

# EXPOSURE DRAFT

EXPOSURE DRAFT (29/02/2024)

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Inserts for

## Treasury Laws Amendment Bill 2024: Buy now, pay later

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### Commencement information

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Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details

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1. Schedule 1	A single day to be fixed by Proclamation. However, if the provisions do not commence within the period of 6 months beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period.	
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## Schedule 1—Low cost credit contracts

### Part 1—Extending the application of the National Consumer Credit Protection Act 2009

#### *National Consumer Credit Protection Act 2009*

##### 1 Subsection 5(1)

Insert:

*buy now pay later arrangement* has the same meaning as in section 13D of the National Credit Code.

*buy now pay later contract* has the same meaning as in section 13D of the National Credit Code.

*low cost credit contract* has the same meaning as in section 13C of the National Credit Code.

##### 2 Subsection 5(1) (paragraph (a) of the definition of *short-term credit contract*)

After “continuing credit contract”, insert “or a low cost credit contract”.

##### 3 Subsection 5(1) (paragraph (a) of the definition of *small amount credit contract*)

After “continuing credit contract”, insert “or a low cost credit contract”.

##### 4 Subsection 160G(2) (note)

Omit “sections 5 and 6”, substitute “sections 5, 6 and 13B”.

##### 5 After Part 1 of the *National Credit Code*

Insert:

### Part 1A—Low cost credit contracts

#### 13B Application of this Code to low cost credit contracts

*[A provision will be included here that extends the application of the National Credit Code to the provision of credit under low cost*

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1 *credit contracts and sets out the constitutional basis for the*  
2 *extension.]*

## 3 **13C Meaning of *low cost credit contract***

- 4 (1) A contract is a ***low cost credit contract*** if:  
5 (a) credit is, or may be, provided under the contract; and  
6 (b) the contract is:  
7 (i) a buy now pay later contract; or  
8 (ii) a contract prescribed by the regulations for the purposes  
9 of this subparagraph; and  
10 (c) the period during which credit is, or may be, provided under  
11 the contract is no longer than the period (if any) prescribed  
12 by the regulations for the purposes of this paragraph; and  
13 (d) the contract satisfies any requirements prescribed by the  
14 regulations for the purposes of this paragraph that relate to  
15 fees or charges that are, or may be, payable under the  
16 contract; and  
17 (e) the contract satisfies any other requirements prescribed by  
18 the regulations for the purposes of this paragraph.

### 19 *Fees and charges*

- 20 (2) To avoid doubt, regulations made for the purposes of  
21 paragraph (1)(d) may prescribe that a specified fee or charge (or a  
22 fee or charge of a specified kind) must (or must not) be payable  
23 under the contract.
- 24 (3) For the purposes of this section, fees or charges:  
25 (a) include a charge referred to in paragraph (a) of the definition  
26 of ***credit fees and charges*** in subsection 204(1); and  
27 (b) do not include a fee, charge, duty or expense referred to in  
28 paragraph (b), (c) or (d) of that definition.

## 29 **13D Meaning of *buy now pay later arrangement* and *buy now pay*** 30 ***later contract***

### 31 *Buy now pay later arrangement*

- 32 (1) A ***buy now pay later arrangement*** is an arrangement, or a series of  
33 arrangements:  
34 (a) under which a person (the ***merchant***) supplies goods or  
35 services to another person (the ***retail client***); and

