



# Gateway Bank

## Reverse Mortgage

### Terms and Conditions

Effective from 1 June 2022

Gateway Bank Ltd  
ABN 47 087 650 093  
Australian Credit Licence 238293

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# Part A - Loan Terms

## 1. About these terms and conditions

- 1.1 These are the Gateway Bank Reverse Mortgage Terms and Conditions Version 1.1, June 2022. These Terms and Conditions must be read together with your Reverse Mortgage loan contract. They form part of your loan contract.
- 1.2 This document does not contain all the precontractual information required to be given to you. You must read this document together with the document that contains the Financial Table.
- 1.3 Words in italics have special meanings. These words are defined at the end of this document or in the document that contains the Financial Table.

## 2. Membership

You must be a member of Gateway Bank to take up our products and services. If you are not already a member, by accepting this offer, you apply to become a member. We will deduct the amount shown in your loan contract from your loan account to pay for your member share. This amount is refundable if you cease to be a member.

## 3. Codes of Practice

We undertake that we will comply with the requirements of the Customer Owned Banking Code of Practice where those requirements apply to your dealings with us. The Customer Owned Banking Code of Practice changes from time to time. You can find out more about the Customer Owned Banking Code of Practice by contacting us.

## 4. Other documents you must read

- 4.1 You must read and comply with:
  - (a) your loan contract (which includes these Terms and Conditions);
  - (b) the Mortgage Common Provisions;
  - (c) any document we give you which contains terms and conditions for accessing and transacting on your loan account; and
  - (d) any other conditions reasonably imposed by us.
- 4.2 Take particular notice of the things you must do and must not do with the mortgaged property and when your payments are due.

## 5. When there is a binding legal contract between you and us

There is no binding legal contract between us until the loan date or such earlier date as we decide. This means that until the loan date:

- (a) you are not bound to go ahead; and
- (b) we have the right to change the terms of your loan contract or to withdraw it altogether and decline to make an advance of funds to you. We are not obliged to make an advance of funds until all relevant conditions are fulfilled to our satisfaction. You may be liable for costs even if we decide not to proceed.

## 6. Joint borrowers

- 6.1 If there are two or more of you, each of you is individually liable, and all of you are jointly liable. This means that we may take legal action against any one of you for all the outstanding amounts.

**WARNING:** This means that each one of you can be required to pay the whole amount even though you may have some other arrangement among yourselves and even though not all of you benefit equally.

- 6.2 Each borrower can bind each other borrower. For example, any one of you can authorise any activity in respect of your loan. Each borrower will be liable even though they did not know about or did not agree to the transaction.
- 6.3 Despite this clause 6, we may require all borrowers to authorise any activity with respect to your loan.

## 7. Representations and warranties

- 7.1 You represent and warrant that all information you have given us regarding your financial and personal affairs and any mortgaged property is true and correct. You also represent and warrant that other than as disclosed to us in writing prior to the loan date:
- (a) there are no unpaid rates or taxes owing in respect of the mortgaged property;
  - (b) the mortgaged property will be occupied by you, unless otherwise agreed by us;
  - (c) there are no notices or proposals from any government or other authority adversely affecting the mortgaged property;
  - (d) there are no defects or disputes relating to the mortgaged property; and
  - (e) there are no structural alterations or improvements on the mortgaged property which require approval by the council or any other authority which have not been approved.

