

CONSUMER AFFAIRS

Pay Day Lending and the Consumer Credit Code

A pay day loan is a small-amount loan advanced until next pay day, usually secured by a direct debit authority. Most pay day loans are covered by the Consumer Credit Code.

Some lenders, including pay day lenders, often describe the loan being offered to the consumer as 'interest free' and instead impose a 'fee' which is paid by the consumer.

CONSUMER CREDIT CODE

The Consumer Credit Code does allow lenders to impose fees and charges on loans. This allows lenders to recover the cost of establishing and administering a loan.

Interest, as has always been the case, is the 'profit' earned by the lender for providing the loan. The Consumer Credit Code insists that interest be disclosed at an annual percentage rate to allow consumers to make comparisons between lenders and to understand the cost to the consumer of credit.

Pay day lenders impose a flat fee on the amount of the loan which is then presented to the consumer as 'interest free'. For example the fee might be \$20.00 per \$100.00 lent. This method combines both the cost recovery and the 'profit' components of the lender.

The practice adopted by pay day lenders of combining both the administration costs and profit components together as a fee and the non disclosure of an annual percentage rate make it extremely difficult for consumers to make informed choices.

An example of a typical pay day loan of \$200.00 over 2 weeks which attracts a 'fee' of \$40.00 translates to an annual percentage rate of 522%. The cost to the consumer in this instance would be approximately 32 times more expensive than a cash advance on the consumer's credit card at 16.5%pa.

An Interstate working party established to look into the pay day lending issue, found that the fees imposed by pay day lenders in annual percentage rate terms varied between 235% to over 1,300%.

WHICH PAY DAY LOANS DOES THE CONSUMER CREDIT CODE COVER

Pay day loans are subject to the Code if one or both of the following conditions exist

- The total fees and charges payable (including application fees and any late fees) exceeds 5% of the amount of credit borrowed;
- The annual interest rate charged exceeds 24%.

WHAT ARE PAY DAY LENDERS REQUIRED TO DO?

Pay day lenders must provide consumers with an information statement and a pre-contractual statement.

INFORMATION STATEMENT

The information statement contains standard information about a borrower's rights and obligations under the Consumer Credit Code, including;

- The right to a pre-contractual statement;
- The right to a written copy of the contract;
- Options available to a borrower who cannot pay.

PRE-CONTRACTUAL STATEMENT

The pre-contractual statement must provide details of crucial terms and conditions including:

- The amount of credit being advanced;
- Any fees and charges that apply (eg an application fee or a default fee);
- The annual percentage interest rate;
- The manner in which interest is calculated;
- Whether the interest rate varies upon default.
- If applicable, a statement highlighting that the borrower is contractually required to bear enforcement expenses.

The Code requires pay day lenders to make an assessment of ability to repay credit and it entitles a borrower to seek relief if illness or unemployment has prevented repayment.

It also places certain restrictions on the way in which non-repayment of a pay day loan can be enforced.

CONSUMER PROTECTION

The [Consumer Credit Code](#) has comprehensive civil penalties for credit providers, who fail to meet 'key requirements' and allow borrowers to be compensated where loss is incurred as a result.

Credit providers who infringe the Code also risk criminal penalties, depending on the nature of the breach.

FOR FURTHER INFORMATION

If you are experiencing difficulties with your credit provider, or believe your credit provider has breached The Consumer Credit Code, contact Consumer Affairs telephone 89999 1999 or toll free 1800 019 319.

If you are experiencing financial difficulties you can seek advice from the Financial Councillor at Anglicare Top End (08) 8985 0000 or Somerville Community Services (08) 8945 1533, or a Financial Counsellor advertising their services in the telephone directory in your area.

For further information contact Consumer Affairs

Old Admiralty Towers, 68 The Esplanade, GPO Box 1722, Darwin NT 0801

Ph: 08 8999 1999 - Fax: 08 8935 7727

or

Level 1, Belvedere House, Parsons Street, PO Box 1745 Alice Springs NT 0871

Telephone: 08 8951 8606 Fax: 08 8951 5442

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