



COVERSHEET

Minister	Hon Kris Faafoi	Portfolio	Commerce and Consumer Affairs
Title of Cabinet paper	Credit contracts and consumer finance amendment regulations 2020	Date to be published	21 September 2020

List of documents that have been proactively released

Date	Title	Author
8 September 2020	<i>Credit contracts and consumer finance amendment regulations 2020</i>	<i>Office of the Minister of Commerce and Consumer Affairs</i>
8 September 2020	<i>LEG-20-MIN-0135</i>	<i>Cabinet Legislation Committee</i>

Information redacted

YES / NO

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Cabinet Legislation Committee

Minute of Decision

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Credit Contracts and Consumer Finance Regulations

Portfolio **Commerce and Consumer Affairs**

On 4 August 2020, the Cabinet Legislation Committee:

Implementation of decisions arising from the review of the Credit Contracts and Consumer Finance Act

- 1 **noted** that on 18 September 2018 the Cabinet Economic Development Committee endorsed the development of prescriptive, binding requirements including around affordability, suitability and credit advertising standards and debt collection disclosure [DEV-18-MIN-0204];
- 2 **noted** that the Minister of Commerce and Consumer Affairs was authorised to release an exposure draft of regulations for consultation in November 2019 and make decisions on minor issues in response to feedback on the exposure draft [DEV-18-MIN-0204];
- 3 **noted** that the Credit Contracts and Consumer Finance Amendment Regulations 2020 (Amendment Regulations) under LEG-20-SUB-0135 will give effect to the decisions referred to in paragraphs 1 and 2 above (except as they relate to affordability and suitability requirements);

Additional matters addressed by the draft regulations

- 4 **noted** that the Amendment Regulations also amend regulations made under the Credit Contracts Legislation Amendment Act 2019 (the Amendment Act) in relation to disclosure requirements on consumer lenders, to reflect feedback from subsequent consultation that these changes are needed to make the requirements more practical to implement and are supported by both lenders and consumer advocates;
- 5 **agreed** to amend the regulations inserted by the Amendment Act as follows:
 - 5.1 require lenders to disclose information about financial dispute resolution schemes where a complaint is unresolved after 2 days (rather than in all cases);
 - 5.2 require lenders to disclose information about financial mentoring services where an account is in default or the credit limit has been exceeded for more than 10 days (rather than with each payment reminder);
- 6 **noted** that the amendment described in recommendation 5.2. above is implemented by creating an exemption to the financial mentoring service disclosure requirement, (for cases where a default is rectified within 10 days);

- 7 **noted** that the Credit Contracts and Consumer Finance Amendment Regulations 2020 under LEG-20-SUB-0135 also give effect to the decision in paragraph 5 above;
- 8 **noted** that the Credit Contracts and Consumer Finance (Residential Earthquake-prone Building Financial Assistance Scheme) Amendment Regulations 2020 were submitted to the Executive Council on 3 August 2020;
- 9 **noted** that the Amendment Regulations clarify that section 32(1)(b) of the Credit Contracts and Consumer Finance Act (CCCFA) does not apply to loans issued under the Residential Earthquake-prone Building Financial Assistance Scheme;

Commencement dates for remaining Credit Contracts Legislation Amendment Act provisions

- 10 **noted** that the bulk of provisions in the Amendment Act were set to commence on 1 April 2021, however this was deferred due to the impacts of COVID-19, along with other financial sector regulation;
- 11 **agreed** that most of the Amendment Act commence on 1 October 2021;
- 12 **agreed** that the provisions of the Amendment Act enabling applications for certification of directors and senior managers of consumer credit providers and mobile traders as fit and proper persons commence earlier, on 1 June 2021;
- 13 **agreed** that section 21 of the Amendment Act commence on 1 October 2020;

Authorisation for submission to Executive Council

- 14 **noted** that the following statutory prerequisites apply to the Amendment Regulations:
- 14.1 section 138(1A) of the CCCFA requires that the Minister has regard to the purposes of the CCCFA; and is satisfied that the exemption would not cause significant detriment to borrowers under credit contracts; and is satisfied that compliance with the relevant provision or provisions of the CCCFA would, in the circumstances, require a creditor or a class of creditors to comply with requirements that are unduly onerous or burdensome;
- 14.2 section 138(1BA) provides that the Minister may only recommend that advertising regulations be made after consulting the persons (or the representatives of the persons) who the Minister considers will be substantially affected by the regulations;
- 14.3 section 138(1C) provides that the Minister may only recommend that regulations be made only if he or she is satisfied that the circumstances that are prescribed relate to a securitisation or covered bond arrangement or any similar arrangement;
- 15 **noted** the advice of the Minister for Commerce and Consumer Affairs that these requirements have been met;
- 16 **authorised** the submission to the Executive Council of the:
- 16.1 Credit Contracts and Consumer Finance Amendment Regulations 2020 [PCO 21988/9.0];
- 16.2 Credit Contracts Legislation Amendment Act Commencement Order 2020 [PCO 22427/5.0];

- 17 **noted** that a waiver of the 28-day rule is sought for the technical correction to the Credit Contracts and Consumer Finance (Residential Earthquake-prone Building Financial Assistance Scheme) Amendment Regulations 2020 on the grounds that it is a minor and technical change that has little or no effect on the public;
- 18 **agreed** to waive the 28-day rule so that this technical correction can come into force on 3 September 2020 with the rest of the Credit Contracts and Consumer Finance (Residential Earthquake-prone Building Financial Assistance Scheme) Amendment Regulations 2020;

Further work on affordability and suitability regulations

- 19 **noted** that officials will continue work with the sector and consumer representatives to finalise affordability and suitability regulations, with a view to these being made in October 2020.

Charlotte Doyle
Committee Secretary

Present:

Rt Hon Winston Peters
Hon Chris Hipkins (Chair)
Hon Andrew Little
Hon David Parker
Hon Jenny Salesa
Hon Kris Faafoi
Hon Tracey Martin
Hon Eugenie Sage
Michael Wood MP (Senior Government Whip)

Officials present from:

Office of the Prime Minister
Officials Committee for LEG