

This Statutory Instrument has been made in consequence of defects in SI 2010/1010, SI 2010/1013 and SI 2010/1014 and is being issued free of charge to all known recipients of those Statutory Instruments.

S T A T U T O R Y I N S T R U M E N T S

2010 No. 1969

CONSUMER CREDIT

The Consumer Credit (Amendment) Regulations 2010

<i>Made</i>	- - - -	<i>3rd August 2010</i>
<i>Laid before Parliament</i>		<i>5th August 2010</i>
<i>Coming into force</i>	- -	<i>26th August 2010</i>

The Secretary of State is a Minister designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to measures relating to consumer credit.

The Secretary of State makes—

(a) regulations 2 and 42 to 45 in exercise of the powers conferred by sections 60, 61(1)(a), 105(9), 182(2) and 189(1) of the Consumer Credit Act 1974(c);

(b) regulation 3 in exercise of the powers conferred by sections 58(1), 180, 182(2) and 189(1) of the Consumer Credit Act 1974;

(c) regulations 32 to 35, 39 and 40 in exercise of the powers conferred by sections 55(1), 182(2) and 189(1) of the Consumer Credit Act 1974, and

(d) all other regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972.

Citation and commencement

1. These Regulations may be cited as the Consumer Credit (Amendment) Regulations 2010 and shall come into force on 26th August 2010.

Amendments to the Consumer Credit (Agreements) Regulations 1983

2.—(1) The Consumer Credit (Agreements) Regulations 1983(d) are amended as follows.

(a) S.I. 2008/3117.

(b) 1972 c.68. Section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c.51).

(c) 1974 c.39.

(d) S.I. 1983/1553, to which there are amendments not relevant to these Regulations.

- (2) In regulation 8 (application of Regulations)—
- (a) in paragraph (1), for “paragraph (2)” insert “paragraphs (2) and (4)”;
 - (b) after paragraph (3), insert—
 - “(4) These Regulations do not apply to an agreement entered into on or after 26th August 2010 and before 1st February 2011 where—
 - (a) that agreement is an agreement secured on land to which section 58 of the Act applies, and
 - (b) the Consumer Credit (Agreements) Regulations 2010 apply to that agreement.”.

Amendments to the Consumer Credit (Cancellation Notices and Copies of Documents) Regulations 1983

3.—(1) The Consumer Credit (Cancellation Notices and Copies of Documents) Regulations 1983(a) are amended as follows.

- (2) In regulation 1 (citation, commencement and interpretation) in paragraph (2)—
- (a) for “Agreements Regulations” substitute “Agreements Regulations 1983”;
 - (b) after the definition for “Agreements Regulations 1983”, as inserted by sub-paragraph (a), insert—
 - ““Agreements Regulations 2010” means the Consumer Credit (Agreements) Regulations 2010 and a reference to any provision of those Regulations includes, in the case of modifying agreements which are or are treated as regulated agreements, a reference to regulation 5 of and the appropriate paragraph of Schedule 1 to, those Regulations;”.
- (3) In regulation 4 (copies of unexecuted agreements given under section 58(1) of the Act), for paragraphs (a) and (b) substitute—
- “(a) a heading which shall be in the Form numbered 1 in Column 1 of Part 1 of the Schedule to these Regulations and set out in Column 3 shown prominently on the copy, instead of—
 - (i) any heading referred to in regulations 2(1) and 3(1) of, and paragraph 1 of Schedules 1 and 3 to, the Agreements Regulations 1983, or
 - (ii) any heading referred to in regulation 3(1) of, and paragraph 1 of Schedule 1 to, the Agreements Regulations 2010, and
 - (b) a box containing only a notice indicating the right of the debtor or hirer to withdraw from the prospective agreement, and how and when that right is exercisable, in the Form numbered 2 in Column 1 of Part 1 of the Schedule to these Regulations and set out in Column 3, instead of—
 - (i) any statement of the rights of the debtor or hirer referred to in regulations 2(3) and 3(3) of, and Form 1 of Schedules 2 and 4 to, the Agreements Regulations 1983, or
 - (ii) any statement of the rights of the debtor referred to in regulation 3(4) of, and Form 1 of Schedule 2 to, the Agreements Regulations 2010.”.

