Consumer Credit Act 1974

1974 CHAPTER 39

PART VII

DEFAULT AND TERMINATION

Termination of agreements

98 Duty to give notice of termination (non-default cases).

(1) The creditor or owner is not entitled to terminate a regulated agreement except by or after giving the debtor or hirer not less than seven days' notice of the termination.

(2) Subsection (1) applies only where—

(a) a period for the duration of the agreement is specified in the agreement, and

(b) 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 the termination of a regulated agreement by reason of any breach by the debtor or hirer of the agreement.

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Changes to legislation: *Consumer Credit Act 1974, Cross Heading: Termination of agreements is up to date with all changes known to be in force on or before 19 July 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)*

VALID FROM 01/02/2011

[F1 98A Termination etc of open-end consumer credit agreements

(1) The debtor under a regulated open-end consumer credit agreement, other than an excluded agreement, may by notice terminate the agreement, free of charge, at any time, subject to any period of notice not exceeding one month provided for by the agreement.

(2) Notice under subsection (1) need not be in writing unless the creditor so requires.

(3) Where a regulated open-end consumer credit agreement, other than an excluded agreement, provides for termination of the agreement by the creditor—
- (a) the termination must be by notice served on the debtor, and
- (b) the termination may not take effect until after the end of the period of two months, or such longer period as the agreement may provide, beginning with the day after the day on which notice is served.

(4) Where a regulated open-end consumer credit agreement, other than an excluded agreement, provides for termination or suspension by the creditor of the debtor's right to draw on credit—
- (a) to terminate or suspend the right to draw on credit the creditor must serve a notice on the debtor before the termination or suspension or, if that is not practicable, immediately afterwards,
- (b) the notice must give reasons for the termination or suspension, and
- (c) the reasons must be objectively justified.

(5) Subsection (4)(a) and (b) does not apply where giving the notice—
- (a) is prohibited by an EU obligation, or
- (b) would, or would be likely to, prejudice—
  - (i) the prevention or detection of crime,
  - (ii) the apprehension or prosecution of offenders, or
  - (iii) the administration of justice.

(6) An objectively justified reason under subsection (4)(c) may, for example, relate to—
- (a) the unauthorised or fraudulent use of credit, or
- (b) a significantly increased risk of the debtor being unable to fulfil his obligation to repay the credit.

(7) Subsections (1) and (3) do not affect any right to terminate an agreement for breach of contract.

(8) For the purposes of this section an agreement is an excluded agreement if it is—
- (a) an authorised non-business overdraft agreement,
- (b) an authorised business overdraft agreement,
- (c) 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
- (d) an agreement secured on land.**]**

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Textual Amendments

F1 S. 98A inserted (1.2.2011) by The Consumer Credit (EU Directive) Regulations 2010 (S.I. 2010/1010), **regs. 38**, 99(1) (with regs. 100, 101)

99 Right to terminate hire-purchase etc. agreements.

(1) At any time before the final payment by the debtor under a regulated hire-purchase or regulated conditional sale agreement falls due, the debtor shall be entitled to terminate the agreement by giving notice to any person entitled or authorised to receive the sums payable under the agreement.

(2) Termination of an agreement under subsection (1) does not affect any liability under the agreement which has accrued before the termination.

(3) Subsection (1) does not apply to a conditional sale agreement relating to land after the title to the land has passed to the debtor.

(4) In the case of a conditional sale agreement relating to goods, where the property in the goods, having become vested in the debtor, is transferred to a person who does not become the debtor under the agreement, the debtor shall not thereafter be entitled to terminate the agreement under subsection (1).

(5) Subject to subsection (4), where a debtor under a conditional sale agreement relating to goods terminates the agreement under this section after the property in the goods has become vested in him, the property in the goods shall thereupon vest in the person (the "previous owner ") in whom it was vested immediately before it became vested in the debtor:

Provided that if the previous owner has died, or any other event has occurred whereby that property, if vested in him immediately before that event, would thereupon have vested in some other person, the property shall be treated as having devolved as if it had been vested in the previous owner immediately before his death or immediately before that event, as the case may be.

100 Liability of debtor on termination of hire-purchase etc. agreement.

(1) Where a regulated hire-purchase or regulated conditional sale agreement is terminated under section 99 the debtor shall be liable, unless the agreement provides for a smaller payment, or does not provide for any payment, to pay to the creditor the amount (if any) by which one-half of the total price exceeds the aggregate of the sums paid and the sums due in respect of the total price immediately before the termination.

(2) Where under a hire-purchase or conditional sale agreement the creditor is required to carry out any installation and the agreement specifies, as part of the total price, the amount to be paid in respect of the installation (the "installation charge ") the reference in subsection (1) to one-half of the total price shall be construed as a reference to the aggregate of the installation charge and one-half of the remainder of the total price.

(3) If in any action the court is satisfied that a sum less than the amount specified in subsection (1) would be equal to the loss sustained by the creditor in consequence of the termination of the agreement by the debtor, the court may make an order for the payment of that sum in lieu of the amount specified in subsection (1).

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(4) If the debtor has contravened an obligation to take reasonable care of the goods or land, the amount arrived at under subsection (1) shall be increased by the sum required to recompense the creditor for that contravention, and subsection (2) shall have effect accordingly.

(5) Where the debtor, on the termination of the agreement, wrongfully retains possession of goods to which the agreement relates, then, in any action brought by the creditor to recover possession of the goods from the debtor, the court, unless it is satisfied that having regard to the circumstances it would not be just to do so, shall order the goods to be delivered to the creditor without giving the debtor an option to pay the value of the goods.

101 Right to terminate hire agreement.

(1) The hirer under a regulated consumer hire agreement is entitled to terminate the agreement by giving notice to any person entitled or authorised to receive the sums payable under the agreement.

