

2010 No. 1010

CONSUMER CREDIT

The Consumer Credit (EU Directive) Regulations 2010

Made - - - - - *28th March 2010*

Laid before Parliament *30th March 2010*

Coming into force in accordance with regulations 99 and 101

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 these Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972.

PART 1

General

Citation and commencement

1. These Regulations may be cited as the Consumer Credit (EU Directive) Regulations 2010 and shall come into force in accordance with regulations 99 and 101.

PART 2

Amendments to primary legislation

Amendments to Consumer Credit Act 1974

2. The Consumer Credit Act 1974^(c) is amended as specified in regulations 3 to 45.

Pre-contractual explanations etc

3. After section 55 (disclosure of information) insert—

(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.

“Pre-contractual explanations etc

55A.—(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
- (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 other matters specified in that paragraph, 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.”.

4. In section 185 (agreement with more than one debtor or hirer)(a), after subsection (1) insert—

“(1A) Notwithstanding subsection (1) above, subsection (4) of section 55A (pre-contractual explanations etc) does not require an oral explanation to be given to any debtor

(a) Section 185 was amended by the Consumer Credit Act 2006 (c. 14), section 7(3).

to whom an explanation of the matters referred to in subsection (2)(a), (b) and (e) of that section has not been given orally or in person.”.

Assessment of creditworthiness

5. After section 55A (pre-contractual explanations etc) as inserted by regulation 3, insert—

“Assessment of creditworthiness

55B.—(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.”.

Copy of draft consumer credit agreement

6. After section 55B (assessment of creditworthiness) as inserted by regulation 5, insert—

“Copy of draft consumer credit agreement

55C.—(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
- (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).”.

Information to be included in agreements

7. In section 60 (form and content of agreements), after subsection (4) insert—

“(5) An application may be made under subsection (3) only if it relates to—

- (a) a consumer credit agreement secured on land,
- (b) a consumer credit agreement under which a person takes an article in pawn,
- (c) a consumer credit agreement under which the creditor provides the debtor with credit which exceeds £60,260,
- (d) a consumer credit 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, or
- (e) a consumer hire agreement.

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

Duty to supply copies

8. After section 61 (signing of agreement), insert—

“Duty to supply copy of executed consumer credit agreement

61A.—(1) Where a regulated consumer credit agreement, other than an excluded agreement, has been made, the creditor must give a copy of the executed agreement, and any other document referred to in it, to the debtor.

(2) Subsection (1) does not apply if—

- (a) a copy of the unexecuted agreement (and of any other document referred to in it) has already been given to the debtor, and
- (b) the unexecuted agreement is in identical terms to the executed agreement.

(3) In a case referred to in subsection (2), the creditor must inform the debtor in writing—

- (a) that the agreement has been executed,
- (b) that the executed agreement is in identical terms to the unexecuted agreement a copy of which has already been given to the debtor, and
- (c) that the debtor has the right to receive a copy of the executed agreement if the debtor makes a request for it at any time before the end of the period referred to in section 66A(2).

(4) Where a request is made under subsection (3)(c) the creditor must give a copy of the executed agreement to the debtor without delay.

(5) If the requirements of this section are not observed, the agreement is not properly executed.

(6) For the purposes of this section, an agreement is an excluded agreement if it is—

- (a) a cancellable agreement, or
- (b) an agreement—
 - (i) secured on land,
 - (ii) under which the creditor provides the debtor with credit which exceeds £60,260, or
 - (iii) entered into by the debtor wholly or predominantly for the purposes of a business carried on, or intended to be carried on, by him,

unless the creditor or a credit intermediary has complied with or purported to comply with regulation 3(2) of the Consumer Credit (Disclosure of Information) Regulations 2010.

(7) Subsections (2) to (5) of section 16B (declaration by the debtor as to the purposes of the agreement) apply for the purposes of subsection (6)(b)(iii).”.

9. After section 61A (duty to supply copy of executed consumer credit agreement) inserted by regulation 8, insert—

“Duty to supply copy of overdraft agreement

61B.—(1) Where an authorised business overdraft agreement or an authorised non-business overdraft agreement has been made, a document containing the terms of the agreement must be given to the debtor.

