

Western Australia

Credit (Administration) Act 1984

## **Credit (Administration) Regulations 1985**



## Credit (Administration) Regulations 1985

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## Credit (Administration) Regulations 1985

### 1. Citation

These regulations may be cited as the *Credit (Administration) Regulations 1985*<sup>1</sup>.

### 2. Commencement

These regulations come into operation on 1 March 1985<sup>1</sup>.

### 3. Interpretation

In these regulations unless the context otherwise requires —  
*the Act* means the *Credit (Administration) Act 1984*;  
*the Credit Act* means the *Credit Act 1984*.

### 4. Prescribed fees for an application for a licence (s. 9)

- (1) Subject to this regulation, the prescribed fee payable under section 9(2) in respect of an application for a licence shall be —
- (a) where the applicant was the holder of a credit providers licence under the *Hire-Purchase Act 1959* an amount calculated as follows —

$$F = \frac{12 \times A}{1\ 000}$$

where

F means the fee payable; and

A means the relevant amount provided by the applicant under the previous licence as determined by the commissioner,

reduced proportionately for each month of the unexpired period of the previous licence that remains after 30 April 1985;

- (b) where the applicant was not the holder of a licence under the *Hire-Purchase Act 1959* an amount calculated as follows —

$$F = \frac{12 \times A}{1\ 000}$$

where

F means the fee payable; and

A means the actual amount of relevant credit provided in Western Australia by the licensee in the previous 12 months,

but, in any event the amount payable shall be not less than \$620 and shall not exceed \$23 000.

- (1a) Where an applicant for a licence carries on or proposes to carry on business as a credit provider —
- (a) as a partner — the fee payable in respect of the application shall be the fee payable under subregulation (1) calculated by reference to the amount of credit provided by the partnership and divided by the number of partners in the partnership at the time of the application and, where the applicant is a partner in more than one partnership, the sum of those amounts;
- (b) on his own account and as a partner — the fee payable in respect of the application shall be the sum of the amounts payable under subregulation (1) and paragraph (a).
- (1b) Where the applicant is one of the trustees of a trust the provisions of subregulation (1a) apply as though the applicant were a partner and the other trustees were partners.
- (2) In subregulation (1) —

**previous licence** means the licence issued to the applicant under the *Hire-Purchase Act 1959* and in force immediately prior to 30 April 1985;

**relevant amount** means the sum of the average monthly amounts of credit under the *Hire-Purchase Act 1959* in the period of 12 months ending on 30 April 1985 to which the Credit Act would have applied had that Act been in force at that time.

*[Regulation 4 (erratum in Gazette 3 May 1985 p. 1586); amended in Gazette 31 May 1985 p. 1903; 21 Jun 1985 p. 2260; 13 Jun 1986 p. 1996; 4 Sep 1987 p. 3517; 29 Jul 1988 p. 2563; 30 Jun 1989 p. 1974; 1 Aug 1990 p. 3651; 13 Dec 1991 p. 6158; 14 Aug 1992 p. 4022; 30 Nov 1993 p. 6408-9; 27 Jun 2006 p. 2253; 15 Jun 2007 p. 2770; 17 Jun 2008 p. 2548.]*

**5. Duplicate licence (s. 16(2))**

The prescribed fee for the issue of a duplicate licence under section 16(2) of the Act is \$30.

*[Regulation 5 amended in Gazette 4 Sep 1987 p. 3517; 29 Jul 1988 p. 2563; 30 Jun 1989 p. 1974; 30 Nov 1993 p. 6409; 27 Jun 2006 p. 2253.]*

**6. Inspection fees (s. 19)**

- (1) The fee for an inspection of the Register of Licensed Credit Providers is \$10.
- (2) The fee for a copy (certified or uncertified) or an extract of an individual registration in the Register of Licensed Credit Providers is \$10 for the first page and \$2 for each subsequent page.
- (3) The fee for a copy (certified or uncertified) or an extract of all registrations in the Register of Licensed Credit Providers is \$122.

