Consumer Credit Act 1974

1974 CHAPTER 39

PART VII

DEFAULT AND TERMINATION

Early payment by debtor

94 Right to complete payments ahead of time.

(1) The debtor under a regulated consumer credit agreement is entitled at any time, by notice to the creditor and the payment to the creditor of all amounts payable by the debtor to him under the agreement **[**[F1]and any amount which the creditor claims under section 95A(2)**]**[[F2]or section 95B(2)**]**(less any rebate allowable under section 95), to discharge the debtor's indebtedness under the agreement.

(2) A notice under subsection (1) may embody the exercise by the debtor of any option to purchase goods conferred on him by the agreement, and deal with any other matter arising on, or in relation to, the termination of the agreement.

[[F3](3) The debtor under a regulated consumer credit agreement, other than an agreement secured on land, is entitled at any time to discharge part of his indebtedness by taking the steps in subsection (4).

(4) The steps referred to in subsection (3) are as follows—

(a) he provides notice to the creditor,

(b) he pays to the creditor some of the amount payable by him to the creditor under the agreement before the time fixed by the agreement, and

(c) he makes the payment—

(i) before the end of the period of 28 days beginning with the day following that on which notice under paragraph (a) was received by the creditor, or

(ii) on or before any later date specified in the notice.

(5) Where a debtor takes the steps in subsection (4) his indebtedness shall be discharged by an amount equal to the sum of the amount paid and any rebate allowable under section 95 less any amount which the creditor claims under section 95A(2) **[**[F4]or section 95B(2)**]**.

(6) A notice—

(a) under subsection (1), other than a notice relating to a regulated consumer credit agreement secured on land, or

(b) under subsection (4)(a),

need not be in writing.**]**

Textual Amendments

F1 Words in s. 94(1) inserted (1.2.2011) by The Consumer Credit (EU Directive) Regulations 2010 (S.I. 2010/1010), **regs. 30(a)**, 99(1) (with regs. 100, 101)

F2 Words in s. 94(1) inserted (E.W.S.) (21.3.2012 for specified purposes, 28.1.2013 in so far as not already in force) by Energy Act 2011 (c. 16), **ss. 29(3)(a)**, 121(1); S.I. 2012/873, art. 3(1)(d)(2); S.I. 2013/125, art. 2(d)

F3 S. 94(3)-(6) inserted (1.2.2011) by The Consumer Credit (EU Directive) Regulations 2010 (S.I. 2010/1010), **regs. 30(b)**, 99(1) (with regs. 100, 101)

F4 Words in s. 94(5) inserted (E.W.S.) (21.3.2012 for specified purposes, 28.1.2013 in so far as not already in force) by Energy Act 2011 (c. 16), **ss. 29(3)(b)**, 121(1); S.I. 2012/873, art. 3(1)(d)(2); S.I. 2013/125, art. 2(d)

Modifications etc. (not altering text)

C1 Ss. 94-97A excluded (E.W.S.) (15.7.2014) by The Financial Services and Markets Act 2000 (Regulated Activities) (Green Deal) (Amendment) Order 2014 (S.I. 2014/1850), arts. 1(2), **12(2)** (with art. 1(3))

C2 S. 94 applied (20.4.2015 for specified purposes, 21.12.2015 for specified purposes, 21.3.2016 in so far as not already in force) by The Mortgage Credit Directive Order 2015 (S.I. 2015/910), arts. 1(5), **29(11)(b)** (with Pt. 4)

95 Rebate on early settlement.

(1) Regulations may provide for the allowance of a rebate of charges for credit to the debtor under a regulated consumer credit agreeement where, under section 94, on refinancing, on breach of the agreement, or for any other reason, his indebtedness is discharged **[**[F5]or is discharged in part**]** or becomes payable before the time fixed by the agreement, or any sum becomes payable by him before the time so fixed.

(2) Regulations under subsection (1) may provide for calculation of the rebate by reference to any sums paid or payable by the debtor or his relative under or in connection with the agreement (whether to the creditor or some other person), including sums under linked transactions and other items in the total charge for credit.

Textual Amendments

F5 Words in s. 95(1) inserted (1.2.2011) by The Consumer Credit (EU Directive) Regulations 2010 (S.I. 2010/1010), **regs. 31**, 99(1) (with regs. 100, 101)

Changes to legislation: *Consumer Credit Act 1974, Cross Heading: Early payment by debtor is up to date with all changes known to be in force on or before 02 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Modifications etc. (not altering text)

C1 Ss. 94-97A excluded (E.W.S.) (15.7.2014) by The Financial Services and Markets Act 2000 (Regulated Activities) (Green Deal) (Amendment) Order 2014 (S.I. 2014/1850), arts. 1(2), **12(2)** (with art. 1(3))

C3 S. 95 applied (20.4.2015 for specified purposes, 21.12.2015 for specified purposes, 21.3.2016 in so far as not already in force) by The Mortgage Credit Directive Order 2015 (S.I. 2015/910), arts. 1(5), **29(11)(c)** (with Pt. 4)

[F6 95A Compensatory amount

(1) This section applies where—

(a) a regulated consumer credit agreement, other than an agreement secured on land, provides for the rate of interest on the credit to be fixed for a period of time, and

(b) under section 94 the debtor discharges all or part of his indebtedness during that period.

