



## **Credit Contracts and Consumer Finance (Infringement Offences) Regulations 2015**

Jerry Mateparae, Governor-General

### **Order in Council**

At Wellington this 4th day of May 2015

Present:

The Right Hon John Key presiding in Council

Pursuant to sections 105F and 138(1)(n) of the Credit Contracts and Consumer Finance Act 2003, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council and on the recommendation of the Minister of Commerce and Consumer Affairs, makes the following regulations.

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## Regulations

### 1 Title

These regulations are the Credit Contracts and Consumer Finance (Infringement Offences) Regulations 2015.

### 2 Commencement

These regulations come into force on 6 June 2015.

### 3 Interpretation

In these regulations, **Act** means the Credit Contracts and Consumer Finance Act 2003.

### 4 Infringement fee

The infringement fee for an infringement offence against section 102A of the Act is \$1,000.

### 5 Infringement and reminder notices

- (1) An infringement notice issued under section 105C of the Act must be in the form set out in Schedule 1.
- (2) A reminder notice issued under section 105D(5) of the Act must be in the form set out in Schedule 2.

## Schedule 1 Infringement notice

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### Form Infringement notice

*Section 105C, Credit Contracts and Consumer Finance Act 2003*

(Front page)

Credit Contracts and Consumer Finance Infringement Notice No:

**To** [*individual's full name and full address/body corporate's name, number, and registered address*]

Date of birth (if known):\*

Gender (if known):\*

Occupation (if known):\*

Telephone number (if known):

\*Not required if the notice is served on a body corporate.

**Enforcement authority**

The Commerce Commission

[*Specify the address for correspondence.*]**Alleged infringement offence**

You are alleged to have committed an infringement offence against section 102A of the Credit Contracts and Consumer Finance Act 2003.

**Details of alleged infringement offence**

Name of Commerce Commission employee who issued the notice:

Nature of infringement:

Location (if applicable):

Date:

Approximate time (if applicable):

The infringement fee for this offence is \$1,000.

**Service details**

(To be provided for filing in court)

Infringement notice served by [*method of service*] on [*date*]

Address at which notice served: *[full address or, if notice sent electronically, electronic address at which notice served]*

The last date for payment is *[date]*, being 28 days after the date of service recorded on this notice.

### **Procedure for payment of infringement fee**

The infringement fee is payable to the Commerce Commission within 28 days after *[date notice served]*.

Payment is to be made by any of the following methods: *[specify payment methods and address(es) or place(s) at which the fee may be paid]*.

Please quote the infringement notice number shown above when making payment.

Payments by cheque or money order must be made payable to the Commerce Commission and marked "a/c payee".

**Important:** Please read the notes printed overleaf.

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Summary of rights

### **Important information**

- 1 If, after reading these notes, there is anything in the notes that you do not understand, you should consult a lawyer.
- 2 This notice sets out 1 alleged infringement offence. (If you have received a notice for other alleged infringement offences, you may act in the same way in respect of all alleged offences or in different ways in respect of different alleged offences, as set out below.)
- 3 You have the right to deny the alleged infringement offence and request a hearing, or to admit the offence and request a hearing for the court to consider submissions as to penalty or otherwise.
- 4 If you wish to deny the alleged infringement offence, request the cancellation of this notice, request the transfer of this notice to another person, or have a court consider submissions as to penalty or otherwise, follow the directions in paragraph 7.

**Note:** If, under section 21(3A) or (3C)(a) of the Summary Proceedings Act 1957, you enter or have entered into a time-to-pay arrangement with the Commerce Commission in respect of the infringement fee payable by you, paragraphs 7(b) and (c), 8, and 9 do not apply and you are not entitled either to request a hearing to deny liability or to ask the court to consider any submissions (as to penalty or otherwise) in respect of the infringement offence.

**Payment of infringement fee**

- 5 If you pay the infringement fee within 28 days after the date of service of this notice, no further action will be taken. Payment may be made to the Commerce Commission as specified on the front page of this notice.

**Note:** Payment of the infringement fee is not a personal admission of guilt and will not result in the establishment of a criminal record.

**Defences**

- 6 You will have a complete defence against proceedings if you can show the infringement fee has been paid to the Commerce Commission by any of the methods and at any of the place(s) for payment indicated on the front page of this notice within 28 days after you have been served with a reminder notice.

**Note:** Late payment, or payment made at any other place, will not constitute a defence to proceedings in respect of the alleged infringement offence.

