Consumer Credit Act 1974

1974 CHAPTER 39

PART V

ENTRY INTO CREDIT OR HIRE AGREEMENTS

Cancellation of certain agreements within cooling-off period

67 Cancellable agreements.

A regulated agreement may be cancelled by the debtor or hirer in accordance with this Part if the antecedent negotiations included oral representations made when in the presence of the debtor or hirer by an individual acting as, or on behalf of, the negotiator, unless—

(a) the agreement is secured on land, or is a restricted-use credit agreement to finance the purchase of land or is an agreement for a bridging loan in connection with the purchase of land, or

(b) the unexecuted agreement is signed by the debtor or hirer at premises at which any of the following is carrying on any business (whether on a permanent or temporary basis)—

(i) the creditor or owner;

(ii) any party to a linked transaction (other than the debtor or hirer or a relative of his);

(iii) the negotiator in any antecedent negotiations.

68 Cooling-off period.

The debtor or hirer may serve notice of cancellation of a cancellable agreement between his signing of the unexecuted agreement and—

(a) the end of the fifth day following the day on which he received a copy under section 63(2) or a notice under section 64(1)(b), or

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(b) if (by virtue of regulations made under section 64(4)) section 64(1)(b) does not apply, the end of the fourteenth day following the day on which he signed the unexecuted agreement.

69 Notice of cancellation.

(1) If within the period specified in section 68 the debtor or hirer under a cancellable agreement serves on—

(a) the creditor or owner, or

(b) the person specified in the notice under section 64(1), or

(c) a person who (whether by virtue of subsection (6) or otherwise) is the agent of the creditor or owner,

a notice (a "notice of cancellation ") which, however expressed and whether or not conforming to the notice given under section 64(1), indicates the intention of the debtor or hirer to withdraw from the agreement, the notice shall operate—

(i) to cancel the agreement, and any linked transaction, and

(ii) to withdraw any offer by the debtor or hirer, or his relative, to enter into a linked transaction.

(2) In the case of a debtor-creditor-supplier agreement for restricted-use credit financing—

(a) the doing of work or supply of goods to meet an emergency, or

(b) the supply of goods which, before service of the notice of cancellation, had by the act of the debtor or his relative become incorporated in any land or thing not comprised in the agreement or any linked transaction,

subsection (1) shall apply with the substitution of the following for paragraph (i)—

"(i) to cancel only such provisions of the agreement and any linked transaction as—

(aa) relate to the provision of credit, or

(bb) require the debtor to pay an item in the total charge for credit, or

(cc) subject the debtor to any obligation other than to pay for the doing of the said work, or the supply of the said goods".

(3) Except so far as is otherwise provided, references in this Act to the cancellation of an agreement or transaction do not include a case within subsection (2).

(4) Except as otherwise provided by or under this Act, an agreement or transaction cancelled under subsection (1) shall be treated as if it had never been entered into.

(5) Regulations may exclude linked transactions of the prescribed description from subsection (1)(i) or (ii).

(6) Each of the following shall be deemed to be the agent of the creditor or owner for the purpose of receiving a notice of cancellation—

(a) a credit-broker or supplier who is the negotiator in antecedent negotiations, and

(b) any person who, in the course of a business carried on by him, acts on behalf of the debtor or hirer in any negotiations for the agreement.

[[F1](7) Whether or not it is actually received by him, a notice of cancellation sent to a person shall be deemed to be served on him—

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(a) in the case of a notice sent by post, at the time of posting, and
(b) in the case of a notice transmitted in the form of an electronic communication in accordance with section 176A(1), at the time of the transmission.**]**

Textual Amendments

F1 S. 69(7) substituted (31.12.2004) by The Consumer Credit Act 1974 (Electronic Communications) Order 2004 (S.I. 2004/3236), **art. 2(5)**

70 Cancellation: recovery of money paid by debtor or hirer.

(1) On the cancellation of a regulated agreement, and of any linked transaction,—
(a) any sum paid by the debtor or hirer, or his relative, under or in contemplation of the agreement or transaction, including any item in the total charge for credit, shall become repayable, and
(b) any sum, including any item in the total charge for credit, which but for the cancellation is, or would or might become, payable by the debtor or hirer, or his relative, under the agreement or transaction shall cease to be, or shall not become, so payable, and
(c) in the case of a debtor-creditor-supplier agreement falling within section 12(b), any sum paid on the debtor's behalf by the creditor to the supplier shall become repayable to the creditor.