## **8. Things you must do during the term of your loan**

- 8.1 You must tell us immediately if at any time:
- (a) there is any change to the occupants of the mortgaged property;
  - (b) there is a material change in your personal circumstances (including if you separate, divorce, marry, partner, or become incapacitated) or in your financial condition or affairs from those which you have told us about;
  - (c) your contact details change (including any residential, postal or electronic address, or your phone number) or if you think there is any information that we should be aware of about your ability to comply with your loan contract;
  - (d) anything happens which makes any of the representations or statements made by you in relation to your loan materially untrue or misleading;
  - (e) anything happens which reduces the value of the mortgaged property, or which has, or may have, a material adverse effect on the mortgaged property;
  - (f) an event of default occurs; or
  - (g) a final repayment date occurs.
- 8.2 You must ensure that the mortgaged property is insured at all times with our interest noted as mortgagee. You must provide evidence of this insurance if we request it.
- 8.3 You must notify us as soon as practicable after you decide to sell the mortgaged property or refinance your loan. If the price for which you propose to sell or transfer the mortgaged property is unlikely to provide sufficient funds to repay the total amount you owe us, you must, before you agree to sell or transfer the mortgaged property, obtain our written consent to the terms of the sale or transfer.

## **9. What we can do with your loan account**

- 9.1 We can debit your loan account with any amounts lent to you or due under your loan contract.
- 9.2 If a third party makes a payment to you on our behalf, we can debit your loan account on the date that money is made available to you.

## **10. Payments you must make**

- 10.1 You must pay the total amount you owe us on the final repayment date. You must also pay the credit fees and charges specified in your loan contract.

## **11. How the loan account balance is calculated**

- 11.1 The loan account balance from time to time is:
- (a) the amount of the loan drawn (including any fees and charges to the loan); plus
  - (b) interest calculated as specified in clause 13; less

(c) any amounts that have been paid by you, including any early repayments.

11.2 The total amount you owe us will not exceed the lesser of:

- (a) the loan account balance; and
- (b) the adjusted market value of the mortgaged property, less any amount of protected equity.

This is referred to as 'negative equity protection'. Negative equity protection will not apply if we determine, acting reasonably, that you engaged in fraud, or made a material misrepresentation, relating to your loan before, at, or after the time your loan contract was made.

## 12. Calculating the adjusted market value of the mortgaged property

12.1 The adjusted market value of the mortgaged property is:

- (a) if the mortgaged property has not been sold – the market value of the mortgaged property as determined by an accredited valuer within three months before we receive an amount from you to discharge the reverse mortgage; or
- (b) if the mortgaged property has been sold – the sale price of the mortgaged property.

12.2 However, if the adjusted market value in clause 12.1 is reduced because:

- (a) you have deliberately damaged the mortgaged property;
- (b) the sale of the mortgaged property was not conducted in good faith; or
- (c) the sale of the mortgaged property was not conducted on fair and reasonable terms,

the adjusted market value of the mortgaged property is the market value of the mortgaged property at the time of the sale or discharge as determined by an accredited valuer.

## 13. Interest

13.1 Interest charges are debited to your loan account monthly in arrears on the last day of each calendar month and on the final repayment date. Interest will be debited when it is due even if that day is not a business day.

13.2 In addition to debiting interest to your loan account as specified above, we may debit interest whenever the loan is in default, there is any principal increase or variation in your loan contract, or there is any change to the loan terms.

13.3 Interest charges are calculated by applying the interest rate to the unpaid balance owing to us at the end of each day. The interest rate applied each day is equal to the annual percentage rate applicable to the loan at the time divided by 365.

13.4 You can find out your current interest rate(s) and how we calculate interest at any time by contacting us.

- 13.5 If you become liable by a court order to pay any money due under your loan contract, you must pay interest at the higher of the rate ordered by the court or the rate payable under your loan contract.

## **14. Repaying the loan early**

You may make additional payments or repay your loan in full or part at any time. If you do, fees may be payable if specified in the Financial Table.