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- 1 (b) under which a third person (the *BNPL provider*) directly or  
2 indirectly pays the merchant an amount that is some or all of  
3 the price for the supply mentioned in paragraph (a); and  
4 (c) that includes a contract between the BNPL provider and the  
5 retail client under which the BNPL provider provides credit  
6 to the retail client in connection with the supply mentioned in  
7 paragraph (a).
- 8 (2) However, an arrangement or a series of arrangements of the kind  
9 described in subsection (1) is not a *buy now pay later arrangement*  
10 if the principal business of the merchant is the supply of  
11 administration, brokerage, management, collection or recovery  
12 services, or other incidental services, in connection with the  
13 provision of credit under credit contracts.
- 14 (3) For the purposes of subsection (1), and to avoid doubt:  
15 (a) it does not matter whether any fees or charges are payable by  
16 the retail client or the merchant in connection with the  
17 arrangement or series of arrangements; and  
18 (b) it does not matter whether the payment by the BNPL  
19 provider mentioned in paragraph (1)(b) occurs before, at or  
20 after the time when the goods or services are supplied by the  
21 merchant to the retail client as mentioned in paragraph (1)(a);  
22 and  
23 (c) it does not matter whether the contract mentioned in  
24 paragraph (1)(c) is a continuing credit contract; and  
25 (d) it is not necessary for the arrangement or series of  
26 arrangements to include any contract to which the merchant,  
27 retail client and BNPL provider are all parties.
- 28 *Buy now pay later contract*
- 29 (4) A contract is a *buy now pay later contract* if:  
30 (a) it is part of a buy now pay later arrangement involving a  
31 retail client, a BNPL provider and a merchant; and  
32 (b) it is a contract, between the retail client and the BNPL  
33 provider, of the kind mentioned in paragraph (1)(c).

## 6 Subsection 204(1) of the *National Credit Code*

34 Insert:

35 *buy now pay later arrangement*: see section 13D.

36 *buy now pay later contract*: see section 13D.

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*low cost credit contract*: see section 13C.

**7 Subsection 204(1) of the *National Credit Code* (after paragraph (d) of the definition of *medium amount credit contract*)**

Insert:

(da) the contract is not a low cost credit contract; and

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1 **Part 2—Responsible lending conduct**

2 *National Consumer Credit Protection Act 2009*

3 **8 Before section 115**

4 Insert:

5 **115A Scope of this Division**

6 This Division does not apply in relation to a credit contract that is a  
7 low cost credit contract.

8 **9 Section 128**

9 After “the regulations”, insert “for the purposes of this section”.

10 **10 At the end of section 128 (before the penalty)**

11 Add:

12 Note: Part 3-2BA affects how this section, and other provisions in this Part,  
13 apply in relation to certain low cost credit contracts.

14 **11 Paragraph 133(4)(b)**

15 Omit “at the time of the contract is entered or the credit limit is  
16 increased, the information”, substitute “at the time the contract is  
17 entered or the credit limit is increased”.

18 **12 After Part 3-2B**

19 Insert:

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1 **Part 3-2BA—Licensees that are credit providers**  
2 **under credit contracts: additional rules**  
3 **relating to low cost credit contracts**

4 **Division 1—Introduction**

5 **133BX Guide to this Part**

6 This Part has rules that apply to certain licensees who are, or are to  
7 be, credit providers under certain low cost credit contracts. It  
8 applies in addition to the general rules in Part 3-2, and modifies  
9 some of those rules.

10 Division 1 provides that a licensee may elect that this Part apply to  
11 the licensee in relation to some or all low cost credit contracts. This  
12 Part only applies to a licensee who has made an election, and only  
13 applies to such a licensee in relation to low cost credit contracts  
14 covered by the election.

15 Division 2 modifies how some of the general rules in Part 3-2  
16 apply to a licensee who has made an election. These modifications  
17 affect the obligations that the licensee has under Part 3-2:

- 18 (a) to assess whether a low cost credit contract will be  
19 unsuitable for a consumer before doing particular things  
20 in relation to the contract; and  
21 (b) not to enter, or increase the credit limit of, a low cost  
22 credit contract that is unsuitable for a consumer.

23 Division 3 requires a licensee who has made an election to have a  
24 policy (called an unsuitability assessment policy) that sets out how  
25 the licensee will comply with the licensee's obligation under  
26 Part 3-2 to assess whether a low cost credit contract will be  
27 unsuitable for a consumer.

28 **133BXA Scope of this Part**

29 *This Part applies if licensee makes election*

- 30 (1) A licensee may, in writing, elect that this Part apply to the licensee  
31 in relation to:

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- 1 (a) all low cost credit contracts; or  
2 (b) each low cost credit contract in a specified class of low cost  
3 credit contracts.

4 (2) This Part:

- 5 (a) applies to a licensee if the licensee has made an election  
6 under subsection (1) and has not revoked the election; and  
7 (b) applies to such a licensee in relation to a credit contract if the  
8 credit contract is a low cost credit contract covered by the  
9 election.