Amendments to the Consumer Credit (EU Directive) Regulations 2010

4. The Consumer Credit (EU Directive) Regulations 2010(b) are amended as specified in regulations 5 to 30.

5. In regulation 1 (citation and commencement), for “regulations 99 and 101” substitute “regulations 99, 101 and 101A”.

(a) S.I. 1983/1557, as amended by S.I. 2004/3236; there are other amending instruments but none is relevant.
 (b) S.I. 2010/1010.

6. In regulation 3 (pre-contractual explanations etc), in the wording inserted as section 55A (pre-contractual explanations etc), in subsection (4) for “the other matters specified in that paragraph” substitute “the matters specified in paragraphs (c) and (d) of that subsection”.

7. In regulation 9 (duty to supply copies), in the wording inserted as section 61B (duty to supply copy of overdraft agreement), in subsection (2)(a) for “must” substitute “may”.

8. In regulation 13 (withdrawal from consumer credit agreement), in the wording inserted as section 66A (withdrawal from consumer credit agreement), in subsection (2) after “14 days beginning with” insert “the day after”.

9. In regulation 21 (current account overdrafts), in the wording inserted as section 74A (information to be provided on a current account agreement)—

(a) for subsection (1) substitute—

“74A.—(1) This section applies to a current account agreement where—

(a) there is the possibility that the account-holder may be allowed to overdraw on the current account without a pre-arranged overdraft or exceed a pre-arranged overdraft limit, and

(b) if the account-holder did so, this would be a regulated consumer credit agreement.”;

(b) in subsection (3) after “must be informed” insert “in writing”.

10.—(1) Regulation 22 (current account overdrafts) is amended as follows.

(2) For “regulation 19” substitute “regulation 21”.

(3) In the wording inserted as section 74B (information to be provided on significant overdrawing without prior arrangement), for subsection (1) substitute—

“74B.—(1) Where—

(a) the holder of a current account overdraws on the account without a pre-arranged overdraft, or exceeds a pre-arranged overdraft limit, for a period exceeding one month,

(b) the amount of that overdraft or excess is significant throughout that period,

(c) that overdraft or excess is a regulated consumer credit agreement, and

(d) the account-holder has not been informed in writing of the matters mentioned in subsection (2) within that period,

the account-holder must be informed in writing of those matters without delay.”.

11. In regulation 25 (linked credit agreements), in the wording inserted as section 75A (further provision for liability of creditor for breaches by supplier), after subsection (7) insert—

“(8) This section does not apply to an agreement secured on land.”.

12. For regulation 52 (Consumer Credit (Agreements) Regulations 1983), substitute—

“52. In regulation 1 (citation, commencement and interpretation)—

(a) for the definition of “the relevant date” substitute—

““the relevant date” means—

(a) where a date is specified in or determinable under an agreement at the date of its making as that on which the debtor is entitled to require the provision of anything under the agreement, the earliest such date, or

(b) where no such date is specified or determinable, the date of the making of the agreement;”;

(b) for the definition of “the Total Charge for Credit Regulations” substitute—

““the Total Charge for Credit Regulations” means, unless the context otherwise requires—

- (a) in relation to a regulated consumer credit agreement that is secured on land, the Consumer Credit (Total Charge for Credit) Regulations 1980,
- (b) in relation to any other regulated consumer credit agreement, the Consumer Credit (Total Charge for Credit) Regulations 2010,

and references in these regulations to regulation 6 of and the Schedule to the Total Charge for Credit Regulations are to be read, in the case of regulated consumer credit agreements that are secured on land, as references to Part 4 and regulation 7 respectively of the Total Charge for Credit Regulations 1980.”.”.

13. For regulation 53 (Consumer Credit (Agreements) Regulations 1983) substitute—

“**53.** In regulation 8 (application of regulations)—

- (a) in paragraph (1) for the words “paragraphs (2) and (4)” substitute “paragraphs (1A) to (2) and (4)”;
- (b) after paragraph (1) insert—

“(1A) Where an agreement is a regulated consumer credit agreement these Regulations apply where that agreement is—

- (a) an agreement secured on land,
- (b) an agreement under which the creditor provides the debtor with credit exceeding £60,260, or
- (c) an 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,

except to the extent that the Consumer Credit (Agreements) Regulations 2010 apply to such agreements.