(2) The creditor may claim an amount equal to the cost which the creditor has incurred as a result only of the debtor's indebtedness being discharged during that period if—

(a) the amount of the payment under section 94 exceeds £8,000 or, where more than one such payment is made in any 12 month period, the total of those payments exceeds £8,000,

(b) the agreement is not a debtor-creditor agreement enabling the debtor to overdraw on a current account, and

(c) the amount of the payment under section 94 is not paid from the proceeds of a contract of payment protection insurance.

(3) The amount in subsection (2)—

(a) must be fair,

(b) must be objectively justified, and

(c) must not exceed whichever is the lower of—

(i) the relevant percentage of the amount of the payment under section 94, and

(ii) the total amount of interest that would have been paid by the debtor under the agreement in the period from the date on which the debtor makes the payment under section 94 to the date fixed by the agreement for the discharge of the indebtedness of the debtor.

(4) In subsection (3)(c)(i) " relevant percentage " means—

(a) 1%, where the period from the date on which the debtor makes the payment under section 94 to the date fixed by the agreement for the discharge of the indebtedness of the debtor is more than one year, or

(b) 0.5%, where that period is equal to or less than one year.]

Textual Amendments

F6 S. 95A inserted (1.2.2011) by The Consumer Credit (EU Directive) Regulations 2010 (S.I. 2010/1010), **regs. 32**, 99(1) (with regs. 100, 101) (as amended (31.1.2011) by S.I. 2011/11, **reg. 3**)

Modifications etc. (not altering text)

C1 Ss. 94-97A excluded (E.W.S.) (15.7.2014) by The Financial Services and Markets Act 2000 (Regulated Activities) (Green Deal) (Amendment) Order 2014 (S.I. 2014/1850), arts. 1(2), **12(2)** (with art. 1(3))

[F7 95B Compensatory amount: green deal finance

(1) This section applies where—

(a) a regulated consumer credit agreement provides for the rate of interest on the credit to be fixed for a period of time ("the fixed rate period"),

(b) the agreement is a green deal plan **[**F8(within the meaning of section 1 of the Energy Act 2011)**]** which is of a duration specified for the purposes of this section in regulations, and

(c) under section 94 the debtor discharges all or part of his indebtedness during the fixed rate period.

(2) The creditor may claim an amount equal to the cost which the creditor has incurred as a result only of the debtor's indebtedness being discharged during the fixed rate period if—

(a) the amount of the payment under section 94 is not paid from the proceeds of a contract of payment protection insurance, and

(b) such other conditions as may be specified for the purposes of this section in regulations are satisfied.

(3) The amount in subsection (2)—

(a) must be fair,

(b) must be objectively justified,

(c) must be calculated by the creditor in accordance with provision made for the purposes of this section in regulations, and

(d) must not exceed the total amount of interest that would have been paid by the debtor under the agreement in the period from the date on which the debtor makes the payment under section 94 to the date fixed by the agreement for the discharge of the indebtedness of the debtor.

(4) If a creditor could claim under either section 95A or this section, the creditor may choose under which section to claim.**]**

Textual Amendments

F7 S. 95B inserted (21.3.2012 for specified purposes, 28.1.2013 in so far as not already in force) by Energy Act 2011 (c. 16), **ss. 29(2)**, 121(1); S.I. 2012/873, art. 3(1)(d)(2); S.I. 2013/125, art. 2(d)

F8 Words in s. 95B(1)(b) omitted (E.W.S.) (28.2.2014) by virtue of The Consumer Credit Act 1974 (Green Deal) (Amendment) Order 2014 (S.I. 2014/436), arts. 1(2), **8(2)** (with art. 1(3))

Modifications etc. (not altering text)

C1 Ss. 94-97A excluded (E.W.S.) (15.7.2014) by The Financial Services and Markets Act 2000 (Regulated Activities) (Green Deal) (Amendment) Order 2014 (S.I. 2014/1850), arts. 1(2), **12(2)** (with art. 1(3))

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96 Effect on linked transactions.

(1) Where for any reason the indebtedness of the debtor under a regulated consumer credit agreement is discharged before the time fixed by the agreement, he, and any relative of his, shall at the same time be discharged from any liability under a linked transaction, other than a debt which has already become payable.

(2) Subsection (1) does not apply to a linked transaction which is itself an agreement providing the debtor or his relative with credit.

