



Credit Contracts and Consumer Finance (Exemption for Emergency Relief) Amendment Regulations (No 2) 2023

Cindy Kiro, Governor-General

Order in Council

At Wellington this 20th day of February 2023

Present:

Her Excellency the Governor-General in Council

These regulations are made under section 138(1)(ab) 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(1A) of that Act.

Contents

		Page
1	Title	1
2	Commencement	2
3	Principal regulations	2
4	Regulation 18I amended (Exemptions from affordability assessment requirements for emergency relief)	2

Regulations

1 Title

These regulations are the Credit Contracts and Consumer Finance (Exemption for Emergency Relief) Amendment Regulations (No 2) 2023.

2 Commencement

These regulations come into force on their notification in the *Gazette*.

3 Principal regulations

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

4 Regulation 18I amended (Exemptions from affordability assessment requirements for emergency relief)

- (1) In regulation 18I(1)(a), replace “the upper North Island” with “specified areas of the North Island”.
- (2) In regulation 18I(4), revoke the definition of **upper North Island**.
- (3) In regulation 18I(4), insert in its appropriate alphabetical order:

specified areas of the North Island means a place, or places, in all or any of the following regions or districts:

- (a) Auckland:
- (b) Bay of Plenty:
- (c) Gisborne:
- (d) Hawke’s Bay:
- (e) Northland:
- (f) Tararua:
- (g) Waikato region.

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 their notification in the *Gazette*, amend the Credit Contracts and Consumer Finance Regulations 2004.

These regulations replace the definition of upper North Island with a definition of specified areas of the North Island. This change takes account of the effect of Cyclone Gabrielle on the Gisborne and Hawke’s Bay regions and the Tararua district. It is no longer appropriate to confine emergency relief to the upper North Island.

Statement of reasons

The following statement of reasons is published for the purposes of section 138(1B) of the Credit Contracts and Consumer Finance Act 2003.

The Minister of Commerce and Consumer Affairs, having had regard to the purposes of the Credit Contracts and Consumer Finance Act 2003 (the **Act**) set out in section 3 of the Act (as required by section 138(1A)(a) of the Act), and being satisfied as to the matters set out in section 138(1A)(b) and (c)(ii) of the Act, considers the exemption made in regulation 18I of the Credit Contracts and Consumer Finance Regulations 2004 to be appropriate because—

- requiring lenders to perform an affordability assessment for lending to address the effects of flooding and other weather-related damage in specific areas of the North Island (the regions of Auckland, Bay of Plenty, Gisborne, Hawke’s Bay, Northland, and Waikato, and the Tararua district) would impose unduly onerous and burdensome requirements, given that—
 - lending is required urgently by some affected borrowers; and
 - an affordability assessment in accordance with section 9C(3)(a)(ii) of the Act is time-consuming and requires seeking detailed information from borrowers; and
- exempting the credit contracts from the specified requirements will not cause significant detriment to borrowers because—
 - the amount of credit available under the exemption is limited to \$10,000 and the exemption applies only to certain forms of credit (temporary overdrafts and home loans) that are considered less likely to result in substantial hardship; and
 - the exemption is limited to existing customers seeking credit for specific purposes over a limited time period; and
 - under the conditions of the exemption, lenders will be required to implement processes to ensure that, if lending is unaffordable, hardship assistance is provided; and
 - under the conditions of the exemption, lenders will be required to provide hardship assistance that addresses the unaffordable lending and prevents the borrower from suffering substantial hardship; and
 - other key lender responsibilities, such as those under section 9C(2)(a)(ii) (exercising the care, diligence, and skill of a responsible lender before entering into an agreement to provide credit) and section 9C(3)(a)(i) (making reasonable inquiries so as to be satisfied that it is likely that the credit will meet the borrower’s requirements and objectives), will continue to apply; and
- the purposes of the Act to protect the interests of consumers, to promote confident and informed participation of consumers in markets for credit, to promote

**Credit Contracts and Consumer Finance (Exemption
for Emergency Relief) Amendment Regulations (No 2)**

Explanatory note

2023

2023/9

fair, efficient, and transparent markets for credit, and to provide remedies for consumers in relation to oppressive conduct will continue to be met.

Issued under the authority of the Legislation Act 2019.

Date of notification in *Gazette*: 20 February 2023.

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

Wellington, New Zealand:

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