## **15. Changes we can make to your loan contract**

- 15.1 Acting reasonably, we can change or vary any term of your loan contract:
- (a) that deals with the pricing of your loan (including your interest rate and credit fees and charges);
  - (b) that deals with the day we debit interest to your loan account;
  - (c) to accommodate a change in law or market practice;
  - (d) to accommodate a change in technology or other ways of communication;
  - (e) to accommodate a change in payment methods; or
  - (f) to make any other reasonable change.
- 15.2 We will not make any change or variation that causes your loan contract to breach the requirements of any law, including any requirements applicable to reverse mortgages.
- 15.3 If, acting reasonably, you are not satisfied with any change or variation to your loan contract (excluding changes to interest rates and repayments under a variable rate loan), you may repay your loan in accordance with clause 14, but we will not charge you any fees for terminating your loan contract except our reasonable third party costs incurred in discharging any security and finalising your loan account.
- 15.4 You will be notified in accordance with applicable laws on or before the day the change takes effect either in writing or by advertisement in a major newspaper or by electronic means. If notified by newspaper, the change will also be confirmed in your next statement of account. You may not be notified of changes which reduce your obligations. Any variation will take effect from the date specified in the notice of change we give you. If any law (including the National Credit Code) or code applies to your loan and requires us to give you a minimum notice period before a variation takes effect, we will give you at least that minimum period of notice. We will endeavour to give you reasonable notice but we reserve the right to make immediate changes to interest rates.
- 15.5 The interest rates and repayments shown in the Financial Table in your loan contract are correct at the disclosure date but may change prior to the loan date if the interest rate changes.



## 16. Statements of account

Statements of account will be forwarded to you at least once every twelve months or more frequently if required by law. We will send statements of account to the last address you have given us, unless we reasonably believe that this is no longer your correct address.

## 17. Drawdowns

**WARNING: We can change, suspend or cancel your ability to draw down on your loan account at any time. Read the clauses below carefully.**

- 17.1 Subject to this clause 17, if at any time your loan account balance is less than your scheduled balance, you may draw down on your loan account provided you have not defaulted under your loan contract.
- 17.2 We can change, suspend or cancel your ability to draw down on your loan account at any time. We will notify you promptly if this occurs. Any such change will not impact how and when you must repay the funds you have already drawn down.
- 17.3 We are not liable for any loss suffered by you or anyone else as a result of us changing, suspending or cancelling your ability to draw down on your loan account.
- 17.4 The amount you can draw down in one or more amounts is equal to the scheduled balance less your loan account balance. The scheduled balance from time to time is the amount of credit: plus interest calculated as specified in clause 13.
- 17.5 You must ensure that you do not exceed the amount you are entitled to draw. If you draw more than the amount you are entitled to draw without our prior written consent, the amount you have overdrawn must be repaid immediately.
- 17.6 If we consent to you exceeding your scheduled balance, we may require you to repay the amount by which you have exceeded your scheduled balance within a specified period.
- 17.7 We have the right to decline any transaction if we are uncertain for any reason of the authenticity or validity of the authorisation. We will not be liable to you or any other person for any loss or damage which you or such other person may suffer as a result of our action.

# Part B - Default

## 18. Consequences of a breach of any term

18.1 If you breach any term of your loan contract or if an event of default occurs:

- (a) we will not be obliged to lend you any more money and can stop any drawdowns from your loan account; and
- (b) we may rectify the breach or event of default by performing your obligations under your loan contract.

## 19. Events of default

19.1 Each of the following is an event of default:

- (a) you do not pay any money due to us under your loan contract by the due date;
- (b) any representation or warranty made by you, or on your behalf, to us or our agents proves to be materially untrue or misleading;
- (c) you breach any material undertaking given to us or any condition imposed by us except any material undertaking or condition that cannot by law be an event of default;
- (d) you become bankrupt, enter into any kind of bankruptcy administration, or are jailed;
- (e) any rates, taxes or other outgoings in relation to the mortgaged property are more than three years in arrears;
- (f) the mortgaged property is not maintained in good condition, cleanliness and repair, or is not restored to a state that is satisfactory to us within 60 days of receiving written notice from us to do so (or within such longer period as we may reasonably determine in the circumstances and specify in the written notice);
- (g) the mortgaged property is substantially damaged or destroyed, and we consider in our reasonable opinion that the mortgaged property cannot be expected to be reinstated within a reasonable time and without material loss of any material income from the mortgaged property;
- (h) we reasonably believe that you have wilfully damaged the mortgaged property;
- (i) you use any amount advanced to you by us for a purpose not approved by us;
- (j) you use any amount advanced to you by us for an illegal or improper purpose, or to finance an illegal or improper activity;
- (k) without our prior written consent (which will not be unreasonably withheld), the mortgaged property is sold, assigned or transferred for an amount that is unlikely to repay the debt, or the sale is not in our reasonable opinion an orderly arm's length sale for market value.

