



# **National Consumer Credit Protection Amendment Regulation 2013 (No. 1)**

## **Select Legislative Instrument No. 43, 2013**

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I, Quentin Bryce, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulation under the *National Consumer Credit Protection Act 2009*.

Dated                      28 March 2013

Quentin Bryce  
Governor-General

By Her Excellency's Command

William Richard Shorten  
Minister for Financial Services and Superannuation

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## **1 Name of regulation**

This regulation is the *National Consumer Credit Protection Amendment Regulation 2013 (No. 1)*.

## **2 Commencement**

This regulation commences on the day after it is registered.

## **3 Authority**

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

## **4 Schedule(s)**

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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—Amendment of the National Consumer Credit Regulations 2010

## 1 Subregulation 69(2)

Repeal the subregulation, substitute:

- (2) Disregard a default in relation to which, in reliance on subregulation (1), no direct debit default notice is given.

**2 At the end of Part 7-1**

Add:

### 69A Exemption—requirement to give notice of agreement to change credit contract

- (1) This regulation applies to a person who:
- (a) is a credit provider; and
  - (b) enters into a credit contract during a period mentioned in an item of the following table; and
  - (c) would, but for this regulation, be required to comply with the provision of the Code mentioned in that item of the table.

Notice requirement		
Item	Period during which person entered into credit contract	Provision of Code
1	any period	subsection 73(1) of the Code in relation to a simple arrangement
2	the period that ends on 28 February 2013	paragraph 72(3)(a) of the Code
3	the period that begins on 1 March 2013	paragraph 72(4)(a) of the Code

- (2) The person is exempt from the provision until 1 March 2014.
- (3) In this regulation:

**simple arrangement** means an agreement that defers or reduces the obligations of a debtor for a period of no more than 90 days.

Note: Section 203B of the Code provides, among other things, that the regulations may exempt a person or a class of persons from all or specified provisions of the Code.

### **69B Exemption—requirement to give notice of agreement to change consumer lease**

- (1) This regulation applies to a person who:
- (a) is a lessor in relation to a consumer lease; and
  - (b) grants the lease during a period mentioned in an item of the following table; and
  - (c) would, but for this regulation, be required to comply with each provision of the Code mentioned in that item of the table.

<b>Notice requirement</b>		
<b>Item</b>	<b>Period during which lease granted</b>	<b>Provision of Code</b>
1	the period that ends on 28 February 2013	subsection 73(1) of the Code, in relation to a simple arrangement
2	the period that ends on 28 February 2013	paragraph 72(3)(a) of the Code
3	the period that begins on 1 March 2013	paragraph 177B(4)(a) of the Code
4	the period that begins on 1 March 2013	subsection 177C(1) of the Code, in relation to a simple arrangement

- (2) The person is exempt from the provision until 1 March 2014.

- (3) In this regulation:

***simple arrangement*** means an agreement that defers or reduces the obligations of a lessee for a period of no more than 90 days.

Note: Section 203B of the Code provides, among other things, that the regulations may exempt a person or a class of persons from all or specified provisions of the Code.

### **69C Exemption—requirement to disclose information about dispute resolution scheme**

- (1) This regulation applies to a person to whom the following apply:

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- (a) the person is:
  - (i) an unlicensed carried over instrument lender; or
  - (ii) exempt under section 109 or 110 of the Act from the requirement to hold a licence;
- (b) the person is not a member of an approved external dispute resolution scheme;
- (c) the person would, but for this regulation, be required to comply with a requirement, under one or more of the following provisions of the Code, to disclose information about rights under, or access to, an approved external dispute resolution scheme:
  - (i) subparagraph 72(3)(b)(i) or (ii);
  - (ii) subsection 85(3);
  - (iii) subsection 87(3);
  - (iv) paragraph 88(3)(g);
  - (v) paragraph 102(1)(c);
  - (vi) subsection 136(2);
  - (vii) subsection 149(2);
  - (viii) subsection 175(1).

