

EXPOSURE DRAFT



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National Consumer Credit Protection Amendment (Low Cost Credit) Regulations 2025

I, the Honourable Sam Mostyn AC, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 2025

Sam Mostyn AC
Governor-General

By Her Excellency's Command

Stephen Jones [DRAFT ONLY—NOT FOR SIGNATURE]
Assistant Treasurer
Minister for Financial Services

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1 Name

This instrument is the *National Consumer Credit Protection Amendment (Low Cost Credit) Regulations 2025*.

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 later of: (a) the start of the day after this instrument is registered; and (b) immediately after the commencement of Parts 2 to 10 of Schedule 2 to the <i>Treasury Laws Amendment (Responsible Buy Now Pay Later and Other Measures) Act 2024</i> .	

Note: This table relates only to the provisions of this instrument as originally made.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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

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Schedule 1 Amendments
Part 1 Main amendments

Schedule 1—Amendments

Part 1—Main amendments

National Consumer Credit Protection Regulations 2010

1 Subregulation 3(1) (paragraph (d) of the definition of *precontractual document*)

Omit “paragraph 16(1)(b)”, substitute “paragraphs 16(1)(b) or 16(1A)(b)”.

2 After subregulation 28L(1)

Insert:

(1A) However, this regulation does not apply in relation to giving a disclosure document for the purposes of a provision listed in paragraph (1)(a), (b), (c), (d), (e), (k) or (l) if the disclosure document relates to a low cost credit contract.

3 Subparagraph 28LCF(2)(b)(iii)

Repeal the subparagraph, substitute:

(iii) a combination of low cost credit contracts, small amount credit contracts or medium amount credit contracts, being a combination that includes contracts of at least 2 of those kinds; and

4 After Part 3-4

Insert:

Part 3-4A—Additional rules relating to low cost credit contracts

Division 1—Preliminary

28HAA Scope of this Part

This Part:

- (a) applies to a licensee if the licensee has made an election under subsection 133BXA(1) of the Act and has not revoked the election; and
- (b) applies to such a licensee in relation to a credit contract if the credit contract is a low cost credit contract covered by the election.

Note: Under subsection 133BXA(1) of the Act, a licensee may elect that Part 3-2BA of the Act apply to the licensee in relation to some or all low cost credit contracts.

28HAB Definitions

In this Part:

unsuitability assessment policy has the same meaning as in the Act.

Division 2—Unsuitable low cost credit contracts

28HAC When inquiries etc. must be made

For the purposes of paragraph 133BXB(b) of the Act, the prescribed period is 120 days.

28HAD Inquiries about financial situation of consumer

- (1) For the purposes of subsection 130(2) of the Act, this regulation prescribes inquiries that a licensee must make for the purposes of paragraph 130(1)(b) of the Act before making an assessment of whether a low cost credit contract will be unsuitable for a consumer if the contract is entered, or the credit limit of the contract is increased, in the period covered by the assessment.

Credit information

- (2) If the consumer is an individual, the licensee must seek to obtain from a credit reporting body the following information about the consumer:
 - (a) the information mentioned in subsection (3);
 - (b) the information mentioned in subsection (4), but only if when the contract is entered or after the credit limit is increased (whichever applies) the sum of:
 - (i) the value of the low cost credit contract; and
 - (ii) the value of each other low cost credit contract the consumer has already entered into with the licensee and that is still in force; will be \$2,000 or greater.
- (3) The information is any information of the following kinds held by the body:
 - (a) identification information (within the meaning of the *Privacy Act 1988*) about the individual;
 - (b) details of any information requests (within the meaning of the *Privacy Act 1988*) that have been made in relation to the individual;
 - (c) default information (within the meaning of subsection 6Q(1) or (2) of the *Privacy Act 1988*) about the individual;
 - (d) payment information (within the meaning of the *Privacy Act 1988*) about the individual;
 - (e) personal insolvency information (within the meaning of the *Privacy Act 1988*) about the individual;
 - (f) information about the individual that is information covered by paragraph 6N(k) of the *Privacy Act 1988* (which covers certain kinds of publicly available information);
 - (g) new arrangement information (within the meaning of the *Privacy Act 1988*) about the individual;
 - (h) court proceedings information (within the meaning of the *Privacy Act 1988*) about the individual.

