

Act 1993 No. 71

CREDIT (AMENDMENT) BILL 1993

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

At present, section 170 of the Credit Act 1984 empowers the Commercial Tribunal to fix maximum annual percentage rates in respect of regulated contracts. That section also provides that a regulated contract is void if the annual percentage rate in respect of the contract exceeds the maximum rate fixed in relation to the Contract. However, this power to fix maximum rates has not been exercised by the Tribunal in the past.

The object of this Bill is to replace section 170 with a new section which prohibits a credit provider from entering into a regulated contract if the annual percentage rate in respect of the contract exceeds the "maximum rate" (the rate that is 4 times the prescribed rate of interest under the Supreme Court Act 1970). That prescribed rate is currently 10.5%. However, the annual percentage rate can, in certain circumstances where the amount financed in respect of a new credit contract is not more than \$2,000, exceed the "maximum rate".

The new section also provides that a regulated contract entered into with an annual percentage rate exceeding the "maximum rate" is void. It also provides, as is presently the case, that if the contract is void by the operation of the section, the debtor is entitled to recover from the credit provider any amount paid under the contract. Regulations may be made to provide for statements relating to annual percentage rates and the maximum rate to be included in regulated contracts.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act will commence on a day to be appointed by proclamation.

Clause 3 amends the Credit Act 1984 in the manner described above.
