



COVERSHEET

Minister	Hon Dr David Clark	Portfolio	Commerce and Consumer Affairs
Title of Cabinet paper	Credit Contracts Legislation Amendment Act 2019: Additional Regulations for Implementation	Date to be published	10 May 2021

List of documents that have been proactively released

Date	Title	Author
17 March 2021	DEV-21-MIN-0032	Cabinet Office

Information redacted

YES / **NO**

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Cabinet Economic Development Committee

Minute of Decision

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Credit Contracts Legislation Amendment Act 2019: Additional Regulations for Implementation

Portfolio Commerce and Consumer Affairs

On 17 March 2021, the Cabinet Economic Development Committee:

Fees for certification

- 1 **noted** that the Credit Contracts Legislation Amendment Act 2019 (the Amendment Act) introduces a requirement for creditors and mobile traders to hold a certification;
- 2 **noted** that the Commerce Commission must issue a certification if it is satisfied that the applicant's directors and senior managers are fit and proper persons;
- 3 **agreed** that the Commerce Commission should fully recover the costs associated with considering applications for certification;
- 4 **agreed** to introduce a fee of \$1044.00 (GST exclusive) per director and senior manager, to be charged on application for certification, or when there is a new director or senior manager appointed;
- 5 **agreed** to introduce a fee of \$11 (GST exclusive) per director and senior manager to be charged on application for a Ministry of Justice Criminal Record Check, or when there is a new director or senior manager appointed;
- 6 **noted** that these fees will be reviewed by the Ministry of Business, Innovation and Employment after they have been in force for three years;

Notification of changes in circumstances

- 7 **noted** that the Amendment Act imposes a duty on certified persons to notify the Commerce Commission about any prescribed changes in circumstances, and that the Act provides for changes in circumstances to be set out in regulations;
- 8 **agreed** to make regulations that require certified persons to notify the Commerce Commission if a director or senior manager:
 - 8.1 has resigned, is removed, appointed or replaced;
 - 8.2 has been charged with or convicted of a crime punishable by imprisonment in New Zealand or overseas;

- 8.3 has entered into personal insolvency in New Zealand or overseas;
- 8.4 is a director or senior manager of a corporate entity that has been placed into liquidation, receivership or voluntary administration in New Zealand or overseas;
- 8.5 has been subject to regulatory action, or disciplinary action taken by a professional body;
- 8.6 has been prohibited from acting as a director or promoter of a company or taking part directly or indirectly in the management of a company in New Zealand or overseas;
- 8.7 has been prohibited from providing credit or other financial services in New Zealand or overseas; or
- 8.8 has held a director or senior manager role for another corporate entity that was convicted of a criminal or civil offence or subject to regulatory action in New Zealand or overseas;

Exemptions

- 9 **agreed** to provide an exemption from the certification requirement for creditors that, for the purposes of securitisation or covered bond arrangements, have entered into a contract with a contract manager to service a consumer credit contract;
- 10 **agreed** that the exemption will only apply when the contract manager holds certification from the Commerce Commission, or is otherwise exempt from the certification requirement;
- 11 **noted** that although some non-financial services businesses that provide credit on an interim basis are 'creditors', they are currently exempt from some obligations;
- 12 **agreed** to extend a further exemption for non-financial services businesses that provide credit on an interim basis from the certification requirement and duties for directors and senior managers introduced by the Amendment Act;
- 13 **agreed** to declare that where the exemption for interim creditors applies, the underlying lender is a creditor under the credit contract;
- 14 **agreed** to provide an exemption from the Credit Contracts and Consumer Finance Act's affordability and suitability requirements for insurance premium funding arrangements;

Technical amendments

- 15 **noted** that regulation 4AAAR(2)(d) of the Credit Contracts and Consumer Finance Amendment Regulations 2020 currently requires all advertisements that state a fixed interest rates to disclose how long the interest rate is fixed for;
- 16 **noted** that regulation 4AAAR(2)(d) is broader than intended and may have unintended consequences for space-constrained advertising mediums;
- 17 **authorised** the Minister of Commerce and Consumer Affairs to amend regulation 4AAAR(2)(d) so that credit advertisements that state a fixed interest rate only need to disclose how long interest rate is fixed for if this is less than the whole term of the contract;

Legislative implications

- 18 **authorised** the Minister of Commerce and Consumer Affairs to issue drafting instructions to Parliamentary Counsel Office to give effect to the above paragraphs;
- 19 **authorised** the Minister of Commerce and Consumer Affairs to make minor or technical amendments, consistent with the policy decisions in the paper under DEV-21-SUB-0032.

Janine Harvey
Committee Secretary

Present:

Hon Grant Robertson (Chair)
Hon Dr Megan Woods
Hon David Parker
Hon Nanaia Mahuta
Hon Poto Williams
Hon Damien O'Connor
Hon Stuart Nash
Hon Kris Faafoi
Hon Dr David Clark
Hon Dr Ayesha Verrall
Hon Meka Whaitiri
Hon Phil Twyford
Rino Tirikatene, MP
Dr Deborah Russell, MP

Officials present from:

Office of the Prime Minister
Officials Committee for DEV

Hard-copy distribution:

Minister of Commerce and Consumer Affairs