*[Regulation 6 inserted in Gazette 1 Aug 1990 p. 3651; amended in Gazette 13 Dec 1991 p. 6158; 14 Aug 1992 p. 4023; 30 Nov 1993 p. 6409.]*

**7. Licence fee (s. 21(1))**

- (1) Subject to this regulation, the prescribed fee payable for a licence under section 21(1) of the Act is an amount calculated as follows —

$$F = \frac{12 \times A}{1\,000}$$

where

F means the fee payable; and

A means the average amount of credit as determined by the Commissioner provided by the credit provider under transactions to which the Credit Act or the Code applied or applies in each of the 12 months of the period ending on the anniversary of the grant of the licence to the licensee,

but in any event the amount payable shall be not less than \$440 and shall not exceed \$23 000.

- (2) Where a licensee carries on business —
- (a) as a partner — the fee payable under section 21(1) of the Act shall be the fee payable under subregulation (1) calculated by reference to the amount of credit provided by the partnership and divided by the number of partners in the partnership at the time that the fee is payable and, where the licensee is a partner in more than one partnership, the sum of those amounts;
  - (b) on his own account and as a partner — the fee payable under section 21(1) of the Act shall be the sum of the amounts payable under subregulation (1) and paragraph (a).



- (3) Where a licensee is one of the trustees of a trust the provisions of subregulation (2) apply as though the licensee were a partner and the other trustees were partners.

*[Regulation 7 amended in Gazette 21 Jun 1985 p. 2261; 13 Jun 1986 p. 1996; 4 Sep 1987 p. 3517; 29 Jul 1988 p. 2563; 30 Jun 1989 p. 1974; 1 Aug 1990 p. 3651; 13 Dec 1991 p. 6158; 14 Aug 1992 p. 4023; 28 Jun 2005 p. 2902; 13 Jun 2006 p. 2056; 27 Jun 2006 p. 2253; 15 Jun 2007 p. 2771; 17 Jun 2008 p. 2548.]*

**7A. Late fee under s. 21(5)**

The late fee payable under section 21(5) of the Act shall be calculated as 10% of the licence fee with a minimum of \$50.

*[Regulation 7A inserted in Gazette 29 Jul 1988 p. 2563.]*

**8A. Refund of fees after referral day**

- (1) In this regulation —

*last licence fee* means —

- (a) in the case of a superseded licence which was granted not more than the twelve months immediately before the referral day, the amount of the fee paid under section 9(2) of the Act on application for the grant of the licence; and
- (b) in the case of any other superseded licence, the amount of the annual fee paid under section 21(1) of the Act in respect of the year commencing on the anniversary of the date of grant which falls not more than twelve months before the referral day;

*refund period*, in respect of a superseded licence, means the period beginning on the referral day and ending on the day before the anniversary of the grant of the licence which falls next after the referral day;

*superseded licence* means a licence which is in force on the referral day.

**r. 8B**

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- (2) Within 3 months after the referral day, the holder of a superseded licence may apply in writing in a form acceptable to the Commissioner for a proportionate refund of the last licence fee.
- (3) As soon as is reasonably practicable after receiving an application under subregulation (2), the Commissioner is to pay to the applicant an amount by way of proportionate refund of the last licence fee calculated in accordance with the following formula —

$$\text{\$R} = \text{\$F} \times (\text{D}/365)$$

where —

- $\text{\$R}$  = the amount to be paid by way of proportionate refund;
- $\text{\$F}$  = the amount of the last licence fee;
- $\text{D}$  = the number of days in the refund period.

*[Regulation 8A inserted in Gazette 30 Jun 2010 p. 3178-9.]*

**8B. Reimbursement of application fee after referral day**

Where —

- (a) a person applies for a licence and pays the fee required under section 9(2) of the Act; and
- (b) on the referral day, the Commissioner has neither granted a licence pursuant to the application nor rejected the application,

as soon as is reasonably practicable after the referral day the Commissioner is to repay to the applicant the amount of the application fee.

*[Regulation 8A inserted in Gazette 30 Jun 2010 p. 3179.]*

**8. Prescribed officer (s. 49(1)(b))**

For the purposes of section 49(1)(b) of the Act —

- (a) the Commissioner for Consumer Affairs of the Public Service of the State; and
- (b) the Commissioner of Police,

are prescribed officers.

*[Regulation 8 inserted in Gazette 10 Oct 1986 p. 3875.]*

## **9. Infringement notices**

- (1) The offences specified in Schedule 1 are offences for which an infringement notice may be issued under Part 2 of the *Criminal Procedure Act 2004*.
- (2) The modified penalty specified opposite an offence in Schedule 1 is the modified penalty for that offence for the purposes of section 5(3) of the *Criminal Procedure Act 2004*.
- (3) The Commissioner may, in writing, appoint persons or classes of persons to be authorised officers or approved officers for the purposes of Part 2 of the *Criminal Procedure Act 2004*.
- (4) The Commissioner is to issue to each authorised officer a certificate, badge or identity card identifying the officer as a person authorised to issue infringement notices.