(2) The person is exempt from the relevant provision or provisions.

**69D Exemption—requirement to give notice of direct debit default**

- (1) Subsection 179C(2) of the Code does not apply to a lessor if the default mentioned in subsection 179C(1) is rectified before the lessor is required to give the direct debit default notice under subsection 179C(2).
- (2) Disregard a default in relation to which, in reliance on subregulation (1), no direct debit default notice is given.

Note: Section 203B of the Code provides, among other things, that the regulations may exempt a person or a class of persons from all or specified provisions of the Code.

**3 Regulations 85 and 86**

Repeal the regulations, substitute:



**85 Information to be contained in direct debit default notice**

For subsection 87(3) of the Code, the information that a direct debit default notice must contain is set out in the following table.

<b>Prescribed information</b>			
<b>Item</b>	<b>If the credit contract is entered into ...</b>	<b>and the direct debit default notice is given ...</b>	<b>the information that the notice must contain is the information set out in ...</b>
1	before 1 March 2013	on or after 1 March 2013	Form 11 or 11A
2	on or after 1 March 2013	before 1 December 2013	Form 11 or 11A
3	on or after 1 March 2013	on or after 1 December 2013	Form 11A

**86 Information to be contained in default notice**

For paragraphs 88(3)(f) and (g) of the Code, the information that a default notice must contain is set out in the following table.

<b>Prescribed information</b>			
<b>Item</b>	<b>If the credit contract or mortgage is entered into ...</b>	<b>and the direct debit default notice is given ...</b>	<b>the information that the notice must contain is the information set out in ...</b>
1	before 1 March 2013	on or after 1 March 2013	Form 12 or 12A
2	on or after 1 March 2013	before 1 December 2013	Form 12 or 12A
3	on or after 1 March 2013	on or after 1 December 2013	Form 12A

**4 Regulation 105H**

Repeal the regulation.

**5 After regulation 105J**

Insert:

**105K Information to be contained in default notice**

For paragraphs 179D(2)(e) and (f) of the Code, the information that a default notice must contain is set out in Form 18A.

**6 Regulation 111A**

Repeal the regulation.

**7 Schedule 1, after Form 11**

Insert:

**Form 11A Direct debit default notice**

**subsection 87(3) of the Code  
regulation 85 of the Regulations**

**IMPORTANT**

**We have not received a payment because  
your arrangements to pay by direct debit  
have been dishonoured.**

**YOU NEED TO CONTACT US IMMEDIATELY**

**1. Is there a reason why your direct debit arrangements  
have failed?**

There may be reasons why your direct debit may fail, and you may wish to check with your bank or financial institution. If you need to change your direct debit arrangements, contact us at [*insert telephone number or email address for dealing with variations to direct debit arrangements*].

If you continue to fail to make the payments due under your credit contract we may take action against you.

**2. Are you experiencing financial difficulty? Contact us immediately**

Contact us\* *[insert telephone number or email address for dealing with financial hardship applications]* to discuss your situation. We may be able to help you to repay your debt by varying your contract (for example, changing the amount or timing of your repayments). The sooner you contact us, the easier it will be to help you.

If we refuse to change your contract, we will notify you in writing and you can seek a review of our decision by going to *[insert name of relevant external dispute resolution scheme]* by *[insert contact details and method(s) for lodging complaints]*.

If you go to *[insert name of relevant external dispute resolution scheme]*, you may have enforcement action put on hold while your complaint is considered. You are not bound by the decision that *[insert name of EDR scheme]* makes and you can still apply to a court if you are not satisfied.

**EXTERNAL DISPUTE RESOLUTION IS A FREE AND INDEPENDENT SERVICE TO RESOLVE COMPLAINTS.**

**3. If you are having financial difficulties you can also contact a financial counsellor on 1800 007 007 (free call)**

For information about your options for managing your debts, ring 1 800 007 007 from anywhere in Australia to talk to a free and independent financial counsellor.

