

## EXPLANATORY STATEMENT

### DECLARATION NO. 130 OF 1993

The *Credit Act 1985* (the Act) regulates the provision of consumer credit in the Australian Capital Territory. Section 19 of the Act enables the Minister by instrument to exempt from the obligations of the Act certain specified persons or classes of persons, as well as specified transactions or classes of transactions. Exemptions granted under section 19 of the Act are known as Credit Orders.

Under the Act, credit providers are prohibited from imposing charges in relation to the provision of credit under a regulated contract except those expressly permitted under the Act. Credit Order No. 78 - Continuing Credit Contracts - Fees and Charges (notified in ACT Gazette No. S154 of 28 July 1993) came into effect on 1 August 1993 following a decision by the Standing Committee of Consumer Affairs Ministers (SCOCAM) to allow credit providers to charge fees in relation to all continuing credit contracts, and in particular in relation to credit cards. Orders in similar terms to Credit Order No. 78 were made in all of the uniform credit jurisdictions. Other consequential changes were made to the operation of the Act in relation to continuing credit contracts.

The object of Credit Order No. 78 was to allow credit providers to charge fees in relation to all existing credit contracts as well as new contracts provided contracts were varied or entered into in accordance with the requirements of the Order. This instrument revokes and replaces certain clauses Credit Order No. 78 to ensure that fees can be imposed in relation to these contracts, particularly where the offer to provide credit was made by the credit provider before 1 August 1993.

The instrument also makes other technical changes to Credit Order No. 78, including removing the requirement to disclose the credit limit when disclosing details relating to the charging of fees. Credit providers are already obliged under the Act to disclose this information.