

AUSTRALIAN CAPITAL TERRITORY

Regulations 1986 No. 17¹

Credit Regulations² (Amendment)

I, GORDON GLEN DENTON SCHOLES, the Minister of State for Territories, hereby make the following Regulations under the *Credit Ordinance 1985*.

Dated 18 August 1986.

G. SCHOLES

Minister of State for Territories

Interpretation

1. Regulation 3 of the Credit Regulations is amended by omitting sub-regulation (1) and substituting the following sub-regulation:

“(1) In these Regulations, unless the contrary intention appears—

‘certificate of registration’ means a certificate issued pursuant to paragraph 26 (3) (b);

‘Ordinance’ means the *Credit Ordinance 1985*;

‘registered credit provider’ means a person registered as a credit provider under paragraph 26 (3) (a).”.

2. After regulation 25 of the Credit Regulations the following regulations are inserted:

Registration of non-licensed credit providers

“26. (1) An application for registration as a credit provider by a person who is required by sub-section 156 (4) of the Ordinance to be registered may be made to the Director.

“(2) An application under sub-regulation (1) shall be in writing in a form approved by the Director, shall be signed by a director or authorized officer of the applicant, and shall be accompanied by the fees that the applicant is liable to pay under paragraph 156 (4) (b) of the Ordinance.

“(3) Where the Director is satisfied that an application under sub-regulation (1) complies with sub-regulation (2), the Director shall—

- (a) register the applicant as a credit provider; and
- (b) issue a certificate of registration to the applicant.

“(4) For the purposes of sub-section 156 (5) of the Ordinance—

- (a) each provision of the Ordinance specified in column 1 of the following table is a prescribed provision; and
- (b) the variation or modification (if any) specified in column 2 of the following table opposite the reference to a provision of the Ordinance is a prescribed variation or modification of the provision.

TABLE

Column 1 Prescribed provision	Column 2 Prescribed variation or modification
Paragraph 158 (3) (d)	A reference to a licence shall be read as a reference to a certificate of registration.
Sub-section 158 (7)	A reference to an application under section 158 of the Ordinance shall be read as a reference to an application under sub-regulation 26 (1).
Paragraph 166 (1) (a) and sub-section 166 (2)	(a) A reference to a licence shall be read as a reference to a certificate of registration; and (b) a reference to the Registrar shall be read as a reference to the Director.
Section 167	(a) A reference to a licensee shall be read as a reference to a registered credit provider; and (b) a reference to a finance broker shall be read as a reference to a registered credit provider.
Sections 168 and 169	A reference to a register shall be read as including a reference to a Register of Registered Credit Providers.
Sub-sections 170 (1), (2) and (4)	(a) A reference to a licence shall be read as a reference to a certificate of registration; and (b) A reference to a licensee shall be read as a reference to a registered credit provider.
Section 171	(a) A reference to a licensee shall be read as a reference to a registered credit provider; (b) a reference to a licence shall be read as a reference to a certificate of registration; and (c) a reference to the commencement of Part XI of the Ordinance shall be read as a reference to 1 September 1986.
Sub-section 171 (8)	A reference to sub-section 158 (3), (4) or (6) of the Ordinance shall be read as a reference to sub-regulation 26 (2).

Sub-section 171 (10)	<ul style="list-style-type: none"> (a) A reference to the determined fee shall be read as a reference to the fees that the applicant is liable to pay under paragraph 156 (4) (b) of the Ordinance; (b) a reference to sub-section 158 (3) of the Ordinance shall be read as a reference to sub-regulation 26 (2); and (c) a reference to section 161 of the Ordinance shall be read as a reference to sub-regulation 26 (3).
Sub-section 172 (1)	<ul style="list-style-type: none"> (a) A reference to a licensee shall be read as a reference to a registered credit provider; and (b) a reference to a licence shall be read as a reference to a certificate of registration.
Sub-section 172 (3)	<ul style="list-style-type: none"> (a) The reference to a licence shall be read as a reference to a certificate of registration; (b) a reference to a licensee shall be read as a reference to a registered credit provider; and (c) the reference to the Tribunal shall be read as a reference to the Director.
Section 261	A reference to a holder of a licence shall be read as a reference to a registered credit provider.

“(5) For the purposes of sub-section 156 (6) of the Ordinance—

- (a) sub-section 172 (3) is a prescribed provision; and
- (b) the following variations or modifications of that sub-section are prescribed:
 - (i) the reference to a licence shall be read as a reference to a certificate of registration;
 - (ii) a reference to a licensee shall be read as a reference to a registered credit provider;
 - (iii) a reference to the Tribunal shall be read as a reference to the Director.