(3) Regulations may exclude linked transactions of the prescribed description from the operation of subsection (1).

Modifications etc. (not altering text)

C1 Ss. 94-97A excluded (E.W.S.) (15.7.2014) by The Financial Services and Markets Act 2000 (Regulated Activities) (Green Deal) (Amendment) Order 2014 (S.I. 2014/1850), arts. 1(2), **12(2)** (with art. 1(3))

97 Duty to give information.

(1) The creditor under a regulated consumer credit agreement, within the prescribed period after he has received a request [F9]. . . to that effect from the debtor, shall give the debtor a statement in the prescribed form indicating, according to the information to which it is practicable for him to refer, the amount of the payment required to discharge the debtor's indebtedness under the agreement, together with the prescribed particulars showing how the amount is arrived at.

(2) Subsection (1) does not apply to a request made less than one month after a previous request under that subsection relating to the same agreement was complied with.

[[F10](2A) A request under subsection (1) need not be in writing unless the agreement is secured on land.**]**

(3) If the creditor fails to comply with subsection (1)—

(a) he is not entitled, while the default continues, to enforce the agreement; [F11]. . .

(b) [F11]. . . . . .

Textual Amendments

F9 Words in s. 97(1) omitted (1.2.2011) by virtue of The Consumer Credit (EU Directive) Regulations 2010 (S.I. 2010/1010), **regs. 33(a)**, 99(1) (with regs. 100, 101)

F10 S. 97(2A) inserted (1.2.2011) by The Consumer Credit (EU Directive) Regulations 2010 (S.I. 2010/1010), **regs. 33(b)**, 99(1) (with regs. 100, 101)

F11 S. 97(3)(b) and preceding word repealed (26.5.2008) by The Consumer Protection from Unfair Trading Regulations 2008 (S.I. 2008/1277) regs. 30(1)(3), Sch. 2 para. 23, {Sch. 4 Pt. 1} (with savings in reg. 28(2)(3))

Modifications etc. (not altering text)

C1 Ss. 94-97A excluded (E.W.S.) (15.7.2014) by The Financial Services and Markets Act 2000 (Regulated Activities) (Green Deal) (Amendment) Order 2014 (S.I. 2014/1850), arts. 1(2), **12(2)** (with art. 1(3))

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[F12 97A Duty to give information on partial repayment

(1) Where a debtor under a regulated consumer credit agreement—

(a) makes a payment by virtue of which part of his indebtedness is discharged under section 94, and

(b) at the same time or subsequently requests the creditor to give him a statement concerning the effect of the payment on the debtor's indebtedness,

the creditor must give the statement to the debtor before the end of the period of seven working days beginning with the day following that on which the creditor receives the request.

(2) The statement shall be in writing and shall contain the following particulars—

(a) a description of the agreement sufficient to identify it,

(b) the name, postal address and, where appropriate, any other address of the creditor and the debtor,

(c) where the creditor is claiming an amount under section 95A(2)**[**F13 or section 95B(2)**]**, that amount and the method used to determine it,

(d) the amount of any rebate to which the debtor is entitled—

(i) under the agreement, or

(ii) by virtue of section 95 where that is higher,

(e) where the amount of the rebate mentioned in paragraph (d)(ii) is given, a statement indicating that this amount has been calculated having regard to the Consumer Credit (Early Settlement) Regulations 2004,

(f) where the debtor is not entitled to any rebate, a statement to this effect,

(g) any change to—

(i) the number, timing or amount of repayments to be made under the agreement, or

(ii) the duration of the agreement,

which results from the partial discharge of the indebtedness of the debtor, and

(h) the amount of the debtor's indebtedness remaining under the agreement at the date the creditor gives the statement.**]**

Textual Amendments

F12 S. 97A inserted (1.2.2011) by The Consumer Credit (EU Directive) Regulations 2010 (S.I. 2010/1010), **regs. 34**, 99(1) (with regs. 100, 101)

F13 Words in s. 97A(2)(c) inserted (E.W.S.) (21.3.2012 for specified purposes, 28.1.2013 in so far as not already in force) by Energy Act 2011 (c. 16), **ss. 29(4)**, 121(1); S.I. 2012/873, art. 3(1)(d)(2); S.I. 2013/125, art. 2(d)

Modifications etc. (not altering text)

C1 Ss. 94-97A excluded (E.W.S.) (15.7.2014) by The Financial Services and Markets Act 2000 (Regulated Activities) (Green Deal) (Amendment) Order 2014 (S.I. 2014/1850), arts. 1(2), **12(2)** (with art. 1(3))

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:
Whole provisions yet to be inserted into this Act (including any effects on those provisions):

– s. 25(2A)(b)(ia) inserted by 2010 c. 28 Sch. 2 para. 36