

Consumer Data Right (Authorised Deposit‑Taking Institutions) Designation 2019

made under the *Competition and Consumer Act 2010*

**Compilation No. 1**

**Compilation date:** 14 July 2023

**Includes amendments up to:** F2023L01009

Prepared by The Treasury

**About this compilation**

**This compilation**

This is a compilation of the *Consumer Data Right (Authorised Deposit-Taking Institutions) Designation 2019*  that shows the text of the law as amended and in force on 14 July 2023 (the ***compilation date***).

The notes at the end of this compilation (the ***endnotes***) include information about amending laws and the amendment history of provisions of the compiled law.

**Uncommenced amendments**

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

**Application, saving and transitional provisions for provisions and amendments**

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

**Modifications**

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

**Self‑repealing provisions**

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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1 Name

This instrument is the *Consumer Data Right (Authorised Deposit‑Taking Institutions) Designation 2019.*

3 Authority

This instrument is made under subsection 56AC(2) of the *Competition and Consumer Act 2010.*

4 Definitions

Note: Some expressions used in this instrument are defined in the Act.

(1) In this instrument, unless the contrary intention appears:

***Act*** means the *Competition and Consumer Act 2010.*

***associate*** has the meaning given by section 318 of the *Income Tax Assessment Act 1936.*

***Australian law*** has the meaning given by subsection 6(1) of the *Privacy Act 1988.*

***authorised deposit‑taking institution*** has the meaning given by subsection 5(1) of the *Banking Act 1959.*

(2)In this instrument, ***product*** means:

(a) a good or service that is or has been offered or supplied to a person in connection with one or more of the following activities:

(i) taking money on deposit (otherwise than as part-payment for identified goods or services);

(ii) making advances of money;

(iia) letting goods on hire, including on hire-purchase;

(iii) another financial activity prescribed for the purposes of subparagraph (b)(ii) of the definition of banking business in subsection 5(1) of the *Banking Act 1959*; or

(b) a purchased payment facility that is or has been offered or supplied to a person.

(3)In this instrument, ***purchased payment facility*** meansa facility (other than cash) in relation to which the following conditions are satisfied:

(a) the facility is purchased by a person from another person; and

(b) the facility is able to be used as a means of making payments up to the amount that, from time to time, is available for use under the conditions applying to the facility; and

(c) those payments are to be made by the provider of the facility or by a person acting under an arrangement with the provider (rather than by the user of the facility).

(4) In subsection (3):

(a) a reference to a facility includes a reference to a right to use a facility; and

(b) a reference to the purchase of a facility includes a reference to the payment of an amount for a right to use a facility.

5 Designation of sector subject to the consumer data right

(1) For paragraph 56AC(2)(a) of the Act:

(a) information to which section 6, 7 or 8 applies is specified as a class of information; and

(b) information to which section 9 applies does not fall within that class.

(2) For paragraph 56AC(2)(b) of the Act, authorised deposit‑taking institutions are specified as persons who hold such information, or on whose behalf such information is held.

(3) For paragraph 56AC(2)(c) of the Act, 1 January 2017 is specified as the earliest day applicable to the sector for beginning to hold such information.

Note: Paragraph 56AC(2)(d) of the Act provides that an instrument designating a sector may specify the classes of information for which a person may, in certain circumstances, charge a fee. This instrument does not specify any such classes of information. The information specified in this instrument will, therefore, not constitute chargeable CDR data within the meaning of subsection 56AM(1) of the Act.

6 Specified classes of information—information about user of product

(1) This section applies to information that:

(a) is about:

(i) a person to whom a product has been, or is being, supplied; or

(ii) the person’s associate, where that product has also been, or is also being, supplied to the associate; and

(b) was:

(i) provided by the person, or the person’s associate, in connection with the person’s acquisition or use of the product; or

(ii) otherwise obtained by or on behalf of the entity that holds the information, or on whose behalf the information is held.