(2) Termination of an agreement under subsection (1) does not affect any liability under the agreement which has accrued before the termination.

(3) A notice under subsection (1) shall not expire earlier than eighteen months after the making of the agreement, but apart from that the minimum period of notice to be given under subsection (1), unless the agreement provides for a shorter period, is as follows.

(4) If the agreement provides for the making of payments by the hirer to the owner at equal intervals, the minimum period of notice is the length of one interval or three months, whichever is less.

(5) If the agreement provides for the making of such payments at differing intervals, the minimum period of notice is the length of the shortest interval or three months, whichever is less.

(6) In any other case, the minimum period of notice is three months.

(7) This section does not apply to—

(a) any agreement which provides for the making by the hirer of payments which in total (and without breach of the agreement) exceed **[**[F2]£1,500**]** in any year, or

(b) any agreement where—

(i) goods are bailed or (in Scotland) hired to the hirer for the purposes of a business carried on by him, or the hirer holds himself out as requiring the goods for those purposes, and

(ii) the goods are selected by the hirer, and acquired by the owner for the purposes of the agreement at the request of the hirer from any person other than the owner's associate, or

(c) any agreement where the hirer requires, or holds himself out as requiring, the goods for the purpose of bailing or hiring them to other persons in the course of a business carried on by him.

(8) If, on an application made to the **[**[F3]OFT**]** by a person carrying on a consumer hire business, it appears to the **[**[F3]OFT**]** that it would be in the interest of hirers to do so, **[**[F4]it**]** may by notice to the applicant direct that **[**[F5], subject to such conditions (if any) as it may specify, this section shall not apply to consumer hire agreements made by the applicant; and this Act shall have effect accordingly**]** .

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[[F6](8A) If it appears to the OFT that it would be in the interests of hirers to do so, it may by general notice direct that, subject to such conditions (if any) as it may specify, this section shall not apply to a consumer hire agreement if the agreement falls within a specified description; and this Act shall have effect accordingly.**]**

(9) In the case of a modifying agreement, subsection (3) shall apply with the substitution, for "the making of the agreement " of "the making of the original agreement ".

Textual Amendments

F2 "£1,500" substituted (1.5.1998) in s. 101(7)(a) by S.I. 1998/997, art. 3, **Sch.**

F3 Words in s. 101(8) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 6(26)**; S.I. 2003/766, **art. 2**, Sch. (with art. 3)

F4 Word in s. 101(8) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 6(26)**; S.I. 2003/766, **art. 2**, Sch. (with art. 3)

F5 Words in s. 101(8) substituted (16.6.2006) by Consumer Credit Act 2006 (c. 14), ss. {63(2)}, 71(2); S.I. 2006/1508, **art. 3(1)**, Sch. 1

F6 S. 101(8A) inserted (16.6.2006) by Consumer Credit Act 2006 (c. 14), ss. {63(1)}, 71(2); S.I. 2006/1508, **art. 3(1)**, Sch. 1

102 Agency for receiving notice of rescission.

(1) Where the debtor or hirer under a regulated agreement claims to have a right to rescind the agreement, each of the following shall be deemed to be the agent of the creditor or owner for the purpose of receiving any notice rescinding the agreement which is served by the debtor or hirer—

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

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

(2) In subsection (1) "rescind " does not include—

(a) service of a notice of cancellation, or

(b) termination of an agreement under section 99 or 101 or by the exercise of a right or power in that behalf expressly conferred by the agreement.

103 Termination statements.

(1) If an individual (the "customer ") serves on any person (the "trader ") a notice—

(a) stating that—

(i) the customer was the debtor or hirer under a regulated agreement described in the notice, and the trader was the creditor or owner under the agreement, and

(ii) the customer has discharged his indebtedness to the trader under the agreement, and

(iii) the agreement has ceased to have any operation; and

(b) requiring the trader to give the customer a notice, signed by or on behalf of the trader, confirming that those statements are correct,

the trader shall, within the prescribed period after receiving the notice, either comply with it or serve on the customer a counter-notice stating that, as the case may be, he

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disputes the correctness of the notice or asserts that the customer is not indebted to him under the agreement.

(2) Where the trader disputes the correctness of the notice he shall give particulars of the way in which he alleges it to be wrong.

(3) Subsection (1) does not apply in relation to any agreement if the trader has previously complied with that subsection on the service of a notice under it with respect to that agreement.

(4) Subsection (1) does not apply to a non-commercial agreement.

(5) [F7] . . . . . .

[[F8](6) A breach of the duty imposed by subsection (1) is actionable as a breach of statutory duty.**]**

Textual Amendments

F7 S. 103(5) repealed (26.5.2008) by The Consumer Protection from Unfair Trading Regulations 2008 (S.I. 2008/1277), regs. 30(1)(3), Sch. 2 para. 24(a), **Sch. 4 Pt. 1** (with savings in reg. 28(2)(3))

F8 S. 103(6) inserted (26.5.2008) by The Consumer Protection from Unfair Trading Regulations 2008 (S.I. 2008/1277), reg. 30(1), **Sch. 2 para. 24(b)** (with savings in reg. 28(2)(3))

104 Goods not to be treated as subject to landlord's hypothec in Scotland.

Goods comprised in a hire-purchase agreement or goods comprised in a conditional sale agreement which have not become vested in the debtor shall not be treated in Scotland as subject to the landlord's hypothec—

(a) during the period between the service of a default notice in respect of the goods and the date on which the notice expires or is earlier complied with; or

(b) if the agreement is enforceable on an order of the court only, during the period between the commencement and termination of an action by the creditor to enforce the agreement.

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