Registered credit providers—transition

“27. (1) A person (in this regulation called the ‘prescribed person’) who—

- (a) is required by sub-section 156 (4) of the Ordinance to be registered as a credit provider; and
- (b) who was carrying on business as a credit provider during the period (in this regulation called the ‘prescribed period’) beginning on the date of commencement of this regulation and ending at the expiration of 1 September 1986,

shall, subject to the Ordinance and these Regulations, be deemed to be a registered credit provider.

“(2) A prescribed person may, within the prescribed period, apply for registration as a credit provider.

“(3) An application made under sub-regulation (2) shall be in a form approved by the Director and shall be accompanied by fees of the same amount as the fees determined under section 263 of the Ordinance for the purposes of paragraph 156 (4) (b) of the Ordinance.

“(4) A prescribed person who fails to apply within the prescribed period for registration as a credit provider shall not be deemed to be a registered credit provider after the end of the prescribed period.

“(5) A prescribed person who applies, in accordance with this regulation and within the prescribed period, for registration as a credit provider—

- (a) shall continue to be deemed to be a registered credit provider until the application is determined;
- (b) if the Director refuses to register the prescribed person—shall cease to be deemed to be registered as a credit provider; and
- (c) if the prescribed person is registered pursuant to the application after the end of the prescribed period—shall be deemed to have been registered on 1 September 1986.

Authorized commission for finance brokers

“28. For the purposes of paragraph 179 (2) (a) of the Ordinance, a finance broker is authorized to demand, receive or accept commission in respect of negotiating, or acting as intermediary for the obtaining of, credit on behalf of another person of—

- (a) an amount not exceeding 2 per cent of so much of the amount negotiated or obtained as does not exceed \$5,000 and, where the amount negotiated or obtained exceeds \$5,000, an additional amount not exceeding 1.5 per cent of so much of that amount as exceeds \$5,000; or
- (b) \$6.50,

whichever is the greater.

Annual percentage rate payable with refund

“29. For the purposes of sub-section 179 (4) of the Ordinance, the prescribed rate is 18 per cent per annum.

Form of notice by credit provider

“30. For the purposes of section 153 of the Ordinance the prescribed form of notice is Form 12.”.

Schedule 1

3. Schedule 1 to the Credit Regulations is amended by adding at the end the following form:

FORM 12 Regulation 30

Home Finance Contract—Notice
Credit Ordinance (Section 153)

..... 19
(date)

To:.....
(name of debtor or guarantor)

.....
(address)

From:
(name of credit provider)

.....
(address)

After one month from the time this Notice is received
(name of credit provider)

intends to take legal action or exercise a right under a home finance contract against
(name of debtor)

The credit provider’s reasons are given at the end of this Notice, together with:

- the amount the credit provider claims to be owed under the contract; and
- details of the contract.

This Notice is given to the debtor under a home finance contract and any guarantor of that contract. You should discuss this matter with the credit provider as soon as possible.

The person to contact is.....
(name or title of officer or agent)

of.....
(name of credit provider or agent)

Telephone No.:

If this Notice is given to you because you have guaranteed repayment of the debtor’s home finance contract, you should also discuss this matter with the debtor immediately.

If you are the debtor under the home finance contract and you cannot come to a suitable arrangement with the credit provider, contact Consumer Affairs immediately.

If you have been **unemployed, sick** or there is another **good reason** why you cannot meet your commitments, then the contract may be able to be varied under the law to meet your situation.

If you have guaranteed repayment of the debtor’s home finance contract and the credit provider looks to you to pay out the contract, you have a right, similar to that of the debtor, to seek a variation of your commitments in circumstances of hardship.

If you disagree with anything in the Notice, including what it says is owed, contact Consumer Affairs or seek legal advice immediately. There are other people, such as financial counsellors, who may be able to help.

REASONS FOR, AND NATURE OF, INTENDED LEGAL ACTION OR EXERCISE OF RIGHT

(a) Arrears:

Amount: \$

- Other amounts owing:
 - \$
 - \$
 - \$

TOTAL: \$

• Specify nature of each amount.

Number of payments in arrears:

Period to which arrears relate:

(b) Other reasons (if any):.....
.....
.....
.....

(c) Nature of intended legal action or exercise of right:
.....

DETAILS OF HOME FINANCE CONTRACT

Loan No. (if any): Current interest rate:
 Amount borrowed: \$..... Net balance due at date of this Notice: \$.....
 Date of loan: Duration of loan:
 Registered Mortgage No. (if any):
 Address of any mortgaged property:
 Description of any mortgaged property: Volume No.
 Folio No.
 (Other)

**IF YOU HAVE ANY DOUBTS OR YOU WANT MORE INFORMATION ABOUT WHAT TO DO
 NEXT, SEEK LEGAL ADVICE OR CONTACT CONSUMER AFFAIRS**

.....
(signature of credit provider or agent)

NOTES

1. Notified in the *Commonwealth of Australia Gazette* on 1 September 1986.
2. Regulations 1985 No. 5.