(2) The creditor must provide the document referred to in subsection (1) to the debtor before or at the time the agreement is made unless—

- (a) the creditor has provided the debtor with the information referred to in regulation 10(3) of the Consumer Credit (Disclosure of Information) Regulations 2010, in which case it must be provided after the agreement is made,
- (b) the creditor has provided the debtor with the information referred to in regulation 10(3)(c), (e), (f), (h) and (k) of those Regulations, in which case it must be provided immediately after the agreement is made, or
- (c) the agreement is an agreement of a description referred to in regulation 10(4)(b) of those Regulations, in which case it must be provided immediately after the agreement is made.

(3) If the requirements of this section are not observed, the agreement is enforceable against the debtor on an order of the court only (and for these purposes a retaking of goods or land to which the agreement relates is an enforcement of the agreement).”.

10. In section 62 (duty to supply copy of unexecuted agreement)—

- (a) in the heading, after “unexecuted agreement” insert “: excluded agreements”;
- (b) in subsection (1) after “If” insert “in the case of a regulated agreement which is an excluded agreement”;
- (c) in subsection (3), after the words “regulated agreement”, insert “which is an excluded agreement”;
- (d) after subsection (3) insert—
“(4) In this section, “excluded agreement” has the same meaning as in section 61A.”.

11. In section 63 (duty to supply copy of executed agreement)—

- (a) in the heading, after “executed agreement” insert “: excluded agreements”;
- (b) in subsection (1) after “If” insert “in the case of a regulated agreement which is an excluded agreement”;
- (c) in subsection (5), after the words “regulated agreement”, insert “which is an excluded agreement”;
- (d) after subsection (5) insert—
“(6) In this section, “excluded agreement” has the same meaning as in section 61A.”.

12. In section 127 (enforcement orders in cases of infringement)(a) in subsection (1) after paragraph (za), as inserted by regulation 18, insert—

“(zb) section 61B(3) (duty to supply copy of overdraft agreement), or”.

(a) Section 127(1) was amended the Consumer Credit Act 2006 (c.14), section 70 and Schedule 4

Withdrawal from consumer credit agreement

13. After section 66 (acceptance of credit-tokens), insert—

“Withdrawal from certain agreements

Withdrawal from consumer credit agreement

66A.—(1) The debtor under a regulated consumer credit agreement, other than an excluded agreement, may withdraw from the agreement, without giving any reason, in accordance with this section.

(2) To withdraw from an agreement under this section the debtor must give oral or written notice of the withdrawal to the creditor before the end of the period of 14 days beginning with the relevant day.

(3) For the purposes of subsection (2) the relevant day is whichever is the latest of the following—

- (a) the day on which the agreement is made;
- (b) where the creditor is required to inform the debtor of the credit limit under the agreement, the day on which the creditor first does so;
- (c) in the case of an agreement to which section 61A (duty to supply copy of executed consumer credit agreement) applies, the day on which the debtor receives a copy of the agreement under that section or on which the debtor is informed as specified in subsection (3) of that section;
- (d) in the case of an agreement to which section 63 (duty to supply copy of executed agreement: excluded agreements) applies, the day on which the debtor receives a copy of the agreement under that section.

(4) Where oral notice under this section is given to the creditor it must be given in a manner specified in the agreement.

(5) Where written notice under this section is given by facsimile transmission or electronically—

- (a) it must be sent to the number or electronic address specified for the purpose in the agreement, and
- (b) where it is so sent, it is to be regarded as having been received by the creditor at the time it is sent (and section 176A does not apply).

(6) Where written notice under this section is given in any other form—

- (a) it must be sent by post to, or left at, the postal address specified for the purpose in the agreement, and
- (b) where it is sent by post to that address, it is to be regarded as having been received by the creditor at the time of posting (and section 176 does not apply).

