



Credit Contracts and Consumer Finance Amendment Regulations 2023

Cindy Kiro, Governor-General

Order in Council

At Wellington this 3rd day of April 2023

Present:

The Right Hon Chris Hipkins presiding 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 2023.

2 Commencement

These regulations come into force on 4 May 2023.

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**, replace paragraphs (c) and (d) with:

- (c) essential living expenses, including necessary expenses for utilities, food and groceries, personal expenses (such as clothing and personal care), and other costs associated with dependants if applicable (such as child care), medical expenses, and transport expenses:
- (d) any non-discretionary regular or frequently recurring outgoings that are material to the estimate of relevant expenses (excluding savings and investments)

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

- (1) In regulation 4AH(2), replace “this regulation” with “subclause (1)”.
- (2) After regulation 4AH(2), insert:

Change of lenders

- (3) Regulations 4AF and 4AI do not apply if the borrower is replacing (or proposing to replace) 1 or more existing consumer credit contracts with a lender (**lender A**) and entering (or proposing to enter) into 1 or more new consumer credit contracts with another lender (**lender B**) and—
 - (a) the borrower’s total credit limit—
 - (i) will not increase; or
 - (ii) 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
 - (b) 1 or both of the following apply:

- (i) the annual interest rates on the new contracts are lower than the annual interest rates on all of the replaced contracts:
 - (ii) the total monthly repayments under the new credit contracts will be equal to or lower than the total monthly repayments under the replaced credit contracts.
- (4) For the purposes of subclause (3),—
- (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:
 - (C) if the information required to make a calculation under subparagraph (A) or (B) is not readily accessible to lender B, payments equal to at least 3.8% of the total credit limit:
 - (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 on which 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.

- (5) For the purpose of subclause (3), the **total credit limit** is calculated as follows:

$$a + b$$

where—

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

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

After regulation 4AL(2), insert:

(2A) Subclause (2) does not apply in respect of a buy-now, pay-later contract.

Rachel Hayward,
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 4 May 2023, make changes to the Credit Contracts and Consumer Finance Regulations 2004 (the **principal regulations**).

Regulation 4 replaces paragraphs (c) and (d) of the definition of listed outgoings in regulation 4AE of the principal regulations. *New paragraph (c)* now refers to “essential” living expenses and “necessary” expenses for certain items rather than making an unqualified reference to “expenses”. *New paragraph (d)* now refers to “non-discretionary regular or frequently recurring outgoings” rather than “any regular or frequently recurring outgoings”.

Regulation 5 amends regulation 4AH of the principal regulations, which provides for an exception to the general rules for certain variations and replacements of existing contracts, by creating a further exception to the general rule for refinancing a borrower’s existing credit contracts with another lender, if certain conditions are met. This is intended to increase the likelihood of a borrower’s income exceeding their expenses (for the purpose of the lender’s assessment of whether it is likely that the borrower will make the payments under the agreement without suffering substantial hardship).

Regulation 6 amends regulation 4AL of the principal regulations to clarify that regulation 4AL(2) does not apply in respect of buy-now, pay-later contracts.

Issued under the authority of the Legislation Act 2019.

Date of notification in *Gazette*: 6 April 2023.

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