

THE CREDIT CONTRACTS AND CONSUMER FINANCE ACT CONSUMER RIGHTS UNDER THE CREDIT CONTRACTS AND CONSUMER FINANCE ACT – HARDSHIP

Under the Credit Contracts and Consumer Finance Act (CCCF Act), a debtor has the right in certain circumstances to ask for a variation in their consumer credit contract on the grounds of hardship.

A debtor may, under the CCCF Act, seek changes to a contract when:

- they suffer an unforeseen hardship (including illness and injury, the end of a relationship or loss of employment); and
- they cannot reasonably meet their contractual obligations because of that hardship; and
- they reasonably expect to be able to meet their obligations were the contract to be varied; and
- they are not, at the time they apply, in default of their financial obligations under the contract and their account is not at the time over its credit limit.

If a creditor turns down the debtor's application, the debtor may ask the court to order one of the above variations. The court may also make any other order it sees fit, stay any enforcement action or make other orders until the application is decided.

The debtor must apply to change the contract in one of the following ways:

- extending the term of the contract and reducing the amount of each payment;
- postponing the due dates of payments; and
- extending the term of the contract and postponing for a specified period the dates on which payments are due.

These changes cannot result in any consequential change to the annual interest rate/s.

LENDERS AND BORROWERS

The CCCF Act uses a number of different terms to describe lenders and borrowers, depending on the nature of the transaction.

- Consumer credit contracts – creditors and debtors.
- Consumer leases – lessors and lessees.
- Buy back transactions – transferees and occupiers.

For the purposes of these fact sheets the terms creditor and debtor are used when referring generally to credit transactions, but the specific terms are used where relevant.

A debtor may, under the CCCF Act, seek changes to a contract when they are not, at the time they apply, in default of their financial obligations under the contract and their account is not at the time over its credit limit.

To check for updates to this fact sheet visit:

www.comcom.govt.nz/consumer-credit

This fact sheet is part of a series looking at the Credit Contracts and Consumer Finance Act.

Other fact sheets can be downloaded from

www.comcom.govt.nz/consumer-credit

CONTACT

Contact the Commerce Commission with information about possible breaches of the Credit Contracts and Consumer Finance Act.

TELEPHONE

Our Contact Centre during office hours on 0800 943 600

WRITE

To us at Contact Centre,
PO Box 2351, Wellington 6140

EMAIL

Us at contact@comcom.govt.nz

This fact sheet is a guideline only, and reflects the Commission's view. The publication is not intended to be definitive, and should not be used instead of legal advice. It is traders' responsibility to remain up to date with legislation.

Only the courts can make an authoritative ruling on breaches of the Credit Contracts and Consumer Finance Act.