(7) Subject as follows, where the debtor withdraws from a regulated consumer credit agreement under this section—

- (a) the agreement shall be treated as if it had never been entered into, and
- (b) where an ancillary service relating to the agreement is or is to be provided by the creditor, or by a third party on the basis of an agreement between the third party and the creditor, the ancillary service contract shall be treated as if it had never been entered into.

(8) In the case referred to in subsection (7)(b) the creditor must without delay notify any third party of the fact that the debtor has withdrawn from the agreement.

(9) Where the debtor withdraws from an agreement under this section—

- (a) the debtor must repay to the creditor any credit provided and the interest accrued on it (at the rate provided for under the agreement), but

- (b) the debtor is not liable to pay to the creditor any compensation, fees or charges except any non-returnable charges paid by the creditor to a public administrative body.

(10) An amount payable under subsection (9) must be paid without undue delay and no later than the end of the period of 30 days beginning with the day after the day on which the notice of withdrawal was given (and if not paid by the end of that period may be recovered by the creditor as a debt).

(11) Where a regulated consumer credit agreement is a conditional sale, hire-purchase or credit-sale agreement and—

- (a) the debtor withdraws from the agreement under this section after the credit has been provided, and
- (b) the sum payable under subsection (9)(a) is paid in full by the debtor,

title to the goods purchased or supplied under the agreement is to pass to the debtor on the same terms as would have applied had the debtor not withdrawn from the agreement.

(12) In subsections (2), (4), (5), (6) and (9)(a) references to the creditor include a person specified by the creditor in the agreement.

(13) In subsection (7)(b) the reference to an ancillary service means a service that relates to the provision of credit under the agreement and includes in particular an insurance or payment protection policy.

(14) For the purposes of this section, an agreement is an excluded agreement if it is—

- (a) an agreement for credit exceeding £60, 260,
- (b) an agreement secured on land,
- (c) a restricted-use credit agreement to finance the purchase of land, or
- (d) an agreement for a bridging loan in connection with the purchase of land.”.

14. In section 67 (cancellable agreements)—

- (a) at the beginning insert “(1) Subject to subsection (2)”;
- (b) at the end insert “(2) This section does not apply where section 66A applies.”.

15. In section 82 (variation of agreements), after subsection (6) insert—

“(6A) If—

- (a) the earlier agreement is an agreement to which section 66A (right of withdrawal) applies, and
- (b) the modifying agreement is made within the period during which the debtor may give notice of withdrawal from the earlier agreement (see section 66A(2)),

then, whether or not the modifying agreement would, apart from this subsection, be an agreement to which section 66A applies, it shall be treated as such an agreement in respect of which notice may be given under subsection (2) of that section within the period referred to in paragraph (b) above.

(6B) Except as provided for under subsection (6A) section 66A does not apply to a modifying agreement.”.

Overdrafts etc

16. In section 55 (disclosure of information) for subsection (2) substitute—

“(2) If regulations under subsection (1) are not complied with, the agreement is enforceable against the debtor or hirer on an order of the court only (and for these purposes a retaking of goods or land to which the agreement relates is an enforcement of the agreement).”.

17.—(1) Section 74 (exclusion of certain agreements from Part V) is amended as follows.

(2) For subsections (1) and (2) substitute—

“(1) Except as provided in subsections (1A) to (2), this Part does not apply to—

- (a) a non-commercial agreement,
- (b) a debtor-creditor agreement enabling the debtor to overdraw on a current account,
- (c) a debtor-creditor agreement to finance the making of such payments arising on, or connected with, the death of a person as may be prescribed, or
- (d) a small debtor-creditor-supplier agreement for restricted-use credit.

(1A) Section 56 (antecedent negotiations) applies to a non-commercial agreement.

(1B) Where an agreement that falls within subsection (1)(b) is an authorised business overdraft agreement the following provisions apply—

- (a) section 55B (assessment of creditworthiness);
- (b) section 56 (antecedent negotiations);
- (c) section 60 (regulations on form and content of agreements);
- (d) section 61B (duty to supply copy of overdraft agreement).

