

2012 No. 2798

CONSUMER CREDIT

The Consumer Credit (Green Deal) Regulations 2012

Made - - - - *7th November 2012*

Laid before Parliament *9th November 2012*

Coming into force - - *28th January 2013*

The Secretary of State, in exercise of the powers conferred by sections 55(1), 60(1), 77A(2)(a), 95(1)(b), 95B(1)(b) and (3)(c)(c), 97(1)(d), 182(2)(e) and 189(1) of the Consumer Credit Act 1974(f), makes the following Regulations:

Citation, commencement and extent

1. These Regulations—

- (a) may be cited as the Consumer Credit (Green Deal) Regulations 2012;
- (b) come into force on 28th January 2013; and
- (c) extend to England and Wales and Scotland only.

Interpretation

2. In these Regulations—

“the 1974 Act” means the Consumer Credit Act 1974;

“actual plan interest” means the total amount of interest that falls due for payment under the green deal plan between the settlement date and the full discharge date if early settlement takes place;

“administration amount” means the amount by which the creditor expects its administration costs will be reduced in consequence of early settlement taking place;

“compensatory amount” means the amount that a creditor is entitled to claim under section 95B(2) of the 1974 Act, calculated in accordance with regulation 4;

“early settlement” means, as appropriate, full early settlement or partial early settlement;

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- (a) Section 77A was inserted by the Consumer Credit Act 2006 (c.14), section 6.
 - (b) Section 95(1) was amended by S.I. 2010/1010, regulation 31.
 - (c) Section 95B was inserted by the Energy Act 2011 (c.16), section 29(2) and extends to England and Wales and Scotland only. Section 95B was commenced on 21st March 2012 for the purposes of enabling the exercise, on or after that day, of any power to make regulations conferred by that section (see S.I. 2012/873, article 3). This section is yet to be commenced for remaining purposes.
 - (d) Section 97(1) was amended by S.I. 2010/1010, regulation 33(a).
 - (e) Section 182(2) was amended by the Consumer Credit Act 2006 (c.14), section 58(3) and S.I. 2009/1835, Schedule 1, paragraph 7(b).
 - (f) 1974 c.39.

“expected plan interest” means the total amount of interest that falls due for payment by the debtor under the green deal plan between the settlement date and the full discharge date if early settlement does not take place;

“full discharge date” means the date fixed by the green deal plan for the discharge in full of the indebtedness of the debtor;

“full early settlement” means the discharge in full, pursuant to section 94(1)(a) of the 1974 Act, of the debtor’s indebtedness under a green deal plan;

“green deal plan” has the meaning given in section 1 of the Energy Act 2011(b);

“notice date” means the date on which the creditor receives notice from the debtor under, as appropriate, section 94(1) or section 94(4)(a)(c) of the 1974 Act, in connection with early settlement;

“partial early settlement” means the discharge in part, pursuant to section 94(3)(d) of the 1974 Act, of the debtor’s indebtedness under a green deal plan;

“replacement interest” means, further to the third paragraph of Article 16(4)(b) of Directive 2008/48/EC of the European Parliament and of the Council on credit agreements for consumers(e), the total amount of interest that the creditor could obtain by lending the settlement amount on the market on the notice date;

“settlement amount” means, in respect of—

(a) full early settlement, the amount payable by the debtor to the creditor under section 94(1) of the 1974 Act, excluding any amount which the creditor claims under section 95A(2) or 95B(2) of the 1974 Act; or

(b) partial early settlement, the amount paid or to be paid by the debtor to the creditor pursuant to the notice provided by the debtor under section 94(4)(a) of the 1974 Act; and

“settlement date” means—

(a) the date falling 28 days after the notice date; or

(b) any later date specified by the debtor in the notice under, as appropriate, section 94(1) or section 94(4)(a) of the 1974 Act as the date of early settlement,

if the debtor pays the amount payable not later than that date.

Specified duration of green deal plan under section 95B(1)(b) of the 1974 Act

3. For the purposes of section 95B(1)(b) of the 1974 Act, the specified duration of a green deal plan is a plan of more than 15 years.