*[Regulation 9 inserted in Gazette 22 Sep 2006 p. 4095.]*

## **10. Forms**

The forms set out in Schedule 2 are prescribed in relation to the matters specified in those forms.

*[Regulation 10 inserted in Gazette 22 Sep 2006 p. 4095.]*

**Schedule 1 — Prescribed offences and modified penalties**

[r. 9]

*[Heading inserted in Gazette 22 Sep 2006 p. 4095.]*

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<b>Offences under <i>Credit (Administration) Act 1984</i></b>		<b>Modified penalty</b>
s. 6(1)	Unlicensed person carrying on business of providing credit .....	\$2 000
s. 6(2)	Unlicensed person holding out as carrying on business of providing credit .....	\$1 000
s. 14(2)	Carrying on, or holding out as carrying on, business of providing credit under unauthorised name .....	\$1 000
s. 15	Carrying on business of providing credit in partnership with unlicensed person .....	\$1 000
s. 17(1)	Failing to notify change of address .....	\$200
s. 17(2)	Failing to notify cessation of business at specified address .....	\$200
s. 26	Failing to produce licence for endorsement .....	\$200

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*[Schedule 1 inserted in Gazette 22 Sep 2006 p. 4095-6.]*

**Schedule 2 — Forms**

[r. 10]

[Heading inserted in Gazette 22 Sep 2006 p. 4096.]

**Form 1 — Infringement notice**

<i>Credit (Administration) Act 1984</i>		Infringement notice no.
<b>Infringement notice</b>		
<b>Alleged offender</b>	Name: Family name _____	
	Given names _____	
	or Company name _____	
	ACN _____	
Address _____		Postcode _____
<b>Alleged offence</b>	Description of offence _____	
	<i>Credit (Administration) Act 1984 s.</i> _____	
	Date _____ / _____ /20	Time _____ a.m./p.m.
	Modified penalty \$ _____	
<b>Officer issuing notice</b>	Name _____	
	Signature _____	
	Office _____	
<b>Date</b>	Date of notice _____ / _____ /20	
<b>Notice to alleged offender</b>	<p>It is alleged that you have committed the above offence.</p> <p>If you do not want to be prosecuted in court for the offence, pay the modified penalty within 28 days after the date of this notice.</p> <p><b>How to pay</b></p> <p><b>By post:</b> Send a cheque or money order (payable to ‘Approved Officer — <i>Credit (Administration) Act 1984</i>’) to:                      Approved Officer — <i>Credit (Administration) Act 1984</i>                      Department of Consumer and Employment Protection                      Locked Bag 14 Cloisters Square                      Perth WA 6850</p> <p><b>In person:</b> Pay the cashier at:                      Department of Consumer and Employment Protection                      219 St George’s Terrace, Perth WA</p>	

	<p><b>If you do not pay</b> the modified penalty within 28 days, you may be prosecuted or enforcement action may be taken under the <i>Fines, Penalties and Infringement Notices Enforcement Act 1994</i>. Under that Act your driver's licence and/or vehicle licence may be suspended.</p> <p><b>If you need more time</b> to pay the modified penalty, you can apply for an extension of time by writing to the Approved Officer at the above postal address.</p> <p><b>If you want this matter to be dealt with by prosecution in court</b>, sign here _____ and post this notice to the Approved Officer at the above postal address within 28 days after the date of this notice.</p>
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*[Form 1 inserted in Gazette 22 Sep 2006 p. 4096.]*