(1C) Where an agreement that falls within subsection (1)(b) is an authorised non-business overdraft agreement the following provisions apply—

- (a) section 55 (regulations on disclosure of information);
- (b) section 55B (assessment of creditworthiness);
- (c) section 55C (copy of draft consumer credit agreement);
- (d) section 56 (antecedent negotiations);
- (e) section 60 (regulations on form and content of agreements);
- (f) section 61B (duty to supply copy of overdraft agreement).

(1D) Where an agreement that falls within subsection (1)(b) would be an authorised non-business overdraft agreement but for the fact that the credit is not repayable on demand or within three months the following provisions apply—

- (a) section 55 (regulations on disclosure of information);
- (b) section 55A (adequate explanations);
- (c) section 55B (credit assessment);
- (d) section 55C (copy of draft consumer credit agreement);
- (e) section 56 (antecedent negotiations);
- (f) section 60 (regulations on form and content of agreements);
- (g) section 61 (signing of agreement);
- (h) section 61A (duty to supply copy of executed agreement);
- (i) section 66A (withdrawal from consumer credit agreement).

(1E) In the case of an agreement that falls within subsection (1)(b) but does not fall within subsection (1B), (1C) or (1D), section 56 (antecedent negotiations) applies.

(1F) The following provisions apply to a debtor-creditor agreement to finance the making of such payments arising on, or connected with, the death of a person as may be prescribed—

- (a) section 55 (regulations on disclosure of information);
- (b) section 55A (adequate explanations);
- (c) section 55B (assessment of creditworthiness);
- (d) section 55C (copy of draft consumer credit agreement);
- (e) section 56 (antecedent negotiations);
- (f) section 60 (regulations on form and content of agreements);

- (g) section 61 (signing of agreement);
- (h) section 61A (duty to supply copy of executed agreement);
- (i) section 66A (withdrawal from consumer credit agreement).

(2) The following provisions apply to a small debtor-creditor-supplier agreement for restricted-use credit—

- (a) section 55 (regulations on disclosure of information);
- (b) section 56 (antecedent negotiations);
- (c) section 66A (withdrawal from consumer credit agreement).”.

(3) In subsection (3) for “Subsection (1)(b) or (c) applies” substitute “Subsection (1)(c) applies”.

(4) Omit subsection (3A).

(5) In subsection (4) for “(1)(c) or (2)”, in both places, substitute “(1)(d)”.

18. In section 127 (enforcement orders in cases of infringement)(a) in subsection (1) before paragraph (a) insert—

“(za) section 55(2) (disclosure of information), or”

19.—(1) Section 189 (definitions)(b), is amended as follows.

(2) In subsection (1) after the definition of “associate” insert—

““authorised business overdraft agreement” means a debtor-creditor agreement which provides authorisation in advance for the debtor to overdraw on a current account, where the agreement is entered into by the debtor wholly or predominantly for the purposes of the debtor’s business (see subsection (2A));

“authorised non-business overdraft agreement” means a debtor-creditor agreement which provides authorisation in advance for the debtor to overdraw on a current account where—

- (a) the credit must be repaid on demand or within three months, and
- (b) the agreement is not entered into by the debtor wholly or predominantly for the purposes of the debtor’s business (see subsection (2A));”.

(3) After subsection (2) insert—

“(2A) For the purpose of the definitions of “authorised business overdraft agreement” and “authorised non-business overdraft agreement” subsections (2) to (5) of section 16B (declaration by the debtor as to the purposes of the agreement) apply.”.

20.—(1) Schedule 2, Part II (examples) is amended as follows.

(2) In Example 17 omit “if covered by a determination under section 74(3)”.

(3) In Example 18 omit “if covered by a direction under section 74(3)”.

Current account overdrafts

21. After section 74 (exclusion of certain agreements from Part V) insert—

(a) Section 127(1) was amended the Consumer Credit Act 2006 (c.14), section 70 and Schedule 4.
 (b) Section 189(1) was amended by the Banking Act 1987 (c.22), section 88, and the relevant definition inserted by that Act was revoked by S.I. 2001/3649, article 176(a). It was also amended by the Enterprise Act 2002 (c.40), Schedule 25, paragraph 6(38) and by the Consumer Credit Act 2006 (c.14), sections 25(5) and 51(6).

