



# Consumer Credit Act 1974

## 1974 CHAPTER 39

### PART VI

#### MATTERS ARISING DURING CURRENCY OF CREDIT OR HIRE AGREEMENTS<sup>F1F2F3</sup>

##### Textual Amendments

- F1** S. 77A inserted (16.6.2006 for certain purposes and otherwise 1.10.2008) by [Consumer Credit Act 2006 \(c. 14\)](#), ss. {6}, 71(2) (with Sch. 3 para. 2); [S.I. 2006/1508, art. 3\(1\), Sch. 1](#); [S.I. 2007/3300, art. 3\(3\), Sch. 3](#)
- F2** S. 86A and preceding cross-heading inserted (31.1.2007) by [Consumer Credit Act 2006 \(c. 14\)](#), ss. {8}, 71(2) (with Sch. 3 para. 5); [S.I. 2007/123, art. 3\(1\), Sch. 1](#)
- F3** 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](#)

#### 75 Liability of creditor for breaches by supplier.

- (1) If the debtor under a debtor-creditor-supplier agreement falling within section 12(b) or (c) has, in relation to a transaction financed by the agreement, any claim against the supplier in respect of a misrepresentation or breach of contract, he shall have a like claim against the creditor, who, with the supplier, shall accordingly be jointly and severally liable to the debtor.
- (2) 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 (1), including costs reasonably incurred by him in defending proceedings instituted by the debtor.
- (3) Subsection (1) does not apply to a claim—
  - (a) under a non-commercial agreement, or
  - (b) so far as the claim relates to any single item to which the supplier has attached a cash price not exceeding [<sup>F4</sup>£100] or more than [<sup>F5</sup>£30,000].

*Status: Point in time view as at 31/01/2007. This version of this part contains provisions that are not valid for this point in time.*

*Changes to legislation: Consumer Credit Act 1974, Part VI is up to date with all changes known to be in force on or before 14 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)*

- (4) This section applies notwithstanding that the debtor, in entering into the transaction, exceeded the credit limit or otherwise contravened any term of the agreement.
- (5) In an action brought against the creditor under subsection (1) he shall be entitled, in accordance with rules of court, to have the supplier made a party to the proceedings.

#### Textual Amendments

**F4** "£100 " substituted by S.I. 1983/1878, art. 3, Sch. Pt. I

**F5** "£30,000" substituted by S.I. 1983/1878, arts. 3, 4, Sch. Pt. II

VALID FROM 01/02/2011

#### [<sup>F6</sup>75A Further provision for liability of creditor for breaches by supplier

- (1) If the debtor under a linked credit agreement has a claim against the supplier in respect of a breach of contract the debtor may pursue that claim against the creditor where any of the conditions in subsection (2) are met.
- (2) The conditions in subsection (1) are—
  - (a) that the supplier cannot be traced,
  - (b) that the debtor has contacted the supplier but the supplier has not responded,
  - (c) that the supplier is insolvent, or
  - (d) that the debtor has taken reasonable steps to pursue his claim against the supplier but has not obtained satisfaction for his claim.
- (3) The steps referred to in subsection (2)(d) need not include litigation.
- (4) For the purposes of subsection (2)(d) a debtor is to be deemed to have obtained satisfaction where he has accepted a replacement product or service or other compensation from the supplier in settlement of his claim.
- (5) In this section “linked credit agreement” means a regulated consumer credit agreement which serves exclusively to finance an agreement for the supply of specific goods or the provision of a specific service and where—
  - (a) the creditor uses the services of the supplier in connection with the preparation or making of the credit agreement, or
  - (b) the specific goods or provision of a specific service are explicitly specified in the credit agreement.
- (6) This section does not apply where—
  - (a) the cash value of the goods or service is £30, 000 or less,
  - (b) the linked credit agreement is for credit which exceeds £60, 260, or
  - (c) the linked credit agreement is entered into by the debtor wholly or predominantly for the purposes of a business carried on, or intended to be carried on, by him.
- (7) Subsections (2) to (5) of section 16B (declaration by the debtor as to the purposes of the agreement) apply for the purposes of subsection (6)(c).
- (8) This section does not apply to an agreement secured on land.]