## 20. What we can do if an event of default occurs

- 20.1 Subject to clauses 20.2 to 20.4 inclusive, at any time after an event of default occurs, we can take any of the following actions.
- (a) Call up the loan and require payment of the total amount you owe us.
  - (b) Exercise any right, power or privilege conferred by law, your loan contract or any security.
- 20.2 We will only act on an event of default other than an event of default under clause 19(a) if the event by its nature is material, or we reasonably consider that the event has had, or is likely to have, a material impact on:
- (a) our security risk (or our ability to assess this); or
  - (b) our legal or reputational risk where an event in clause 19(b) or 19(i) occurs.
- 20.3 We will not:
- (a) require you to repay the total amount you owe us;
  - (b) take enforcement action against you; or
  - (c) enforce any security held to secure repayment of your loan,
- unless:
- (d) we have given you at least 30 days written notice of the event of default;
  - (e) if the event of default is remediable, you have not remedied that event of default within 30 days; and
  - (f) no event of default of the same type has arisen during that period.
- 20.4 We do not need to give you a default notice or wait 30 days before commencing enforcement action if:
- (a) we reasonably believe that we were induced by fraud by you or a guarantor to enter into your loan contract;
  - (b) we have made reasonable attempts to locate you or a guarantor but without success;
  - (c) a court authorises us to begin enforcement proceedings; or
  - (d) we reasonably believe that you or a guarantor have removed or disposed of the mortgaged property, or that urgent action is necessary to protect the mortgaged property.
- 20.5 We will comply with the National Credit Code and any other requirements prescribed by law prior to taking any enforcement action, including any requirements applicable to reverse mortgages.
- 20.6 We can take action even if we do not do so promptly after the event of default occurs. We do not lose any rights or forgive any event of default unless we do so in writing.

- 20.7 We can exercise these rights with or without taking possession of any mortgaged property. If we hold more than one security, we can enforce any one of the securities first or all of them at the same time.
- 20.8 Our rights and remedies under your loan contract may be exercised by any of our employees or any other person we authorise.
- 20.9 We are not liable for any loss caused by the exercise, attempted exercise, failure to exercise, or delay in exercising any of our rights or remedies, except where such loss arises from the mistake, fraud, negligence or wilful misconduct of us, our employees, our agent, or a receiver we appoint.

## **21. Enforcement expenses**

- 21.1 Enforcement expenses may become payable under your loan contract and any security if you breach your loan contract or an event of default occurs. We may debit your loan account with enforcement expenses and any other costs in connection with any exercise or non-exercise of rights arising from any breach of your loan contract or event of default when we incur them, including:
- (a) legal costs and expenses on a full indemnity basis or solicitor and own client basis, whichever is higher; and
  - (b) our internal costs.

We may then either require you to pay these costs immediately (including by using any direct debit or similar authority you have given us) or require them to be repaid by one or more repayments.

- 21.2 Enforcement expenses payable by you will not exceed our reasonable enforcement costs (including internal costs). Enforcement expenses include our expenses incurred in preserving or maintaining the mortgaged property (including insurance, rates and taxes payable in respect of the mortgaged property), collection expenses, expenses resulting from dishonour of a cheque or payment, and any other internal or external costs we incur as a result of you breaching any term of your loan contract. These expenses may be debited to your loan account at any time after they are incurred.
- 21.3 You indemnify us from and against any expense, loss, loss of profit, damage, or liability which we incur as a consequence of a breach of any term of your loan contract or an event of default occurring, except where such loss arises from the mistake, fraud, negligence or wilful misconduct of us, our employees, our agents or a receiver we appoint, or is otherwise recovered by us.

