



Consumer Credit Act 2006

2006 CHAPTER 14

Civil penalties

52 Power of OFT to impose civil penalties

After section 39 of the 1974 Act insert—

“39A Power of OFT to impose civil penalties

- (1) Where the OFT is satisfied that a person (the ‘defaulter’) has failed or is failing to comply with a requirement imposed on him by virtue of section 33A, 33B or 36A, it may by notice to him (a ‘penalty notice’) impose on him a penalty of such amount as it thinks fit.
- (2) The penalty notice shall—
 - (a) specify the amount of the penalty that is being imposed;
 - (b) set out the OFT’s reasons for imposing a penalty and for specifying that amount;
 - (c) specify how the payment of the penalty may be made to the OFT; and
 - (d) specify the period within which the penalty is required to be paid.
- (3) The amount of the penalty shall not exceed £50,000.
- (4) The period specified in the penalty notice for the purposes of subsection (2)(d) shall not end earlier than the end of the period during which an appeal may be brought against the imposition of the penalty under section 41.
- (5) If the defaulter does not pay the penalty to the OFT within the period so specified—
 - (a) the unpaid balance from time to time shall carry interest at the rate for the time being specified in section 17 of the Judgments Act 1838; and
 - (b) the penalty and any interest payable on it shall be recoverable by the OFT.”

53 Further provision relating to civil penalties

(1) After section 39A of the 1974 Act (inserted by section 52 of this Act) insert—

“39B Further provision relating to civil penalties

- (1) Before determining to impose a penalty on a person under section 39A the OFT shall give a notice to that person—
 - (a) informing him that it is minded to impose a penalty on him;
 - (b) stating the proposed amount of the penalty;
 - (c) setting out its reasons for being minded to impose a penalty on him and for proposing that amount;
 - (d) setting out the proposed period for the payment of the penalty; and
 - (e) inviting him to submit representations to it about the matters mentioned in the preceding paragraphs in accordance with section 34.
- (2) In determining whether and how to exercise its powers under section 39A in relation to a person’s failure, the OFT shall have regard to (amongst other things)—
 - (a) any penalty or fine that has been imposed on that person by another body in relation to the conduct giving rise to the failure;
 - (b) other steps that the OFT has taken or might take under this Part in relation to that conduct.
- (3) General notice shall be given of the imposition of a penalty under section 39A on a person who is a responsible person in relation to a group licence.
- (4) That notice shall include the matters set out in the notice imposing the penalty in accordance with section 39A(2)(a) and (b).”

(2) In the Table in section 41 of that Act (appeals) before the entry relating to “refusal to make order under section 40(2) in accordance with terms of application” insert the following entry—

“Imposition of penalty under section 39A.	The person on whom the penalty is imposed.”
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- (3) In section 181 of that Act (power to alter monetary limits etc.)—
 - (a) in subsection (1) before “70(6)” insert “39A(3),”;
 - (b) in subsection (2) before “75(3)(b)” insert “39A(3),”.

54 Statement of policy in relation to civil penalties

After section 39B of the 1974 Act (inserted by section 53 of this Act) insert—

“39C Statement of policy in relation to civil penalties

- (1) The OFT shall prepare and publish a statement of policy in relation to how it exercises, or how it proposes to exercise, its powers under section 39A.
- (2) If the OFT revises the statement of policy at any time after it has been published, the OFT shall publish it as revised.

- (3) No statement of policy shall be published without the approval of the Secretary of State.
- (4) The statement of policy shall be published in such manner as the OFT thinks fit for the purpose of bringing it to the attention of those likely to be affected by it.
- (5) In preparing or revising the statement of policy the OFT shall consult such persons as it thinks fit.
- (6) In determining whether and how to exercise its powers under section 39A in relation to a person's failure, the OFT shall have regard to the statement of policy as most recently published at the time the failure occurred.
- (7) The OFT shall not impose a penalty on a person under section 39A in relation to a failure occurring before it has published a statement of policy."