**Form 2 — Withdrawal of infringement notice**

<i>Credit (Administration) Act 1984</i>		Withdrawal no.
<b>Withdrawal of infringement notice</b>		
<b>Alleged offender</b>	Name: Family name	
	Given names	
	or Company name _____	
	ACN	
Address _____		Postcode
<b>Infringement notice</b>	Infringement notice no.	
	Date of issue      /      /20	
<b>Alleged offence</b>	Description of offence _____	
	<i>Credit (Administration) Act 1984 s.</i>	
	Date      /      /20	Time      a.m./p.m.
<b>Officer withdrawing notice</b>	Name	
	Signature	
	Office	
<b>Date</b>	Date of withdrawal      /      /20	
<b>Withdrawal of infringement notice</b>	<p>The above infringement notice issued against you has been withdrawn.</p> <p>If you have already paid the modified penalty for the alleged offence you are entitled to a refund.</p> <p>* Your refund is enclosed.</p> <p><i>or</i></p> <p>* If you have paid the modified penalty but a refund is not enclosed, to claim your refund sign this notice and post it to:</p> <p style="text-align: center;">Approved Officer — <i>Credit (Administration) Act 1984</i> Department of Consumer and Employment Protection Locked Bag 14 Cloisters Square Perth WA 6850</p>	
<i>[*delete whichever is not applicable]</i>	Signature _____ /      /20	

*[Form 2 inserted in Gazette 22 Sep 2006 p. 4097.]*

### Notes

- <sup>1</sup> This is a compilation of the *Credit (Administration) Regulations 1985* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

#### Compilation table

<b>Citation</b>	<b>Gazettal</b>	<b>Commencement</b>
<i>Credit (Administration) Regulations 1985</i>	22 Feb 1985 p. 699-700 (erratum 3 May 1985 p. 1586)	1 Mar 1985 (see r. 2)
<i>Credit (Administration) Amendment Regulations 1985</i>	31 May 1985 p. 1903	31 May 1985
<i>Credit (Administration) Amendment Regulations (No. 2) 1985</i>	21 Jun 1985 p. 2260	21 Jun 1985
<i>Credit (Administration) Amendment Regulations 1986</i>	13 Jun 1986 p. 1996	1 Jul 1986 (see r. 2)
<i>Credit (Administration) Amendment Regulations (No. 2) 1986</i>	10 Oct 1986 p. 3875	10 Oct 1986
<i>Credit (Administration) Amendment Regulations 1987</i>	4 Sep 1987 p. 3517	4 Sep 1987
<i>Credit (Administration) Amendment Regulations 1988</i>	29 Jul 1988 p. 2563	29 Jul 1988
<i>Credit (Administration) Amendment Regulations 1989</i>	30 Jun 1989 p. 1974	1 Jul 1989 (see r. 2)
<i>Credit (Administration) Amendment Regulations 1990</i>	1 Aug 1990 p. 3651	1 Aug 1990
<i>Credit (Administration) Amendment Regulations 1991</i>	13 Dec 1991 p. 6158	13 Dec 1991
<i>Credit (Administration) Amendment Regulations 1992</i>	14 Aug 1992 p. 4022-3	14 Aug 1992
<i>Credit (Administration) Amendment Regulations 1993</i>	30 Nov 1993 p. 6408-9	30 Nov 1993
<b>Reprint of the <i>Credit (Administration) Regulations 1985</i> as at 16 Jul 1999</b> (includes amendments listed above)		
<i>Credit (Administration) Amendment Regulations 2005</i>	28 Jun 2005 p. 2902	1 Jul 2005 (see r. 2)



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Citation	Gazettal	Commencement
<i>Credit (Administration) Amendment Regulations (No. 3) 2006</i>	13 Jun 2006 p. 2056	13 Jun 2006
<i>Credit (Administration) Amendment Regulations (No. 2) 2006</i>	27 Jun 2006 p. 2253	1 Jul 2006 (see r. 2)
<i>Credit (Administration) Amendment Regulations 2006</i>	22 Sep 2006 p. 4094-7	22 Sep 2006 (see r. 2(a))
<b>Reprint 2: The Credit (Administration) Regulations 1985 as at 10 Nov 2006</b> (includes amendments listed above)		
<i>Credit (Administration) Amendment Regulations 2007</i>	15 Jun 2007 p. 2770-1	r. 1 and 2: 15 Jun 2007 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2007 (see r. 2(b))
<i>Credit (Administration) Amendment Regulations 2008</i>	17 Jun 2008 p. 2548	r. 1 and 2: 17 Jun 2008 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2008 (see r. 2(b))
<i>Credit (Administration) Amendment Regulations 2010</i>	30 Jun 2010 p. 3177-9	1 Jul 2010 (see r. 2(a)(ii), (b)(ii) and <i>Gazette</i> 30 Jun 2010 p. 3187)