



National Consumer Credit Protection Amendment (Coronavirus Economic Response Package) Regulations 2020

I, General the Honourable David Hurley AC DSC (Retd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 02 April 2020

David Hurley
Governor-General

By His Excellency's Command

Josh Frydenberg
Treasurer

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1 Name

This instrument is the *National Consumer Credit Protection Amendment (Coronavirus Economic Response Package) Regulations 2020*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

| Commencement information | | |
|---------------------------------|--|--------------|
| Column 1 | Column 2 | Column 3 |
| Provisions | Commencement | Date/Details |
| 1. The whole of this instrument | The day after this instrument is registered. | 3 April 2020 |

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the *National Consumer Credit Protection Act 2009*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments

National Consumer Credit Protection Regulations 2010

1 At the end of Part 3.6

Add:

28RA Exemption relating to the coronavirus economic response

Licensees providing credit assistance in relation to applications for credit contracts, or increases to credit limits

- (1) For the purposes of paragraph 164(a) of the Act, a person that is a licensee is exempted from Divisions 4 and 6 of Part 3-1 of the Act (other than subsection 115(2) and sections 119 and 124 of the Act) in relation to conduct engaged in by the person on a day in relation to a consumer if:
 - (a) the day occurs in the exemption period (see subregulation (7)); and
 - (b) the conduct consists of providing credit assistance to the consumer in relation to an application by the consumer to:
 - (i) enter into a credit contract with a credit provider (see paragraphs 115(1)(a) and 123(1)(a) of the Act); or
 - (ii) increase the credit limit of a credit contract between the consumer and a credit provider (see paragraphs 115(1)(b) and 123(1)(b) of the Act); and
 - (c) the credit to be provided, or intended to be provided, under:
 - (i) the credit contract; or
 - (ii) the increase to the credit limit of the credit contract; is partly for the purposes of a small business operated by the consumer (whether alone or with others); and
 - (d) on the day, or during the period of 12 months before the day:
 - (i) a contract for the provision of credit (whether or not a credit contract); or
 - (ii) a contract for the hire of goods (whether or not a consumer lease); is or was in force between the consumer and the credit provider.

Licensees providing credit assistance in relation to remaining in credit contracts

- (2) For the purposes of paragraph 164(a) of the Act, a person that is a licensee is exempted from subsection 115(2) and sections 119 and 124 of the Act in relation to conduct engaged in by the person on a day in relation to a consumer if:
 - (a) the day occurs in the exemption period (see subregulation (7)); and
 - (b) the conduct consists of providing credit assistance to the consumer by suggesting that the consumer remain in a credit contract with a credit provider (see subsections 115(2) and 124(1) of the Act); and
 - (c) any of the following apply:
 - (i) the credit provided under the credit contract was partly for the purposes of a small business operated by the consumer (whether alone or with others);

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- (ii) if the credit limit of the credit contract was increased one or more times—the credit provided under at least one of the increased limits was partly for the purposes of a small business operated by the consumer (whether alone or with others);
 - (iii) if any remaining credit is available under the credit contract—the consumer intends for all or part of the remaining credit to be applied wholly or partly for the purposes of a small business operated by the consumer (whether alone or with others); and
 - (d) on the day, or during the period of 12 months before the day:
 - (i) a contract for the provision of credit (whether or not a credit contract); or
 - (ii) a contract for the hire of goods (whether or not a consumer lease);
 is or was in force between the consumer and the credit provider.

Licensees or exempt special purpose funding entities that are credit providers under credit contracts