# Part C - General Provisions

## 22. Government charges

- 22.1 You must pay us any government duties, taxes, and other charges on receipts, debits or withdrawals, that apply to your loan. This includes (but is not limited to):
- (a) stamp duty;
  - (b) income tax payable by you (if the Commissioner of Taxation requires us to deduct this from your loan account);
  - (c) withholding tax; and
  - (d) goods and services tax (GST).
- 22.2 You must pay these duties, taxes and charges whether or not someone else is liable to pay them and whether or not the loan is made. We may debit these duties, taxes and charges to your loan account as and when they become payable. We do not need to tell you first.

## 23. Providing financial statements

Within 14 days of our request, you must provide to us any information we require relating to your assets and financial affairs. For example, we may require a copy of an individual's taxation return or an assets and liability statement. We may require this information to be certified or audited.

## 24. Additional repayment triggers

- 24.1 The total amount you owe us may become payable if we reasonably believe that continuing with your loan contract would cause us to breach an applicable law or would represent an unacceptable level of risk for us because:
- (a) we reasonably believe that you have migrated to a country that we determine is 'high risk' given our obligations under anti-money laundering and counter-terrorism laws in respect of the services we provide;
  - (b) you fail to provide any information or document to us that we have requested for the purpose of our compliance with applicable laws (including any details necessary for us to verify your nationality in accordance with anti-money laundering and counter-terrorism laws); or
  - (c) we reasonably believe that you are 'high risk' given our obligations under anti-money laundering and counter-terrorism laws.
- 24.2 If any of the events in clause 24.1 occur, we will endeavour to give you not less than 90 days notice to repay the total amount you owe us.

## **25. If your loan account has a credit balance**

If you repay us more than the total amount you owe us, we may place the excess funds into a suspense account, deposit it with us or another deposit-taking institution, or pay it to you. We may not pay you interest on that amount.

## **26. Valuations of the mortgaged property**

- 26.1 We may obtain valuations or other reports concerning the mortgaged property whenever and as often as we decide. Upon request, you must assist this process by providing access to and information about the mortgaged property.
- 26.2 Our processes in relation to external expert valuations will be fair and transparent. Our communication will be clear and we will explain the purpose of the valuation to you.
- 26.3 We accept no responsibility if you rely on these valuations. You should obtain your own valuations of the mortgaged property.

## **27. Governing law**

- 27.1 If, when your loan contract is entered into, each of you reside in the same Australian state or territory, your loan contract is governed by the laws of that state or territory. Otherwise, your loan contract is governed by the laws of the Australian state or territory in which the Lender first provides the loan.
- 27.2 You submit to the jurisdiction of the courts of the Australian state or territory whose laws apply to your loan contract and the proper jurisdiction of any other court.

## **28. How we can deal with your loan contract**

- 28.1 We may assign, novate or otherwise deal with our rights and obligations under your loan contract, any security, and any document or agreement entered into or provided under or in connection with your loan contract in any way we wish. You must sign anything and do anything we reasonably require to enable any dealing with your loan contract, any security, and any document or agreement entered into or provided under or in connection with your loan contract. Any dealing with our rights does not change your obligations under your loan contract in any way.
- 28.2 You may not assign, novate or otherwise deal with your rights or obligations under your loan contract, any security, and any document or agreement entered into or provided under or in connection with your loan contract.
- 28.3 We may disclose information about you, your loan contract, or any security to anybody involved in an actual or proposed assignment, novation or dealing by us with our rights under your loan contract.

## **29. Applicable laws**

- 29.1 To the extent that your loan contract is regulated under consumer legislation (eg the National Credit Code) or any other law, any provisions in your loan contract which do not comply with that law have no effect, and to the extent necessary, your loan contract is to be read so it does not impose obligations prohibited by that law.
- 29.2 If any of the provisions of your loan contract are illegal or become illegal at any time, the affected provisions will cease to have effect, but the balance of your loan contract will remain in full force and effect, and we may by notice vary your loan contract so that the provision is no longer illegal.

