



Cabinet Economic Growth and Infrastructure Committee

Minute of Decision

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Credit Contracts and Consumer Finance Act 2003: Consequences of Non-Compliant Information Disclosure

Portfolio Commerce and Consumer Affairs

On 10 May 2017, the Cabinet Economic Growth and Infrastructure Committee (EGI):

- 1 **noted** that where a lender fails to make proper disclosure of key information to a consumer (such as the applicable interest rate), a number of consequences apply under the Credit Contracts and Consumer Finance Act 2003 (the Act) including, under section 99(1A), the forfeiture by the lender of 100 percent of the interest and fees due for the period of non-compliance;
 - 2 **noted** that on 19 October 2016, EGI:
 - 2.1 agreed to the release of a discussion paper seeking views on whether section 99(1A) should be amended and, if so, how;
 - 2.2 invited the Minister of Commerce and Consumer Affairs to report back on the outcome of the consultation;
- [EGI-16-MIN-0276]
- 3 **agreed** that section 99(1A) of the Act be amended, so that in future a lender has the right to apply to a court for relief from the presumption of 100 percent forfeiture of all interest and fees;
 - 4 **agreed** that, where a lender breaches section 99(1A) of the Act in the period before its amendment:
 - 4.1 the lender should not have the right to apply for relief from the courts, in respect of any interest and fees it must forfeit for the period between the breach (eg in September 2015) and the entry into force of the amended section 99(1A) of the Act (eg June 2018); but
 - 4.2 the lender should have the right to apply for relief from the courts, in respect of any interest and fees it must forfeit for the period between the entry into force of the amendment (eg June 2018) and the date the breach is discovered and remedied (eg April 2025);

- 5 **invited** the Minister of Commerce and Consumer Affairs to issue drafting instructions to the Parliamentary Counsel Office to draft legislation to give effect to paragraphs 3 and 4 above;
- 6 **authorised** the Minister of Commerce and Consumer Affairs to make minor or technical changes, consistent with the decisions relating to the paper under EGI-17-SUB-0105, on any issues that arise during the drafting process.