(1B) Subsections (2) to (5) of section 16B of the Act (declaration by the debtor as to the purposes of the agreement) apply for the purposes of paragraph (1A)(c).”.”.

14. In regulation 54 (Consumer Credit (Agreements) Regulations 1983) before paragraph (a), insert—

- “(za) in paragraph 10, in column 2, for “Part 4” substitute “regulation 6”;
- (zb) in paragraph 19A, in columns 1 and 2, after “Total Charge for Credit Regulations” insert “1980”.”.

15. For regulation 55 (Consumer Credit (Agreements) Regulations 1983) substitute—

“**55.** In Schedule 2 (forms of statement of protection and remedies available under the Consumer Credit Act 1974 to debtors under regulated consumer credit agreements)—

- (a) in form 14, in column 3 under Form of Statement for the text in 1) to the end substitute—

“1) You can settle this agreement at any time by giving notice in writing and paying off the amount you owe under the agreement [which may be reduced by a rebate]* [Examples indicating the amount you have to pay appear in the agreement.]**

[2) You can settle this agreement in part at any time by giving notice and paying off some of the amount you owe.]***

[3) If you received unsatisfactory goods or services paid for under this agreement [, apart from any bought with a cash loan,]**** you may have a right to sue the supplier, the creditor or both.

4) If the contract is not fulfilled, perhaps because the supplier has gone out of business, you may still be able to sue the creditor.]*****

If you would like to know more about your rights under the Act, contact either your local Trading Standards Department or your nearest Citizens' Advice Bureau.

Notes:

*Creditor to insert phrase in square brackets in any agreement where rebate would be payable on early settlement under the agreement or the Consumer Credit (Early Settlement) Regulations 2004.

** Creditor to insert phrase in second pair of square brackets in any agreement for fixed-sum credit for a term of more than one month that is an agreement secured on land.

*** Creditor to delete where agreement is secured on land.

**** Creditor to insert phrase in square brackets in any multiple agreement, of which at least one part is a debtor-creditor-supplier agreement falling within section 12(b) or (c) of the Act and at least one part is a debtor-creditor agreement falling within section 13(c) of the Act.”;

*****Creditor may delete text in 3) and 4) where agreement is a debtor-creditor-supplier agreement for running-account credit—

- (i) which provides for the making of payments by the debtor in relation to specified periods which, in the case of an agreement which is not secured on land, do not exceed three months, and
- (ii) which requires that the number of payments to be made by the debtor in repayments of the whole amount of credit provided in such period shall not exceed one.”;

(b) in form 15, in column 3 under Form of Statement—

- (i) before “If you would like to know” insert “[You can settle this agreement in part at any time by giving notice and paying off some of the amount you owe.]*****”;
- (ii) for the text in *** substitute “**** Creditor to insert phrase in second pair of square brackets in any agreement for fixed-sum credit for a term of more than one month that is an agreement secured on land.”;
- (iii) after the text for *** insert “***** Creditor to delete where agreement is secured on land.”;

(c) in form 16, in column 3 under Form of Statement—

- (i) before “If you would like to know” insert “[You can settle this agreement in part at any time by giving notice and paying off some of the amount you owe.]*****”;
- (ii) for the text in ** substitute “** Creditor to insert phrase in second pair of square brackets in any agreement for fixed sum credit for a term of more than one month that is an agreement secured on land.”;
- (iii) after the text for ** insert “****Creditor to delete where agreement is secured on land”.”.

16. After regulation 55 (Consumer Credit (Agreements) Regulations 1983), insert—

“**55A.** In Schedule 7 (provisions relating to the disclosure of the APR)—

- (a) in paragraph 1 for “Part 4” substitute “regulation 6”;
- (b) in paragraphs 2 and 3 for “regulation 7 of” substitute “the Schedule to”.”.