10 *Licensee must keep copy of election*

- 11 (3) A licensee who makes an election under subsection (1) must keep a  
12 written copy of the election for the period:  
13 (a) starting at the time when the licensee makes the election; and  
14 (b) ending 6 years after the earlier of the following:  
15 (i) the day when the licensee revokes the election;  
16 (ii) the last day, during the period when the election is in  
17 force, when the licensee does a thing mentioned in  
18 paragraph 128(a) or (b) in relation to a low cost credit  
19 contract that is covered by the election.

20 *Application of Part 3-2 not otherwise affected*

- 21 (4) Nothing in this Part affects how Part 3-2 applies to a licensee in  
22 relation to a credit contract if the licensee has not made an election  
23 under subsection (1) of this section that covers the contract.

## 24 **133BxB Definitions**

25 In this Part:

26 *low cost credit conduct* has the meaning given by subsection  
27 133BXD(1).

28 *unsuitability assessment policy* has the meaning given by  
29 subsection 133BXH(1).



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## 1 Division 2—Unsuitable low cost credit contracts

### 2 133BXC When inquiries etc. must be made

3 For the purposes of applying section 128 to a licensee in relation to  
4 a low cost credit contract:

- 5 (a) paragraphs 128(aa) and (ba) are to be disregarded; and
- 6 (b) the period for making the assessment mentioned in  
7 paragraph 128(c), and the inquiries and verification  
8 mentioned in paragraph 128(d), is taken to be the period of  
9 90 days (or other period prescribed by the regulations for the  
10 purposes of this paragraph) ending immediately before the  
11 licensee starts to do the thing mentioned in paragraph 128(a)  
12 or (b) (whichever applies).

### 13 133BXD When inquiries etc. are reasonable

14 (1) This section applies to a licensee who engages in any of the  
15 following conduct (*low cost credit conduct*):

- 16 (a) entering a low cost credit contract with a consumer who will  
17 be the debtor under the contract, as mentioned in  
18 paragraph 128(a);
- 19 (b) increasing the credit limit of a low cost credit contract with a  
20 consumer who is the debtor under the contract, as mentioned  
21 in paragraph 128(b).

22 Note: The licensee must also have elected under subsection 133BXA(1) that  
23 this Part apply to the licensee in relation to the low cost credit  
24 contract: see subsection 133BXA(2).

#### 25 *Relevant matters*

26 (2) In determining whether the licensee has:

- 27 (a) made reasonable inquiries about the consumer's requirements  
28 and objectives in relation to the low cost credit contract, as  
29 required under paragraph 130(1)(a); and
- 30 (b) made reasonable inquiries about the consumer's financial  
31 situation, as required under paragraph 130(1)(b); and
- 32 (c) taken reasonable steps to verify the consumer's financial  
33 situation, as required under paragraph 130(1)(c);

34 regard must be had to the matters covered by subsection (3) of this  
35 section, and regard may be had to any other relevant matters.

36 (3) The matters covered by this subsection are the following:

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- 1 (a) the nature of the low cost credit contract (including the terms  
2 of the contract and the type and amount of credit provided  
3 under the contract);  
4 (b) the nature of the target market for the low cost credit  
5 contract, as described in the target market determination  
6 (within the meaning of the *Corporations Act 2001*) for the  
7 contract;  
8 (c) whether the consumer belongs to a class of persons whose  
9 members are likely to be financially vulnerable;  
10 (d) whether the licensee has in place any policies that reduce the  
11 risk of the licensee providing credit to a consumer on terms  
12 that are not affordable for the consumer;  
13 (e) whether the licensee has in place any policies that mitigate  
14 the harm that may be caused to a consumer if the licensee  
15 provides credit to the consumer on terms that are not  
16 affordable for the consumer;  
17 (f) any matters prescribed by the regulations.

18 Note: The particular things that a licensee must do in order to satisfy the  
19 licensee's obligations under paragraphs 130(1)(a) to (c) in relation to  
20 low cost credit contracts may vary from case to case, and may be less  
21 onerous in some cases than in others, depending on matters such as  
22 those covered by this subsection.

- 23 (4) For the purposes of paragraphs (3)(d) and (e), if the licensee  
24 engages in low cost credit conduct in contravention of section 133  
25 (which contains prohibitions relating to unsuitable credit  
26 contracts), then the licensee is taken to have provided credit to a  
27 consumer on terms that are not affordable for the consumer.