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### Textual Amendments

- F6** S. 75A inserted (1.2.2011) by [The Consumer Credit \(EU Directive\) Regulations 2010 \(S.I. 2010/1010\)](#), [regs. 25, 99\(1\)](#) (with [regs. 100, 101](#)) (as inserted by [The Consumer Credit \(Amendment\) Regulations 2010 \(S.I. 2010/1969\)](#), [reg. 11](#))

## 76 Duty to give notice before taking certain action.

- (1) The creditor or owner is not entitled to enforce a term of a regulated agreement by—
- demanding earlier payment of any sum, or
  - recovering possession of any goods or land, or
  - treating any right conferred on the debtor or hirer by the agreement as terminated, restricted or deferred,
- except by or after giving the debtor or hirer not less than seven days' notice of his intention to do so.
- (2) Subsection (1) applies only where—
- a period for the duration of the agreement is specified in the agreement, and
  - that period has not ended when the creditor or owner does an act mentioned in subsection (1),
- but so applies notwithstanding that, under the agreement, any party is entitled to terminate it before the end of the period so specified.
- (3) A notice under subsection (1) is ineffective if not in the prescribed form.
- (4) Subsection (1) does not prevent a creditor from treating the right to draw on any credit as restricted or deferred and taking such steps as may be necessary to make the restriction or deferment effective.
- (5) Regulations may provide that subsection (1) is not to apply to agreements described by the regulations.
- (6) Subsection (1) does not apply to a right of enforcement arising by reason of any breach by the debtor or hirer of the regulated agreement.

### Modifications etc. (not altering text)

- C1** S. 76 applied (1.11.2009) by [The Payment Services Regulations 2009 \(S.I. 2009/209\)](#), [regs. 1\(2\)\(c\), 52\(d\)](#) (with [reg. 3](#))

## 77 Duty to give information to debtor under fixed-sum credit agreement.

- (1) The creditor under a regulated agreement for fixed-sum credit, within the prescribed period after receiving a request in writing to that effect from the debtor and payment of a fee of [<sup>F7</sup>£1], shall give the debtor a copy of the executed agreement (if any) and of any other document referred to in it, together with a statement signed by or on behalf of the creditor showing, according to the information to which it is practicable for him to refer,—
- the total sum paid under the agreement by the debtor;

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- (b) the total sum which has become payable under the agreement by the debtor but remains unpaid, and the various amounts comprised in that total sum, with the date when each became due; and
  - (c) the total sum which is to become payable under the agreement by the debtor, and the various amounts comprised in that total sum, with the date, or mode of determining the date, when each becomes due.
- (2) If the creditor possesses insufficient information to enable him to ascertain the amounts and dates mentioned in subsection (1)(c), he shall be taken to comply with that paragraph if his statement under subsection (1) gives the basis on which, under the regulated agreement, they would fall to be ascertained.
- (3) Subsection (1) does not apply to—
- (a) an agreement under which no sum is, or will or may become, payable by the debtor, or
  - (b) a request made less than one month after a previous request under that subsection relating to the same agreement was complied with.
- (4) If the creditor under an agreement fails to comply with subsection (1)—
- (a) he is not entitled, while the default continues, to enforce the agreement; and
  - (b) if the default continues for one month he commits an offence.
- (5) This section does not apply to a non-commercial agreement.

#### Textual Amendments

**F7** "£1" substituted (1.5.1998) in s. 77(1) by [S.I. 1998/997, art. 3, Sch.](#)

### [<sup>F1</sup>77A] Statements to be provided in relation to fixed-sum credit agreements

- (1) The creditor under a regulated agreement for fixed-sum credit—
- (a) shall, within the period of one year beginning with the day after the day on which the agreement is made, give the debtor a statement under this section; and
  - (b) after the giving of that statement, shall give the debtor further statements under this section at intervals of not more than one year.
- (2) Regulations may make provision about the form and content of statements under this section.
- (3) The debtor shall have no liability to pay any sum in connection with the preparation or the giving to him of a statement under this section.
- (4) The creditor is not required to give the debtor any statement under this section once the following conditions are satisfied—
- (a) that there is no sum payable under the agreement by the debtor; and
  - (b) that there is no sum which will or may become so payable.
- (5) Subsection (6) applies if at a time before the conditions mentioned in subsection (4) are satisfied the creditor fails to give the debtor—
- (a) a statement under this section within the period mentioned in subsection (1) (a); or

