

AUSTRALIAN CAPITAL TERRITORY

CREDIT ACT 1985

DECLARATION

NO. 16 OF 1996

EXPLANATORY STATEMENT

The Credit Act 1985 (the Act) regulates the provision of consumer credit, contracts providing credit and the licensing of persons in connection with the provision of credit.

Section 122 of the Act prohibits the canvassing of credit at a person's place of residence or business with the view to inducing that person to apply for or obtain credit under a regulated contract.

However section 122 is unclear as to whether canvassing of credit by telephone, mail or telex constitutes a contravention of section 122. Given the criminal and civil consequences of non-compliance, clarification of the existing provision is warranted by a declaration under section 19 of the Act.

Section 19 of the Act permits the Minister to declare that the Act or parts of the Act do not have effect in relation to a specified person or transaction or class thereof.

Currently all other "Credit Act" jurisdictions¹ bar ACT have implemented and gazetted exemption declarations, stating that section 122 of the Act does not have effect in relation to communications by post, telephone or telex. They have recognised that there is ambiguity surrounding the application of section 122 and considering the criminal and civil consequences of breaching the

¹ "Credit Act" jurisdictions are Queensland, New South Wales, Australian Capital Territory, Victoria, South Australia and Western Australia.

section and the fact that credit hawking by post, telephone or telex is allowed under the Consumer Credit Code they have decided to grant an exemption declaration clarifying the application of the section.

The wording of this declaration mirrors the terms used in the exemption declarations of New South Wales and Victoria.

Circulated by the authority of Gary Humphries, Minister for Consumer Affairs