“PART VA
CURRENT ACCOUNT OVERDRAFTS

Information to be provided on a current account agreement

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

(2) The current account agreement must include the following information at the time it is made—

- (a) the rate of interest charged on the amount by which an account-holder overdraws on the current account or exceeds the pre-arranged overdraft limit,
- (b) any conditions applicable to that rate,
- (c) any reference rate on which that rate is based,
- (d) information on any changes to the rate of interest (including the periods that the rate applies and any conditions or procedure applicable to changing that rate), and
- (e) any other charges payable by the debtor under the agreement (and the conditions under which those charges may be varied).

(3) The account-holder must be informed at least annually of the information in subsection (2).

(4) For the purposes of subsections (2) and (3) where different rates of interest are charged in different circumstances, the creditor must provide the information in subsection (2)(a) to (d) in respect of each rate.

(5) Subsection (3) does not apply where the overdraft or excess would be secured on land.”.

22. After section 74A (information to be provided on a current account agreement), as inserted by regulation 19, insert—

“Information to be provided on significant overdrawn without prior arrangement

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, and
- (c) 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.

(2) The matters referred to in subsection (1) are—

- (a) the fact that the current account is overdrawn or the overdraft limit has been exceeded,
- (b) the amount of that overdraft or excess,
- (c) the rate of interest charged on it, and
- (d) any other charges payable by the debtor in relation to it (including any penalties and any interest on those charges).

(3) For the purposes of subsection (1)(b) the amount of the overdraft or excess is to be treated as significant if—

- (a) the account-holder is liable to pay a charge for which he would not otherwise be liable,

- (b) the overdraft or excess is likely to have an adverse effect on the debtor's ability to receive further credit (including any effect on the information about the debtor held by a credit reference agency), or
- (c) it otherwise appears significant, having regard to all the circumstances.

(4) Where the overdraft or excess is secured on land, subsection (1)(a) is to be read as if the reference to one month were a reference to three months.”

23. In section 77A (statements to be provided in relation to fixed-sum credit agreements) after subsection (8) insert—

“(9) This section does not apply where the holder of a current account overdraws on the account without a pre-arranged overdraft or exceeds a pre-arranged overdraft limit.”

Charge cards

24. In section 75 (liability of creditor for breaches by supplier)(a), in subsection (3)—

- (a) at the end of paragraph (a) omit “or”,
- (b) at the end of paragraph (b) insert “, or”, and
- (c) after paragraph (b) insert—
 - “(c) under 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 the credit provided in each such period shall not exceed one.”

Linked credit agreements

25. After section 75, insert—

“Further provision for liability of creditor for breaches by supplier

75A.—(1) If the debtor under a linked credit agreement has a claim against the supplier in respect of a breach of contract the debtor may pursue that claim against the creditor where any of the conditions in subsection (2) are met.

(2) The conditions in subsection (1) are—

- (a) that the supplier cannot be traced,
- (b) that the debtor has contacted the supplier but the supplier has not responded,
- (c) that the supplier is insolvent, or
- (d) that the debtor has taken reasonable steps to pursue his claim against the supplier but has not obtained satisfaction for his claim.

(3) The steps referred to in subsection (2)(d) need not include litigation.

(4) For the purposes of subsection (2)(d) a debtor is to be deemed to have obtained satisfaction where he has accepted a replacement product or service or other compensation from the supplier in settlement of his claim.

(5) In this section “linked credit agreement” means a regulated consumer credit agreement which serves exclusively to finance an agreement for the supply of specific goods or the provision of a specific service and where—

(a) Section 75(3) was amended by the Schedule to S.I. 1983/1878.

