

Status: Point in time view as at 01/10/2008.

Changes to legislation: Consumer Credit Act 1974, Cross Heading: Sums in arrears and default sums is up to date with all changes known to be in force on or before 10 April 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)



Consumer Credit Act 1974

1974 CHAPTER 39

PART VI

MATTERS ARISING DURING CURRENCY OF CREDIT OR HIRE AGREEMENTS^{F1F1F1}

[^{F1}Sums in arrears and default sums

Textual Amendments

- F1** S. 86B and preceding cross-heading inserted (16.6.2006 for certain purposes and otherwise 1.10.2008) by [Consumer Credit Act 2006 \(c. 14\)](#), ss. {9}, 71(2) (with Sch. 3 para. 6); [S.I. 2006/1508](#), [art. 3\(1\)](#), Sch. 1; [S.I. 2007/3300](#), [art. 3\(3\)](#), Sch. 3

86B Notice of sums in arrears under fixed-sum credit agreements etc.

- (1) This section applies where at any time the following conditions are satisfied—
- (a) that the debtor or hirer under an applicable agreement is required to have made at least two payments under the agreement before that time;
 - (b) that the total sum paid under the agreement by him is less than the total sum which he is required to have paid before that time;
 - (c) that the amount of the shortfall is no less than the sum of the last two payments which he is required to have made before that time;
 - (d) that the creditor or owner is not already under a duty to give him notices under this section in relation to the agreement; and
 - (e) if a judgment has been given in relation to the agreement before that time, that there is no sum still to be paid under the judgment by the debtor or hirer.
- (2) The creditor or owner—
- (a) shall, within the period of 14 days beginning with the day on which the conditions mentioned in subsection (1) are satisfied, give the debtor or hirer a notice under this section; and

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- (b) after the giving of that notice, shall give him further notices under this section at intervals of not more than six months.
- (3) The duty of the creditor or owner to give the debtor or hirer notices under this section shall cease when either of the conditions mentioned in subsection (4) is satisfied; but if either of those conditions is satisfied before the notice required by subsection (2)(a) is given, the duty shall not cease until that notice is given.
- (4) The conditions referred to in subsection (3) are—
 - (a) that the debtor or hirer ceases to be in arrears;
 - (b) that a judgment is given in relation to the agreement under which a sum is required to be paid by the debtor or hirer.
- (5) For the purposes of subsection (4)(a) the debtor or hirer ceases to be in arrears when—
 - (a) no sum, which he has ever failed to pay under the agreement when required, is still owing;
 - (b) no default sum, which has ever become payable under the agreement in connection with his failure to pay any sum under the agreement when required, is still owing;
 - (c) no sum of interest, which has ever become payable under the agreement in connection with such a default sum, is still owing; and
 - (d) no other sum of interest, which has ever become payable under the agreement in connection with his failure to pay any sum under the agreement when required, is still owing.
- (6) A notice under this section shall include a copy of the current arrears information sheet under section 86A.
- (7) The debtor or hirer shall have no liability to pay any sum in connection with the preparation or the giving to him of a notice under this section.
- (8) Regulations may make provision about the form and content of notices under this section.
- (9) In the case of an applicable agreement under which the debtor or hirer must make all payments he is required to make at intervals of one week or less, this section shall have effect as if in subsection (1)(a) and (c) for ‘two’ there were substituted ‘four’.
- (10) If an agreement mentioned in subsection (9) was made before the beginning of the relevant period, only amounts resulting from failures by the debtor or hirer to make payments he is required to have made during that period shall be taken into account in determining any shortfall for the purposes of subsection (1)(c).
- (11) In subsection (10) ‘relevant period’ means the period of 20 weeks ending with the day on which the debtor or hirer is required to have made the most recent payment under the agreement.
- (12) In this section ‘applicable agreement’ means an agreement which—
 - (a) is a regulated agreement for fixed-sum credit or a regulated consumer hire agreement; and
 - (b) is neither a non-commercial agreement nor a small agreement.

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[^{F2}86C Notice of sums in arrears under running-account credit agreements

- (1) This section applies where at any time the following conditions are satisfied—
 - (a) that the debtor under an applicable agreement is required to have made at least two payments under the agreement before that time;
 - (b) that the last two payments which he is required to have made before that time have not been made;
 - (c) that the creditor has not already been required to give a notice under this section in relation to either of those payments; and
 - (d) if a judgment has been given in relation to the agreement before that time, that there is no sum still to be paid under the judgment by the debtor.
- (2) The creditor shall, no later than the end of the period within which he is next required to give a statement under section 78(4) in relation to the agreement, give the debtor a notice under this section.
- (3) The notice shall include a copy of the current arrears information sheet under section 86A.
- (4) The notice may be incorporated in a statement or other notice which the creditor gives the debtor in relation to the agreement by virtue of another provision of this Act.
- (5) The debtor shall have no liability to pay any sum in connection with the preparation or the giving to him of the notice.
- (6) Regulations may make provision about the form and content of notices under this section.
- (7) In this section ‘applicable agreement’ means an agreement which—
 - (a) is a regulated agreement for running-account credit; and
 - (b) is neither a non-commercial agreement nor a small agreement.]

