

AUSTRALIAN CAPITAL TERRITORY

CREDIT REGULATIONS

EXPLANATORY STATEMENT

No. 5 of 1985

The Credit Regulations are a part of the uniform system for the regulation of credit transactions which came into operation in the Australian Capital Territory, New South Wales and Victoria on 28 February 1985. A fundamental objective of the system is to ensure that persons entering into agreements with credit providers are given basic information about their contracts which is in standard form and is legible and easily comprehensible. By specifying the manner in which credit charges, rates of interest and similar matters are to be determined or disclosed, the credit legislation also aims to facilitate comparison between the costs of different forms of credit.

The Credit Regulations contain forms which are to be incorporated into or to accompany contractual documents used by credit providers and which set out the rights and obligations of debtors, mortgagors and guarantors. Other forms prescribed are to be used by credit providers and mortgagees who intend to take action under a contract or mortgage, alerting the debtor, mortgagor or guarantor to the default that has occurred and the action necessary to rectify it.

Miscellaneous matters dealt with in the Credit Regulations include the identification of types of transactions that are or are not subject to regulation under the Credit Ordinance 1985 as credit sale or loan contracts; methods for determination of certain charges and amounts referred to in the Ordinance; standards for the legibility of documents issued for the purposes of the Ordinance; and terms to be used in such documents.

The content of each of the provisions in the Credit Regulations is outlined in the attachment.

CREDIT REGULATIONS

Regulation 1. Short Title.

Regulation 2. Commencement.

Regulation 3 is an interpretative provision, and authorizes the use by credit providers in the ACT of forms that, in compliance with the Credit Regulation of New South Wales, contain the term “an independent body”.

Regulation 4 excludes from regulation under the Credit Ordinance certain contracts for the sale of goods or services.

Regulation 5 brings within the scope of the Credit Ordinance certain credit contracts relating to the sale of fishing equipment.

Regulation 6 details the insurance charges to which paragraph (b) of the definition of “statutory rebate” in the Credit Ordinance applies and the manner in which the rebate in respect of those charges is to be determined.

Regulation 7 prescribes an additional method that may be used in determining the accrued credit charge under a regulated credit contract.

Regulation 8 provides that a contract for the hiring of goods which is deemed by section 13 of the Credit Ordinance to be a credit sale contract is subject to the terms and conditions prescribed in Form 1.

Regulation 9 requires notices in compliance with Forms 2 and 3 to appear in offers to enter into credit sale contracts and loan contracts and prescribes the position in which the notice is to appear.

Regulation 10 prescribes Form 4 as the statement summarizing rights and obligations of a debtor that is required by section 34 of the Credit Ordinance to be given to a debtor.

Regulation 11 specifies a notice to the effect of Form 5 as the notice to be given to the debtor under an “add-on” contract described in section 37 of the Credit Ordinance.

Regulation 12 authorizes the determination of the annual percentage rate for the purpose of a credit sale contract or loan contract in accordance with either of the methods prescribed in Schedule 2.

Regulation 13 requires a minimum period of 7 days to elapse from the time a debtor is given notice of a variation in a credit sale contract or loan contract before the variation may take effect.

Regulation 14 specifies Form 6 as the prescribed statement required by section 58 of the Credit Ordinance to be given to the debtor under a continuing credit contract.

Regulation 15 requires information in accordance with Form 7 to be included in a notice given under section 107(3) of the Credit Ordinance.

Regulation 16 prescribes Form 8 as the notice to be served on a mortgagor under section 112 of the Credit Ordinance by a mortgagee who has taken possession of goods that are subject to a mortgage.

Regulation 17 requires a notice in accordance with Form 9 to be endorsed on a bill of exchange or promissory note referred to in section 120 of the Credit Ordinance.

Regulation 18 prohibits, in certain documents, references to matters listed in Schedules 3, 4, 5 and 6 except by use of the descriptive terms specified in those Schedules.

Regulation 19 prescribes the particulars that, under section 130(2)(b) of the Credit Ordinance, are to be contained in a notice to a debtor who has a beneficial interest under a contract of insurance.

Regulation 20 prescribes Form 10 as the notice by which, under section 138(3)(c) of the Credit Ordinance, a credit provider may notify a guarantor of the credit provider's intention to enforce the guarantee.

Regulation 21 specifies Form 11 as the statement to be given to a guarantor in accordance with section 142 of the Credit Ordinance.

Regulation 22 sets out acceptable standards for print or type in documents issued for the purposes of the Credit Ordinance.

Regulation 23 specifies minimum dimensions for print or type in reproductions of documents where the original document complies with regulation 22.

Regulation 24 imposes a penalty on a credit provider who, in serving on a debtor, mortgagor or guarantor a document for which a form is prescribed in the Credit Regulations, uses a form of document that differs in layout or prominence of print from the prescribed form.

Regulation 25 details the prescribed charges included in the amount financed under a credit sale contract or loan contract that are required to be shown in a statement in accordance with Schedule 2 or 4 of the Credit Ordinance.