

The Credit Contracts and Consumer Finance Act

Fees under a consumer credit contract



This fact sheet provides an overview of the types of fees a lender may charge a borrower under a consumer credit contract and the rules that apply.

Typically under a consumer credit contract, a lender will add other costs to the principal amount they have loaned. These costs may include interest and charges for optional services such as insurance. They may also include fees.

The Credit Contracts and Consumer Finance Act (**CCCF Act**) imposes rules for lenders who want to charge fees under consumer credit contracts.

What types of fees can a lender charge?

There are a number of different types of fees a lender might charge a borrower. They include:

- **credit fees** – fees a borrower pays to a lender under a contract, or pays for the benefit of the lender, such as establishment or prepayment fees
- **default fees** – fees a borrower must pay if they breach their contract or when a lender takes steps to enforce their right to receive loan payments
- **third party fees** – fees a third party, such as a broker, charges in relation to a contract.

What rules apply to fees?

Under the CCCF Act, lenders must make sure that:

- they disclose all fees the borrower must pay
- they clearly describe those fees
- credit and default fees are reasonable
- they pass on any third party fees at cost.



From 1 December 2021:

- For new contracts, lenders must review their fees when they know, or ought reasonably to know that there has been a change to their business or costs that will materially affect the fee. Lenders must reduce their fees if, following the review, they are unreasonable. Lenders could be subject to a penalty if they fail to undertake a review in these circumstances and to reduce any fees that are unreasonable after that review.
- Lenders have to keep records of how they set fees and they must provide them to the Commerce Commission or Dispute Resolution Schemes if asked.

Fees must be disclosed

A lender must set out any fees a borrower must pay in the initial disclosure statement. This includes what the fee is, when the borrower must pay it and the amount of the fee. If the lender cannot work out the amount of the fee at that time, then they must set out how they will calculate the fee.

If the contract allows a lender to increase the fees they charge, or introduce new fees, then the lender needs to disclose these changes to the borrower within five working days of charging the higher or new fee.

Fees must be clearly described

Lenders need to take care when naming and describing fees. This means making it clear to borrowers what a fee is for, the types of costs recovered in the fee, when the lender will charge the fee and what may trigger the fee.

Generally, the name or description of the fee should give the borrower this information.

If lenders describe their fees in a way that is misleading, they may breach both the CCCF Act and the Fair Trading Act.

Credit and default fees must be reasonable

Any credit or default fee a lender charges a borrower must be reasonable. A court will consider any costs or losses to the lender and whether the fee reflects a reasonable standard of commercial practice.

Establishment fees

Any establishment fee should be the same or less than the reasonable cost of setting up and processing a contract and advancing the credit. The fee can be the average cost of establishing contracts of a particular type.

Prepayment fees

If a borrower makes extra payments on their contract, or pays off their contract early, a lender may charge a reasonable fee to cover any costs or losses resulting from the early repayment. This can include administration costs as well as any losses from having to re-lend money at a lower interest rate.

Third party fees must be passed on at cost

If a third party charges a fee in relation to a contract, the lender must pass this on to the borrower at cost. Lenders must also pass on any discounts or allowances.

If a lender expects to be charged a certain amount by a third party and charges the borrower that amount, but the actual charge turns out to be less than estimated, the lender must refund the borrower the difference.

Reasonable commission paid to a lender in connection with credit-related insurance is not a third party fee.

🔗 You can read more in our fact sheet *Credit-related insurance* at www.comcom.govt.nz/credit-related-insurance

Other costs a borrower might have to pay

Aside from fees, a borrower may have to pay a number of other charges under a contract. These may include:

- **interest and default interest charges** – you can read more in our fact sheet *Interest charges under a consumer credit contract* at www.comcom.govt.nz/interest-charges
- **charges for optional services** – these relate to a product or service the borrower has chosen to purchase with their contract, such as credit-related insurance. Lenders can charge whatever price they want for these services
- **government charges.**

Lenders and borrowers

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

- consumer credit contracts – creditors and debtors
- consumer leases – lessors and lessees
- buy-back transactions – transferees and occupiers.

In these fact sheets we use the terms lender and borrower to talk generally about credit transactions, but use the specific terms for consumer leases and buy-back transactions where it makes things clearer.

This fact sheet provides guidance only. It is not intended to be definitive and should not be used in place of legal advice. You are responsible for staying up to date with legislative changes.

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