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## STATUTORY INSTRUMENTS

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### 1999 No. 3177

## The Consumer Credit (Total Charge for Credit, Agreements and Advertisements) (Amendment) Regulations 1999

### Amendments to the Consumer Credit (Total Charge for Credit) Regulations 1980

3. The Consumer Credit (Total Charge for Credit) Regulations 1980<sup>M1</sup> are amended as follows—

- (a) in regulation 1(2)—
  - (i) by adding the following after the definition of “agreement”—

““land-related agreement” means an agreement which is—

    - (a) intended primarily to finance the acquisition or retention of land, or
    - (b) intended to finance the renovation or improvement of a building,

or any other agreement secured by a mortgage on land or, in Scotland, by a standard security within the meaning of the Conveyancing and Feudal Reform (Scotland) Act 1970<sup>M2</sup>”; and
  - (ii) by substituting the following for the definition of “period rate of charge”—

““period rate of charge” means a percentage rate of charge for a period, comprising all charges included in the total charge for credit determined in accordance with Part II of these Regulations;”;
- (b) by deleting the word “and” at the end of regulation 2(1)(c);
- (c) in regulation 2(1)(d)—
  - (i) at the beginning, by inserting the words “ subject to sub-paragraph (e) below, ”; and
  - (ii) at the end, by replacing the full stop with “ ; and ”;
- (d) by adding the following after regulation 2(1)(d)—

“(e) in the case of a land-related agreement which provides for the possibility of any variation of the rate of interest in consequence of the occurrence after the relevant date of any event (being an event which is certain to occur and of which the date of occurrence, or the earliest date of occurrence, can be ascertained at the date of the making of the agreement), the assumption that such a variation will, when the event occurs, take place.”;
- (e) by deleting the word “and” at the end of regulation 4(a);
- (f) by replacing the comma at the end of regulation 4(b) with “; and” and by adding the following after regulation 4(b)—
  - “(c) a premium under a contract of insurance, payable under the transaction by the debtor or a relative of his, where the making or maintenance of the contract of insurance is required by the creditor—
    - (i) as a condition of making the agreement, and
    - (ii) for the sole purpose of ensuring complete or partial repayment of the credit, and complete or partial payment to the creditor of such of those charges

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included in the total charge for credit as are payable to him under the transaction, in the event of the death, invalidity, illness or unemployment of the debtor.”;

- (g) by substituting the following for regulation 5(1)(g) to (l)–
- “(g) any charge for a guarantee other than a guarantee–
- (i) which is required by the creditor as a condition of making the agreement, and
- (ii) the purpose of which is to ensure complete or partial repayment of the credit, and complete or partial payment to the creditor of such of those charges included in the total charge for credit as are payable to him under the transaction, in the event of the death, invalidity, illness or unemployment of the debtor;
- (h) charges for the transfer of funds (other than charges within sub-paragraph (f) above) and charges for keeping an account intended to receive payments towards the repayment of the credit and the payment of interest and other charges, except where the debtor does not have reasonable freedom of choice in the matter and where such charges are abnormally high; but this sub-paragraph does not exclude from the total charge for credit charges for collection of the payments to which it refers, whether such payments are made in cash or otherwise;
- (i) a premium under a contract of insurance other than a contract of insurance referred to in regulation 4(c) above.”;
- (h) in regulation 5(2)–
- (i) in sub-paragraph (b), by deleting the words “and of any charge within sub-paragraph (l)”;
- (ii) by deleting the words “or contract of insurance” where they occur in sub-paragraph (b)(i), (ii) and (iii); and
- (iii) in the words which follow sub-paragraph (b), by deleting the words “ or the contract of insurance”;
- (i) in regulation 6, by deleting the words from “such determination” to “disregarded” and replacing them with the words “(where it has more than one decimal place) rounded to one decimal place in accordance with regulation 6A below”;
- (j) by adding the following after regulation 6–
- “**6A.** The annual percentage rate of charge referred to in regulation 6 above shall be rounded to one decimal place as follows–
- (a) where the figure at the second decimal place is greater than or equal to 5, the figure at the first decimal place shall be increased by one and the decimal place (or places) following the first decimal place shall be disregarded; and
- (b) where the figure at the second decimal place is less than 5, that decimal place and any decimal places following it shall be disregarded.”;
- (k) by deleting regulations 7, 8 and 9 and replacing them with the following–
- “7.—(1) Subject to paragraph (4) below, the annual percentage rate of charge is the rate *fori* which satisfies the equation set out in paragraph (2) below, expressed as a percentage.