Textual Amendments

- F2** S. 86C inserted (16.6.2006 for certain purposes and otherwise 1.10.2008) by [Consumer Credit Act 2006 \(c. 14\)](#), ss. {10}, 71(2) (with Sch. 3 para. 7); [S.I. 2006/1508](#), [art. 3\(1\)](#), [Sch. 1](#); [S.I. 2007/3300](#), [art. 3\(3\)](#), [Sch. 3](#)

[^{F3}86D Failure to give notice of sums in arrears

- (1) This section applies where the creditor or owner under an agreement is under a duty to give the debtor or hirer notices under section 86B but fails to give him such a notice—
 - (a) within the period mentioned in subsection (2)(a) of that section; or
 - (b) within the period of six months beginning with the day after the day on which such a notice was last given to him.
- (2) This section also applies where the creditor under an agreement is under a duty to give the debtor a notice under section 86C but fails to do so before the end of the period mentioned in subsection (2) of that section.
- (3) The creditor or owner shall not be entitled to enforce the agreement during the period of non-compliance.
- (4) The debtor or hirer shall have no liability to pay—

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- (a) any sum of interest to the extent calculated by reference to the period of non-compliance or to any part of it; or
 - (b) any default sum which (apart from this paragraph)—
 - (i) would have become payable during the period of non-compliance; or
 - (ii) would have become payable after the end of that period in connection with a breach of the agreement which occurs during that period (whether or not the breach continues after the end of that period).
- (5) In this section ‘the period of non-compliance’ means, in relation to a failure to give a notice under section 86B or 86C to the debtor or hirer, the period which—
- (a) begins immediately after the end of the period mentioned in (as the case may be) subsection (1)(a) or (b) or (2); and
 - (b) ends at the end of the day mentioned in subsection (6).
- (6) That day is—
- (a) in the case of a failure to give a notice under section 86B as mentioned in subsection (1)(a) of this section, the day on which the notice is given to the debtor or hirer;
 - (b) in the case of a failure to give a notice under that section as mentioned in subsection (1)(b) of this section, the earlier of the following—
 - (i) the day on which the notice is given to the debtor or hirer;
 - (ii) the day on which the condition mentioned in subsection (4)(a) of that section is satisfied;
 - (c) in the case of a failure to give a notice under section 86C, the day on which the notice is given to the debtor.]

Textual Amendments

F3 S. 86D inserted (1.10.2008) by [Consumer Credit Act 2006 \(c. 14\)](#), ss. {11}, 71(2); [S.I. 2007/3300](#), [art. 3\(3\)](#), Sch. 3

86E Notice of default sums

- (1) This section applies where a default sum becomes payable under a regulated agreement by the debtor or hirer.
- (2) The creditor or owner shall, within the prescribed period after the default sum becomes payable, give the debtor or hirer a notice under this section.
- (3) The notice under this section may be incorporated in a statement or other notice which the creditor or owner gives the debtor or hirer in relation to the agreement by virtue of another provision of this Act.
- (4) The debtor or hirer shall have no liability to pay interest in connection with the default sum to the extent that the interest is calculated by reference to a period occurring before the 29th day after the day on which the debtor or hirer is given the notice under this section.
- (5) If the creditor or owner fails to give the debtor or hirer the notice under this section within the period mentioned in subsection (2), he shall not be entitled to enforce the agreement until the notice is given to the debtor or hirer.

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- (6) The debtor or hirer shall have no liability to pay any sum in connection with the preparation or the giving to him of the notice under this section.
- (7) Regulations may—
 - (a) provide that this section does not apply in relation to a default sum which is less than a prescribed amount;
 - (b) make provision about the form and content of notices under this section.
- (8) This section does not apply in relation to a non-commercial agreement or to a small agreement.]

Textual Amendments

- F4** S. 86E inserted (16.6.2006 for certain purposes and otherwise 1.10.2008) by [Consumer Credit Act 2006 \(c. 14\)](#), ss. {12}, 71(2) (with Sch. 3 para. 8); [S.I. 2006/1508](#), [art. 3\(1\)](#), Sch. 1; [S.I. 2007/3300](#), [art. 3\(3\)](#), Sch. 3

I **F5** **86F** **Interest on default sums**

- (1) This section applies where a default sum becomes payable under a regulated agreement by the debtor or hirer.
- (2) The debtor or hirer shall only be liable to pay interest in connection with the default sum if the interest is simple interest.]]

Textual Amendments

- F5** S. 86F inserted (1.10.2008) by [Consumer Credit Act 2006 \(c. 14\)](#), ss. {13}, 71(2) (with Sch. 3 para. 9); [S.I. 2007/3300](#), [art. 3\(3\)](#), Sch. 3

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