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- (b) such a statement within the period of one year beginning with the day after the day on which such a statement was last given to him.
- (6) Where this subsection applies in relation to a failure to give a statement under this section to the debtor—
- (a) the creditor shall not be entitled to enforce the agreement during the period of non-compliance;
  - (b) the debtor shall have no liability to pay any sum of interest to the extent calculated by reference to the period of non-compliance or to any part of it; and
  - (c) the debtor shall have no liability to pay 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).
- (7) In this section ‘the period of non-compliance’ means, in relation to a failure to give a statement under this section to the debtor, the period which—
- (a) begins immediately after the end of the period mentioned in paragraph (a) or (as the case may be) paragraph (b) of subsection (5); and
  - (b) ends at the end of the day on which the statement is given to the debtor or on which the conditions mentioned in subsection (4) are satisfied, whichever is earlier.
- (8) This section does not apply in relation to a non-commercial agreement or to a small agreement.]

VALID FROM 01/02/2011

**[F<sup>8</sup>77B Fixed-sum credit agreement: statement of account to be provided on request**

- (1) This section applies to a regulated consumer credit agreement—
  - (a) which is for fixed-sum credit,
  - (b) which is of fixed duration,
  - (c) where the credit is repayable in instalments by the debtor, and
  - (d) which is not an excluded agreement.
- (2) Upon a request from the debtor, the creditor must as soon as reasonably practicable give to the debtor a statement in writing which complies with subsections (3) to (5).
- (3) The statement must include a table showing the details of each instalment owing under the agreement as at the date of the request.
- (4) Details to be provided under subsection (3) must include—
  - (a) the date on which the instalment is due,
  - (b) the amount of the instalment,
  - (c) any conditions relating to payment of the instalment, and
  - (d) a breakdown of the instalment showing how much of it is made up of capital repayment, interest payment and other charges.

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- (5) Where the rate of interest is variable or the charges under the agreement may be varied, the statement must also indicate clearly and concisely that the information in the table is valid only until the rate of interest or charges are varied.
- (6) The debtor may make a request under subsection (2) at any time that the agreement is in force unless a previous request has been made less than a month before and has been complied with.
- (7) The debtor shall have no liability to pay any sum in connection with the preparation or the giving of a statement under this section.
- (8) A breach of the duty imposed by this section is actionable as a breach of statutory duty.
- (9) For the purposes of this section, an agreement is an excluded agreement if it is—
  - (a) an agreement secured on land,
  - (b) an agreement under which a person takes an article in pawn,
  - (c) an agreement under which the creditor provides the debtor with credit which exceeds £60, 260, or
  - (d) an agreement entered into by the debtor wholly or predominantly for the purpose of a business carried on, or intended to be carried on, by him.
- (10) Subsections (2) to (5) of section 16B (declaration by the debtor as to the purposes of the agreement) apply for the purposes of subsection (9)(d).]

#### Textual Amendments

- F8** S. 77B inserted (1.2.2011) by [The Consumer Credit \(EU Directive\) Regulations 2010 \(S.I. 2010/1010\)](#), [regs. 26, 99\(1\)](#) (with [regs. 100, 101](#))

### 78 Duty to give information to debtor under running-account credit agreement.

- (1) The creditor under a regulated agreement for running-account credit, within the prescribed period after receiving a request in writing to that effect from the debtor and payment of a fee of [<sup>F9</sup>£1], shall give the debtor a copy of the executed agreement (if any) and of any other document referred to in it, together with a statement signed by or on behalf of the creditor showing, according to the information to which it is practicable for him to refer,—
  - (a) the state of the account, and
  - (b) the amount, if any currently payable under the agreement by the debtor to the creditor, and
  - (c) the amounts and due dates of any payments which, if the debtor does not draw further on the account, will later become payable under the agreement by the debtor to the creditor.
- (2) If the creditor possesses insufficient information to enable him to ascertain the amounts and dates mentioned in subsection (1)(c), he shall be taken to comply with that paragraph if his statement under subsection (1) gives the basis on which, under the regulated agreement, they would fall to be ascertained.
- (3) Subsection (1) does not apply to—