28 Note: This subsection does not limit the circumstances in which the licensee  
29 is taken to have provided credit to a consumer on terms that are not  
30 affordable for the consumer.

## 31 *Inquiries or steps prescribed by regulations*

- 32 (5) Subsections (2) and (3) do not affect the application to the licensee  
33 of regulations made for the purposes of subsection 130(2).

34 Note: Regulations made for the purposes of subsection 130(2) may prescribe  
35 particular inquiries or steps that must be made or taken, or that do not  
36 need to be made or taken, for the purposes of paragraph 130(1)(a), (b)  
37 or (c).

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*Relying on information or documents provided by consumer etc.*

- 1  
2 (6) Subject to subsections (2) and (3), and subject to any regulations  
3 made for the purposes of subsection 130(2), nothing in this Act has  
4 the effect that the licensee cannot satisfy the requirements in  
5 paragraphs 130(1)(a), (b) and (c), as they apply in relation to the  
6 low cost credit contract and the consumer, if the licensee:  
7 (a) relies on information or documents provided by the  
8 consumer; or  
9 (b) follows a general policy about the inquiries to be made, or  
10 the steps to be taken, in certain kinds of cases; or  
11 (c) relies on presumptions (for example, presumptions about the  
12 consumer's requirements or objectives in relation to the low  
13 cost credit contract, or presumptions about the consumer's  
14 financial situation).

## 15 **133BXE Assessments etc. in relation to larger contracts**

- 16 (1) This section applies to a licensee who enters a low cost credit  
17 contract (the ***initial contract***) with a consumer (the ***relevant***  
18 ***consumer***) who will be the debtor under the contract.

19 *Entering the initial contract*

- 20 (2) The licensee may satisfy paragraphs 128(c) and (d) in relation to  
21 entering the initial contract by (respectively):  
22 (a) making an assessment that would satisfy paragraph 128(c) in  
23 relation to entering a larger contract with the relevant  
24 consumer; and  
25 (b) making inquiries and verification that would satisfy  
26 paragraph 128(d) in relation to entering the larger contract  
27 with the relevant consumer.

28 Note: For ***larger contract***, see subsection (6).

29 *Subsequent credit increases*

- 30 (3) Subsection (4) applies if:  
31 (a) the licensee satisfies paragraphs 128(c) and (d) in relation to  
32 entering the initial contract by:  
33 (i) making an assessment (the ***initial assessment***) that  
34 would satisfy paragraph 128(c) in relation to entering,  
35 with the relevant consumer, a larger contract with a  
36 particular credit limit (the ***maximum credit limit***); and

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- 1 (ii) making inquiries and verification (the *initial inquiries*  
2 *and verification*) that would satisfy paragraph 128(d) in  
3 relation to entering the larger contract with the relevant  
4 consumer; and
- 5 (b) the initial assessment is an assessment that the larger contract  
6 will not be unsuitable for the relevant consumer if the larger  
7 contract is entered in the period covered by the initial  
8 assessment.
- 9 (4) If the licensee subsequently, within the protected period, makes a  
10 protected increase to the credit limit of the initial contract, then:
- 11 (a) the licensee is taken to satisfy section 128 in relation to the  
12 protected increase (regardless of whether the initial  
13 assessment, and the initial inquiries and verification, were  
14 made within the period that applies in relation to the  
15 protected increase under that section); and
- 16 (b) the initial assessment is taken to be:
- 17 (i) an assessment that covers the protected period; and  
18 (ii) an assessment that the initial contract will not be  
19 unsuitable for the relevant consumer if the protected  
20 increase is made in the protected period.
- 21 Note 1: For *protected increase* and *protected period*, see subsection (6).  
22 Note 2: Even if the licensee is taken under this subsection to satisfy  
23 section 128 in relation to the protected increase, it is still possible for  
24 the licensee to contravene subsection 131(1) or 133(1) in relation to  
25 the protected increase.
- 26 (5) Despite subsections (3) and (4):
- 27 (a) the licensee may, at any time after making the initial  
28 assessment and before making the protected increase, make a  
29 new assessment in relation to the protected increase for the  
30 purposes of paragraph 128(c); and
- 31 (b) if the licensee does so, then subsection (4) of this section  
32 does not apply to the licensee in relation to the protected  
33 increase.
- 34 (6) In this section:
- 35 *larger contract* means a low cost credit contract that:
- 36 (a) has a credit limit that is greater than the credit limit of the  
37 initial contract when the initial contract is entered; and
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1 (b) has terms that are otherwise substantially the same as the  
2 terms of the initial contract when the initial contract is  
3 entered.

