



Credit Contracts and Consumer Finance Amendment Regulations 2016

Jerry Mateparae, Governor-General

Order in Council

At Wellington this 15th day of February 2016

Present:

His Excellency the Governor-General in Council

These regulations are made under section 138(1) of the Credit Contracts and Consumer Finance Act 2003 on the advice and with the consent of the Executive Council and on the recommendation of the Minister of Commerce and Consumer Affairs made in accordance with section 138(1A) of that Act.

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Regulations

1 Title

These regulations are the Credit Contracts and Consumer Finance Amendment Regulations 2016.

2 Commencement

- (1) These regulations, except regulation 5, come into force on 19 February 2016.
- (2) Regulation 5 comes into force on 19 August 2016.

3 Principal regulations

These regulations amend the Credit Contracts and Consumer Finance Regulations 2004 (the **principal regulations**).

4 New regulation 18B inserted (Exemptions from provisions relating to repossession of consumer goods in cases involving motor vehicles)

After regulation 18A, insert:

18B Exemptions from provisions relating to repossession of consumer goods in cases involving motor vehicles

- (1) This regulation applies to a credit contract if, in connection with the contract, there is a security interest in consumer goods that are or include a motor vehicle.
- (2) The credit contract is exempt from the application of section 83O(1)(c) of the Act in relation to the exercise of a right of entry of premises by a creditor or creditor's agent for the purpose of repossessing the motor vehicle (and no other consumer goods), but only if the creditor or creditor's agent holds a vehicle recovery authorisation.
- (3) The credit contract is exempt from the application of section 83P(2)(c) of the Act in relation to the entry onto any premises by a creditor or creditor's agent for the purpose of repossessing the motor vehicle (and no other consumer goods), but—
 - (a) only in relation to the document referred to in section 83O(1)(c) of the Act; and
 - (b) only if the creditor or creditor's agent holds a vehicle recovery authorisation.
- (4) The credit contract is exempt from the application of section 83T(2) of the Act in relation to a creditor authorising, allowing, or permitting a repossession agent or repossession employee to repossess (including by entering residential premises) the motor vehicle (and no other consumer goods), but only if the repossession agent or repossession employee holds a vehicle recovery authorisation.

- (5) The credit contract is exempt from the application of section 83T(3)(b) of the Act (including the application of the reference to section 83T(3)(b) in section 83T(4)) in relation to a repossession agent or repossession employee exercising any rights (including entering residential premises) in relation to repossessing the motor vehicle (and no other consumer goods), but only if the repossession agent or repossession employee holds a vehicle recovery authorisation.
- (6) The credit contract is exempt from the application of section 83T(4) of the Act in relation to a creditor personally entering residential premises for the purpose of repossessing the motor vehicle (and no other consumer goods), but only if the creditor holds a vehicle recovery authorisation.
- (7) In this regulation,—
- motor vehicle**—
- (a) means a motor vehicle as defined in section 2(1) of the Land Transport Act 1998; but
- (b) does not include a moped, or a motorcycle, as defined in section 2(1) of that Act
- vehicle recovery authorisation** means—
- (a) a vehicle recovery service licence as defined in section 2(1) of the Land Transport Act 1998; or
- (b) a vehicle recovery endorsement under rule 33 of the Land Transport (Driver Licensing) Rule 1999.
- (8) Subclauses (2) to (6) are to be read in accordance with section 83B of the Act.

5 Regulation 18B amended (Exemptions from provisions relating to repossession of consumer goods in cases involving motor vehicles)

In regulation 18B(3)(b) (as inserted by regulation 4 of these regulations), after “authorisation”, insert “and leaves a copy of that authorisation with the notice referred to in section 83P(2) of the Act”.

Michael Webster,
Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations amend the Credit Contracts and Consumer Finance Regulations 2004 that were made under the Credit Contracts and Consumer Finance Act 2003 (the **2003 Act**). The amendment in *regulation 4* comes into force on 19 February 2016. The amendment in *regulation 5* comes into force on 19 August 2016.

The amendments exempt credit contracts from sections 83O(1)(c), 83P(2)(c), and 83T(2), (3)(b), and (4) of the 2003 Act in certain limited circumstances. Those provisions of the 2003 Act relate to the repossession of consumer goods over which security interests have been given in connection with credit contracts. The provisions require creditors who personally carry out repossessions, and agents employed by creditors to carry out repossessions, to be appropriately authorised under the Private Security Personnel and Private Investigators Act 2010.

The exemptions apply only if the consumer goods being repossessed are a motor vehicle and the creditor or creditor's agent carrying out the repossession holds a vehicle recovery service licence under the Land Transport Act 1998 or a vehicle recovery endorsement under rule 33 of the Land Transport (Driver Licensing) Rule 1999.

Statement of reasons

The following statement of reasons is published for the purposes of section 138(1B) of the Credit Contracts and Consumer Finance Act 2003.

The Minister of Commerce and Consumer Affairs, having had regard to the purposes of the Credit Contracts and Consumer Finance Act 2003 set out in section 3 of that Act as required by section 138(1A)(a) of that Act, and being satisfied as to the matters set out in section 138(1A)(b) and (c)(ii) of that Act, considers the exemptions given by *new regulation 18B* to be appropriate because—

- the provisions of the Act from which the exemptions are given overlap with equivalent requirements that vehicle recovery services are subject to under land transport legislation; and
- exempting the credit contracts set out in *new regulation 18B(1)* from these provisions will not cause detriment to debtors as land transport legislation requires a vehicle recovery authorisation to be obtained, which provides sufficient protection for debtors, and ensures that vehicle recovery services are appropriately regulated; and
- requiring vehicle recovery service providers to comply with the overlapping requirements of the Act and land transport legislation would impose onerous and burdensome requirements on creditors, as creditors would have to engage vehicle recovery services that are licensed under 2 legislative regimes, resulting in unnecessary compliance costs being passed on to creditors and debtors; and
- accordingly, the purposes of the Act to protect the interests of consumers, to promote confident and informed participation of consumers in markets for credit, and to promote fair, efficient, and transparent markets for credit will continue to be met.

2016/21

**Credit Contracts and Consumer Finance Amendment
Regulations 2016**

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These regulations are administered by the Ministry of Business, Innovation, and Employment.

Wellington, New Zealand:

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