## **30. If you are a trustee**

If you are at any time trustee of any trust, you are liable under your loan contract in your own right and as trustee of the trust. Accordingly, we can recover against the trust assets as well as you. An event of default occurs if there is a change of trustee, a termination of the trust, or any material change to the terms of the trust without our prior written consent, which will not be unreasonably withheld.

## **31. Changes to your contact details**

You must tell us promptly if your contact details change (including any residential, postal or electronic address, or your phone number) or if you think there is any information that we should be aware of about your ability to comply with your loan contract.

## **32. How we can give you notices about your loan**

- 32.1 Subject to any applicable laws, we may give you a notice or any other document by personal delivery, electronic means or prepaid post sent to your address shown in your loan contract or sent to your last address known to us (including an electronic address). We may also give a notice or any other document in any other way authorised by law.
- 32.2 The notice may be signed by any employee, solicitor or agent on our behalf.

## **33. If we are a trustee**

If we enter into your loan contract as trustee of a trust, our liability is limited to the assets of that trust which are available to us to enable us to satisfy that liability.

## 34. Identification information

On request by us, you must provide us with any information we require about you or anyone authorised to operate your loan account.

# Part D - Definitions and interpretation

## 35. Definitions

35.1 In your loan contract, the following words are defined as follows.

- (a) accredited valuer means a person who is:
  - (i) accredited as a certified practising valuer by the Australian Property Institute;
  - (ii) a professional member of the Royal Institution of Chartered Surveyors who is entitled to be described as a Chartered Valuation Surveyor; or
  - (iii) registered or otherwise authorised, under the laws of the state or territory in which the mortgaged property is situated, to value that kind of property
- (b) adjusted market value means the amount calculated in accordance with clause 12.1.
- (c) amount of credit means the amount specified in the Financial Table in your loan contract as varied from time to time.
- (d) business day means a day that is not a Saturday or Sunday, or a New South Wales or Commonwealth public holiday on which banks are generally not open to conduct business in New South Wales.
- (e) disclosure date means the date specified in your loan contract.
- (f) event of default means any event described in clause 19.
- (g) final repayment date has the meaning specified in the Financial Table in your loan contract.
- (h) loan account balance means the amount calculated in accordance with clause 11.
- (i) loan contract means the loan contract which incorporates these General Terms and Conditions and includes any variations of that loan contract. The document which contains the Financial Table and these General Terms and Conditions together comprise your loan contract.
- (j) loan date means the date we first advance funds to you.
- (k) mortgaged property means the real estate security specified in your loan contract.
- (l) protected equity means the amount, if any, specified in your loan contract.
- (m) scheduled balance has the meaning given in clause 17.4.



- (n) total amount you owe us means the total amount owing, being either the loan account balance or the adjusted market value of the mortgaged property, whichever is lesser, less the value of any protected equity. (If you lose the right to negative equity protection, the total amount you owe us will be the loan account balance).

## 36. Interpretation

In this document:

- (a) a reference to the singular includes the plural;
- (b) a reference to a document includes any variation or replacement of it;
- (c) a reference to a person includes any other entity recognised by law;
- (d) headings are for ease of reference only and not to assist interpretation; and
- (e) use of examples is illustrative of the context only and does not limit the natural meaning of the terms of your loan contract.

The information statement below will only apply to you if your loan is regulated by the National Credit Code. This statement is prescribed by law. If the borrower is a company, or if the loan is predominantly used for business purposes or investment purposes (except for investment in residential property), the loan will not be regulated by the National Credit Code.

# Information Statement

## Things you should know about your proposed credit contract

This statement tells you about some of the rights and obligations of yourself and your credit provider. It does not state the terms and conditions of your contract.

If you have any concerns about your contract, contact the credit provider and, if you still have concerns, the AFCA scheme, or get legal advice.