\* Credit providers may replace the word “us” with the name of a relevant area. For example: “Contact our Hardship Team”.

**Some useful tips on direct debits**

Make sure you’ve given the right account number and there is enough money in the account to cover the direct debits.

Read your Direct Debit Request Service Agreement carefully and check your bank statements to make sure the right amount is being taken out at the right time. If there is not enough money in the account, you will be in default and may have to pay a fee for that default.

*Changing or cancelling your direct debit*

Contact us if you need to change the dates when the direct debit is taken out.

If you close the account, remember to change the direct debit so it comes from another account.

You can usually cancel a direct debit with us or with your bank or financial institution. You may need to do this in writing. Contact your bank or financial institution a few days after you've sent your written instruction to check that the direct debit has been cancelled.

Before you cancel a direct debit, make sure you've made other payment arrangements with us so you don't default on your payment.

*Resolving a problem with your direct debit*

If you have a problem with a direct debit you can complain to us or to your bank or financial institution. If you can't resolve your complaint with us, contact our external dispute resolution scheme, [*insert name of external dispute resolution scheme*], by [*insert contact details and method(s) for lodging complaints*].

For more information about direct debits, talk to your bank or financial institution.

**8 Schedule 1, after Form 12**

Insert:

**Form 12A Information about debtor's rights  
after default**

**paragraphs 88(3)(f) and (g) of the Code  
regulation 86 of the Regulations**

**IMPORTANT**

**You are in default of your credit contract  
because you have not made a payment  
*[alternative wording can be used if the default is  
not the result of failing to make a payment].***

**YOU NEED TO CONTACT US IMMEDIATELY**

**1. Are you in financial hardship? Contact us immediately**

Contact us\* *[insert telephone number or email address for dealing with financial hardship applications]* to discuss your situation. We may be able to help you to repay your debt by agreeing to vary your contract (for example, changing the amount or timing of your repayments). The sooner you contact us, the easier it will be to help you.

If you do nothing **before** *[insert default notice period end date]*, we can commence enforcement action against you.

If we refuse to change your contract, we will notify you in writing and you can seek a review of our decision by going to *[insert name of relevant external dispute resolution scheme]* by *[insert contact details and method(s) for lodging complaints]*.

If you go to *[insert name of external dispute resolution scheme]*, you may have enforcement action put on hold while your complaint is considered. You are not bound by the

decision that [*insert name of EDR scheme*] makes and you can still apply to a court if you are not satisfied.

**EXTERNAL DISPUTE RESOLUTION IS A FREE AND INDEPENDENT SERVICE TO RESOLVE COMPLAINTS.**

**2. If you are having financial difficulties you can also contact a financial counsellor on 1800 007 007 (free call)**

For information about your options for managing your debts, ring 1 800 007 007 from anywhere in Australia to talk to a free and independent financial counsellor.

**3. Your other rights**

You have other rights, including the right to ask us to postpone any enforcement action before [*insert default notice period end date*].

\* Credit providers may replace the word “us” with the name of a relevant area. For example: “Contact our Hardship Team”.

**9 Schedule 1, Form 18**

Repeal the form, substitute:

**Form 18 Direct debit default notice**

**subsection 179C(2) of the Code  
regulation 105J of the Regulations**

**IMPORTANT**

**We have not received a payment because  
your arrangements to pay by direct debit  
have been dishonoured.**

## **YOU NEED TO CONTACT US IMMEDIATELY**

### **1. Is there a reason why your direct debit arrangements have failed?**

There may be reasons why your direct debit may fail, and you may wish to check with your bank or financial institution. If you need to change your direct debit arrangements contact us at *[insert telephone number or email address for dealing with variations to direct debit arrangements]*.

If you continue to fail to make the payments due under your consumer lease, we may take action against you.

### **2. Are you experiencing financial difficulty? Contact us immediately**

Contact us\* *[insert telephone number or email address for dealing with financial hardship applications]* to discuss your situation. We may be able to help you to repay your debt by agreeing to vary your contract (for example, changing the amount or timing of the rental payments). The sooner you contact us, the easier it will be to help you.

