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Consumer Credit Act 1974

1974 CHAPTER 39

PART V

ENTRY INTO CREDIT OR HIRE AGREEMENTS

Preliminary matters

55 Disclosure of information.

- (1) Regulations may require specified information to be disclosed in the prescribed manner to the debtor or hirer before a regulated agreement is made.
- (2) A regulated agreement is not properly executed unless regulations under subsection (1) were complied with before the making of the agreement.

VALID FROM 01/02/2011

[^{F1}55A Pre-contractual explanations etc

- (1) Before a regulated consumer credit agreement, other than an excluded agreement, is made, the creditor must—
 - (a) provide the debtor with an adequate explanation of the matters referred to in subsection (2) in order to place him in a position enabling him to assess whether the agreement is adapted to his needs and his financial situation,
 - (b) advise the debtor—
 - (i) to consider the information which is required to be disclosed under section 55(1), and
 - (ii) where this information is disclosed in person to the debtor, that the debtor is able to take it away,
 - (c) provide the debtor with an opportunity to ask questions about the agreement, and

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- (d) advise the debtor how to ask the creditor for further information and explanation.
- (2) The matters referred to in subsection (1)(a) are—
- (a) the features of the agreement which may make the credit to be provided under the agreement unsuitable for particular types of use,
 - (b) how much the debtor will have to pay periodically and, where the amount can be determined, in total under the agreement,
 - (c) the features of the agreement which may operate in a manner which would have a significant adverse effect on the debtor in a way which the debtor is unlikely to foresee,
 - (d) the principal consequences for the debtor arising from a failure to make payments under the agreement at the times required by the agreement including legal proceedings and, where this is a possibility, repossession of the debtor's home, and
 - (e) the effect of the exercise of any right to withdraw from the agreement and how and when this right may be exercised.
- (3) The advice and explanation may be given orally or in writing except as provided in subsection (4).
- (4) Where the explanation of the matters specified in paragraphs (a), (b) or (e) of subsection (2) is given orally or in person to a debtor, the explanation of the matters specified in paragraphs (c) and (d) of that subsection, and the advice required to be given by subsection (1)(b), must be given orally to him.
- (5) Subsections (1) to (4) do not apply to a creditor if a credit intermediary (see section 160A) has complied with those subsections in respect of the agreement.
- (6) For the purposes of this section an agreement is an excluded agreement if it is—
- (a) an agreement under which the creditor provides the debtor with credit which exceeds £60, 260, or
 - (b) an agreement secured on land.
- (7) Where the regulated consumer credit agreement is an agreement under which a person takes an article in pawn—
- (a) the obligation in subsection (1)(a) only relates to the matters listed in paragraphs (d) and (e) of subsection (2), and
 - (b) the obligations in subsection (1)(b) and (d) do not apply.]

Textual Amendments

- F1** S. 55A inserted (1.2.2011) by [The Consumer Credit \(EU Directive\) Regulations 2010 \(S.I. 2010/1010\)](#), [regs. 3, 99\(1\)](#) (with [regs. 100, 101](#)) (as amended by [The Consumer Credit \(Amendment\) Regulations 2010 \(S.I. 2010/1969\)](#), [reg. 6](#))

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[^{F2}55B Assessment of creditworthiness

- (1) Before making a regulated consumer credit agreement, other than an excluded agreement, the creditor must undertake an assessment of the creditworthiness of the debtor.
- (2) Before significantly increasing—
 - (a) the amount of credit to be provided under a regulated consumer credit agreement, other than an excluded agreement, or
 - (b) a credit limit for running-account credit under a regulated consumer credit agreement, other than an excluded agreement,the creditor must undertake an assessment of the debtor's creditworthiness.
- (3) A creditworthiness assessment must be based on sufficient information obtained from—
 - (a) the debtor, where appropriate, and
 - (b) a credit reference agency, where necessary.
- (4) For the purposes of this section an agreement is an excluded agreement if it is—
 - (a) an agreement secured on land, or
 - (b) an agreement under which a person takes an article in pawn.]