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$$\sum_{K=1}^{K=m} \frac{A_K}{(1+i)^K} = \sum_{K'=1}^{K'=m'} \frac{A'_{K'}}{(1+i)^{K'}}$$

where  $K$  is the number identifying a particular advance of credit;  
 $K'$  is the number identifying a particular instalment;  
 $A_K$  is the amount of advance  $K$ ;  
 $A'_{K'}$  is the amount of instalment  $K'$ ;  
 $\sum$  represents the sum of all the terms indicated;  
 $m$  is the number of advances of credit;  
 $m'$  is the total number of instalments;  
 $i$  is the interval, expressed in years, between the relevant date and the date of the second advance and those of any subsequent advances numbered three to  $m$ ; and  
 $i'$  is the interval, expressed in years, between the relevant date and the dates of instalments numbered one to  $m'$ .

(3) In paragraph (2) above, references to instalments are references to any payment made by or on behalf of the debtor or a relative of his which comprises—

- (a) a repayment of all or part of the credit under the agreement;
- (b) a payment of all or part of the total charge for credit; or
- (c) both a repayment of all or part of the credit and a payment of all or part of the total charge for credit.

(4) Where more than one rate is given under paragraph (1) above, the annual percentage rate of charge is the positive rate nearest to zero or, if no positive rate is so given, the negative rate nearest to zero.”;

- (l) by deleting regulation 10;
- (m) by substituting the following for regulation 11(6)—

“(6) A day may be taken to be either—

- (a) one three hundred and sixty-fifth part of a year or, if it is a leap year, one three hundred and sixty-sixth part of a year; or
- (b)

$$\frac{1}{365.25}$$

of a year.”; and

- (n) by inserting the words “ Subject to regulation 15A below, ” at the beginning of regulation 15 and by adding the following after that regulation—

**“Assumptions about variations of interest rates in land-related agreements**

**15A.**—(1) This regulation applies to any land-related agreement which provides for the possibility of any variation of the rate of interest if it is to be assumed, by virtue of regulation 2(1)(e) above, that the variation will take place but the amount of the variation cannot be ascertained at the date of the making of the agreement.

(2) In this regulation—

“initial standard variable rate” means—

- (a) the standard variable rate of interest which would be applied by the creditor to the agreement on the date of the making of the agreement if the agreement provided for interest to be paid at the creditor’s standard variable rate with effect from that date, or
- (b) if there is no such rate, the standard variable rate of interest applied by the creditor on the date of the making of the agreement in question to other land-

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related agreements or, where there is more than one such rate, the highest such rate,

taking no account (for the avoidance of doubt) of any discount or other reduction to which the debtor would or might be entitled; and

“varied rate” means any rate of interest charged when a variation of the rate of interest is to be assumed to take place by virtue of regulation 2(1)(e) above.

(3) Where a land-related agreement provides a formula for calculating a varied rate by reference to a standard variable rate of interest applied by the creditor, or any other fluctuating rate of interest, but does not enable the varied rate to be ascertained at the date of the making of the agreement because it is not known on that date what the standard variable rate will be or (as the case may be) at what level the fluctuating rate will be fixed when the varied rate falls to be calculated, it shall be assumed that that rate or level will be the same as the initial standard variable rate.

(4) Where a land-related agreement provides for the possibility of any variation in the rate of interest (other than a variation referred to in paragraph (3) above) which it is to be assumed, by virtue of regulation 2(1)(e) above, will take place but does not enable the amount of that variation to be ascertained at the date of the making of the agreement, it shall be assumed that the varied rate will be the same as the initial standard variable rate.”.

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**Marginal Citations**

**M1** [S.I. 1980/51](#), amended by [S.I. 1985/1192](#), 1989/596.

**M2** 1970 c. 35.

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**Changes and effects yet to be applied to :**

- reg. 3 revoked by [S.I. 2013/1881 art. 21\(y\)](#)