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- (a) an agreement under which no sum is, or will or may become, payable by the debtor, or
  - (b) a request made less than one month after a previous request under that subsection relating to the same agreement was complied with.
- (4) Where running-account credit is provided under a regulated agreement, the creditor shall give the debtor statements in the prescribed form, and with the prescribed contents—
- (a) showing according to the information to which it is practicable for him to refer, the state of the account at regular intervals of not more than twelve months, and
  - (b) where the agreement provides, in relation to specified periods, for the making of payments by the debtor, or the charging against him of interest or any other sum, showing according to the information to which it is practicable for him to refer the state of the account at the end of each of those periods during which there is any movement in the account.

[<sup>F10</sup>(4A) Regulations may require a statement under subsection (4) to contain also information in the prescribed terms about the consequences of the debtor—

- (a) failing to make payments as required by the agreement; or
- (b) only making payments of a prescribed description in prescribed circumstances.]

(5) A statement under subsection (4) shall be given within the prescribed period after the end of the period to which the statement relates.

(6) If the creditor under an agreement fails to comply with subsection (1)—

- (a) he is not entitled, while the default continues, to enforce the agreement; and
- (b) if the default continues for one month he commits an offence.

(7) This section does not apply to a non-commercial agreement, and subsections [<sup>F11</sup>(4) to (5)] do not apply to a small agreement.

#### Textual Amendments

**F9** "£1" substituted (1.5.1998) in s. 78(1) by [S.I. 1998/997, art. 3, Sch.](#)

**F10** [S. 78\(4A\)](#) inserted (16.6.2006) by [Consumer Credit Act 2006 \(c. 14\)](#), ss. {7(1)}, 71(2) (with [Sch. 3](#) para. 3); [S.I. 2006/1508, art. 3\(1\), Sch. 1](#)

**F11** Words in [s. 78\(7\)](#) substituted (16.6.2006) by [Consumer Credit Act 2006 \(c. 14\)](#), ss. {7(2)}, 71(2); [S.I. 2006/1508, art. 3\(1\), Sch. 1](#)

VALID FROM 01/02/2011

#### [<sup>F12</sup>78A Duty to give information to debtor on change of rate of interest

- (1) Where the rate of interest charged under a regulated consumer credit agreement, other than an excluded agreement, is to be varied, the creditor must inform the debtor in writing of the matters mentioned in subsection (3) before the variation can take effect.
- (2) But subsection (1) does not apply where—

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- (a) the agreement provides that the creditor is to inform the debtor in writing periodically of the matters mentioned in subsection (3) in relation to any variation, at such times as may be provided for in the agreement,
  - (b) the agreement provides that the rate of interest is to vary according to a reference rate,
  - (c) the reference rate is publicly available,
  - (d) information about the reference rate is available on the premises of the creditor, and
  - (e) the variation of the rate of interest results from a change to the reference rate.
- (3) The matters referred to in subsections (1) and (2)(a) are—
- (a) the variation in the rate of interest,
  - (b) the amount of any payments that are to be made after the variation has effect, if different, expressed as a sum of money where practicable, and
  - (c) if the number or frequency of payments changes as a result of the variation, the new number or frequency.
- (4) In the case of an agreement mentioned in subsection (5) this section applies as follows—
- (a) the obligation in subsection (1) only applies if the rate of interest increases, and
  - (b) subsection (3) is to be read as if paragraphs (b) and (c) were omitted.
- (5) The agreements referred to in subsection (4) are—
- (a) an authorised business overdraft agreement,
  - (b) an authorised non-business overdraft agreement, or
  - (c) an agreement which would be an authorised non-business overdraft agreement but for the fact that the credit is not repayable on demand or within three months.
- (6) For the purposes of this section an agreement is an excluded agreement if it is—
- (a) a debtor-creditor agreement arising where the holder of a current account overdraws on the account without a pre-arranged overdraft or exceeds a pre-arranged overdraft limit, or
  - (b) an agreement secured on land.]