(2) The information mentioned in subsection (1) includes, but is not limited to, the following:

(a) information identifying the person or associate;

(b) information relevant to the eligibility of the person or associate to acquire or use a product or a feature of a product;

(c) the contact details of the person or associate.

Example 1: For paragraph 6(1)(a), where the person or associate is a business, information about that person or associate would include the type of the business or organisation (for example, whether it is incorporated), the establishment date, the country of registration, and whether the business is a charitable or not-for-profit organisation.

Example 2: For paragraph 6(2)(a), information identifying an individual would, among other things, include their name. Where the person or associate is a business, that information would include the person or associate’s business name and business number (such as an ABN or ACN).

7 Specified classes of information—information about use of product

(1) Subject to subsection (3), this section applies to information about the use of a product by:

(a) a person to whom the product has been, or is being, supplied; or

(b) the person’s associate, where that product has also been, or is also being, supplied to the associate.

(2) The information mentioned in subsection (1) includes, but is not limited to, the following:

(a) information identifying an account associated with the product;

(b) each balance of an account associated with the product;

(c) information about a transaction made by the person or associate in connection with the product;

(d) information about an authorisation given by the person or associate in connection with an account associated with the product, including information about:

(i) the persons who are authorised to use or access, or view information relating to, the account; and

(ii) a third party authorisation to make a payment.

(3) The information mentioned in subsection (1) does not include information to which section 10 applies.

Example 1: For paragraph 7(2)(a), an account number and account name are examples of information identifying an account associated with a product.

Example 2: For paragraph 7(2)(d), a direct debit authorisation, a scheduled payment and a payee authorisation are examples of a third party authorisation to make a payment. Information about a direct debit authorisation may include, for example, the party to whom the payment is to be made, the amount to be debited and the date on which the transaction is to be made.

8 Specified classes of information—information about a product

(1) This section applies to information about a product, including, but not limited to, the following:

(a) information identifying or describing the product;

(b) each price of the product, including a fee, charge or interest rate associated with the product;

(c) a feature or benefit of the product;

(d) the terms and conditions associated with the product;

(e)the eligibility criteria a person must meet in order to acquire or use the product.

Example: For paragraph 8(1)(c), an example of a feature or benefit of a product is a discount or bundle offered in connection with the product.

(2) Without limiting subsection (1), the information may relate to the product:

(a) as offered or provided to particular classes of customer; or

(b) as tailored to a particular customer.

9 Exclusion from specified classes of information—credit information

This section applies to the following information:

(a) information described in paragraph 6N(d), (i), (j) or (l) of the *Privacy Act 1988*;

(b) new arrangement information within the meaning of subsection 6S(2) of the *Privacy Act 1988.*

10 Exclusion from specified classes of information—materially enhanced information

(1) Subject to subsection (2), this section applies to information (***materially enhanced information***) where:

(a) the information was wholly or partly derived through the application of insight or analysis to information to which subsection 7(1) applies (***source material***); and

(b) that insight or analysis:

(i) was applied by, or on behalf of, the entity that holds the information or on whose behalf the information is held; and

(ii) rendered the information significantly more valuable than the source material.

Note 1: The materially enhanced information may have been derived entirely from information to which subsection 7(1) applies, or from a combination of information covered by subsection 7(1) and other information. It is only necessary for the application of insight or analysis to render the information significantly more valuable than the inputs covered by subsection 7(1).

Note 2: The application of insight or analysis may have rendered the information more valuable than the source material by enhancing its usefulness, usability or commercial value.

Note 3: This section excludes materially enhanced information from the class of information specified by subsection 7(1) of this instrument. However, such information may nonetheless be ‘CDR data’ due to paragraph 56AI(1)(b) of the Act, which captures information that is wholly or partly derived from information that falls within a class of information specified in this instrument.

Publicly available information is not excluded from specified class

(2) Subsection (1) does not apply where:

(a) the information is publicly available; or

(b) an Australian law (other than the Act) requires the disclosure of the information to one or more of the following:

(i) the public;

(ii) a person to whom a product has been or is being supplied;

(iii) a class of persons that includes the person mentioned in subparagraph (ii).