### The Contract

#### 1. How can I get details of my proposed credit contract?

Your credit provider must give you a precontractual statement containing certain information about your contract. The precontractual statement, and this document, must be given to you before –

- your contract is entered into; or
- you make an offer to enter into the contract,

whichever happens first.

#### 2. How can I get a copy of the final contract?

If the contract document is to be signed by you and returned to your credit provider, you must be given a copy to keep.

Also, the credit provider must give you a copy of the final contract within 14 days after it is made. This rule does not, however, apply, if the credit provider has previously given you a copy of the contract document to keep.

If you want another copy of your contract write to your credit provider and ask for one.

Your credit provider may charge you a fee. Your credit provider has to give you a copy –

- within 14 days of your written request if the original contract came into existence 1 year or less before your request; or
- otherwise within 30 days of your written request.

### **3. Can I terminate the contract?**

Yes. You can terminate the contract by writing to the credit provider so long as –

- you have not obtained any credit under the contract; or
- a card or other means of obtaining credit given to you by your credit provider has not been used to acquire goods or services for which credit is to be provided under the contract.

However, you will still have to pay any fees or charges incurred before you terminated the contract.

### **4. Can I pay my credit contract out early?**

Yes. Pay your credit provider the amount required to pay out your credit contract on the day you wish to end your contract.

### **5. How can I find out the pay out figure?**

You can write to your credit provider at any time and ask for a statement of the pay out figure as at any date you specify. You can also ask for details of how the amount is made up.

Your credit provider must give you the statement within 7 days after you give your request to the credit provider. You may be charged a fee for the statement.

### **6. Will I pay less interest if I pay out my contract early?**

Yes. The interest you can be charged depends on the actual time money is owing. However, you may have to pay an early termination charge (if your contract permits your credit provider to charge one) and other fees.

### **7. Can my contract be changed by my credit provider?**

Yes, but only if your contract says so.

### **8. Will I be told in advance if my credit provider is going to make a change in the contract?**

That depends on the type of change. For example –

- you get at least same day notice for a change to an annual percentage rate. That notice may be a written notice to you or a notice published in a newspaper.
- you get 20 days advance written notice for –
  - o a change in the way in which interest is calculated;
  - o a change in credit fees and charges; or
  - o any other changes by your credit provider;

except where the change reduces what you have to pay or the change happens automatically under the contract.

## **9. Is there anything I can do if I think that my contract is unjust?**

Yes. You should first talk to your credit provider. Discuss the matter and see if you can come to some arrangement. If that is not successful, you may contact the AFCA scheme. The AFCA scheme is a free service established to provide you with an independent mechanism to resolve specific complaints. The AFCA scheme can be contacted by phone on 1800 931 678, by email at [info@afca.org.au](mailto:info@afca.org.au), or in writing to GPO Box 3, Melbourne VIC 3001.

Alternatively, you can go to court. You may wish to get legal advice, for example from your community legal centre or Legal Aid.

You can also contact ASIC, the regulator, for information on 1300 300 630 or through ASIC's website at <http://www.asic.gov.au>.

## **Insurance**

### **10. Do I have to take out insurance?**

Your credit provider can insist you take out or pay the cost of types of insurance specifically allowed by law. These are compulsory third party personal injury insurance, mortgage indemnity insurance or insurance over property covered by any mortgage. Otherwise, you can decide if you want to take out insurance or not. If you take out insurance, the credit provider cannot insist that you use any particular insurance company.

### **11. Will I get details of my insurance cover?**

Yes, if you have taken out insurance over mortgaged property or consumer credit insurance and the premium is financed by your credit provider. In that case the insurer must give you a copy of the policy within 14 days after the insurer has accepted

the insurance proposal.

Also, if you acquire an interest in any such insurance policy which is taken out by your credit provider then, within 14 days of that happening, your credit provider must ensure you have a written notice of the particulars of that insurance.