**Further action**

- 7 You should write to the Commerce Commission at the address for correspondence indicated on the front page of this notice if you wish to—
- (a) raise any matter relating to the alleged infringement offence for consideration by the Commerce Commission (including a request for cancellation of this notice or transfer of the notice to another person); or
  - (b) deny liability for the offence and request a court hearing (refer to paragraph 8); or
  - (c) admit liability for the offence, but wish to have a court consider written submissions as to penalty or otherwise (refer to paragraph 9).

You must ensure that your request is received on or before the due date for payment. Any such letter should be personally signed.

- 8 If you deny liability for the infringement offence and request a hearing, the Commerce Commission will serve you with a notice of hearing setting out the place and time at which the matter will be heard by the court (unless the Commerce Commission decides not to commence court proceedings).

**Note:** If the court finds you guilty of the offence, costs will be imposed in addition to any penalty.

- 9 If you admit liability for the infringement offence but want the court to consider your submissions as to penalty or otherwise, you should in your letter—
- (a) request a hearing; and
  - (b) admit the offence; and
  - (c) set out the written submissions you wish the court to consider.

The Commerce Commission will then file your letter with the court (unless the Commerce Commission decides not to commence court proceedings). There is

no provision for an oral hearing before the court if you follow this course of action.

**Note:** Costs will be imposed in addition to any penalty.

### **Consequences of taking no action**

- 10 If you do not pay the infringement fee and do not request a hearing within 28 days after the service of this notice, you will be served with a reminder notice (unless the Commerce Commission decides otherwise).
- 11 If you do not pay the infringement fee and do not request a hearing within 28 days after being served with the reminder notice, you will become liable to pay costs **in addition to the infringement fee** (unless the Commerce Commission decides not to commence proceedings against you).

### **Queries/correspondence**

- 12 When writing or making payment, please include—
  - (a) the date of the infringement; and
  - (b) the infringement notice number; and
  - (c) your address for replies.

**Note:** All queries and correspondence regarding this infringement offence must be directed to the Commerce Commission at [*specify the same address for correspondence specified on the front page of this notice*].

### **Further information**

- 13 Further information about infringement offences and fees is contained in section 21 of the Summary Proceedings Act 1957 and section 375 of the Criminal Procedure Act 2011. If there is anything in this notice that you do not understand, you should contact a lawyer.

## Schedule 2

### Reminder notice

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#### Form

#### Reminder notice in respect of infringement offence

*Section 105D(5), Credit Contracts and Consumer Finance Act 2003*

(Front page)

Credit Contracts and Consumer Finance Reminder Notice No:

#### Details of person to whom infringement notice issued

To [*individual's full name and full address/body corporate's name, number, and registered address*]

Date of birth (if known):\*

Gender (if known):\*

Occupation (if known):\*

Telephone number (if known):

\*Not required if the notice is served on a body corporate.

#### Enforcement authority

The Commerce Commission

[*Specify the address for correspondence.*]

#### Alleged infringement offence

You are alleged to have committed an infringement offence against section 102A of the Credit Contracts and Consumer Finance Act 2003.

#### Details of alleged infringement offence

Name of Commerce Commission employee who issued the notice: [*specify name*]

Nature of infringement:

Location (if applicable):

Date:

Approximate time (if applicable):

Infringement notice No:

#### Service details

(To be provided for filing in court)

Infringement notice served by [*method of service*] on [*date*]

Reminder notice served by [*method of service*] on [*date*]

Address at which reminder notice served: *[full address or, if notice sent electronically, electronic address at which notice served]*

The last date for payment is *[date]*, being 28 days after the date of service recorded on this notice.

**Infringement fee**

The infringement fee for this offence is \$1,000.

Amount of infringement fee unpaid: \$*[amount]*

**Total payable:** \$*[amount]*

**Procedure for payment of infringement fee**

The infringement fee is payable to the Commerce Commission within 28 days after *[date notice served]*.

Payment is to be made to the Commerce Commission by any of the following methods: *[specify payment methods and address(es) or place(s) at which the fee may be paid or, alternatively, refer to an accompanying letter]*.

Please quote the infringement notice number shown above when making payment.

Payments by cheque or money order should be made payable to the Commerce Commission and marked "a/c payee".

**Important:** Please read the notes printed overleaf.

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**Summary of rights****Important information**

- 1 If, after reading these notes, there is anything in the notes that you do not understand, you should consult a lawyer.
- 2 This notice sets out 1 alleged infringement offence. You have the right to deny the alleged infringement offence and request a hearing, or to admit the offence and request a hearing for the court to consider submissions as to penalty or otherwise.
- 3 If you wish to deny the alleged infringement offence, request the cancellation of this notice, request the transfer of this notice to another person, or have a court consider submissions as to penalty or otherwise, follow the directions in paragraph 8.