(2) If, under the terms of a cancelled agreement or transaction, the debtor or hirer, or his relative, is in possession of any goods, he shall have a lien on them for any sum repayable to him under subsection (1) in respect of that agreement or transaction, or any other linked transaction.

(3) A sum repayable under subsection (1) is repayable by the person to whom it was originally paid, but in the case of a debtor-creditor-supplier agreement falling within section 12(b) the creditor and the supplier shall be under a joint and several liability to repay sums paid by the debtor, or his relative, under the agreement or under a linked transaction falling within section 19(1)(b) and accordingly, in such a case, the creditor shall be entitled, in accordance with rules of court, to have the supplier made a party to any proceedings brought against the creditor to recover any such sums.

(4) Subject to any agreement between them, the creditor shall be entitled to be indemnified by the supplier for loss suffered by the creditor in satisfying his liability under subsection (3), including costs reasonably incurred by him in defending proceedings instituted by the debtor.

(5) Subsection (1) does not apply to any sum which, if not paid by a debtor, would be payable by virtue of section 71, and applies to a sum paid or payable by a debtor for the issue of a credit-token only where the credit-token has been returned to the creditor or surrendered to a supplier.

(6) If the total charge for credit includes an item in respect of a fee or commission charged by a credit-broker, the amount repayable under subsection (1) in respect of that item shall be the excess over **[**[F2]£5**]** of the fee or commission.

(7) If the total charge for credit includes any sum payable or paid by the debtor to a credit-broker otherwise than in respect of a fee or commission charged by him, that sum shall for the purposes of subsection (6) be treated as if it were such a fee or commission.

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(8) So far only as is necessary to give effect to section 69(2), this section applies to an agreement or transaction within that subsection as it applies to a cancelled agreement or transaction.

Textual Amendments

F2 Amount "£5" substituted (1.5.1998) in s. 70(6) by S.I. 1998/997, art. 3, **Sch.**

71 Cancellation: repayment of credit.

(1) Notwithstanding the cancellation of a regulated consumer credit agreement, other than a debtor-creditor-supplier agreement for restricted-use credit, the agreement shall continue in force so far as it relates to repayment of credit and payment of interest.

(2) If, following the cancellation of a regulated consumer credit agreement, the debtor repays the whole or a portion of the credit—

(a) before the expiry of one month following service of the notice of cancellation, or

(b) in the case of a credit repayable by instalments, before the date on which the first instalment is due,

no interest shall be payable on the amount repaid.

(3) If the whole of a credit repayable by instalments is not repaid on or before the date specified in subsection (2)(b), the debtor shall not be liable to repay any of the credit except on receipt of a request in writing in the prescribed form, signed by or on behalf of the creditor, stating the amounts of the remaining instalments (recalculated by the creditor as nearly as may be in accordance with the agreement and without extending the repayment period), but excluding any sum other than principal and interest.

(4) Repayment of a credit, or payment of interest, under a cancelled agreement shall be treated as duly made if it is made to any person on whom, under section 69, a notice of cancellation could have been served, other than a person referred to in section 69(6)(b).

72 Cancellation: return of goods.

(1) This section applies where any agreement or transaction relating to goods, being—

(a) a restricted-use debtor-creditor-supplier agreement, a consumer hire agreement, or a linked transaction to which the debtor or hirer under any regulated agreement is a party, or

(b) a linked transaction to which a relative of the debtor or hirer under any regulated agreement is a party,

is cancelled after the debtor or hirer (in a case within paragraph (a)) or the relative (in a case within paragraph (b)) has acquired possession of the goods by virtue of the agreement or transaction.

(2) In this section—

(a) "the possessor " means the person who has acquired possession of the goods as mentioned in subsection (1),

(b) "the other party " means the person from whom the possessor acquired possession, and

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(c) "the pre-cancellation period " means the period beginning when the possessor acquired possession and ending with the cancellation.

(3) The possessor shall be treated as having been under a duty throughout the pre-cancellation period—

(a) to retain possession of the goods, and

(b) to take reasonable care of them.

