

EXPLANATORY MEMORANDUM

CREDIT REGULATIONS

Section 226 of the Credit Act 1985 (the Act), empowers the Attorney-General as the responsible Minister, to prescribe regulations or amend existing regulations in accordance with the requirements of the Act.

On 7 June 1990, the Legislative Assembly passed the Registration of Interests In Goods Act 1990 (the Act), establishing a registration scheme for ACT vehicle encumbrance information (REVS), in the Territory. The REVS scheme will commence operation on 30 June 1990.

Under REVS a credit provider will be able to register an interest in a vehicle as notice to prospective purchasers of that interest. A purchaser will be able to search the register to ascertain whether a vehicle is encumbered at the time of purchase.

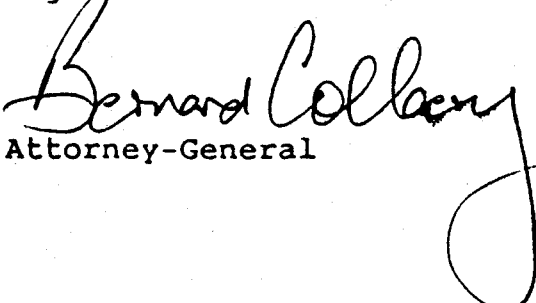
REVS will require credit providers to incur additional costs when recording their interests on the register. In addition, they will also be required to pay a fee to obtain a search certificate verifying the status of a vehicle.

The finance industry has requested that these amounts be included as part of the amount financed in contracts under the Credit Act.

Section 35 (1) (a) of the Credit Act provides that a credit sale contract relating to goods and services must have a statement of the "amount financed" (a term defined in sub-section 5 (1) of the Act) in accordance with schedule 2 of the Act. Section 36 (1) (b) provides that a loan contract must similarly have a statement of the amount financed in accordance with schedule 4 of the Act. Both Schedules provide that the statement of the amount financed shall state amounts that are "prescribed amounts".

The fees imposed by REVS are presently not included under the Credit Act as prescribed amounts and cannot be included as part of the amount financed. Amendment to Regulation 25 of the Credit Regulations as proposed in attachment A, will allow fees imposed for the cost of registration and the cost of search certificates to be included as part of the amounts financed in future credit sale and credit loan agreements under the Credit Act which involve the purchase of motor vehicle. Regulation 25 would come into operation before the commencement of REVS on 30 June 1990.

New South Wales and Victoria have already amended their credit regulations in similar terms to allow these fees and charges to be included as prescribed amounts at the time their REVS schemes commenced. It is therefore appropriate that the ACT amend its regulations to maintain uniformity.


Attorney-General