

# **CREDIT (AMENDMENT) ACT 1993 No. 71**

NEW SOUTH WALES



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**CREDIT (AMENDMENT) ACT 1993 No. 71**

NEW SOUTH WALES



**Act No. 71, 1993**

An Act to amend the Credit Act 1984 in relation to the maximum annual percentage rate for regulated contracts. [Assented to 18 November 1993]

**The Legislature of New South Wales enacts:****Short title**

1. This Act may be cited as the Credit (Amendment) Act 1993.

**Commencement**

2. This Act commences on a day to be appointed by proclamation.

**Amendment of Credit Act 1984 No. 94**

3. The Credit Act 1984 is amended by omitting section 170 and by inserting instead the following section:

**Contract void if annual percentage rate exceeds the maximum rate**

170. (1) A credit provider must not enter into a regulated contract if the annual percentage rate in respect of the contract exceeds the “**maximum rate**”. The maximum rate, for the purposes of this section, is 4 times the rate of interest prescribed under section 95 (1) of the Supreme Court Act 1970 at the time the contract is entered into.

Maximum penalty: 25 penalty units.

(2) A regulated contract (including any mortgage in *so* far as it relates to the contract) is void if it is entered into in contravention of subsection (1).

(3) However, it is not a contravention of subsection (1) for a credit provider to enter into a regulated contract in respect of which the annual percentage rate exceeds the maximum rate if:

- (a) the amount financed under the contract does not exceed \$2,000; and
- (b) the credit provider has not, within the period of 2 years before the date of the contract, engaged in any business with respect to the provision of credit to the debtor, the debtor’s spouse or any member of the debtor’s family residing with the debtor at the date of the contract; and
- (c) the annual percentage rate calculated by reference to the credit charge payable under the contract, reduced by an amount which is the lesser of 7% of the amount financed or \$35, does not exceed the maximum rate.

(4) If, by the operation of this section, a regulated contract is void, the debtor is entitled to recover from the credit provider as a debt any amount paid to the credit provider under the contract.

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(5) The regulations may make provision for the inclusion in any regulated contract of a statement relating to the annual percentage rate of the contract or to the maximum rate (or to both).

(6) Nothing in this section affects the powers of the Tribunal under Part 9 in relation to a contract or mortgage that is not, by reason of this section, void.

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*[Minister's second reading speech made in—  
Legislative Assembly on 7 September 1993  
Legislative Council on 9 November 1993]*