

DRAFT FOR CONSULTATION

Credit Contracts and Consumer Finance Amendment Regulations 2022

Governor-General

Order in Council

At Wellington this day of 2022

Present:
in Council

These regulations are made under section 138 of the Credit Contracts and Consumer Finance Act 2003—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the recommendation of the Minister of Commerce and Consumer Affairs made in accordance with section 138(1BA) of that Act.

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Regulations

1 Title

These regulations are the Credit Contracts and Consumer Finance Amendment Regulations 2022.

2 Commencement

These regulations come into force on 3 June 2022.

3 Principal regulations

These regulations amend the Credit Contracts and Consumer Finance Regulations 2004.

4 Regulation 4AE amended (Interpretation)

In regulation 4AE, definition of **listed outgoings**, paragraph (d), delete “savings, investments,”.

5 Regulation 4AK amended (Lenders must do initial estimate of borrower’s likely relevant expenses)

In regulation 4AK(2)(b), before “ensure”, insert “to the extent that the initial estimate of the borrower’s likely relevant expenses is based on asking the borrower about their relevant expenses,”.

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 3 June 2022, make 2 changes to the Credit Contracts and Consumer Finance Regulations 2004 in relation to the rules around lender inquiries into affordability. Those rules apply for the purpose of section 9C of the Credit Contracts and Consumer Finance Act 2003, which requires lenders to make reasonable inquiries before entering into agreements with borrowers, so as to be satisfied that it is likely that the borrower will make the payments under the agreement without suffering substantial hardship. These requirements also apply before lenders make a material change to agreements. The general rules require lenders to estimate the borrower’s likely income and expenses.

Regulation 4 removes savings and investments from the list of things that are given as examples of listed outgoings in regulation 4AE.

Regulation 5 clarifies regulation 4AK to ensure that one of the lender’s duties applies only to the extent that an estimate is based on asking the borrower about their expenses (rather than based on obtaining transaction records or using information the

lender already holds). The duty in question is to ensure that information used to make the initial estimate is obtained in sufficient detail to minimise the risk of relevant expenses being missed or underestimated to an extent that is material to the estimate.

Issued under the authority of the Legislation Act 2019.

Date of notification in *Gazette*:

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