



Credit Contracts and Consumer Finance (Exemptions for COVID-19) Amendment Regulations (No 2) 2020

Patsy Reddy, Governor-General

Order in Council

At Wellington this 11th day of May 2020

Present:

The Right Hon Jacinda Ardern presiding in Council

These regulations are made under section 138(1)(ab) 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 (Exemptions for COVID-19) Amendment Regulations (No 2) 2020.

2 Commencement

These regulations come into force on 13 May 2020.

3 Principal regulations

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

4 Regulation 18D amended (Exemptions for COVID-19 from provisions relating to consumer credit contracts)

In the heading to regulation 18D, after “**Exemptions**”, insert “**for banks**”.

5 New regulation 18E inserted (Exemptions for non-bank lenders for COVID-19 from provisions relating to consumer credit contracts)

After regulation 18D, insert:

18E Exemptions for non-bank lenders for COVID-19 from provisions relating to consumer credit contracts

- (1) A consumer credit contract is exempt from the application of the provisions of the Act that are listed in subclause (2) if—
 - (a) a non-bank lender is the creditor or manages the contract in circumstances that relate to securitisation or covered bond arrangements or similar arrangements; and
 - (b) the non-bank lender is not a mobile trader; and
 - (c) the debtor is experiencing, or reasonably expects to experience, financial difficulties due to the economic or health effects of COVID-19; and
 - (d) the contract is either—
 - (i) an existing contract that is varied (or proposed to be varied) for the purpose of reducing those difficulties; or
 - (ii) a replacement contract that is entered into (or proposed to be entered into) for the purpose of reducing those difficulties; and
 - (e) the contract is not a high-cost consumer credit contract.
- (2) The provisions of the Act referred to in subclause (1) are sections 17, 22(2) and (4), and 26(3) to the extent of the time limits for making disclosure and giving or sending terms.

- (3) The exemptions are subject to the condition that the non-bank lender must, as soon as is reasonably practicable, make the disclosure, and give or send the terms, required under the relevant section.
- (4) In this regulation,—
- non-bank lender** means a person who is not a registered bank as defined in section 2(1) of the Reserve Bank of New Zealand Act 1989
- replacement contract** means a contract (where a non-bank lender is the creditor or manages the contract in circumstances that relate to securitisation or covered bond arrangements or similar arrangements) with a debtor that replaces (in whole or in part) an existing contract—
- (a) with the same non-bank lender; or
- (b) that is managed by the same non-bank lender in any of those circumstances.
- (5) This regulation applies only to consumer credit contracts entered into or varied on or before the close of 31 October 2020.

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 13 May 2020, amend the Credit Contracts and Consumer Finance Regulations 2004.

These regulations provide exemptions for certain non-bank lenders from certain requirements of the Credit Contracts and Consumer Finance Act 2003 (the **Act**) where the debtor has been impacted by the effects of COVID-19.

The exemptions apply if a non-bank lender is the creditor (or the contract manager, in the case of securitisations, etc) and the debtor is experiencing, or reasonably expects to experience, financial difficulties due to the economic or health effects of COVID-19. The exemptions facilitate variations of existing contracts, and entry into replacement contracts, for the purpose of reducing those difficulties.

The exemptions do not apply to mobile traders or to high-cost consumer credit contracts.

The exemptions are from time limits for making disclosure and giving or sending terms under the provisions of the Act listed in *new regulation 18E(2)*. The exemptions are subject to the condition that the lender must make the disclosure, or give or send the terms, as required by the Act as soon as is reasonably practicable.

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 (the **Act**) set out in section 3 of the Act as required by section 138(1A)(a) of the Act, and being satisfied as to the matters set out in section 138(1A)(b) and (c)(ii) of the Act, considers the exemptions made in *new regulation 18E* of the Credit Contracts and Consumer Finance Regulations 2004 to be appropriate because—

- requiring lenders offering mortgage and household debt relief to debtors impacted by the effects of COVID-19 to comply with the timing requirements for disclosure would be unduly onerous and burdensome, given the volume of applications that are being received and the disruptions to lender and postal operations caused by heightened alert levels to address the outbreak of COVID-19; and
- exempting those consumer credit contracts from the specified requirements will not cause significant detriment to debtors because—
 - all other protections and remedies under the Act remain in place in relation to those credit contracts, including the responsible lending principles to ensure borrowers make informed decisions, to exercise the care, diligence, and skill of a responsible lender, and to treat the borrower reasonably and in an ethical manner:
 - the exemptions are limited to timing requirements relating to existing contracts on which repayment relief is required, and are subject to the condition that disclosures be made as soon as practicable:
 - the exemptions do not apply to high-cost consumer credit contracts or mobile traders; and
- the purposes of the Act to protect the interests of consumers, to promote confident and informed participation of consumers in markets for credit, to promote fair, efficient, and transparent markets for credit, and to provide remedies for consumers in relation to oppressive conduct will continue to be met.

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*: 12 May 2020.

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