
STATUTORY INSTRUMENTS

2010 No. 1010

The Consumer Credit (EU Directive) Regulations 2010

PART 4

Commencement, Transitional and Saving Provision

Commencement

99.—(1) Subject to paragraph (2) and regulation 101, these Regulations come into force on 1st February 2011.

(2) The following provisions come into force on 30th April 2010—

- (a) regulation 19 (definition of certain overdraft agreements);
- (b) regulation 39 (definition of open-end);
- (c) regulation 41 (credit intermediaries) for the purposes of the definition of credit intermediary;
- (d) regulation 42 (definition of credit intermediary);
- (e) the regulations in this Part.

Application of regulations to agreements entered into before 1st February 2011

100.—(1) Subject to paragraphs (2) to (5) and regulation 101 these Regulations apply only to a regulated consumer credit agreement entered into on or after 1st February 2011.

(2) The following regulations apply (from 1st February 2011) to a regulated consumer credit agreement which is an open-end agreement and is entered into before 11th June 2010—

- (a) regulations 27 and 28 (information on change of interest rate etc);
- (b) regulation 36 (assignment);
- (c) regulations 37 to 39 (open-end agreements);
- (d) regulation 46(b) (amendments to Enterprise Act 2002);
- (e) regulation 63 (amendments to Consumer Credit (Running-Account Credit Information) Regulations 1983);
- (f) regulation 69(b) (amendments to Enterprise Act 2002 (Part 8 Community Infringements Specified UK Laws) Order 2003);
- (g) regulation 97 (amendments to Payment Services Regulations 2009).

(3) The following regulations apply (from 1st February 2011) to a regulated consumer credit agreement which is an open-end agreement and is entered into on or after 11th June 2010 and before 1st February 2011—

- (a) regulation 25 (linked credit agreements);
- (b) regulations 27 and 28 (information on change of interest rate etc);
- (c) regulations 29 to 35 (early repayment);

- (d) regulation 36 (assignment);
- (e) regulations 37 to 39 (open-end agreements);
- (f) regulation 46 (amendments to Enterprise Act 2002);
- (g) regulations 59 to 62 (amendments to Consumer Credit (Settlement Information) Regulations 1983);
- (h) regulation 63 (amendments to Consumer Credit (Running-Account Credit Information) Regulations 1983);
- (i) regulation 69 (amendments to Enterprise Act 2002 (Part 8 Community Infringements Specified UK Laws) Order 2003);
- (j) regulations 77 to 84 (amendments to Consumer Credit (Early Settlement) Regulations 2004);
- (k) regulation 97 (amendments to Payment Services Regulations 2009).

(4) The following regulations apply (from 1st February 2011) to a regulated consumer credit agreement which not an open-end agreement and is entered into on or after 11th June 2010 and before 1st February 2011—

- (a) regulation 25 (linked credit agreements);
- (b) regulation 26 (statement of account);
- (c) regulations 29 to 35 (early repayment);
- (d) regulation 36 (assignment);
- (e) regulation 46 (amendments to Enterprise Act 2002);
- (f) regulations 59 to 62 (amendments to Consumer Credit (Settlement Information) Regulations 1983);
- (g) regulation 69 (amendments to Enterprise Act 2002 (Part 8 Community Infringements Specified UK Laws) Order 2003);
- (h) regulations 77 to 84 (amendments to Consumer Credit (Early Settlement) Regulations 2004).

(5) Section 95A of the Consumer Credit Act 1974 (compensation for early repayment) applies in relation to an agreement by virtue of sub-paragraph (3)(c) or (4)(c) only where the debtor's entitlement to discharge his indebtedness arises by virtue of a notice made on or after 1st February 2011.

Early application of regulations to certain agreements before 1st February 2011

101.—(1) Where one of the conditions A to E is satisfied in relation to a prospective regulated consumer credit agreement on a date on or after 30th April 2010 and before 1st February 2011, Parts 1 to 3 of these Regulations apply to that agreement (and to any subsequent regulated consumer credit agreement entered into before 1st February 2011), from the date and time that the condition is satisfied.

(2) Condition A is that information relating to the agreement is disclosed by a creditor or a credit intermediary before the agreement is made in compliance or in purported compliance with the Information Regulations 2010.

(3) Condition B is that—

- (a) the agreement would, if made, be an agreement entered into at the debtor's request using a means of distance communication (other than voice telephony) which does not enable the provision before the agreement is made of the information referred to in regulation 3(4) of the Information Regulations 2010, and

- (b) the debtor is informed by the creditor before the agreement is made that the information referred to in regulation 3(4) of the Information Regulations 2010 will be disclosed immediately after the agreement is made in accordance with regulation 5 of those Regulations.
- (4) Condition C is that—
 - (a) the agreement would, if made, be a distance agreement entered into by the debtor wholly or predominantly for the purposes of a business carried on, or intended to be carried on, by him, and
 - (b) the debtor is informed by the creditor before the agreement is made that information referred to in regulation 3(4) of the Information Regulations 2010 will be disclosed immediately after the agreement is made in accordance with regulation 6 of those Regulations.
- (5) Condition D is that —
 - (a) the agreement would, if made, be an authorised non-business overdraft agreement (other than a qualifying overdraft agreement referred to in paragraph (7)(b)),
 - (b) the agreement would, if made, be one made at the debtor’s request using a means of distance communication which does not enable the provision before the agreement is made of the information referred to in regulation 10(2) of the Information Regulations 2010, and
 - (c) the creditor has informed the debtor before the agreement is made that a document containing the terms of the agreement will be provided immediately after the agreement is made as though the amendment made by regulation 9 of these Regulations (insertion of section 61B in the Consumer Credit Act 1974) applied.
- (6) Condition E is that the agreement would, if made, be a qualifying overdraft agreement and—
 - (a) the creditor has provided a document containing the terms of the agreement before the agreement is made as though the amendment made by regulation 9 (insertion of section 61B in the Consumer Credit Act 1974) applied, or
 - (b) the creditor has informed the debtor before the agreement is made that a document containing the terms of the agreement will be provided at, or immediately after, the time the agreement is made as though the amendment made by regulation 9 applied.
- (7) In paragraph (6) “qualifying overdraft agreement” means—
 - (a) an authorised business overdraft agreement, or
 - (b) an authorised non-business overdraft agreement under which the creditor provides the debtor with credit exceeding £60,260 or which is secured on land.

Interpretation

102. In this Part—

- (a) “authorised business overdraft agreement”, “authorised non-business overdraft agreement”, “consumer credit agreement”, “creditor”, “debtor”, “open-end” and “regulated” have the meanings given by section 189(1) of the Consumer Credit Act 1974;
- (b) “distance agreement” means any regulated consumer credit agreement made under an organised distance sales or service-provision scheme run by the creditor or on behalf of the creditor who, in any such case, for the purpose of that agreement makes exclusive use of one or more means of distance communication up to and including the time at which the agreement is made;

- (c) “Information Regulations 2010” means the Consumer Credit (Disclosure of Information) Regulations 2010(1);
- (d) “means of distance communication” means any means which, without the simultaneous physical presence of the creditor or a person acting on behalf of the creditor and of the debtor, may be used for the making of a regulated consumer credit agreement between the parties to that agreement.