4 ***protected increase***: an increase to the credit limit of the initial  
5 contract is a ***protected increase*** if:

- 6 (a) after the increase, the initial contract has a credit limit that is  
7 no greater than the maximum credit limit (within the  
8 meaning of subparagraph (3)(a)(i)); and  
9 (b) the terms of the initial contract after the increase are  
10 otherwise substantially the same as the terms of the initial  
11 contract immediately before the increase.

12 ***protected period*** means whichever of the following is shorter  
13 (disregarding paragraph (4)(b)):

- 14 (a) the period covered by the initial assessment;  
15 (b) the period of 2 years beginning when the period covered by  
16 the initial assessment begins.

## 17 **133BXF Assessments of low cost credit contracts—presumptions** 18 **where credit limit of contract is less than \$2,000**

- 19 (1) This section applies when determining, for the purposes of  
20 subsection 131(1), whether a low cost credit contract will be  
21 unsuitable for a consumer under paragraph 131(2)(b) if the contract  
22 is entered, or the credit limit of the contract is increased, in the  
23 period covered by the assessment mentioned in subsection 131(1).

24 Note: This section does not affect whether a low cost credit contract will be  
25 unsuitable for a consumer under paragraph 131(2)(a) or (c).

### 26 *Entering a low cost credit contract*

- 27 (2) For the purpose of applying subsection 131(1) in relation to a  
28 licensee entering a low cost credit contract (the ***initial contract***)  
29 with a consumer, if the credit limit of the initial contract, at the  
30 time the initial contract is entered, will be less than \$2,000, then it  
31 is presumed (unless the contrary is proved) that the initial contract  
32 will not be unsuitable for the consumer under paragraph 131(2)(b)  
33 if the initial contract is entered in the period covered by the  
34 assessment.

- 35 (3) However, subsection (2) does not apply if:  
36 (a) the licensee satisfies paragraph 128(c) in relation to entering  
37 the initial contract by making an assessment that would

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- 1 satisfy that paragraph in relation to entering a larger contract  
2 with the consumer (see subsection 133BXE(2)); and  
3 (b) the credit limit of the larger contract is \$2,000 or greater.

4 *Increasing the credit limit of a low cost credit contract*

- 5 (4) For the purpose of applying subsection 131(1) in relation to an  
6 increase (the *relevant increase*) made by a licensee to the credit  
7 limit of a low cost credit contract (the *initial contract*) with a  
8 consumer, if the credit limit of the initial contract after the increase  
9 will be less than \$2,000, then it is presumed (unless the contrary is  
10 proved) that the initial contract will not be unsuitable for the  
11 consumer under paragraph 131(2)(b) if the relevant increase occurs  
12 during the period covered by the assessment.
- 13 (5) However, subsection (4) does not apply if:
- 14 (a) the licensee previously satisfied paragraph 128(c) in relation  
15 to entering the initial contract by making an assessment (the  
16 *initial assessment*) that would have satisfied that paragraph  
17 in relation to entering a larger contract with the consumer  
18 (see subsection 133BXE(2)); and
- 19 (b) the credit limit of the larger contract was \$2,000 or greater;  
20 and
- 21 (c) because of the initial assessment, the licensee is taken under  
22 subsection 133BXE(4) to satisfy section 128 into relation to  
23 the relevant increase.

24 *Definitions*

- 25 (6) In this section:
- 26 *larger contract* means a low cost credit contract that:
- 27 (a) has a credit limit that is greater than the credit limit of the  
28 initial contract when the initial contract is entered; and
- 29 (b) has terms that are otherwise substantially the same as the  
30 terms of the initial contract when the initial contract is  
31 entered.