- (3) For the purposes of paragraph 164(a) of the Act, a person that is a licensee or an exempt special purpose funding entity is exempted from Divisions 3 and 4 of Part 3-2 of the Act in relation to conduct engaged in by the person on a day in relation to a consumer if:
 - (a) the day occurs in the exemption period (see subregulation (7)); and
 - (b) the conduct consists of:
 - (i) entering into a credit contract with the consumer (see paragraphs 128(a) and 133(1)(a) of the Act); or
 - (ii) making representations to the consumer in relation to entering into a credit contract with the consumer (see paragraph 128(aa) of the Act); or
 - (iii) increasing the credit limit of a credit contract with the consumer (see paragraphs 128(b) and 133(1)(b) of the Act); or
 - (iv) making representations to the consumer in relation to increasing the credit limit of a credit contract with the consumer (see paragraph 128(ba) of the Act); and
 - (c) the credit to be provided, or intended to be provided, by the person to the consumer under:
 - (i) the credit contract; or
 - (ii) the increase to the credit limit of the credit contract;
 is partly for the purposes of a small business operated by the consumer (whether alone or with others); and
 - (d) on the day, or during the period of 12 months before the day:
 - (i) a contract for the provision of credit (whether or not a credit contract); or
 - (ii) a contract for the hire of goods (whether or not a consumer lease);
 is or was in force between the consumer and the person.

Licensees providing credit assistance in relation to applications for consumer leases

- (4) For the purposes of paragraph 164(a) of the Act, a person that is a licensee is exempted from Divisions 4 and 6 of Part 3-3 of the Act (other than

subsection 138(2) and sections 142 and 147 of the Act) in relation to conduct engaged in by the person on a day in relation to a consumer if:

- (a) the day occurs in the exemption period (see subregulation (7)); and
- (b) the conduct consists of providing credit assistance to the consumer in relation to an application by the consumer to enter into a consumer lease with a lessor (see subsections 138(1) and 146(1) of the Act); and
- (c) the goods to be hired under the consumer lease are partly for the purposes of a small business operated by the consumer (whether alone or with others); and
- (d) on the day, or during the period of 12 months before the day:
 - (i) a contract for the provision of credit (whether or not a credit contract); or
 - (ii) a contract for the hire of goods (whether or not a consumer lease);is or was in force between the consumer and the lessor.

Licensees providing credit assistance in relation to remaining in consumer leases

- (5) For the purposes of paragraph 164(a) of the Act, a person that is a licensee is exempted from subsection 138(2) and sections 142 and 147 of the Act in relation to conduct engaged in by the person on a day in relation to a consumer if:
 - (a) the day occurs in the exemption period (see subregulation (7)); and
 - (b) the conduct consists of providing credit assistance to the consumer by suggesting that the consumer remain in a consumer lease with a lessor (see subsections 138(2) and 147(1) of the Act); and
 - (c) either:
 - (i) the goods hired under the consumer lease were partly for the purposes of a small business operated by the consumer (whether alone or with others); or
 - (ii) the consumer intends for all or some of the goods hired under the consumer lease to be used wholly or partly for the purposes of a small business operated by the consumer (whether alone or with others); and
 - (d) on the day, or during the period of 12 months before the day:
 - (i) a contract for the provision of credit (whether or not a credit contract); or
 - (ii) a contract for the hire of goods (whether or not a consumer lease);is or was in force between the consumer and the lessor.

Licensees or exempt special purpose funding entities that are lessors under consumer leases

- (6) For the purposes of paragraph 164(a) of the Act, a person that is a licensee or an exempt special purpose funding entity is exempted from Divisions 3 and 4 of Part 3-4 of the Act in relation to conduct engaged in by the person on a day in relation to a consumer if:
 - (a) the day occurs in the exemption period (see subregulation (7)); and
 - (b) the conduct consists of:
 - (i) entering into a consumer lease with the consumer (see paragraph 151(a) and subsection 156(1) of the Act); or

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- (ii) making representations to the consumer in relation to entering a consumer lease with the consumer (see paragraph 151(b) of the Act); and
 - (c) the goods to be hired under the consumer lease are partly for the purposes of a small business operated by the consumer (whether alone or with others); and
 - (d) on the day, or during the period of 12 months before the day:
 - (i) a contract for the provision of credit (whether or not a credit contract); or
 - (ii) a contract for the hire of goods (whether or not a consumer lease);is or was in force between the consumer and the person.

Definitions

- (7) In this regulation:

exemption period means the period that:

- (a) starts at the start of the day this regulation commences; and
- (b) ends at the end of the period of 6 months starting on the day this regulation commences.

small business has the same meaning as in section 5 of the *Australian Small Business and Family Enterprise Ombudsman Act 2015*.

Sunset of this regulation

- (8) This regulation is repealed on the day after the end of the period of 12 months starting on the day this regulation commences.