17. In regulation 56 (Consumer Credit (Agreements) Regulations 1983) before paragraph (a) insert—

“(za) in paragraph 9 in Column 2, for “Part 4” substitute “regulation 6”;

(zb) in paragraph 19A, in Columns 1 and 2, after “Total Charge for Credit Regulations” insert “1980”;

18. In regulation 58 (Consumer Credit (Cancellation Notices and Copies of Documents) Regulations 1983), for paragraph (2) substitute—

“(2) After regulation 7 (copies of agreements or security instruments where the agreement or security instrument has been varied), insert—

“Copies of agreements where the agreement has been varied under section 78A

7A.— Where an agreement has been varied in accordance with section 78A of the Act, every copy of the executed agreement given to a debtor under any provision of the Act other than section 85(1) shall include an easily legible statement of the terms of the agreement as varied in accordance with section 78A of the Act.”.

19. For regulation 60 (Consumer Credit (Settlement Information) Regulations 1983), substitute—

“60. In regulation 2 (form of statement), in paragraphs (1) and (2), omit “written”.

20. In regulation 65 (Consumer Credit (Exempt Agreements) Order 1989), in paragraph (b), omit “and to which the Consumer Credit (Disclosure of Information) Regulations 2010 do not apply”.

21. After regulation 67 (Consumer Credit (Exempt Agreements) Order 1989), insert—

“67A. After article 5 (exemption of certain consumer credit agreements having a connection with a country outside the United Kingdom), insert—

“5A.—(1) The Act shall not regulate a consumer credit agreement concluded with—

- (a) an investment firm, or
- (b) a credit institution,

for the purposes of allowing a debtor to carry out a transaction relating to one or more of the instruments listed in Section C of Annex 1 to MIFID, where the investment firm or credit institution providing the credit is involved in that transaction.

(2) In this article—

“credit institution” means an undertaking the business of which is to receive deposits or other repayable funds from the public and to grant credits on its own account;

“investment firm” has the meaning given in article 4.1.1 of MIFID;

“MIFID” means Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments.”.

22. Omit regulation 71 (Consumer Credit (Advertisements) Regulations 2004).

23. In regulation 72 (Consumer Credit (Advertisements) Regulations 2004), in the wording inserted as regulation 1A (application), for “credit consumer agreement” substitute “regulated consumer credit agreement”.

24. In paragraph 75 (Consumer Credit (Disclosure of Information) Regulations 2004), in the wording inserted as regulation 2 (agreements to which these Regulations apply), for paragraph (3) substitute—

“(3) These Regulations do not apply to—

- (a) a distance contract;
- (b) an authorised non-business overdraft agreement;

- (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.”.

25. In regulation 76 (Consumer Credit (Disclosure of Information) Regulations 2004), for the wording inserted as paragraph (1A) substitute—

“(1A) In the case of an agreement falling within regulation 2(1)(c), (d) or (e), the creditor shall provide, in addition to the information specified in paragraph (1), a statement that if he decided not to proceed with a prospective regulated consumer credit agreement on the basis of information from a credit reference agency, he will, when informing the debtor of that decision, inform the debtor that the decision has been reached on the basis of information from a credit reference agency and of the particulars of that agency (in compliance with section 157(A1) of the Act.”.

26. In regulation 78 (Consumer Credit (Early Settlement) Regulations 2004), for paragraph (a)(iii), substitute—

“(iii) for the definition of “the Total Charge for Credit Regulations” substitute—

““the Total Charge for Credit Regulations” means—

- (a) in relation to a regulated consumer credit agreement that is secured on land and to which the Consumer Credit (Disclosure of Information) Regulations 2010 do not apply, the Consumer Credit (Total Charge for Credit) Regulations 1980,
- (b) in relation to any other regulated consumer credit agreement, the Consumer Credit (Total Charge for Credit) Regulations 2010.”.