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1 **133BXG Prohibition on entering unsuitable low cost credit contracts**  
2 **etc.—presumptions where credit limit of contract is less**  
3 **than \$2,000**

- 4 (1) This section applies when determining, for the purposes of  
5 subsection 133(1), whether a low cost credit contract is unsuitable  
6 for a consumer under paragraph 133(2)(b).

7 Note: This section does not affect whether a low cost credit contract is  
8 unsuitable for a consumer under paragraph 133(2)(a) or (c).

9 *Entering a low cost credit contract*

- 10 (2) For the purpose of applying subsection 133(1) in relation to a  
11 licensee entering a low cost credit contract with a consumer, if the  
12 credit limit of the contract, at the time the contract is entered, is  
13 less than \$2,000, then it is presumed (unless the contrary is proved)  
14 that the contract is not unsuitable for the consumer under  
15 paragraph 133(2)(b).

16 *Increasing the credit limit of a low cost credit contract*

- 17 (3) For the purpose of applying subsection 133(1) in relation to an  
18 increase made by a licensee to the credit limit of a low cost credit  
19 contract with a consumer, if the credit limit of the contract after the  
20 increase is less than \$2,000, then it is presumed (unless the  
21 contrary is proved) that the contract is not unsuitable for the  
22 consumer under paragraph 133(2)(b).

23 **Division 3—Unsuitability assessment policies**

24 **133BXH Licensee must have an unsuitability assessment policy**

- 25 (1) A licensee must have a written policy (an *unsuitability assessment*  
26 *policy*) that sets out how the licensee will comply with sections 128  
27 and 131 (which deal with assessments of unsuitability), as those  
28 sections apply in relation to low cost credit contracts.

29 *Unsuitability assessment policy must be effective*

- 30 (2) The licensee must ensure that the licensee's unsuitability  
31 assessment policy is one that will facilitate compliance by the  
32 licensee with sections 128 and 131, as those sections apply in  
33 relation to low cost credit contracts.

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*Regulations may prescribe further requirements*

- (3) The licensee must comply with any requirements relating to unsuitability assessment policies prescribed by the regulations for the purposes of this subsection.

### **13 Saving provision—regulations**

To avoid doubt, regulations prescribing a period for the purposes of section 128 of the *National Consumer Credit Protection Act 2009* that were in force immediately before the commencement of this Part:

- (a) continue in force on and after that commencement; and
- (b) are taken, on and after that commencement, to be made for the purposes of that section as amended by this Part.



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1 **Part 3—Credit representatives**

2 *National Consumer Credit Protection Act 2009*

3 **14 Subsection 64(5)**

4 Omit “This section”, substitute “This subsection”.

5 **15 Paragraph 64(5)(c)**

6 Repeal the paragraph, substitute:

- 7 (c) a person who is not a member of the AFCA scheme to  
8 engage in a credit activity in relation to a contract that is not a  
9 low cost credit contract; or  
10 (ca) a person who is not a member of the AFCA scheme to  
11 collect, on the licensee’s behalf, repayments made by a  
12 debtor under a low cost credit contract; or

13 **16 Paragraph 65(6)(c)**

14 Repeal the paragraph, substitute:

- 15 (c) a natural person who is not a member of the AFCA scheme  
16 to engage in a credit activity in relation to a contract that is  
17 not a low cost credit contract; or  
18 (ca) a natural person who is not a member of the AFCA scheme  
19 to collect, on the licensee’s behalf, repayments made by a  
20 debtor under a low cost credit contract; or

21 **17 After subsection 71(5)**

22 Insert:

23 *Exceptions—sub-authorisations relating to low cost credit*  
24 *contracts*

- 25 (5A) Subsections (1) and (4) do not apply to an authorisation under  
26 subsection 65(1) (which deals with sub-authorisations) that  
27 authorises a person to engage in credit activities in relation to a low  
28 cost credit contract.

29 **18 After subsection 158(1)**

30 Insert:

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*Exceptions—credit activity relating to low cost credit contracts*

- (1A) Subsection (1) does not apply if the credit representative gives the consumer the licensee’s credit guide:
- (a) for the purpose of satisfying subsection 113(1) in connection with the provision of credit assistance to the consumer in relation a low cost credit contract; or
  - (b) for the purpose of satisfying subsection 126(1) in connection with entry into a low cost credit contract with the consumer; or
  - (c) for the purpose of satisfying subsection 127(1) in connection with the assignment to the licensee of rights or obligations of a credit provider under a low cost credit contract.