#### Textual Amendments

- F12** S. 78A inserted (1.2.2011) by [The Consumer Credit \(EU Directive\) Regulations 2010 \(S.I. 2010/1010\)](#), [regs. 27, 99\(1\)](#) (with [regs. 100, 101](#))

## 79 Duty to give hirer information.

- (1) The owner under a regulated consumer hire agreement, within the prescribed period after receiving a request in writing to that effect from the hirer and payment of a fee of [<sup>F13</sup>£1], shall give to the hirer a copy of the executed agreement and of any other document referred to in it, together with a statement signed by or on behalf of the owner showing, according to the information to which it is practicable for him to refer, the total sum which has become payable under the agreement by the hirer but remains



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unpaid and the various amounts comprised in that total sum, with the date when each became due.

- (2) Subsection (1) does not apply to—
  - (a) an agreement under which no sum is, or will or may become, payable by the hirer, or
  - (b) a request made less than one month after a previous request under that subsection relating to the same agreement was complied with.
- (3) If the owner under an agreement fails to comply with subsection (1)—
  - (a) he is not entitled, while the default continues, to enforce the agreement; and
  - (b) if the default continues for one month he commits an offence.
- (4) This section does not apply to a non-commercial agreement.

#### Textual Amendments

**F13** "£1" substituted (1.5.1998) in s. 79(1) by [S.I. 1998/997, art. 3, Sch.](#)

### 80 Debtor or hirer to give information about goods.

- (1) Where a regulated agreement, other than a non-commercial agreement, requires the debtor or hirer to keep goods to which the agreement relates in his possession or control, he shall, within seven working days after he has received a request in writing to that effect from the creditor or owner, tell the creditor or owner where the goods are.
- (2) If the debtor or hirer fails to comply with subsection (1), and the default continues for 14 days, he commits an offence.

### 81 Appropriation of payments.

- (1) Where a debtor or hirer is liable to make to the same person payments in respect of two or more regulated agreements, he shall be entitled, on making any payment in respect of the agreements which is not sufficient to discharge the total amount then due under all the agreements, to appropriate the sum so paid by him—
  - (a) in or towards the satisfaction of the sum due under any one of the agreements, or
  - (b) in or towards the satisfaction of the sums due under any two or more of the agreements in such proportions as he thinks fit.
- (2) If the debtor or hirer fails to make any such appropriation where one or more of the agreements is—
  - (a) a hire-purchase agreement or conditional sale agreement, or
  - (b) a consumer hire agreement, or
  - (c) an agreement in relation to which any security is provided,the payment shall be appropriated towards the satisfaction of the sums due under the several agreements respectively in the proportions which those sums bear to one another.

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## 82 Variation of agreements.

- (1) Where, under a power contained in a regulated agreement, the creditor or owner varies the agreement, the variation shall not take effect before notice of it is given to the debtor or hirer in the prescribed manner.
- (2) Where an agreement (a “modifying agreement”) varies or supplements an earlier agreement, the modifying agreement shall for the purposes of this Act be treated as—
  - (a) revoking the earlier agreement, and
  - (b) containing provisions reproducing the combined effect of the two agreements, and obligations outstanding in relation to the earlier agreement shall accordingly be treated as outstanding instead in relation to the modifying agreement.

[<sup>F14</sup>(2A) Subsection (2) does not apply if the modifying agreement is an exempt agreement as a result of section 16(6C).]

- (3) If the earlier agreement is a regulated agreement but (apart from this subsection) the modifying agreement is not then, [<sup>F15</sup> unless the modifying agreement is—
  - (a) for running account credit; or
  - (b) an exempt agreement as a result of section 16(6C),
 it shall be treated as a regulated agreement.] .
- (4) If the earlier agreement is a regulated agreement for running-account credit, and by the modifying agreement the creditor allows the credit limit to be exceeded but intends the excess to be merely temporary, Part V (except section 56) shall not apply to the modifying agreement.
- (5) If—
  - (a) the earlier agreement is a cancellable agreement, and
  - (b) the modifying agreement is made within the period applicable under section 68 to the earlier agreement,

then, whether or not the modifying agreement would, apart from this subsection, be a cancellable agreement, it shall be treated as a cancellable agreement in respect of which a notice may be served under section 68 not later than the end of the period applicable under that section to the earlier agreement.

[<sup>F16</sup>(5A) Subsection (5) does not apply where the modifying agreement is an exempt agreement as a result of section 16(6C).]

- (6) Except under subsection (5), a modifying agreement shall not be treated as a cancellable agreement.
- (7) This section does not apply to a non-commercial agreement.