(3) To avoid doubt, the following information is not materially enhanced information:

(a) a calculated balance;

(b) an amount of interest earnt or charged;

(c) a fee charged;

(d) a reference number, including a routing number, a clearing house number or a swift code;

(e) information identifying a person, body, product, transaction or account;

(f) information mentioned in paragraph 7(2)(d) (about an authorisation);

(g) the categorisation of source material based on a feature of the product to which it relates, including categorisation by the fees or interest rates applicable to the product;

(h) information that results from filtering or sorting source material by reference to a:

(i) date, period or amount; or

(ii) categorisation of a kind mentioned in paragraph (g).

Note 1: Section 10 only operates to exclude information from the scope of subsection 7(1). As a result, information to which sections 6 and 8 apply is not excluded by virtue of this section. For instance, where materially enhanced information falls within the terms of section 8, that information would still form part of the class of information specified for the purposes of paragraph 56AC(2)(a) of the Act.

Note 2: Subsection (3) is not an exhaustive statement of the information that may fall outside of subsection (1).

(4) Subsection (3) does not imply that any of the information mentioned in that subsection would otherwise be materially enhanced information.

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

**Abbreviation key—Endnote 2**

The abbreviation key sets out abbreviations that may be used in the endnotes.

**Legislation history and amendment history—Endnotes 3 and 4**

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

**Misdescribed amendments**

A misdescribed amendment is an amendment that does not accurately describe how an amendment is to be made. If, despite the misdescription, the amendment can be given effect as intended, then the misdescribed amendment can be incorporated through an editorial change made under section 15V of the *Legislation Act 2003*.

If a misdescribed amendment cannot be given effect as intended, the amendment is not incorporated and “(md not incorp)” is added to the amendment history.

Endnote 2—Abbreviation key

|  |  |
| --- | --- |
| ad = added or inserted | Ord = Ordinance |
| am = amended | orig = original |
| amdt = amendment | par = paragraph(s)/subparagraph(s) |
| c = clause(s) | /sub‑subparagraph(s) |
| C[x] = Compilation No. x | pres = present |
| Ch = Chapter(s) | prev = previous |
| def = definition(s) | (prev…) = previously |
| Dict = Dictionary | Pt = Part(s) |
| disallowed = disallowed by Parliament | r = regulation(s)/rule(s) |
| Div = Division(s)  ed = editorial change |  |
| exp = expires/expired or ceases/ceased to have | reloc = relocated |
| effect | renum = renumbered |
| F = Federal Register of Legislation | rep = repealed |
| gaz = gazette | rs = repealed and substituted |
| LA = *Legislation Act 2003* | s = section(s)/subsection(s) |
| LIA = *Legislative Instruments Act 2003* | Sch = Schedule(s) |
| (md not incorp) = misdescribed amendment | Sdiv = Subdivision(s) |
| cannot be given effect | SLI = Select Legislative Instrument |
| mod = modified/modification | SR = Statutory Rules |
| No. = Number(s) | Sub‑Ch = Sub‑Chapter(s) |
|  | SubPt = Subpart(s) |
|  |  |
|  |  |
|  |  |

Endnote 3—Legislation history

| **Name** | **Registration** | **Commencement** | **Application, saving and transitional provisions** |
| --- | --- | --- | --- |
| Consumer Data Right (Authorised Deposit-Taking Institutions) Designation 2019 | 6 September 2019 (F2019L01153) | 7 September 2019 |  |
| Consumer Data Right (Authorised Deposit-Taking Institutions) Amendment Designation 2023 | 13 July 2023 (F2023L01009) | 14 July 2023 |  |

Endnote 4—Amendment history

| **Provision affected** | **How affected** |
| --- | --- |
| S 2 …………………………...  S 4 …………………………… | Rep LA s 48D  am F2023L01009 |
|  |  |