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## CREDIT ACT 1984

Order under Section 19

Made by His Excellency the Governor in Executive Council.

### Citation

1. This Order may be cited as "Credit (Credit Union Calculation of Annual Percentage Rate and Accrued Credit Charge) Order No. 67 of 1990".

### Commencement

2. This Order shall take effect on and from the date of publication in the *Government Gazette* and shall remain in force until 31 December 1991.

### Application of Order

3. This Order applies where—

- (a) the credit provider is a Credit Union registered under the Credit Unions Act 1979; and
- (b) the whole of the credit charge payable under a regulated loan contract is determined in the manner described in clause 4 (3).

### Calculation of Annual Percentage Rates—Exemption

4. (1) Subject to the conditions set out in sub-clause (2), sections 36 (1) (e), 39 (2), 40 and 42 (1) (c) of the Credit Act 1984 and regulation 18A of the Credit Regulations 1985 do not have effect in relation to a regulated loan contract where this Order applies.

(2) The conditions referred to in sub-clause (1) are that—

- (a) (i) the loan contract include a statement of the annual percentage rate in accordance with sub-clause (3); or
- (ii) where, in accordance with section 39 (1) of the Act, a loan contract includes two annual percentage rates, the contract includes a statement in respect of each rate in accordance with sub-clause (3);

(b) subject to—

- (i) sub-paragraph (ii) of paragraph (a) of this sub-clause; and
- (ii) the Credit (Credit Union—Variation of Annual Percentage Rate) Order No. 20A of 1989 or any future Order to like effect,

the loan contract not include—

- (iii) a statement of, or a reference to, more than one annual percentage rate for the purposes of the contract;
- (iv) a statement of, or a reference to, any rate other than the contract rate to the effect that the credit charge under the contract is or is to be determined by the application of that rate to the whole or any part of the amount financed; or
- (v) a statement of, or a reference to, a right of the credit provider or any other person to increase, or take any action that results in the increase of, the annual percentage rate;

and

- (c) there is no reference in any advertisement published by the credit provider to a rate of interest that is expressed otherwise than as annual percentage rate calculated in accordance with sub-clause (3).

(3) The annual percentage rate required under sub-clause (2) to be stated in a loan contract is—where the whole of the credit charge is determined by the application of a percentage rate *per annum* to—

(a) the amount financed for each day in the month of funding; and

(b) the monthly unpaid balance of the amount financed for each subsequent calendar month—that percentage rate.

(4) If, in a case to which sub-clause (3) applies, the contract provides for variation of the annual percentage rate in accordance with the Act and regulations or any applicable exemption order, the annual percentage rate required to be stated in the contract is the rate that applies on the date the contract is made.

#### Calculation of Accrued Credit Charge—Exemption

5. (1) Subject to the condition set out in sub-clause (2), the definition of “accrued credit charge” in section 5 (1) of the Credit Act 1984 and section 11 (2) of the Act do not have effect in relation to a regulated loan contract to which this Order applies.

(2) The condition referred to in sub-clause (1) is that the credit provider observe those provisions of the Act in which reference is made to the accrued credit charge on the footing that the expression “accrued credit charge” has the meaning assigned to it by sub-clause (3).

(3) “Accrued credit charge” means the amount of the credit charge which has accrued at a particular time calculated by adding together—

(a) the amounts ascertained by applying, for each day in the month of funding, the annual percentage rate divided by 365 to the amount financed; and

(b) the amounts ascertained by applying, in each subsequent calendar month, to the monthly unpaid balance of the amount financed—

(i) the annual percentage rate disclosed in the contract divided by 12; or

(ii) the annual percentage rate as varied in accordance with the Act and regulations or any applicable exemption order, divided by 12,

as the case requires.

#### Interpretation

6. For the purposes of this order—

(1) “month of funding” means the period commencing on the date on which credit is first provided (including that day), and finishing on the last day of the calendar month in which credit is first provided (including that day); and

(2) “monthly unpaid balance of the amount financed” means the unpaid balance of the amount financed at the commencement of the first day of each calendar month other than the month of funding.

By His Excellency's Command,

D. G. BLIGHT, Clerk of the Council.