- (a) the creditor uses the services of the supplier in connection with the preparation or making of the credit agreement, or
 - (b) the specific goods or provision of a specific service are explicitly specified in the credit agreement.
- (6) This section does not apply where—
- (a) the cash value of the goods or service is £30, 000 or less,
 - (b) the linked credit agreement is for credit which exceeds £60, 260, or
 - (c) the linked credit agreement is entered into by the debtor wholly or predominantly for the purposes of a business carried on, or intended to be carried on, by him.
- (7) Subsections (2) to (5) of section 16B (declaration by the debtor as to the purposes of the agreement) apply for the purposes of subsection (6)(c).”.

Statement of account

26. After section 77A (statements to be provided in relation to fixed-sum agreements)(a), insert—

“Fixed-sum credit agreement: statement of account to be provided on request

77B.—(1) This section applies to a regulated consumer credit agreement—

- (a) which is for fixed-sum credit,
- (b) which is of fixed duration,
- (c) where the credit is repayable in instalments by the debtor, and
- (d) which is not an excluded agreement.

(2) Upon a request from the debtor, the creditor must as soon as reasonably practicable give to the debtor a statement in writing which complies with subsections (3) to (5).

(3) The statement must include a table showing the details of each instalment owing under the agreement as at the date of the request.

(4) Details to be provided under subsection (3) must include—

- (a) the date on which the instalment is due,
- (b) the amount of the instalment,
- (c) any conditions relating to payment of the instalment, and
- (d) a breakdown of the instalment showing how much of it is made up of capital repayment, interest payment and other charges.

(5) Where the rate of interest is variable or the charges under the agreement may be varied, the statement must also indicate clearly and concisely that the information in the table is valid only until the rate of interest or charges are varied.

(6) The debtor may make a request under subsection (2) at any time that the agreement is in force unless a previous request has been made less than a month before and has been complied with.

(7) The debtor shall have no liability to pay any sum in connection with the preparation or the giving of a statement under this section.

(8) A breach of the duty imposed by this section is actionable as a breach of statutory duty.

(9) For the purposes of this section, an agreement is an excluded agreement if it is—

- (a) an agreement secured on land,

(a) Section 77A was inserted by the Consumer Credit Act 2006 (c.14), section 6.

- (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
 - (d) an agreement entered into by the debtor wholly or predominantly for the purpose of a business carried on, or intended to be carried on, by him.
- (10) Subsections (2) to (5) of section 16B (declaration by the debtor as to the purposes of the agreement) apply for the purposes of subsection (9)(d).”.

Information on change of rate of interest and charges

27. After section 78 (duty to give information to debtor under running-account credit agreement), insert—

“Duty to give information to debtor on change of rate of interest

78A.—(1) Where the rate of interest charged under a regulated consumer credit agreement, other than an excluded agreement, is to be varied, the creditor must inform the debtor in writing of the matters mentioned in subsection (3) before the variation can take effect.

(2) But subsection (1) does not apply where—

- (a) the agreement provides that the creditor is to inform the debtor in writing periodically of the matters mentioned in subsection (3) in relation to any variation, at such times as may be provided for in the agreement,
- (b) the agreement provides that the rate of interest is to vary according to a reference rate,
- (c) the reference rate is publicly available,
- (d) information about the reference rate is available on the premises of the creditor, and
- (e) the variation of the rate of interest results from a change to the reference rate.

(3) The matters referred to in subsections (1) and (2)(a) are—

- (a) the variation in the rate of interest,
- (b) the amount of any payments that are to be made after the variation has effect, if different, expressed as a sum of money where practicable, and
- (c) if the number or frequency of payments changes as a result of the variation, the new number or frequency.

(4) In the case of an agreement mentioned in subsection (5) this section applies as follows—

- (a) the obligation in subsection (1) only applies if the rate of interest increases, and
- (b) subsection (3) is to be read as if paragraphs (b) and (c) were omitted.

(5) The agreements referred to in subsection (4) are—

- (a) an authorised business overdraft agreement,
- (b) an authorised non-business overdraft agreement, or
- (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.

(6) For the purposes of this section an agreement is an excluded agreement if it is—

- (a) a debtor-creditor agreement arising where the holder of a current account overdraws on the account without a pre-arranged overdraft or exceeds a pre-arranged overdraft limit, or
- (b) an agreement secured on land.”.