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*Form and content of credit guide*

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**19 Paragraph 160(3)(e)**

After “is a credit representative”, insert “and has been allocated a credit representative number”.

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1 **Part 4—Interest rates and charges**

2 *National Consumer Credit Protection Act 2009*

3 **20 After subsection 17(6) of the *National Credit Code***

4 Insert:

5 *Where no interest charge is payable under low cost credit contract*

6 (6A) In the case of a credit contract that is a low cost credit contract, if  
7 no interest charges are payable under the contract then:

8 (a) subsections (4), (5) and (6) do not apply in relation to the  
9 contract document; and

10 (b) the contract document must contain a statement to the effect  
11 that no interest charges are payable under the contract.

12 **21 Paragraph 32A(4)(b) of the *National Credit Code***

13 After “the credit contract is a”, insert “low cost credit contract,”.

14 **22 After subsection 34(6) of the *National Credit Code***

15 Insert:

16 (6A) Subsection (6) applies in relation to a low cost credit contract only  
17 if interest charges are payable under the contract.

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1 **Part 5—Default notices**

2 *National Consumer Credit Protection Act 2009*

3 **23 Subsection 39C(1) of the *National Credit Code***

4 Omit “(1) IF”, substitute “IF”.

5 **24 Subsection 39C(2) of the *National Credit Code***

6 Repeal the subsection.

7 **25 Subdivision C of Division 1 of Part 5 of the *National Credit***  
8 ***Code* (heading)**

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

11 **26 Section 87 of the *National Credit Code* (heading)**

12 Omit “**the first time a direct debit default occurs**”, substitute “**of first**  
13 **default in payment**”.

14 **27 Before subsection 87(1) of the *National Credit Code***

15 Insert:

16 *Which defaults does this section apply to?*

17 **28 Paragraph 87(1)(a) of the *National Credit Code***

18 After “credit contract”, insert “(other than a low cost credit contract)”.

19 **29 After subsection 87(1) of the *National Credit Code***

20 Insert:

21 (1A) This section also applies if:

22 (a) a debtor under a low cost credit contract is in default in  
23 relation to the payment of an amount under the contract; and

24 (b) it is the first occasion when the debtor is in default in relation  
25 to such a payment.

26 *Offence*

27 **30 Before subsection 87(5) of the *National Credit Code***

28 Insert:

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# EXPOSURE DRAFT

1

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*Other notice requirements not affected*

# EXPOSURE DRAFT

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1 **Part 6—Comparison rates**

2 *National Consumer Credit Protection Act 2009*

3 **31 Section 158 of the *National Credit Code* (at the end of the**  
4 **heading)**

5 Add “or low cost credit contracts”.

6 **32 At the end of subsection 158(1) of the *National Credit***  
7 ***Code***

8 Add “or low cost credit contracts”.

9 **33 Subsection 158(2) of the *National Credit Code***

10 Repeal the subsection, substitute:

11 (2) Accordingly, a reference in this Part to the provision of credit (or  
12 to a credit contract or related matters) does not include a reference  
13 to:

14 (a) the provision of credit under a continuing credit contract (or  
15 to a continuing credit contract or matters related to such a  
16 contract); or

17 (b) the provision of credit under a low cost credit contract (or to  
18 a low cost credit contract or matters related to such a  
19 contract).

# EXPOSURE DRAFT

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1 **Part 7—Avoidance schemes**

2 *National Consumer Credit Protection Act 2009*

3 **34 Section 323 (paragraph beginning “Division 1A”)**

4       After “small amount credit contracts”, insert “, low cost credit  
5       contracts”.

6 **35 Paragraphs 323A(2)(a) to (c)**

7       After “small amount credit contract”, add “, a low cost credit contract”.

8 **36 Subparagraphs 323B(1)(a)(i) and (ii)**

9       After “small amount credit contract”, insert “or a low cost credit  
10       contract”.

11 **37 Subparagraphs 323B(1)(b)(i) and (ii)**

12       After “small amount credit contracts”, insert “, low cost credit  
13       contracts”.

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