**Note:** If, under section 21(3A) or (3C)(a) of the Summary Proceedings Act 1957, you enter or have entered into a time-to-pay arrangement with the Commerce Commission in respect of an infringement fee payable by you, paragraphs 8(b) and (c), 9, and 10 do not apply and you are not entitled either to

request a hearing to deny liability or to ask the court to consider any submissions (as to penalty or otherwise) in respect of the infringement.

**Final due date**

- 4 The due date for payment of the infringement fee was [*specify date*]. By that date, payment was not received (or payment was not received in full) and you had not requested a hearing.
- 5 The final due date is now [*specify date*], which is 28 days after the day on which this notice was served on you.

**Payment of infringement fee**

- 6 If you pay the infringement fee by the final due date for payment (refer to paragraph 5), no further action will be taken against you. Payments may be made to the Commerce Commission as indicated on the front page of this notice and must be received on or before the final due date for payment (refer to paragraph 5).

**Note:** Payment of the infringement fee is not a personal admission of guilt and will not result in the establishment of a criminal record.

**Defences**

- 7 You will have a complete defence against proceedings if you can show the infringement fee has been paid to the Commerce Commission by any of the methods and at any of the place(s) for payment indicated on the front page of this notice before or within 28 days after you were served with this reminder notice.

**Note:** Late payment, or payment made at any other place, will not constitute a defence to proceedings in respect of the alleged offence.

**Further action**

- 8 You should write to the Commerce Commission at the address indicated on the front page of this notice if you wish to—
  - (a) raise any matter relating to the alleged infringement offence for consideration by the Commerce Commission (including a request for cancellation of this notice or transfer of the notice to another person); or
  - (b) deny liability for the offence and request a court hearing (refer to paragraph 9); or
  - (c) admit liability for the offence, but wish to have a court consider written submissions as to penalty or otherwise (refer to paragraph 10).

You must ensure that your request is received on or before the final due date for payment (refer to paragraph 5). Any such letter should be personally signed.

- 9 If you deny liability for the infringement offence and request a hearing, the Commerce Commission will serve you with a notice of hearing setting out the place and time at which the matter will be heard by the court (unless the Commerce Commission decides not to commence court proceedings).

**Note:** If the court finds you guilty of the offence, costs will be imposed in addition to any penalty.

- 10 If you admit liability for the infringement offence but want the court to consider your submissions as to penalty or otherwise, you should in your letter—
- (a) request a hearing; and
  - (b) admit the offence; and
  - (c) set out the written submissions you wish the court to consider.

The Commerce Commission will then file your letter with the court (unless the Commerce Commission decides not to commence court proceedings). There is no provision for an oral hearing before the court if you follow this course of action.

**Note:** Costs will be imposed in addition to any penalty.

#### **Consequences of taking no action**

- 11 If you do not pay the infringement fee and do not request a hearing on or before the final due date for payment (refer to paragraph 5), you will become liable to pay costs **in addition to the infringement fee** (unless the Commerce Commission decides not to commence proceedings against you).

#### **Queries/correspondence**

- 12 When writing or making payment, please include—
- (a) the date of the infringement; and
  - (b) the infringement notice number; and
  - (c) your address for replies.

**Note:** All queries and correspondence regarding this infringement offence must be directed to the Commerce Commission at [*specify the same address for correspondence specified on the front page of this notice*].

#### **Further information**

- 13 Further information about infringement offences and fees is contained in section 21 of the Summary Proceedings Act 1957 and section 375 of the Criminal Procedure Act 2011. If there is anything in this notice that you do not understand, you should contact a lawyer.

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, which come into force on 6 June 2015, prescribe the infringement fee for an infringement offence under the Credit Contracts and Consumer Finance Act 2003.

These regulations also prescribe the form of infringement notices and reminder notices for infringement offences.

## Regulatory impact statement

The Ministry of Business, Innovation, and Employment produced a regulatory impact statement on 7 April 2015 to help inform the decisions taken by the Government relating to the contents of this instrument.

A copy of this regulatory impact statement can be found at—

- <http://www.consumeraffairs.govt.nz/legislation-policy/policy-reports-and-papers/regulatory-impact-statements>
- <http://www.treasury.govt.nz/publications/informationreleases/ris>

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*: 7 May 2015.

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