Textual Amendments

- F2** S. 55B inserted (1.2.2011) by [The Consumer Credit \(EU Directive\) Regulations 2010 \(S.I. 2010/1010\)](#), [regs. 5, 99\(1\)](#) (with [regs. 100, 101](#))

VALID FROM 01/02/2011

[^{F3}55C Copy of draft consumer credit agreement

- (1) Before a regulated consumer credit agreement, other than an excluded agreement, is made, the creditor must, if requested, give to the debtor without delay a copy of the prospective agreement (or such of its terms as have at that time been reduced to writing).
- (2) Subsection (1) does not apply if at the time the request is made, the creditor is unwilling to proceed with the agreement.
- (3) A breach of the duty imposed by subsection (1) is actionable as a breach of statutory duty.
- (4) For the purposes of this section an agreement is an excluded agreement if it is—
 - (a) an agreement secured on land,
 - (b) an agreement under which a person takes an article in pawn,
 - (c) an agreement under which the creditor provides the debtor with credit which exceeds £60, 260, or

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- (d) 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.
- (5) Subsections (2) to (5) of section 16B (declaration by the debtor as to the purposes of the agreement)
- apply for the purposes of subsection (4)(d).]

Textual Amendments

F3 S. 55C inserted (1.2.2011) by [The Consumer Credit \(EU Directive\) Regulations 2010 \(S.I. 2010/1010\)](#), [regs. 6, 99\(1\)](#) (with [regs. 100, 101](#))

56 Antecedent negotiations.

- (1) In this Act “antecedent negotiations ” means any negotiations with the debtor or hirer—
- (a) conducted by the creditor or owner in relation to the making of any regulated agreement, or
 - (b) conducted by a credit-broker in relation to goods sold or proposed to be sold by the credit-broker to the creditor before forming the subject-matter of a debtor-creditor-supplier agreement within section 12(a), or
 - (c) conducted by the supplier in relation to a transaction financed or proposed to be financed by a debtor-creditor-supplier agreement within section 12(b) or (c),
- and “negotiator ” means the person by whom negotiations are so conducted with the debtor or hirer.
- (2) Negotiations with the debtor in a case falling within subsection (1)(b) or (c) shall be deemed to be conducted by the negotiator in the capacity of agent of the creditor as well as in his actual capacity.
- (3) An agreement is void if, and to the extent that, it purports in relation to an actual or prospective regulated agreement—
- (a) to provide that a person acting as, or on behalf of, a negotiator is to be treated as the agent of the debtor or hirer, or
 - (b) to relieve a person from liability for acts or omissions of any person acting as, or on behalf of, a negotiator.
- (4) For the purposes of this Act, antecedent negotiations shall be taken to begin when the negotiator and the debtor or hirer first enter into communication (including communication by advertisement), and to include any representations made by the negotiator to the debtor or hirer and any other dealings between them.

57 Withdrawal from prospective agreement.

- (1) The withdrawal of a party from a prospective regulated agreement shall operate to apply this Part to the agreement, any linked transaction and any other thing done in anticipation of the making of the agreement as it would apply if the agreement were made and then cancelled under section 69.

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- (2) The giving to a party of a written or oral notice which, however expressed, indicates the intention of the other party to withdraw from a prospective regulated agreement operates as a withdrawal from it.
- (3) Each of the following shall be deemed to be the agent of the creditor or owner for the purpose of receiving a notice under subsection (2)—
 - (a) a credit-broker or supplier who is the negotiator in antecedent negotiations, and
 - (b) any person who, in the course of a business carried on by him, acts on behalf of the debtor or hirer in any negotiations for the agreement.
- (4) Where the agreement, if made, would not be a cancellable agreement, subsection (1) shall nevertheless apply as if the contrary were the case.

58 Opportunity for withdrawal from prospective land mortgage.

- (1) Before sending to the debtor or hirer, for his signature, an unexecuted agreement in a case where the prospective regulated agreement is to be secured on land (the “mortgaged land”), the creditor or owner shall give the debtor or hirer a copy of the unexecuted agreement which contains a notice in the prescribed form indicating the right of the debtor or hirer to withdraw from the prospective agreement, and how and when the right is exercisable, together with a copy of any other document referred to in the unexecuted agreement.
- (2) Subsection (1) does not apply to—
 - (a) a restricted-use credit agreement to finance the purchase of the mortgaged land, or
 - (b) an agreement for a bridging loan in connection with the purchase of the mortgaged land or other land.

59 Agreement to enter future agreement void.

- (1) An agreement is void if, and to the extent that, it purports to bind a person to enter as debtor or hirer into a prospective regulated agreement.
- (2) Regulations may exclude from the operation of subsection (1) agreements such as are described in the regulations.

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