

MAJOR CHANGES TO NEW ZEALAND'S CONSUMER CREDIT LAW - Q&A's

Are you CCCFA ready?

On 6 June 2015, significant changes to New Zealand's consumer credit legislation will come into force.

If you are in the business of providing credit to individuals or small business, you may have to make changes to a number of your lending processes. To assist you we have set out below a non-exhaustive list of matters you may want to consider.

Have you reviewed your credit application process to comply with the lender responsibility principles?

In extending consumer credit, you, as a lender, must comply with the principles in section 9C of the CCCFA and the responsible lending code. As a responsible lender, you must exercise the care, diligence and skill when advertising, before entering into the credit contract and in managing the credit contract.

For example, you must ensure that you have made reasonable enquiries to satisfy yourself that your borrower can make repayments without suffering substantial hardship.

If you do not comply with the lender responsibility principles when you extend credit, you may find significant challenges in collecting on debt if your borrower subsequently defaults.

For more information on the lender responsibility principles, the responsible lending code, and how to comply, please see here:
<http://www.comcom.govt.nz/consumer-credit/changes-to-the-ccdfa/>

Have you reviewed your various disclosures to comply with the CCCFA?

Under the new rules, you are now required to disclose on your website, or otherwise make publically available the following information:

- your standard form credit contract terms; and
- interest rates, fees and charges that will be charged for the extension of credit.

You need to make sure you have fully disclosed any changes, agreed to or otherwise to the credit contract. You also need to ensure that you make all disclosures necessary to guarantors.

Have you reviewed your hardship processes?

Borrowers can now make hardship applications while they are in default if they are in default for no more than two months and they have not missed more than four consecutive payments.

Have you updated your hardship processes to ensure you deal with hardship applications in accordance with the CCCFA?

Have you got your minimum repayment warnings in place for your credit card contracts?

You should have processes in place to warn your customers that if they make only minimum repayments, they will pay more interest and it will take longer to pay off the unpaid balance.

If you sell debt you must send out notices of assignment in a prescribed form

If you sell debt, you must send an assignment to each affected customer within 10 business days of the assignment. On the notice you must put the buyer's contact details, Financial Service Provider (FSP) number and external dispute resolution scheme details.

We can help you to comply with this obligation, just ask us how.

Are you aware of the changes to repossession of goods?

The Credit Repossession Act has been repealed and its provisions have been included into the CCCFA. There are significant changes, and you may want to consider updating your terms and conditions and your repossession processes to comply with these changes.

For further information, please refer to our repossession article under our Latest Articles.