

DRAFT FOR CONSULTATION

Credit Contracts and Consumer Finance Amendment Regulations (No 2) 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 (No 2) 2022.

2 Commencement

These regulations come into force on 13 March 2023.

3 Principal regulations

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

4 Regulation 4AE amended (Interpretation)

- (1) In regulation 4AE, definition of **listed outgoings**, paragraph (b), after “materially changed)”, insert “, including payments of debts under a buy now pay later contract”.
- (2) In regulation 4AE, definition of **listed outgoings**, replace paragraph (d) with:
 - (d) any regular or frequently recurring outgoings (for example, tithing or remittances) that are material to the estimate of relevant expenses, excluding savings and investments
- (3) In regulation 4AE, definition of **relevant expenses**, after paragraph (a), insert:
 - (aa) may exclude discretionary expenditure that a responsible lender would reasonably expect the borrower to cease or reduce if they were at risk of substantial hardship; and

5 Regulation 4AH amended (Exemptions to general rules for certain variations and replacements of existing contracts)

- (1) After regulation 4AH(1), insert:
 - (1A) Regulations 4AF and 4AI do not apply if—
 - (a) the borrower is replacing (or proposing to replace) an existing credit contract with the lender (**lender A**) and entering (or proposing to enter) into a new credit contract with another lender (**lender B**); and

Option 1 starts

- (b) the total monthly repayments under the new credit contracts will be equal to or lower than the monthly repayments under the existing credit contracts.
- (1B) For the purposes of subclause (1A)(b),—
 - (a) the relevant monthly repayments on revolving credit contracts must be calculated on the assumptions that,—

- (i) in the case of repayments on a credit card, the borrower will make repayments equal to whichever is the greater of the following:
 - (A) the minimum required payment:
 - (B) an amount sufficient to repay the unpaid balance within no more than 3 years from the date on which the debit occurs:
 - (ii) in the case of a revolving credit contract that is a home loan, the borrower will pay the unpaid balance within no more than 30 years from the date that the loan is taken out:
 - (iii) in the case of any other revolving credit contract, the borrower will make payments sufficient to pay, within a reasonable period, the total amount advanced to the borrower under the contract:
- (b) **total monthly repayments** means the sum of the payments required under each contract, expressed on a monthly basis.

Example

Total monthly repayments:

Borrower A is refinancing 3 contracts that have monthly payments of \$150, \$200, and \$300 respectively. The total monthly payments on the 3 contracts are \$650.

Option 1 ends

Option 2 starts

- (b) lender B is satisfied that—
 - (i) the borrower’s total credit limit—
 - (A) will not increase; or
 - (B) will increase only to the extent reasonably necessary to allow for the postponement or reduction of existing payments to reduce financial difficulties that the borrower is experiencing or reasonably expects to experience; and
 - (ii) the total daily interest will not increase.
- (1B) In this clause, **total credit limit** is calculated as follows:

$$a + b$$

where—

- a is the sum of the maximum unpaid balance permitted under revolving credit contracts (including existing contracts being refinanced, or new contracts being entered into, as the case may be)
- b is the sum of the unpaid balance on all other credit contracts (including existing contracts being refinanced, or new contracts being entered into, as the case may be)

total daily interest is calculated as follows:

$$\text{total daily interest} = \sum_{n=1}^C [(r_n \times U_n) / 365]$$

where—

- C is the number of credit contracts for which an individual daily interest rate needs to be calculated
- r_n is the annual interest rate of each contract
- U_n is the unpaid balance of each contract.

Example

Multiple loans:

Mr L has two loans with lender A. One is a personal loan with an unpaid balance of \$2,595 with a fixed interest rate of 12.95% and the second is a vehicle loan with an unpaid balance of \$13,895 with a fixed interest rate of 8.99%. Mr L is looking to refinance his loan from lender A to lender B to make his debt repayments more manageable.

$$C = 2$$

$$r_1 = 12.95\%, r_2 = 8.99\%$$

$$U_1 = \$2,959, U_2 = \$13,895$$

$$[\text{This would be calculated as: } [(12.95\% \times 2,595) + (8.99\% \times 13,895)] / 365 = \$4.34]$$

The total daily interest on Mr L's loans with lender A is \$4.34. Lender B is offering to consolidate the loans at a total daily interest of \$4.10. Given that the total daily interest rate that lender B is proposing does not exceed \$4.34, this meets the test that the total daily interest will not increase.

Single loan:

Mr L has a loan with lender A with an unpaid balance of \$2,595 with a fixed interest rate of 12.95%.

$$C = 1$$

$$r_1 = 12.95\%$$

$$U_1 = \$2,959$$

$$[\text{This would be calculated as: } [(12.95\% \times 2,595)] / 365 = \$0.92]$$

The total daily interest on Mr L's loan with lender A is \$0.92. Lender B is offering to consolidate the loan at a total daily interest of \$0.87. Given that the total daily interest rate that lender B is proposing does not exceed \$0.92, this meets the test that the total daily interest will not increase.

- (2) Revoke regulation 4AH(2).

Option 2 ends

6 Regulation 4AL amended (How to calculate certain relevant expenses)

After regulation 4AL(2), insert:

- (2A) Despite subclause (2), relevant expenses in respect of a payment under any revolving credit contract excludes repayments on a credit card if the lender—
- (a) is satisfied that, in the previous 90 days, the borrower has not had any interest charged on the credit facility; and

- (b) has no reason to believe that the borrower will incur interest after entering the revolving credit contract; and
 - (c) is satisfied that the interest free period on the credit facility is no longer than 60 days.
- (2B) Subclause (2) does not apply in respect of a buy now pay later contract.

Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

Regulatory impact statement

The [name(s) of agency/agencies] produced [a regulatory impact statement/regulatory impact statements] on [date] to help inform the decisions taken by the Government relating to the contents of this instrument.

[A copy of this regulatory impact statement/Copies of these regulatory impact statements] can be found at—

- [Insert URL link(s) to the RIS on the agency's/agencies' Internet site(s)]
- <https://treasury.govt.nz/publications/informationreleases/ris>

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.