Note: Under subsection 5(1) of the Act, **credit reporting body** has the same meaning as in the *Privacy Act 1988*.

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Schedule 1 Amendments
Part 1 Main amendments

- (4) The information is information about consumer credit (within the meaning of the *Privacy Act 1988*) provided to the individual that is consumer credit liability information (within the meaning of that Act) about the individual.
- (5) To avoid doubt, nothing in this regulation requires or authorises a credit reporting body to disclose information referred to in subsections (3) or (4) to a licensee.

Other information

- (6) The licensee must also seek to obtain information that the licensee reasonably believes to be substantially correct about the following:
 - (a) the income of the consumer;
 - (b) the expenditure of the consumer;
 - (c) any low cost credit contracts, small amount credit contracts or consumer leases to which the consumer is currently a party.

Division 3—Unsuitability assessment policies

28HAE Authority for this Division

This Division is made for the purposes of subsection 133BXG(3) of the Act.

28HAF Reviewing and updating unsuitability assessment policies

- (1) A licensee must conduct regular reviews of the licensee’s unsuitability assessment policy.
- (2) In deciding when to conduct a review of the policy, the licensee must have regard to the licensee’s obligations under subsection 133BXG(2) of the Act (unsuitability assessment policy must be effective).
- (3) As part of each review, the licensee must:
 - (a) assess whether the policy has been and will continue to be one that, if followed, makes it reasonably likely that the licensee will comply with sections 128 and 131 of the Act (which deal with assessments of unsuitability), as those sections apply in relation to low cost credit contracts; and
 - (b) identify any changes to the policy that would make it more likely that, if the policy is followed, the licensee will comply with those sections, as they apply in relation to low cost credit contracts.
- (4) For each review, the licensee must ensure that the licensee has regard to information and evidence that the licensee reasonably believes:
 - (a) is accurate; and
 - (b) provides an appropriate basis for assessing the policy as mentioned in paragraph (3)(a) and identifying changes to the policy as mentioned in paragraph (3)(b).
- (5) If, as part of a review, the licensee identifies changes to the policy of the kind mentioned in paragraph (3)(b), the licensee must ensure that the policy is revised to incorporate those changes as soon as is practicable.

5 Regulation 58

Before “The Code”, insert “(1)”.

6 At the end of regulation 58

Add:

- (2) However, subsection (1) does not apply in relation to the provision of credit by an ADI under a buy now pay later contract.

7 Regulation 69 (heading)

Omit “Direct debit default”, substitute “First default in payment”.

8 Subregulations 69(1) and (2)

Omit “direct debit default”, substitute “first default in payment”.

9 After Part 7-1

Insert:

Part 7-1A—Extended application of the Code: buy now pay later and low cost credit

69F Meaning of *buy now pay later arrangement* and *buy now pay later contract*—arrangements or series of arrangements that are not buy now pay later arrangements

- (1) For the purposes of subsection 13D(2) of the Code, this regulation prescribes arrangements or a series of arrangements that are not a buy now pay later arrangement.

Medical financing at no cost to the consumer

- (2) An arrangement or a series of arrangements is not a buy now pay later arrangement if all of the following apply:
 - (a) the merchant is a related body corporate of the BNPL provider;
 - (b) the merchant supplies a service to the consumer;
 - (c) the service is a service for which medicare benefit is payable under Part II of the *Health Insurance Act 1973*;
 - (d) the BNPL provider provides credit to the consumer at no cost to the consumer.

69G Meaning of *low cost credit contract*—fees or charges

- (1) For the purposes of paragraph 13E(1)(d) of the Code, this regulation prescribes requirements relating to fees or charges that are, or may be, payable under a contract (the *relevant contract*) entered into, or to be entered into, between a credit provider and a debtor.
- (2) The fees or charges that are, or may be, payable under the relevant contract satisfy the requirements in this regulation if those fees or charges could not result

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Schedule 1 Amendments Part 1 Main amendments

in a breach of a cap applicable under this regulation to the credit provider and the debtor in a fee period.

