

## National Credit Act

This fact sheet is for information only. You should get professional advice about your personal situation from a financial counsellor or a lawyer.

### Main ideas

- The National Credit Act imposes obligations on lenders to protect consumers.
- Most consumer credit is covered by the Act.
- Don't sign a 'business purpose' declaration if you're not using the loan for business. If you sign, the protections of the Act may not be available.
- Financial counsellors can help if you are in financial hardship. Their services are free.

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## The National Credit Act protects consumers

The National Credit Act (National Consumer Credit Protection Act 2009) and the National Credit Code protects consumers across Australia. These laws came into force on 1 July 2010.

Key protections include:

- lenders, brokers and other credit assistance companies must check that loans they give to you are affordable and suitable for your needs
- you have the right to apply for a repayment arrangement if you fall into financial hardship
- you usually must be sent a default notice giving at least 30 days to repay any arrears

- before court action or repossession
- set procedures are to be followed when repossessing goods, including cars
- lenders, brokers and other credit assistance companies must be a member of the Australian Financial Complaints Authority (AFCA) which is a free and independent complaints service you can go to if there are problems. [You can check the AFCA website to find a list of members](#)
- caps on fees and interest apply for some types of loans.

## **The National Credit Act applies to most personal credit**

The Act applies if:

- there is a loan, or a deferred debt (payment is pushed to a later date, for example, household goods paid off over time)
- the lender is in the business of providing loans
- a cost is charged for giving you credit (for example, interest or fees, or an additional cost built in on top of the cash price of the item or service)
- the loan is mainly for personal, domestic or household purposes
- the loan is to refinance, buy or improve a residential investment property
- the borrower normally lives in Australia.

### **Loans the Credit Act usually applies to:**

- car loans for personal use
- personal loans
- home loans
- consumer leases (such as car leases and rental contracts for goods) ([read our fact sheet about Consumer Leases](#))
- credit cards
- easy cash loans and payday loans ([read our fact sheet about Easy Cash Loans](#))
- investment loans for residential property.

### **Loans the Credit Act usually does not apply to:**

- wage advances
- buy now pay later products ([read our fact sheet about Buy Now Pay Later products](#))
- charge cards (where the entire balance must be paid every month)
- investment loans for shares
- business leases or business loans
- pawnbroking loans (although 'unjust transactions' and 'unconscionable interest and charges' provisions of the National Credit Code apply)
- staff loans
- novated leases

- overdrafts that have not been arranged in advance with the financial institution
- loans under 62 days that charge no more than 24% interest and 5% fees– these are very rare. If you took out a small personal loan and the lender claims the credit laws don't apply, get legal advice.

## **If the loan is part personal and part business use**

Credit is for a personal purpose if, when you took out the loan:

- you intended to use more than half the credit (half of the amount you borrowed) for a personal purpose; or
- you intended to use the goods or services you bought with the credit mostly for personal purposes rather than business purposes.

For example:

- A car loan used five days a week for business and for personal use at the weekend is not likely to be covered under the Act.
- A car loan used by the business two days per week and driven for personal purposes the rest of the time should be covered under the Act.
- A loan used largely to buy a family home, but that also included a small amount of working capital for a small business, would be covered under the Act.
- A credit card you took out for personal use initially, but started using later for your business is normally covered under the Act.

## **Signing a declaration for business purposes**

Sometimes lenders or brokers ask borrowers to sign a 'business/investment purposes declaration'. A declaration like this means the National Credit Act **does not apply unless** the lender (or any person obtaining the declaration) knew, or had reason to believe, that the credit was for personal purposes (or largely personal purposes). Car dealers, finance brokers and others must make reasonable enquiries about the purpose of the loan.

**Do not sign a business purpose declaration if you are not getting a loan for business use.** You could lose important protections.

If you are unsure about whether the National Credit Act applies, **get legal advice.**

## **Need more help?**

[For a list of other resources, visit our Useful Links page.](#)

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