



Consumer Credit Act 1974

1974 CHAPTER 39

PART VII

DEFAULT AND TERMINATION

Further restriction of remedies for default

90 Retaking of protected hire-purchase etc. goods.

- (1) At any time when—
- (a) the debtor is in breach of a regulated hire-purchase or a regulated conditional sale agreement relating to goods, and
 - (b) the debtor has paid to the creditor one-third or more of the total price of the goods, and
 - (c) the property in the goods remains in the creditor,
- the creditor is not entitled to recover possession of the goods from the debtor except on an order of the court.
- (2) Where under a hire-purchase or conditional sale agreement the creditor is required to carry out any installation and the agreement specifies, as part of the total price, the amount to be paid in respect of the installation (the “installation charge”) the reference in subsection (1)(b) to one-third of the total price shall be construed as a reference to the aggregate of the installation charge and one-third of the remainder of the total price.
- (3) In a case where—
- (a) subsection (1)(a) is satisfied, but not subsection (1)(b), and
 - (b) subsection (1)(b) was satisfied on a previous occasion in relation to an earlier agreement, being a regulated hire-purchase or regulated conditional sale agreement, between the same parties, and relating to any of the goods comprised in the later agreement (whether or not other goods were also included),
- subsection (1) shall apply to the later agreement with the omission of paragraph (b).

Status: Point in time view as at 21/03/2012.

Changes to legislation: Consumer Credit Act 1974, Cross Heading: Further restriction of remedies for default is up to date with all changes known to be in force on or before 01 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (4) If the later agreement is a modifying agreement, subsection (3) shall apply with the substitution, for the second reference to the later agreement, of a reference to the modifying agreement.
- (5) Subsection (1) shall not apply, or shall cease to apply, to an agreement if the debtor has terminated, or terminates, the agreement.
- (6) Where subsection (1) applies to an agreement at the death of the debtor, it shall continue to apply (in relation to the possessor of the goods) until the grant of probate or administration, or (in Scotland) confirmation (on which the personal representative would fall to be treated as the debtor).
- (7) Goods falling within this section are in this Act referred to as “protected goods”.

91 Consequences of breach of s. 90.

If goods are recovered by the creditor in contravention of section 90—

- (a) the regulated agreement, if not previously terminated, shall terminate, and
- (b) the debtor shall be released from all liability under the agreement, and shall be entitled to recover from the creditor all sums paid by the debtor under the agreement.

92 Recovery of possession of goods or land.

- (1) Except under an order of the court, the creditor or owner shall not be entitled to enter any premises to take possession of goods subject to a regulated hire-purchase agreement, regulated conditional sale agreement or regulated consumer hire agreement.
- (2) At any time when the debtor is in breach of a regulated conditional sale agreement relating to land, the creditor is entitled to recover possession of the land from the debtor, or any person claiming under him, on an order of the court only.
- (3) An entry in contravention of subsection (1) or (2) is actionable as a breach of statutory duty.

93 Interest not to be increased on default.

The debtor under a regulated consumer credit agreement shall not be obliged to pay interest on sums which, in breach of the agreement, are unpaid by him at a rate—

- (a) where the total charge for credit includes an item in respect of interest, exceeding the rate of that interest, or
- (b) in any other case, exceeding what would be the rate of the total charge for credit if any items included in the total charge for credit by virtue of section 20(2) were disregarded.

[^{F1}93A Summary diligence not competent in Scotland.

Summary diligence shall not be competent in Scotland to enforce payment of a debt due under a regulated agreement or under any security related thereto.]

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Textual Amendments

- F1** S. 93A inserted (S.) by Debtors (Scotland) Act 1987 (c. 18, SIF 45:2), ss. 108(1)(2), 109(3), Sch. 6 para. 16, **Sch. 7 para. 5**

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