### Textual Amendments

**F14** S. 82(2A) inserted (16.11.2005) by The Financial Services and Markets Act 2000 (Consequential Amendments) Order 2005 (S.I. 2005/2967), **art. 2(2)**

**F15** Words in s. 82(3) substituted (16.11.2005) by The Financial Services and Markets Act 2000 (Consequential Amendments) Order 2005 (S.I. 2005/2967), **art. 2(3)**

**F16** S. 82(5A) inserted (16.11.2005) by The Financial Services and Markets Act 2000 (Consequential Amendments) Order 2005 (S.I. 2005/2967), **art. 2(4)**

**Status:** Point in time view as at 31/01/2007. This version of this part contains provisions that are not valid for this point in time.

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VALID FROM 01/02/2011

### [<sup>F17</sup>82A Assignment of rights

- (1) Where rights of a creditor under a regulated consumer credit agreement are assigned to a third party, the assignee must arrange for notice of the assignment to be given to the debtor—
  - (a) as soon as reasonably possible, or
  - (b) if, after the assignment, the arrangements for servicing the credit under the agreement do not change as far as the debtor is concerned, on or before the first occasion that they do.
- (2) This section does not apply to an agreement secured on land.]

#### Textual Amendments

**F17** S. 82A inserted (1.2.2011) by [The Consumer Credit \(EU Directive\) Regulations 2010 \(S.I. 2010/1010\)](#), [regs. 36, 99\(1\)](#) (with [regs. 100, 101](#))

### 83 Liability for misuse of credit facilities.

- (1) The debtor under a regulated consumer credit agreement shall not be liable to the creditor for any loss arising from use of the credit facility by another person not acting, or to be treated as acting, as the debtor's agent.
- (2) This section does not apply to a non-commercial agreement, or to any loss in so far as it arises from misuse of an instrument to which section 4 of the <sup>M1</sup>Cheques Act 1957 applies.

#### Modifications etc. (not altering text)

**C2** S. 83 applied (1.11.2009) by [The Payment Services Regulations 2009 \(S.I. 2009/209\)](#), [regs. 1\(2\)\(c\), 52\(c\)](#) (with [reg. 3](#))

#### Marginal Citations

**M1** 1957 c. 36.

### 84 Misuse of credit-tokens.

- (1) Section 83 does not prevent the debtor under a credit-token agreement from being made liable to the extent of [<sup>F18</sup>£50] (or the credit limit if lower) for loss to the creditor arising from use of the credit-token by other persons during a period beginning when the credit-token ceases to be in the possession of any authorised person and ending when the credit-token is once more in the possession of an authorised person.
- (2) Section 83 does not prevent the debtor under a credit-token agreement from being made liable to any extent for loss to the creditor from use of the credit-token by a person who acquired possession of it with the debtor's consent.

*Status: Point in time view as at 31/01/2007. This version of this part contains provisions that are not valid for this point in time.*

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- (3) Subsections (1) and (2) shall not apply to any use of the credit-token after the creditor has been given oral or written notice that it is lost or stolen, or is for any other reason liable to misuse.
- [<sup>F19</sup>(3A) Subsections (1) and (2) shall not apply to any use, in connection with a distance contract (other than an excepted contract), of a card which is a credit-token.
- <sup>F19</sup>(3B) In subsection (3A), “distance contract ” and “excepted contract ” have the meanings given in the Consumer Protection (Distance Selling) Regulations 2000.
- [ Subsections (1) and (2) shall not apply to any use, in connection with a distance <sup>F20</sup>(3C) contract within the meaning of the Financial Services (Distance Marketing) Regulations 2004, of a card which is a credit-token.]]
- (4) Subsections (1) and (2) shall not apply unless there are contained in the credit-token agreement in the prescribed manner particulars of the name, address and telephone number of a person stated to be the person to whom notice is to be given under subsection (3).
- (5) Notice under subsection (3) takes effect when received, but where it is given orally, and the agreement so requires, it shall be treated as not taking effect if not confirmed in writing within seven days.
- (6) Any sum paid by the debtor for the issue of the credit-token, to the extent (if any) that it has not been previously offset by use made of the credit-token, shall be treated as paid towards satisfaction of any liability under subsection (1) or (2).
- (7) The debtor, the creditor, and any person authorised by the debtor to use the credit-token, shall be authorised persons for the purposes of subsection (1).
- (8) Where two or more credit-tokens are given under one credit-token agreement, the preceding provisions of this section apply to each credit-token separately.