Compensatory amount: method of calculation

4.—(1) Subject to paragraph (3), for the purposes of section 95B(3)(c) of the 1974 Act, the compensatory amount is the amount given by the following formula—

$$A - B - C - D$$

(2) The following apply for the purposes of the formula in paragraph (1)—

“A” means the expected plan interest;

“B” means the replacement interest;

“C” means the administration amount; and

(a) Section 94(1) was amended by S.I. 2010/1010, regulation 30(a). Section 94(1) has also been amended by the Energy Act 2011 (c.16), section 29(3)(a) but section 29(3)(a) is only in force for the purposes of interpreting any provision in Chapter 1 of Part 1 of the Energy Act 2011 and for the purposes of exercising a power under that Chapter to make regulations or an order. The date on which section 29(3)(a) is to come into force for remaining purposes is to be appointed.

(b) 2011 c.16.

(c) Section 94(4)(a) was inserted by S.I. 2010/1010, regulation 30(b).

(d) Section 94(3) was inserted by S.I. 2010/1010, regulation 30(b).

(e) OJ No L 133, 22.5.08, p66.

“D” means—

- (a) where full early settlement takes place or is to take place, zero; or
- (b) where partial early settlement takes place or is to take place, the actual plan interest.

(3) If the amount given by the formula in paragraph (1) is zero or less, for the purposes of section 95B(3)(c) of the 1974 Act, the compensatory amount is zero.

Amendment of consumer credit regulations

5. The Schedule to these Regulations has effect.

7th November 2012

Edward Davey
Secretary of State
Department of Energy and Climate Change

SCHEDULE

Regulation 5

Amendment of consumer credit regulations

The Consumer Credit (Agreements) Regulations 1983

1.—(1) The Consumer Credit (Agreements) Regulations 1983(a) are amended as follows.

(2) In paragraph 24A (statement regarding debtor’s right of early repayment)(b) of Schedule 1 (information to be contained in documents embodying regulated consumer credit agreements other than modifying agreements), for “section 95A”, substitute “sections 95A and 95B”.

(3) In paragraph 24A (statement regarding debtor’s right of early repayment)(c) in Part I (information to be contained in documents embodying regulated modifying agreements varying or supplanting earlier credit agreements) of Schedule 8 (regulated modifying agreements), for “section 95A”, substitute “sections 95A and 95B”.

The Consumer Credit (Settlement Information) Regulations 1983

2. In paragraph 3A (compensatory amount)(d) of the Schedule (information to be contained in settlement statements) to the Consumer Credit (Settlement Information) Regulations 1983(e), after “95A(2)”, insert “or 95B(2)”.

The Consumer Credit (Early Settlement) Regulations 2004

3.—(1) The Consumer Credit (Early Settlement) Regulations 2004(f) are amended as follows.

(2) In regulation 1(2) (interpretation)(g), at the appropriate place, insert—

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- (a) S.I. 1983/1553.
 - (b) Paragraph 24A was inserted by S.I. 2010/1010, regulation 54(c).
 - (c) Paragraph 24A was inserted by S.I. 2010/1010, regulation 56.
 - (d) Paragraph 3A was inserted by S.I. 2010/1010, regulation 62(a).
 - (e) S.I. 1983/1564.
 - (f) S.I. 2004/1483.
 - (g) Regulation 1(2) was amended by S.I. 2010/1010, regulation 78(a). Regulation 78(a) of S.I. 2010/1010 was amended by S.I. 2010/1969, regulation 26.

““green deal plan” has the meaning given in section 1 of the Energy Act 2011;”.

(3) In regulation 4A(2) (calculation of the amount of rebate where indebtedness is discharged in part)(a), after “95A(2)”, insert “or 95B(2)”.

(4) In regulation 6 (deferment of settlement date)—

(a) regulation 6 is renumbered as paragraph (1) of that regulation;

(b) after paragraph (1) as so renumbered, insert—

“(2) Paragraph (1) does not apply where the agreement is a green deal plan and the creditor under that plan is claiming a payment under section 95B(2) of the Act.”.

The Consumer Credit (Information Requirements and Duration of Licences and Charges) Regulations 2007

4.—(1) The Consumer Credit (Information Requirements and Duration of Licences and Charges) Regulations 2007(b) are amended as follows.

(2) In regulation 2 (interpretation), at the appropriate place, insert—

““green deal plan” has the meaning given in section 1 of the Energy Act 2011;”.