27. After regulation 91 (Education (Student Loans) (Scotland) Regulations 2007) insert—

“Consumer Credit (Information Requirements and Duration of Licences and Charges) Regulations 2007

91A. In paragraph 4 of Schedule 1 to the Consumer Credit (Information Requirements and Duration of Licences and Charges) Regulations 2007—

- (a) after “this agreement” insert “in full”;
- (b) omit the words “in writing”;
- (c) at the end insert “[You can also settle this agreement in part at any time by giving notice and paying off some of the amount you owe.][NOTE 1]

NOTE 1: Delete where agreement is secured on land.”.

28. In regulation 99 (commencement) in subsection (1) for “regulation 101” substitute “regulations 101 and 101A”.

29. In regulation 100 (application of regulations to agreements entered into before 1st February 2011)—

- (a) in paragraph (1) for “regulation 101” substitute “regulations 101 and 101A”;
- (b) in paragraph (2) before sub-paragraph (a) insert—
 - “(za) regulation 22 (information to be provided on significant overdrawing without prior arrangement);”
- (c) in paragraph (3) before sub-paragraph (a) insert—
 - “(za) regulation 22 (information to be provided on significant overdrawing without prior arrangement);”.

30. After regulation 101 (early application of regulations to certain agreements before 1st February 2011) insert—

“101A.—(1) Where condition F is satisfied on a date on or after 26th August 2010 and before 1st February 2011 in relation to a prospective regulated consumer credit agreement

falling within paragraph (2), 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) An agreement falls within this paragraph if it is an agreement which would, if made, be—

- (a) an agreement under which the creditor provides the debtor with credit exceeding £60,260 and is not an authorised non-business overdraft agreement, or
- (b) an 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.

(3) Condition F is that the Consumer Credit (Disclosure of Information) Regulations 2004 apply to the agreement, but the creditor—

- (a) does what would be required by regulations 3(1)(a) and (c) of those Regulations (pre-contractual information requirement to disclose information and statements required by the Consumer Credit (Agreements) Regulations 1983) if the amendments to the Consumer Credit (Agreements) Regulations 1983 made by regulations 52 to 56 were in force; and
- (b) also provides the debtor with a statement before the agreement is made that, if the creditor decides not to proceed with the agreement on the basis of information obtained from a credit reference agency, the creditor will, when informing the debtor of the decision—
 - (i) inform the debtor that this decision has been reached on the basis of information from a credit reference agency, and
 - (ii) provide the debtor with the particulars of the agency including its name, address and telephone number.”.

Amendments to the Consumer Credit (Disclosure of Information) Regulations 2010

31. The Consumer Credit (Disclosure of Information) Regulations 2010(a) are amended as specified in regulations 32 to 40.

32. In regulation 1 (citation, commencement and interpretation), in paragraph (2)—

- (a) in the definition of “advance payment” before the words “to be taken” omit “not”;
- (b) in the definition of “excluded pawn agreement” in paragraph (a) for “paragraph (5)” substitute “paragraph (6)”.

33. In regulation 2 (agreements to which these Regulations apply), in paragraph (6) for “paragraph (3)(c)” substitute “paragraph (4)(c)”.

34. In regulation 3 (information to be disclosed: agreements other than telephone contracts, etc.), in paragraph (1) for paragraph (a) substitute—

- “(a) an agreement made by voice telephone communication where it is a distance contract and the debtor consents to the disclosure of the information referred to in regulation 4(2);
- (aa) an agreement made by voice telephone communication where it is not a distance contract (see regulation 4(3));”.

35. In regulation 6 (information to be disclosed: distance contracts for the purpose of a business), in paragraph (2) for “regulations 3 or 4” substitute “regulations 3, 4 or 5”.

36. In regulation 7 (information about contractual terms and conditions, etc)—

- (a) in the heading for “regulations 3 and 4” substitute “regulations 3, 4 and 5”;

(a) S.I. 2010/1013.

- (b) in paragraph (1)(a) for “regulation 3 or 4” substitute “regulation 3, 4 or 5”;
- (c) in paragraph (2)(a) for “regulation 3 or 4” substitute “regulation 3, 4 or 5”.

37. In regulation 10 (information to be disclosed: overdraft agreements)—

- (a) after paragraph (5) insert—

“(5A) In the case of an agreement that falls within paragraph (4)(a) that is also a distance contract, where the debtor does not explicitly consent to the disclosure of the information in paragraph (5), the creditor must disclose the information in paragraph (3) to the debtor before the regulation is made.”;

- (b) in paragraph (9) after “(5),” insert “(5A),”.