Note: For the definition of *fee period*, see subregulation (4).

- (3) A breach of a cap applicable to the credit provider and the debtor in a fee period occurs if the sum of all the fees or charges of a kind specified in column 1 of an item of the following table that become payable in the fee period under:
- (a) the relevant contract; and
 - (b) any other low cost credit contract between the credit provider and the debtor;
- exceeds the cap determined for that kind of fees or charges for the fee period under column 2 of that table item.

Item	Column 1 Kind of fees or charges	Column 2 Cap
1	Fees or charges other than default fees or charges	(a) for the first fee period for the credit provider and the debtor—\$200; or (b) otherwise—\$125.
2	Default fees or charges	(a) unless paragraph (b) applies—\$120; or (b) if only default fees or charges are, or may be, payable under the relevant contract and each other low cost credit contract between the credit provider and the debtor: <ul style="list-style-type: none">(i) for the first fee period for the credit provider and the debtor—\$320; or(ii) otherwise—\$245.

Definitions

- (4) In this regulation:

fee period, for a credit provider and a debtor, means any of the following:

- (a) the period of 12 months beginning on the later of:
 - (i) the earliest day on which the debtor ever became a debtor under a low cost credit contract with the credit provider; and
 - (ii) the day on which the delayed commencement time (within the meaning of item 8 of Schedule 2 to the *Treasury Laws Amendment (Responsible Buy Now Pay Later and Other Measures) Act 2024*) occurred;
- (b) each subsequent 12 month period.

10 Subregulation 70(1)

Omit “paragraph 16(1)(b)”, substitute “paragraphs 16(1)(b) and 16(1A)(b)”.

11 Subregulation 70(2) (note)

Omit “Paragraph 16(1)(b) of the Code requires”, substitute “Paragraphs 16(1)(b) and 16(1A)(b) of the Code require”.

12 Subregulation 79C(1)

Omit “subsection 39C(1)”, substitute “section 39C”.

13 Regulation 85 (heading)

Omit “**direct debit default**”, substitute “**first default in payment**”.

14 Regulation 85

Before “For subsection”, insert “(1)”.

15 Regulation 85

Omit “direct debit default notice”, substitute “first default in payment notice given in the circumstances mentioned in subsection 87(1) of the Code”.

16 Regulation 85 (table, column headed “and the direct debit default notice is given ...”)

Omit “**direct debit default**”, substitute “**first default in payment**”.

17 At the end of regulation 85

Add:

- (2) For subsection 87(3) of the Code, the information that a first default in payment notice given in the circumstances mentioned in subsection 87(1A) of the Code must contain is set out in the following paragraphs:
 - (a) that there has been a default in payment of an amount under the low cost credit contract;
 - (b) how to arrange for payment of the amount;
 - (c) the credit provider’s internal dispute resolution procedures and financial hardship processes;
 - (d) the external dispute resolution procedures available with AFCA.

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Schedule 1 Amendments

Part 2 Application provisions

Part 2—Application provisions

National Consumer Credit Protection Regulations 2010

18 At the end of Part 6-3

Add:

49L Application and transitional—Part 1 of Schedule 1 to the *National Consumer Credit Protection Amendment (Low Cost Credit) Regulations 2025*

Low cost credit contracts—fees or charges

- (1) Regulation 69G, as inserted by Part 1 of Schedule 1 to the *National Consumer Credit Protection Amendment (Low Cost Credit) Regulations 2025*, applies in relation to contracts entered into before, on or after the commencement of Part 1 of Schedule 2 to the *Treasury Laws Amendment (Responsible Buy Now Pay Later and Other Measures) Act 2024* (the **amending Part**).

Note: Regulation 69G applies only on and after the delayed commencement time: see item 8 of Schedule 2 to the *Treasury Laws Amendment (Responsible Buy Now Pay Later and Other Measures) Act 2024*.

Default notices

- (2) The amendments made by items 7, 8 and 12 to 17 of Part 1 of Schedule 1 to the *National Consumer Credit Protection Amendment (Low Cost Credit) Regulations 2025* apply in relation to a default that occurs on or after the commencement of that Schedule.