2 billing cycles have elapsed since being notified of the variation, the debtor advises the credit provider in writing that the debtor does not wish the variation to continue to have effect and returns all cards used to access credit under the contract; or
- (b) the credit provider withdraws the debtor's right to use the cards and the debtor has not used the contract to access further credit since being notified of the variation.

(3) It is also a condition of the variation that the annual charge is not payable retrospectively.

9 Specified provisions of the Act have no effect

It is declared that the following provisions of the Act, to the extent that they are inconsistent with this order, have no effect in relation to continuing credit contracts—

- (a) sections 53 to 56(1);
- (b) sections 60 to 62;
- (c) section 68(1)(b)(i);
- (d) sections 70, 76, 105 and 106;
- (e) Schedule 7.

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SCHEDULE

FORM (EXAMPLE)

section 4

DISCLOSURE IN CONTINUING CREDIT CONTRACTS THAT INCLUDE FEES AND CHARGES			
Maximum interest free period	Annual percentage rate	Annual charges	Other fees and charges
55 days	16%	\$20 payable by 31/12/93	Transaction fee of 25 cents per debit transaction payable quarterly Lost card replacement fee of \$10 payable on replacement

ENDNOTES

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 5 October 1993. Future amendments of the Credit (Continuing Credit Contracts—Fees and Charges) Order 1993 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	prev	= previous
amd	= amended	(prev)	= previously
amdt	= amendment	proc	= proclamation
ch	= chapter	prov	= provision
def	= definition	pt	= part
div	= division	pubd	= published
exp	= expires/expired	R[X]	= Reprint No.[X]
gaz	= gazette	RA	= Reprints Act 1992
hdg	= heading	reloc	= relocated
ins	= inserted	renum	= renumbered
lap	= lapsed	rep	= repealed
notfd	= notified	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 1992
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered

4 List of legislation

Credit (Continuing Credit Contracts—Fees and Charges) Order 1993 SL No. 284

notfd Gaz 30 July 1993 pp 1594–6
 ss 1–2 commenced on date of notification
 remaining provisions commenced 1 August 1993 (see s 2)
exp 1 September 2003 (see SIA s 54)

amending legislation—

Credit (Continuing Credit Contracts—Fees and Charges) Amendment Order (No. 1) 1993 SL No. 329

notfd Gaz 27 August 1993 pp 1974–7
 commenced on date of notification

Credit (Continuing Credit Contracts—Fees and Charges) Amendment Order (No. 2) 1993 SL No. 362

notfd Gaz 24 September 1993 pp 286–7
 commenced on date of notification

5 List of annotations

Variation of application of Act (s.21 of Act)

s 3 amd 1993 SL No. 362 s 3

Application of s.3(a)

s 4 amd 1993 SL No. 362 s 4

Alteration of s.61 notice

s 5 amd 1993 SL No. 329 s 3; 1993 SL No. 362 s 5

SCHEDULE

sub 1993 SL No. 362 s 6