

1994—No. 228

CREDIT ACT 1984—REGULATION

(Relating to statements as to maximum annual percentage rates)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Credit Act 1984, has been pleased to make the Regulation set forth hereunder.

IAN ARMSTRONG, MP
Acting Minister for Consumer Affairs.

Commencement

1. This Regulation commences on 1 July 1994.

Amendment

2. The Credit Regulation 1984 is amended:

(a) by inserting after clause 26 the following clause:

Notice as to maximum annual percentage rate: section 170 (5)

26A. A credit provider under a regulated contract must include in the contract a statement in Form 12 if the annual percentage rate in respect of the contract exceeds the maximum rate referred to in section 170 of the Act and the conditions set out in section 170 (3) (a)–(c) of the Act are satisfied.

Maximum penalty: 5 penalty units.

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(b) by inserting after Form 11 the following form:

Form 12

(Cl. 26A)

MAXIMUM ANNUAL PERCENTAGE RATE

The law says that the credit provider must give you this information about maximum interest rates applying to regulated contracts.

The annual percentage rate on this contract is *%.

The **maximum annual percentage rate** on a regulated contract is set at **% by law. If the annual percentage rate exceeds this maximum, the contract normally becomes void.

But there is an exception under section 170 of the Credit Act 1984 which allows the annual percentage rate to exceed the maximum by a certain margin if

- 1 the amount financed under your contract is \$2,000 or less, and
- 1 the credit provider has not provided credit to you or your family in the last 2 years

The credit provider believes that this contract fits into the exception.

If you want advice as to your rights, and the reasons why this contract fits into the exception, contact a solicitor, a financial counsellor or Consumer Affairs.

* The credit provider must insert here the annual percentage rate on this contract.

** The credit provider must insert here the current statutory maximum (i.e. 4 times the rate of interest prescribed under section 95 (1) of the Supreme Court Act 1970 at the time the regulated contract is entered into).

EXPLANATORY NOTE

The object of this Regulation is to require a statement about the statutory limit on interest rates to be included by credit providers in regulated contracts that fall within the statutory exception to that limit.

Once section 170 of the Credit Act 1984 is substituted in accordance with the Credit (Amendment) Act 1993, a credit provider entering a regulated contract at an interest rate above the statutory maximum will break the law and the contract will be void. But there will be an exception where the amount of credit is not over \$2000 and the interest rate exceeds the maximum by less than a prescribed margin and the credit provider has not dealt with the same consumer or members of the same consumer's family in the previous 2 years. By comparison, the old provision simply declared void any regulated contract under which the interest rate exceeded those (if any) declared by the Commercial Tribunal.

This Regulation is made under sections 170 (Contract void if annual percentage rate exceeds the maximum rate) and 167 (the general regulation-making power) of the Credit Act 1984.