(4) On the cancellation, the possessor shall be under a duty, subject to any lien, to restore the goods to the other party in accordance with this section, and meanwhile to retain possession of the goods and take reasonable care of them.

(5) The possessor shall not be under any duty to deliver the goods except at his own premises and in pursuance of a request in writing signed by or on behalf of the other party and served on the possessor either before, or at the time when, the goods are collected from those premises.

(6) If the possessor—

(a) delivers the goods (whether at his own premises or elsewhere) to any person on whom, under section 69, a notice of cancellation could have been served (other than a person referred to in section 69(6)(b)), or

(b) sends the goods at his own expense to such a person,

he shall be discharged from any duty to retain the goods or deliver them to any person.

(7) Where the possessor delivers the goods as mentioned in subsection (6)(a), his obligation to take care of the goods shall cease; and if he sends the goods as mentioned in subsection (6)(b), he shall be under a duty to take reasonable care to see that they are received by the other party and not damaged in transit, but in other respects his duty to take care of the goods shall cease.

(8) Where, at any time during the period of 21 days following the cancellation, the possessor receives such a request as is mentioned in subsection (5), and unreasonably refuses or unreasonably fails to comply with it, his duty to take reasonable care of the goods shall continue until he delivers or sends the goods as mentioned in subsection (6), but if within that period he does not receive such a request his duty to take reasonable care of the goods shall cease at the end of that period.

(9) The preceding provisions of this section do not apply to—

(a) perishable goods, or

(b) goods which by their nature are consumed by use and which, before the cancellation, were so consumed, or

(c) goods supplied to meet an emergency, or

(d) goods which, before the cancellation, had become incorporated in any land or thing not comprised in the cancelled agreement or a linked transaction.

(10) Where the address of the possessor is specified in the executed agreement, references in this section to his own premises are to that address and no other.

(11) Breach of a duty imposed by this section is actionable as a breach of statutory duty.

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73 Cancellation: goods given in part-exchange.

(1) This section applies on the cancellation of a regulated agreement where, in antecedent negotiations, the negotiator agreed to take goods in part-exchange (the "part-exchange goods ") and those goods have been delivered to him.

(2) Unless, before the end of the period of ten days beginning with the date of cancellation, the part-exchange goods are returned to the debtor or hirer in a condition substantially as good as when they were delivered to the negotiator, the debtor or hirer shall be entitled to recover from the negotiator a sum equal to the part-exchange allowance (as defined in subsection (7)(b)).

(3) In the case of a debtor-creditor-supplier agreement within section 12(b), the negotiator and the creditor shall be under a joint and several liability to pay to the debtor a sum recoverable under subsection (2).

(4) Subject to any agreement between them, the creditor shall be entitled to be indemnified by the negotiator for loss suffered by the creditor in satisfying his liability under subsection (3), including costs reasonably incurred by him in defending proceedings instituted by the debtor.

(5) During the period of ten days beginning with the date of cancellation, the debtor or hirer, if he is in possession of goods to which the cancelled agreement relates, shall have a lien on them for—

(a) delivery of the part-exchange goods, in a condition substantially as good as when they were delivered to the negotiator, or

(b) a sum equal to the part-exchange allowance;

and if the lien continues to the end of that period it shall thereafter subsist only as a lien for a sum equal to the part-exchange allowance.

(6) Where the debtor or hirer recovers from the negotiator or creditor, or both of them jointly, a sum equal to the part-exchange allowance, then, if the title of the debtor or hirer to the part-exchange goods has not vested in the negotiator, it shall so vest on the recovery of that sum.

(7) For the purposes of this section—

(a) the negotiator shall be treated as having agreed to take goods in part-exchange if, in pursuance of the antecedent negotiations, he either purchased or agreed to purchase those goods or accepted or agreed to accept them as part of the consideration for the cancelled agreement, and

(b) the part-exchange allowance shall be the sum agreed as such in the antecedent negotiations or, if no such agreement was arrived at, such sum as it would have been reasonable to allow in respect of the part-exchange goods if no notice of cancellation had been served.

(8) In an action brought against the creditor for a sum recoverable under subsection (2), he shall be entitled, in accordance with rules of court, to have the negotiator made a party to the proceedings.

Status:
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