



AUSTRALIAN CAPITAL TERRITORY

Fair Trading Amendment Act 2002

Act 2002 No 31

An Act to amend the *Fair Trading Act 1992*

*Notified under the Legislation Act 2001 on 9 September 2002
(see www.legislation.act.gov.au)*

The Legislative Assembly for the Australian Capital Territory enacts as follows:

1 Name of Act

This Act is the *Fair Trading Amendment Act 2002*.

2 Commencement

This Act commences on 25 November 2002.

Note The naming and commencement provisions automatically commence on the notification day (see *Legislation Act 2001*, s 75).

3 Act amended

This Act amends the *Fair Trading Act 1992*.

**4 Cash card use disclosure
Section 28A**

renumber as section 28B

5 New section 28A

insert

28A Credit card contracts and increases in credit card limits

- (1) A credit provider must not enter into a continuing credit contract for a credit card with a debtor unless the credit provider has carried out a satisfactory assessment process.
- (2) A credit provider must not increase the amount of credit available under a continuing credit contract for a credit card unless—
 - (a) the debtor has requested the increase in writing, or the credit provider has offered the debtor the increase and the debtor has accepted the offer in writing; and
 - (b) the credit provider has carried out a satisfactory assessment process.

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- (3) For this section, a **satisfactory assessment process**, in relation to a debtor, is an assessment of the debtor's financial situation sufficient to satisfy a diligent and prudent credit provider that the debtor has a reasonable ability to repay the amount of credit provided or to be provided.
- (4) Without limiting subsection (3), an assessment process is a **satisfactory assessment process** only if the credit provider—
- (a) asks the debtor for a statement of the debtor's financial situation, including—
 - (i) income; and
 - (ii) all credit accounts and applicable limits and balances; and
 - (iii) repayment commitments; and
 - (b) takes the statement into account in making the assessment.
- (5) In this section:

credit card—see section 28 (4).

continuing credit contract—see the *Consumer Credit (Australian Capital Territory) Code*, schedule 1, section 1 (1), definition of **continuing credit contract**.

Note 1 The Code, sch 1, s 1 (1) defines a **continuing credit contract** as a credit contract under which—

- (a) multiple advances of credit are contemplated; and
- (b) the amount of available credit ordinarily increases as the amount of credit is reduced.

Note 2 The *Consumer Credit (Australian Capital Territory) Code* is defined in the *Legislation Act 2001*, dict, pt 1. For the latest republication of the code, see www.legislation.act.gov.au.

credit provider, in relation to a credit contract, means a person who provides credit under the credit contract in the course of a business

of providing credit or as part of or incidentally to any other business of the credit provider, and includes a prospective credit provider.

debtor means a person (other than a guarantor) who is liable to pay for (or to repay) credit, and includes a prospective debtor.

Endnote

Republication of amended laws

1 For the latest republications of amended laws, see www.legislation.act.gov.au.

[Presentation speech made in Assembly on 6 March 2002]

I certify that the above is a true copy of the Fair Trading Amendment Bill 2002 which was passed by the Legislative Assembly on 29 August 2002.

Clerk of the Legislative Assembly

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