



Speech by

**Hon. JUDY SPENCE**

**MEMBER FOR MOUNT GRAVATT**

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Hansard 18 September 1998

**CONSUMER CREDIT (QUEENSLAND) AMENDMENT BILL**

**Hon. J. C. SPENCE** (Mount Gravatt— ALP) (Minister for Aboriginal and Torres Strait Islander Policy and Minister for Women's Policy and Minister for Fair Trading) (10.46 a.m.): I move—

"That the Bill be now read a second time."

This Bill is about amending the Consumer Credit Code to improve its operation. Before I turn to the Bill itself, let me first give the background to the Consumer Credit Code and the context in which the Parliament must consider this amendment Bill. In 1993 all the Australian States and Territories entered into the Australian Uniform Credit Laws Agreement. The agreement provides that the Ministerial Council on Consumer Affairs has responsibility to develop and implement as far as possible a cooperative uniform national legislative and administrative scheme to regulate the provision of consumer credit in Australia. The agreement establishes Queensland as the template State. The uniform national consumer credit law for all Australia was enacted by the Queensland Parliament pursuant to this agreement, and is contained in the Consumer Credit Code, which is an appendix to the Consumer Credit (Queensland) Act 1994.

Uniformity of consumer credit law is achieved under clause 7 of the agreement. Clause 7 provides that a party to the agreement may pass application of laws legislation which automatically adopts the Consumer Credit Code as in force from time to time in Queensland or enact consistent legislation. All the parties except Western Australia passed application of laws legislation. Western Australia opted to enact consistent legislation. The Consumer Credit Code covers only the matters which all the parties to the agreement considered essential for uniformity, and leaves the individual jurisdictions to legislate independently for other matters such as maximum annual percentage rates and consumer credit funds.

The Queensland Credit Act 1987, which substantially mirrored credit legislation in other jurisdictions, and the credit Acts of those jurisdictions, were replaced by the Consumer Credit Code. These credit Acts were pitched towards a particular type of credit provider and a very limited range of credit products. They were not intended to, and did not, regulate consumer products such as variable interest consumer loans or credit cards and not all credit providers were covered. By contrast, the Consumer Credit Code applies to all consumer credit lending for personal domestic or household purposes. The Consumer Credit Code does not set artificial monetary limits, or maximum interest rates. Both the code and this amendment Bill were drafted after wide consultation.

The Consumer Credit (Queensland) Amendment Bill 1998 is the outcome of an extensive consultation process with stakeholders throughout Australia under the auspices of the Ministerial Council of Consumer Affairs. On 2 September 1996 a call for submissions on amendments to the code was distributed nationally on behalf of the ministerial council. On 10 September 1997, the ministerial council released the first draft Bill, the Consumer Credit (Queensland) Amendment Bill 1997, for consultation. In January 1998; a second exposure draft, the Consumer Credit (Queensland) Amendment Bill 1998, was released to stakeholders for comment.

The Australian uniform credit laws agreement requires the Queensland member of the Ministerial Council on Consumer Affairs to introduce an amendment Bill once a two-thirds majority of the ministerial council approve the amendments. This Bill has the unanimous approval of all the Ministers

eligible to vote, except Tasmania. Tasmania did not vote because that State was at that time in election mode, although approval was otherwise indicated.

Turning now to the amendment Bill before the House, the Bill contains two broad types of amendments. Firstly, the Bill brings the special transitional regulations contained in part 11 of the Consumer Credit Regulation 1995 into the code and makes them permanent. The special transitional regulations were promulgated to come into operation at the same time as the Consumer Credit Code. They were necessary to overcome practical implementation problems which emerged during the lead time between enactment in 1994 and commencement in November 1996, as legal advisers to credit providers and information technology specialists began the detailed work of drafting documents and manuals and designing software systems to achieve code compliance. These special transitional regulations expire on 1 November 1998.

Clause 2(2) of the Bill enumerates the clauses which give effect to the special transitional regulations. In some cases, the wording of the new provision in the Bill differs from that in the regulation. Secondly, the Bill makes amendments to improve the operation of the code, for example, by eliminating ambiguities and dealing with practical problems which have come to light since the code commenced operation.

The three most important amendments, apart from the amendments which replace the special transitional regulation, are—

- clause 61, which removes unnecessary duplication and provides new flexibility in the serving and giving of notices to debtors and guarantors;

- clauses 54 and 55, which remove credit advertising restrictions which currently prevent credit providers from including certain information which potential borrowers would find useful; and

- clause 45, which clarifies that a credit provider's recoverable enforcement expenses includes both internally and externally incurred expenses but also give debtors and guarantors a specific right to challenge the reasonableness of any such expenses so charged.

These amendments will commence on a day to be fixed by proclamation to coincide with the commencement of the equivalent provisions in the Western Australian statute, once it is enacted, to achieve uniformity of commencement throughout Australia.

This Bill does not address the fundamental policy issues underlying the Consumer Credit Code. In this respect, I take the opportunity to inform honourable members that a national review of the Consumer Credit Code is under way. An issues paper was released nationally this week. I encourage Queenslanders who wish to lodge a submission or make a comment about the operation and effectiveness of the code to do so.

Additionally, Queenslanders representing consumers and industry are members of the technical reference group, which has been established to ensure the contribution of their expertise to the review. They will also provide specialist expert advice from the credit provider and borrower perspectives. The review will report to the ministerial council by the end of the year. All stakeholders in the industry, community and Government and the honourable members of this House will have the opportunity to make submissions. This review will link into the National Competition Policy review of the code, which will commence next year.

The consultation process for this Bill has been extensive over two years and has sought to achieve consensus. The Bill has the support of industry, Government and consumer stakeholders and the approval of the Ministerial Council on Consumers Affairs. I commend it to the House.

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