

The Credit Contracts and Consumer Finance Act

# Request disclosure under a consumer credit contract



This fact sheet explains what disclosure lenders must provide if asked, and when and how they must provide it.

Any borrower in a consumer credit contract (including a credit sale entered into with a mobile trader<sup>1</sup>) may write to their lender to ask for specific information about their contract. This is known as request disclosure.

If someone has agreed to pay back the debt if the borrower doesn't (a guarantor), they also have the right to ask the lender for certain information about the contract.

## When does a lender have to provide request disclosure?

A lender must give the borrower or any guarantor request disclosure within 15 working days of being asked for it. Unless the lender has the right under the contract to charge for request disclosure, they must provide it free of charge.

A lender does not have to provide request disclosure if either:

- the lender has already given the information to the borrower or guarantor in the previous three months
- or
- the borrower or guarantor asks for the information more than a year after the contract has ended.

Lenders may charge borrowers a fee for providing request disclosure. However, if the lender does charge a fee they must ensure:

- the fee is reasonable and reflects the cost of preparing the disclosure
- the contract allows the lender to charge this fee
- and
- the lender has disclosed the fee to the borrower.

If they charge a fee, the lender must provide request disclosure within 15 working days of the borrower or guarantor paying the fee.

🔗 You can read more in our fact sheet *Fees under a consumer credit contract* at [www.comcom.govt.nz](http://www.comcom.govt.nz)

### Disclosure under a consumer credit contract

A lender must provide disclosure:

- at the start of the contract (**initial** disclosure)
- to the borrower and to anyone who is guaranteeing the borrower's obligations under a contract (**guarantee** disclosure).

A lender may also have to provide disclosure to the borrower and any guarantor:

- during the term of the contract (**continuing** disclosure)
- any time the contract is altered (**variation** disclosure)
- if the borrower (or guarantor) asks for it (**request** disclosure).



You can read more about the different types of disclosure at [www.comcom.govt.nz/consumer-credit](http://www.comcom.govt.nz/consumer-credit) and in the *Disclosure for Lenders Guidelines* at [www.comcom.govt.nz](http://www.comcom.govt.nz)

1. From 1 June 2020 credit sale contracts entered into by mobile traders will also be treated as consumer credit contracts. A mobile trader is someone who, in person and not at fixed premises, offers or agrees to supply consumer goods to an individual, either under a credit sale or where the goods are partly or fully financed by an associated company under a consumer credit contract. See section 16A of the Credit Contracts and Consumer Finance Act 2003.

## What information can a borrower or guarantor ask for?

A borrower or guarantor can ask for:

- a copy of the contract between the lender and the borrower
- information about the effect on the borrower's obligations of paying off some of their debt early
- what fee the borrower must pay if they pay off some of their debt early, and how the lender will calculate it – you can read more in our fact sheet Payments under a consumer credit contract at [www.comcom.govt.nz/consumer-credit](http://www.comcom.govt.nz/consumer-credit)
- what a borrower must pay to clear all of their debt on a specified date and how the lender will work out the amount
- full details of any changes to the contract since it was made
- the unpaid balance, including any outstanding interest charge (calculated at the date the disclosure statement is prepared)
- what payments the borrower must make (or how those payments are calculated)
- how often the borrower needs to make payments
- the number of payments the borrower must make
- the total amount of payments the borrower must make under the contract
- a copy of any disclosure statement that the lender has already provided or should have provided before the request was made
- a copy of any continuing disclosure statement (a loan statement) for any reasonable statement period specified by the borrower.

The Credit Contracts and Consumer Finance Act 2003 (CCCF Act) sets out the specific information a lender must give a borrower about their contract if asked. This does not, however, limit what a borrower or guarantor can ask a lender about their contract. A lender doesn't have to provide additional information about a borrower's contract, but if it helps the borrower manage their debt better and isn't too onerous, the lender may choose to do so.

## How does a lender provide request disclosure?

A lender must provide request disclosure in writing, either in a single document or in a series of related documents. The information must be clear and concise so that a reasonable person will see it. The overall effect must not be misleading or deceptive.<sup>2</sup>

Disclosure may be given to the borrower or guarantor by either:<sup>3</sup>

- giving a written disclosure statement containing the information required by the Act to the borrower or guarantor in person
- posting a disclosure statement to the borrower's or guarantor's last known place of residence or to an address specified by the borrower or guarantor for this purpose, or
- using electronic communications, provided the borrower or guarantor has agreed to this, and that the information remains readily and reasonably accessible, stored in a permanent and legible form so that it can be referred to again throughout the life of the contract.<sup>4</sup> This includes:
  - emailing or texting the borrower a link to the lender's website, or an electronic communication that otherwise allows the borrower or guarantor to access the disclosure statement
  - emailing (or faxing) a disclosure statement to the borrower or guarantor, and
  - any other electronic means of communications that may be agreed between the borrower or guarantor and the lender notifies the borrower or guarantor of how to access the disclosure statement.<sup>5</sup>

If a place of residence, or electronic information system (like an email address or fax machine) are the same for two or more persons, a disclosure statement sent to that residence or stored in that system is to be treated as disclosure to all people living at the residence or using those systems.<sup>6</sup>



2. See the disclosure standards in section 32 of the CCCF Act.

3. Section 35.

4. Section 35(1A).

5. Section 35(1)(c)-(e). Amendments to section 35 apply to the process for the disclosure of information under existing agreements where disclosure is made after commencement, see Schedule 1, 8(3). Commencement is from 20 December 2019; see Credit Contracts Legislation Amendment Act 2019, section 2.

6. Section 35(2).

## Need to know more about disclosure?

We have a series of fact sheets on disclosure available at [www.comcom.govt.nz/consumer-credit](http://www.comcom.govt.nz/consumer-credit), including:

- Initial disclosure under a consumer credit contract
- Continuing disclosure under a consumer credit contract
- Variation disclosure under a consumer credit contract
- Guarantee disclosure under a consumer credit contract
- Request disclosure under a consumer credit contract

## 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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