



An Australian Credit Licence (ACL) will have its own Act, and the Consumer Credit Code will become a schedule to the Act. It is not part of the Corporations Act, but it will be regulated by ASIC. ACLs will be issued by ASIC.

Yes, if you are dealing with a **natural person** or a **strata corporation** and issuing, or arranging on behalf of issuer, or exercising rights of issuer, or advising on:

- Consumer leases
- Personal Loans
- Mortgages
- Credit Cards
- Overdrafts
- Housing Loans
- Pay Day Loans
- Hire of Goods
- Guarantees
- Continuing Credit Accounts
- Other products (the bill also covers "non-standard" products. Check the legislation to see what is caught)

Includes debt collectors, repossession agents or field callers

Need an ACL?

- You are a representative of an ACL holder
- You are a lawyer
- You are a financial counsellor
- Credit < 62 days - except if fees/charges >5% of loan or if interest rate > 24%pa
- Credit without prior agreement (eg. when a bank account overdrawn but no overdraft facility) · Continuing credit where no interest is paid and account charges not exceed \$200 in the 1st year or \$125 in later years
- The debit is part of a joint debit and credit facility
- No, if:
- Consumer leases of goods as part of employee's employment package or benefits
  - Consumer leases for fixed period of 4 months or less or which are for an indefinite period.
  - Insurance premiums by instalment where there is no cancellation fee or liability to pay if contract ends early
  - Pawnbrokers and trustees of estates - some exceptions e.g. unjust transactions
  - Employee loans -some exceptions
  - Other products (the bill also covers "non-standard" products. Check the legislation to see what is caught)

Timeline:

- Register to apply between 1/11/09 and 31/12/09
- Apply for ACL between 1/1/10 and 30/6/10
- Legislation likely to be in place by end of June 2009

Similar to Chapter 7 obligations (912A Corporations Act 2001) for Australian Financial Services Licensees

Licensee Obligations

- Breach Reports
- Conflicts of Interest
- Training and responsibility for Representatives
- Internal & External Dispute Resolution
- Compensation arrangements
- Documented compliance system
- Adequate financial resources
- Adequate risk management systems
- Cannot provide credit if contract unsuitable
- ACL numbers in documents

Similar to Authorised Reps under Ch 7 of Corporations Act 2001. Also similar provisions relating to registration with ASIC, liability of licensees, etc

Authorisation of Credit Reps



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Similar to FSG

No PDS equivalent: issuer info to go in Credit Guide

Disclosure Obligations

- Credit Guide
  - Even Issuers just have Credit Guide
  - Must give as soon as practicable after it becomes apparent to the licensee that it is likely to provide "credit assistance" to a consumer.
  - Quote certain costs before providing assistance
- Suitability Test
  - Similar to ROA
  - BUT credit provider must still make assessment of suitability according to a whole range of factors
  - Credit provider must also make reasonable inquiries about the consumer
  - Client can request assessment
- Credit Proposal Disclosure Document
  - total fees and charges
  - Give at same time as providing credit assistance

Similar to fees component of SOA

Written Credit Contracts

- Precontractual disclosure
- Method of calculation of interest charges
- Total amount of interest payable
- Repayments info
- Default rates
- Commissions payable
- Must accept early repayments unless contract spec prohibits

Penalties for non-compliance

- Civil penalties up to \$500,000
- Compensation orders
- Criminal offences
- Injunctions
- Adverse publicity orders
- Cancellation, suspension or variation of ACL.