38. In regulation 12 (modifying agreements)—

- (a) for paragraph (2) substitute—

“(2) Where a modifying agreement modifies an earlier consumer credit agreement, the requirements of regulations 3, 4 and 10 will be deemed to be satisfied if—

- (a) in good time before the modifying agreement is made—

- (i) the information specified by regulations 3(4) and 10(3) is disclosed to the debtor in respect of any provision of the earlier agreement which is varied or supplemented, and

- (ii) the creditor informs the debtor in writing that the other information in the earlier agreement remains unchanged, and

- (b) where the Financial Services (Distance Marketing) Regulations 2004 apply, the creditor complies with regulations 7 and 8 of those Regulations.”;

- (b) in paragraph (3), for “paragraph (2)(b)” substitute “paragraph (2)(a)(ii)”.

39. In Schedule 1 (pre-contract credit information), in paragraph 2 for “*The type of credit*” substitute “The type of credit”.

40. In Schedule 3 (European consumer credit information), in paragraph 2 for “*The type of credit*” substitute “The type of credit”.

Amendments to the Consumer Credit (Agreements) Regulations 2010

41. The Consumer Credit (Agreements) Regulations 2010(a) are amended as specified in regulations 42 to 45.

42. In regulation 1 (citation, commencement and interpretation)—

- (a) in paragraph (2) at the start insert “Except as provided for in paragraphs (2A) and (2B)”;
- (b) after paragraph (2) insert—

“(2A) Where the condition in paragraph (2B) is satisfied on a date on or after 26th August 2010 and before 1st February 2011 in relation to a prospective regulated consumer credit agreement to which section 58 of the Act applies, 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 the condition is satisfied.

(2B) The condition referred to in paragraph (2A) is that—

- (a) before the creditor gives the debtor the unexecuted agreement for his signature the creditor gives the debtor a copy of the unexecuted agreement in compliance or purported compliance with regulations 3 and 7 of, and Schedules 1 and 2 to, these Regulations and

(a) S.I. 2010/1014.

- (b) the copy of the unexecuted agreement contains a heading and notice as set out in regulation 4(a)(ii) and (b)(ii) respectively of the Consumer Credit (Cancellation Notices and Copies of Documents) Regulations 1983.”.

43. In regulation 2 (agreements to which these regulations apply)—

- (a) in paragraph (1) for “paragraphs (2) to (5)” substitute “paragraphs (1A) to (5)”;
- (b) after paragraph (1) insert—
 - “(1A) These Regulations apply to an agreement to which section 58 of the Act applies where—
 - (a) before the creditor gives the debtor the unexecuted agreement for his signature the creditor gives the debtor a copy of the unexecuted agreement in compliance or purported compliance with regulations 3 and 7 of, and Schedules 1 and 2 to, these Regulations, and
 - (b) the copy of the unexecuted agreement contains a heading and notice as set out in regulation 4(a)(ii) and (b)(ii) respectively of the Consumer Credit (Cancellation Notices and Copies of Documents) Regulations 1983.”;
- (c) in paragraph (3), in sub-paragraph (a) at the end insert “other than an agreement to which section 58 applies”.

44. In regulation 5 (modifying agreements)—

- (a) in paragraph (3) at the start insert “Except as provided for in paragraph (3A)”;
- (b) after paragraph (3) insert—
 - “(3A) Where a modifying agreement is an authorised business overdraft agreement or an authorised non-business overdraft agreement the document referred to in paragraph (3) does not have to be signed by the debtor.”.

45. In Schedule 1 (information to be included in regulated consumer credit agreements)—

- (a) in paragraph 14—
 - (i) in the second column for “Timing of repayments” substitute “Repayments”;
 - (ii) for the text in the third column substitute “The number (if applicable) and frequency of repayments to be made by the debtor.”;
- (b) in paragraph 26, for the wording in Column 1 substitute “Linked credit agreements to which section 75A of the Act applies”.