You can always ask the insurer for details of your insurance contract. If you ask in writing your insurer must give you a statement containing all the provisions of the contract.

## **12. If the insurer does not accept my proposal, will I be told?**

Yes, if the insurance was to be financed by the credit contract. The insurer will inform you if the proposal is rejected.

## **13. In that case, what happens to the premiums?**

Your credit provider must give you a refund or credit unless the insurance is to be arranged with another insurer.

## **14. What happens if my credit contract ends before any insurance contract over mortgaged property?**

You can end the insurance contract and get a proportionate rebate of any premium from the insurer.

# **Mortgages**

## **15. If my contract says I have to give a mortgage, what does this mean?**

A mortgage means that you give your credit provider certain rights over any property you mortgage. If you default under your contract, you can lose that property and you might still owe money to the credit provider.

## **16. Should I get a copy of my mortgage?**

Yes. It can be part of your credit contract or, if it is a separate document, you will be given a copy of the mortgage within 14 days after your mortgage is entered into.

However, you need not be given a copy if the credit provider has previously given you a copy of the mortgage document to keep.

## **17. Is there anything that I am not allowed to do with the property I have mortgaged?**

The law says you cannot assign or dispose of the property unless you have your credit provider's, or the court's, permission. You must also look after the property. Read the mortgage document as well. It will usually have other terms and conditions about what you can or cannot do with the property.

## **18. Can my credit provider take or sell the mortgaged property?**

Yes, if you have not carried out all of your obligations under your contract.

## **19. If my credit provider writes asking me where the mortgaged goods are, do I have to say where they are?**

Yes. You have 7 days after receiving your credit provider's request to tell your credit provider. If you do not have the goods you must give your credit provider all the information you have so they can be traced.

## **20. When can my credit provider or its agent come into a residence to take possession of mortgaged goods?**

Your credit provider can only do so if it has the court's approval or the written consent of the occupier which is given after the occupier is informed in writing of the relevant section in the National Credit Code.

## **General**

## **21. What if my credit provider and I cannot agree on a suitable arrangement?**

If the credit provider refuses your request to change the repayments, you can ask the credit provider to review this decision if you think it is wrong.

If the credit provider still refuses your request, you can complain to the AFCA scheme. Further details about this scheme are set out below in question 23.

## **22. Can my credit provider take action against me?**

Yes, if you are in default under your contract. But the law says that you cannot be unduly harassed or threatened for repayments. If you think you are being unduly harassed or threatened, contact the AFCA scheme or ASIC, or get legal advice.

### **23. Do I have any other rights and obligations?**

Yes. The law will give you other rights and obligations. You should also READ YOUR CONTRACT carefully.

IF YOU HAVE ANY COMPLAINTS ABOUT YOUR CREDIT CONTRACT, OR WANT MORE INFORMATION, CONTACT YOUR CREDIT PROVIDER. YOU MUST ATTEMPT TO RESOLVE YOUR COMPLAINT WITH YOUR CREDIT PROVIDER BEFORE CONTACTING THE AFCA SCHEME. IF YOU HAVE A COMPLAINT WHICH REMAINS UNRESOLVED AFTER SPEAKING TO YOUR CREDIT PROVIDER, YOU CAN CONTACT THE AFCA SCHEME OR GET LEGAL ADVICE.

THE AFCA SCHEME IS A FREE SERVICE ESTABLISHED TO PROVIDE YOU WITH AN INDEPENDENT MECHANISM TO RESOLVE SPECIFIC COMPLAINTS. THE AFCA SCHEME CAN BE CONTACTED BY PHONE ON 1800 931 678, BY EMAIL AT [INFO@AFCA.ORG.AU](mailto:INFO@AFCA.ORG.AU), OR IN WRITING TO GPO BOX 3, MELBOURNE VIC 3001.

PLEASE KEEP THIS INFORMATION STATEMENT. YOU MAY WANT SOME INFORMATION FROM IT AT A LATER DATE.

## How to contact us

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