

AUSTRALIAN CAPITAL TERRITORY
CREDIT (AMENDMENT) ORDINANCE 1986
ORDINANCE NO. 29, 1986

EXPLANATORY STATEMENT

The Credit Ordinance 1985 (the Principal Ordinance) regulates the provision of credit in the ACT. In particular the Principal Ordinance regulates contracts under which credit is provided and requires persons who provide credit to be licensed or registered.

Section 156(1) of the Principal Ordinance exempts banks from having to be licensed. Nevertheless section 156(4), although it has not commenced operation, provides for banks to be registered and pay a fee. This provision is inconsistent with the Banking Act 1959 and the Credit (Amendment) Ordinance 1986 exempts banks from the requirement.

The definition of 'account charge' provides for monetary limits on the fees and charges which are payable in relation to a continuing credit contract. Continuing credit contracts which impose acceptable account charges above the present level are subject to the Ordinance. The amendment to the Ordinance reflects the current situation in the finance lending industry by raising the account charge limit.

The amending Ordinance also corrects several drafting errors in the Principal Ordinance.

The effect of each of the provisions in the amending Ordinance is outlined in the attachment.

ATTACHMENT

CREDIT (AMENDMENT) ORDINANCE 1986

Section 1 cites the short title of the Ordinance as the Credit (Amendment) Ordinance 1986.

Section 2 provides that the Ordinance will come into operation on a date to be fixed by the Minister by notice in the Gazette.

Section 3 defines the Principal Ordinance for the purposes of the Ordinance as the Credit Ordinance 1985.

Section 4 amends section 5 of the Principal Ordinance to raise the present account charge limits in respect of continuing credit contracts from \$100 to \$150 in the first 12 months and from \$50 to \$75 for any other period of 12 months thereafter. Section 4 also amends section 5 of the Principal Ordinance to provide for the making of regulations prescribing that certain contracts are not credit sale contracts within the meaning of the Ordinance.

Section 5 amends a typographical error in section 107 of the Principal Ordinance.

Section 6 amends section 134 of the Principal Ordinance to provide that a contract of insurance for the purposes of section 134 is not voidable, as well as not void or otherwise unenforceable.

Section 7 amends section 156 of the Principal Ordinance to exempt banks from the registration requirements of the Ordinance.

Section 8 amends section 176 of the Principal Ordinance by omitting from sub-section (2) reference to credit provided for the purchase of a commercial vehicle or farm machinery.

Section 9 of the Ordinance validates regulation 4 of the Credit Regulations during the period from the date of commencement of the Credit Ordinance 1985 until the date of commencement of the proposed new regulation 4. The existing regulation 4 was purportedly made pursuant to section 5(1) of the Principal Ordinance, however that sub-section contained no regulation making power and the regulation is, therefore invalid.

Ord. 35/86