Transitional provisions

46.—(1) Regulation 8 (amendment of section 66A of the Consumer Credit Act 1974) does not apply to an agreement to which section 66A of the Consumer Credit Act 1974 applies if the relevant day in relation to the agreement falls on or before the day on which these regulations come into force.

(2) In paragraph (1), the “relevant day” has the meaning given in section 66A(3) of the Consumer Credit Act 1974.

3rd August 2010

Edward Davey
Minister for Employment Relations, Consumer and Postal Affairs
Department for Business Innovation and Skills

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, issued free of charge, amend the Consumer Credit (EU Directive) Regulations 2010 (S.I. 2010/1010), Consumer Credit (Disclosure of Information) Regulations 2010 (S.I. 2010/2013) and the Consumer Credit (Agreements) Regulations 2010 (S.I. 2010/1014) (“the principal Regulations”) to correct drafting errors. The principal Regulations implement Directive 2008/48/EC of the European Parliament and of the Council on credit agreements for consumers (OJ No L133, 22.5.200, p66) (“the Directive”) except for articles 4 and 19.

These Regulations also make consequential amendments to the Consumer Credit (Agreements) Regulations 1983 (S.I. 1983/1553) and the Consumer Credit (Cancellation Notices and Copies of Documents) Regulations 1983 (S.I. 1983/1557).

Regulation 2 amends S.I. 1983/1553 so that, before 1 February 2011, those regulations do not apply to an agreement secured on land to which section 58 of the Consumer Credit Act (“the Act”) applies, where the Consumer Credit (Agreements) Regulations 2010 also apply. Regulation 3 amends S.I. 1983/1557 so that the requirement in section 58 to provide a copy of the unexecuted agreement can be complied with where either the Consumer Credit (Agreements) Regulations 1983 or the Consumer Credit (Agreements) Regulations 2010 apply to the agreement.

Regulations 5 to 11 amend S.I. 2010/1010 to correct errors in the amendments made to primary legislation by those Regulations. Regulation 6 clarifies when particular information must be provided orally by the creditor. Regulation 7 provides that where, in the case of an overdraft agreement, the creditor has provided full pre-contractual information, he may (rather than must) provide a copy of the agreement after the agreement has been made. Regulation 8 amends the withdrawal period so that the debtor has 14 clear days to withdraw from a credit agreement. Regulations 9 and 10 clarify that the provisions relating to overdrawing without a pre-arranged overdraft or exceeding a pre-arranged overdraft limit only apply where that overdraft would be a regulated consumed credit agreement. Regulation 11 provides that the provisions relating to linked credit agreements do not apply to an agreement secured on land.

Regulations 12 to 30 amend S.I. 2010/1010 to correct errors in the amendments to secondary legislation. Regulations 12 to 17 clarify the amendments to regulations relating to information to be included in consumer credit agreements that are outside of the scope of the Directive. Regulation 18 makes a further amendment to regulations requiring copies of documents to be sent to debtors. Regulations 19 and 26 amend regulations relating to early settlement of debt. Regulations 20 and 21 make corrections to the Consumer Credit (Exempt Agreements) Order 1989 to ensure that credit agreements which fall within the scope of the Directive are covered. Regulations 24 and 25 correct amendments relating to information to be disclosed before the agreement is made, in respect of an agreement outside of the scope of the Directive. Regulations 28 to 30 make further provision for the application of S.I. 2010/1010 to agreements entered into prior to 1st February 2011.

Regulations 31 to 40 amend the S.I. 2010/1013. Regulations 34 and 37 clarify the information that must be provided where there is a distance contract and the debtor does not consent to receive limited information.

Regulations 42 and 43 provide for when the Consumer Credit (Agreements) Regulations 2010 apply to an agreement secured on land to which section 58 of the Consumer Credit Act 1974 applies.

Regulation 46 makes transitional provision.

An impact assessment has not been prepared for these Regulations since they have the same effect on the costs to business and the voluntary sector as the principal Regulations. A copy of the transposition note and impact assessment for the principal Regulations is available from the BIS website (www.bis.gov.uk) and was placed in the Libraries of both Houses of Parliament.

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