#### Textual Amendments

**F18** "£50" in s. 84(1) substituted (1.5.1998) by S.I. 1998/997, art. 3, **Sch.**

**F19** S. 84(3A)(3B) inserted (31.10.2000) by S.I. 2000/2334, **reg. 21(5)**

**F20** S. 84(3C) inserted (31.10.2004) by The Financial Services (Distance Marketing) Regulations 2004 (S.I. 2004/2095), **reg. 14(4)**

#### Modifications etc. (not altering text)

**C3** S. 84 applied (1.11.2009) by The Payment Services Regulations 2009 (S.I. 2009/209), regs. 1(2)(c), **52(b)** (with reg. 3)

## 85 Duty on issue of new credit-tokens.

- (1) Whenever, in connection with a credit-token agreement, a credit-token (other than the first) is given by the creditor to the debtor, the creditor shall give the debtor a copy of the executed agreement (if any) and of any other document referred to in it.
- (2) If the creditor fails to comply with this section—
- he is not entitled, while the default continues, to enforce the agreement; and
  - if the default continues for one month he commits an offence.

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(3) This section does not apply to a small agreement.

## **86 Death of debtor or hirer.**

(1) The creditor or owner under a regulated agreement is not entitled, by reason of the death of the debtor or hirer, to do an act specified in paragraphs (a) to (e) of section 87(1) if at the death the agreement is fully secured.

(2) If at the death of the debtor or hirer a regulated agreement is only partly secured or is unsecured, the creditor or owner is entitled, by reason of the death of the debtor or hirer, to do an act specified in paragraphs (a) to (e) of section 87(1) on an order of the court only.

(3) This section applies in relation to the termination of an agreement only where—

- (a) a period for its duration is specified in the agreement, and
- (b) that period has not ended when the creditor or owner purports to terminate the agreement,

but so applies notwithstanding that, under the agreement, any party is entitled to terminate it before the end of the period so specified.

(4) This section does not prevent the creditor from treating the right to draw on any credit as restricted or deferred, and taking such steps as may be necessary to make the restriction or deferment effective.

(5) This section does not affect the operation of any agreement providing for payment of sums—

- (a) due under the regulated agreement, or
- (b) becoming due under it on the death of the debtor or hirer, out of the proceeds of a policy of assurance on his life.

(6) For the purposes of this section an act is done by reason of the death of the debtor or hirer if it is done under a power conferred by the agreement which is—

- (a) exercisable on his death, or
- (b) exercisable at will and exercised at any time after his death.

### *[<sup>F2</sup>Information sheets*

## **86A OFT to prepare information sheets on arrears and default**

(1) The OFT shall prepare, and give general notice of, an arrears information sheet and a default information sheet.

(2) The arrears information sheet shall include information to help debtors and hirers who receive notices under section 86B or 86C.

(3) The default information sheet shall include information to help debtors and hirers who receive default notices.

(4) Regulations may make provision about the information to be included in an information sheet.

(5) An information sheet takes effect for the purposes of this Part at the end of the period of three months beginning with the day on which general notice of it is given.

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- (6) If the OFT revises an information sheet after general notice of it has been given, it shall give general notice of the information sheet as revised.
- (7) A revised information sheet takes effect for the purposes of this Part at the end of the period of three months beginning with the day on which general notice of it is given.]

*Sums in arrears and default sums*<sup>F21F22</sup>

**Textual Amendments**

- F21** 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
- F22** 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

**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
  - (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;

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- (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.

### **[<sup>F21</sup>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.

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- (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.]

VALID FROM 01/10/2008

<sup>F3</sup>  
<sup>F23</sup>  
**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—
  - (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;



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- (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

**F23** 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

#### **F22** **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.
- (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.]

VALID FROM 01/10/2008

#### **F24** **86F** Interest on default sums

- (1) This section applies where a default sum becomes payable under a regulated agreement by the debtor or hirer.

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(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

**F24** 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

**Status:**

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