If we refuse to change your contract, we will notify you in writing and you can seek a review of our decision by going to *[insert name of relevant external dispute resolution scheme]* by *[insert contact details and method(s) for lodging complaints]*.

If you go to *[insert name of relevant external dispute resolution scheme]*, you may have enforcement action put on hold while your complaint is considered. You are not bound by the decision that *[insert name of EDR scheme]* makes and you can still apply to a court if you are not satisfied.

## **EXTERNAL DISPUTE RESOLUTION IS A FREE AND INDEPENDENT SERVICE TO RESOLVE COMPLAINTS.**

### **3. If you are having financial difficulties you can also contact a financial counsellor on 1800 007 007 (free call)**

For information about your options for managing your debts, ring 1 800 007 007 from anywhere in Australia to talk to a free and independent financial counsellor.

\* Lessors may replace the word “us” with the name of a relevant area. For example: “Contact our Hardship Team”.

### **Some useful tips on direct debits**

Make sure you’ve given the right account number and there is enough money in the account to cover the direct debits.

Read your Direct Debit Request Service Agreement carefully and check your bank statements to make sure the right amount is being taken out at the right time. If there is not enough money in the account, you will be in default and may have to pay a fee for that default.

#### *Changing or cancelling your direct debit*

Contact us if you need to change the dates when the direct debit is taken out.

If you close the account, remember to change the direct debit so it comes from another account.

You can usually cancel a direct debit with us or with your bank or financial institution. You may need to do this in writing. Contact your bank or financial institution a few days after you’ve sent your written instruction to check that the direct debit has been cancelled.

Before you cancel a direct debit make sure you’ve made other payment arrangements with us so you don’t default on your payment.

#### *Resolving a problem with your direct debit*



If you have a problem with a direct debit you can complain to us or to your bank or financial institution. If you can't resolve your complaint with us, contact our external dispute resolution scheme, *[insert name of external dispute resolution scheme]*, by *[insert contact details and method(s) for lodging complaints]*.

For more information about direct debits, talk to your bank or financial institution.

## **Form 18A Information about lessee's rights after default**

**section 179C of the Code  
regulation 105K of the Regulations**

### **IMPORTANT**

**You are in default of your consumer lease contract because you have not made a payment *[alternative wording can be used if the default is not the result of failing to make a payment]*.**

### **YOU NEED TO CONTACT US IMMEDIATELY**

#### **1. Are you in financial hardship? Contact us immediately**

Contact us\* *[insert telephone number or email address for dealing with financial hardship applications]* to discuss your situation. We may be able to help you to repay your debt by varying your contract (for example, changing the amount or timing of your rental payments). The sooner you contact us, the easier it will be to help you.

If you do nothing **before** [*insert default notice period end date*], we can commence enforcement action against you.

If we refuse to change your contract, we will notify you in writing and you can seek a review of our decision by going to [*insert name of relevant external dispute resolution scheme*] by [*insert contact details and method(s) for lodging complaints*].

If you go to [*insert name of relevant external dispute resolution scheme*], you may have enforcement action put on hold while your complaint is being considered. You are not bound by the decision that [*insert name of EDR scheme*] makes, and you can still apply to a court if you are not satisfied with the outcome.

**EXTERNAL DISPUTE RESOLUTION IS A FREE AND INDEPENDENT SERVICE TO RESOLVE SPECIFIC COMPLAINTS.**

**2. If you are having financial difficulties you can also contact a financial counsellor on 1800 007 007 (free call)**

For information about your options for managing your debts, ring 1 800 007 007 from anywhere in Australia to talk to a free and independent financial counsellor.

**3. Your other rights**

You have other rights, including the right ask us to postpone any enforcement action before [*insert default notice period end date*].

\* Lessors may replace the word “us” with the name of a relevant area. For example: “Contact our Hardship Team”.