(3) In regulation 4(b) (content of statements), before “each”, insert “except where sub-paragraph (ba) applies,”.

(4) In regulation 4 (content of statements), after paragraph (b), insert—

“(ba) where the statement relates to a green deal plan, each of the forms of wording set out in Part 2A of Schedule 1;”.

(5) In Schedule 1, after Part 2 (information to be included in statements relating to fixed-sum credit agreements) insert—

“PART 2A

Regulation 4(ba)

INFORMATION TO BE INCLUDED IN STATEMENTS RELATING TO FIXED-SUM CREDIT AGREEMENTS WHICH ARE GREEN DEAL PLANS

4A. Each of the following forms of wording shall be contained in a statement under this Part—

“Settling your Green Deal Plan early

You can settle your Green Deal Plan in full at any time by giving us notice and paying off the amount you owe. If you wish to settle early in full you should contact us for a final settlement figure.

You can also settle your Green Deal Plan in part at any time by giving notice and paying off some of the amount you owe.”;

“Dispute resolution

If you have a problem with any aspect of your Green Deal Plan, please try to resolve it with us in the first instance. If you are not happy with the way in which we handled your complaint or the result, you may be able to complain to the Financial Ombudsman or the Energy Ombudsman. If you do not take up your problem with us first you will not be entitled to complain to either Ombudsman. We can provide details of how to contact both Ombudsmen.”;

(a) Section 4A was inserted by S.I. 2010/1010, regulation 82.

(b) S.I. 2007/1167, to which there are amendments not relevant to these Regulations.

“Paying less than the agreed sum

If you do not pay your electricity bill in full, you will be behind with payments due under both your Green Deal Plan and your electricity bill and, in most cases, it is likely to take you longer and cost you more to pay off what you owe under your Green Deal Plan.

If you have difficulties paying your electricity bill please contact your electricity supplier. You may also want to seek advice on what to do from an independent free advice agency such as the Citizens Advice service.””.

The Consumer Credit (Disclosure of Information) Regulations 2010

5. In paragraph 4 (other important legal aspects) of Schedule 1 (pre-contract credit information) to the Consumer Credit (Disclosure of Information) Regulations 2010(a), in column 2 of the second row of the table, after “section 95A” insert “(and, where applicable, section 95B)”.

The Consumer Credit (Agreements) Regulations 2010

6. In paragraph 28 (early repayment) of Schedule 1 (information to be included in regulated consumer credit agreements) to the Consumer Credit (Agreements) Regulations 2010(b), in column 3 of the table, for “section 95A”, substitute “sections 95A and 95B”.

(a) S.I. 2010/1013, to which there are amendments not relevant to these Regulations.

(b) S.I. 2010/1014, to which there are amendments not relevant to these Regulations.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations relate to the green deal energy efficiency scheme (“the Green Deal Scheme”) established by Chapter 1 of Part 1 of the Energy Act 2011 (“the 2011 Act”).

These Regulations, which apply to Great Britain, make provision under section 95B of the Consumer Credit Act 1974 (“1974 Act”). Section 95B, which was inserted by section 29 of the 2011 Act, enables a creditor to claim compensation from a debtor where all or part of the credit outstanding under a green deal plan is repaid early. Section 95B only applies to green deal plans that are regulated consumer credit agreements under the 1974 Act.

These Regulations also make amendments to consumer credit secondary legislation in consequence of section 95B of the 1974 Act and the creation of the green deal energy efficiency scheme.

Regulation 1 provides for the commencement and extent of these Regulations.

Regulation 2 defines terms used in these Regulations.

Regulation 3 specifies the length of green deal plan for which creditors are able to claim compensation under section 95B of the 1974 Act.

Regulation 4 specifies the method for calculating the compensatory amount allowed under section 95B of the 1974 Act.

Regulation 5 and the Schedule to these Regulations make amendments to consumer credit secondary legislation.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen. However, a full regulatory impact assessment of the effect that the Green Deal Scheme will have on the costs of business and the voluntary sector is available from the Green Deal Legislation Team, Department of Energy and Climate Change at 3 Whitehall Place, London SW1A 2AW and is published alongside the Green Deal Framework (Disclosure, Acknowledgment, Redress etc.) Regulations 2012 (S.I. 2012/2079) on www.legislation.gov.uk.

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STATUTORY INSTRUMENTS

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