28. In section 82 (variation of agreements), after subsection (1) insert—

“(1A) Subsection (1) does not apply to a variation in the rate of interest charged under an agreement not secured on land (see section 78A).

(1B) Subsection (1) does not apply to a variation in the rate of interest charged under an agreement secured on land if—

- (a) the agreement falls within subsection (1D), and
- (b) the variation is a reduction in the rate.

(1C) Subsection (1) does not apply to a variation in any other charge under an agreement if—

- (a) the agreement falls within subsection (1D), and
- (b) the variation is a reduction in the charge.

(1D) The agreements referred to in subsections (1B) and (1C) are—

- (a) an authorised business overdraft agreement,
- (b) an authorised non-business overdraft agreement, or
- (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.

(1E) Subsection (1) does not apply to a debtor-creditor agreement arising where the holder of a current account overdraws on the account without a pre-arranged overdraft or exceeds a pre-arranged overdraft limit.”.

Early repayment

29. In section 82 (variation of agreements), after subsection (2A)(a), insert—

“(2B) Subsection (2) does not apply if the modifying agreement varies—

- (a) the amount of the repayment to be made under the earlier agreement, or
- (b) the duration of the agreement,

as a result of the discharge of part of the debtor’s indebtedness under the earlier agreement by virtue of section 94(3).”.

30. In section 94 (right to complete payments ahead of time)—

(a) in subsection (1), after “under the agreement” where these words first occur, insert “and any amount which the creditor claims under section 95A(2)”;

(b) after subsection (2) insert—

“(3) The debtor under a regulated consumer credit agreement, other than an agreement secured on land, is entitled at any time to discharge part of his indebtedness by taking the steps in subsection (4).

(4) The steps referred to in subsection (3) are as follows—

- (a) he provides notice to the creditor,
- (b) he pays to the creditor some of the amount payable by him to the creditor under the agreement before the time fixed by the agreement, and
- (c) he makes the payment—
 - (i) before the end of the period of 28 days beginning with the day following that on which notice under paragraph (a) was received by the creditor, or
 - (ii) on or before any later date specified in the notice.

(a) Section 82(2A) was inserted by S.I. 2005/2967.

(5) Where a debtor takes the steps in subsection (4) his indebtedness shall be discharged by an amount equal to the sum of the amount paid and any rebate allowable under section 95 less any amount which the creditor claims under section 95A(2).

(6) A notice—

(a) under subsection (1), other than a notice relating to a regulated consumer credit agreement secured on land, or

(b) under subsection (4)(a),

need not be in writing.”.

31. In section 95 (rebate on early settlement), in subsection (1), after the words “is discharged” insert “or is discharged in part”.

32. After section 95 (rebate on early settlement) insert—

“Compensatory amount

95A.—(1) This section applies where—

(a) a regulated consumer credit agreement, other than an agreement secured on land, provides for the rate of interest on the credit to be fixed for a period of time, and

(b) under section 94 the debtor discharges all or part of his indebtedness during that period.

(2) The creditor may claim an amount equal to the cost which the creditor has incurred as a result only of the debtor’s indebtedness being discharged during that period if—

(a) the amount of the payment under section 94 exceeds £8,000 or, where more than one such payment is made in any 12 month period, the total of those payments exceeds £8,000,

(b) the agreement is not a debtor-creditor agreement enabling the debtor to overdraw on a current account, and

(c) the amount of the payment under section 94 is not paid from the proceeds of a contract of payment protection insurance.

(3) The amount in subsection (2)—

(a) must be fair,

(b) must be objectively justified, and

(c) must not exceed whichever is the higher of—

(i) the relevant percentage of the amount of the payment under section 94, and

(ii) the total amount of interest that would have been paid by the debtor under the agreement in the period from the date on which the debtor makes the payment under section 94 to the date fixed by the agreement for the discharge of the indebtedness of the debtor.

(4) In subsection (3)(c)(i) “relevant percentage” means—

(a) 1%, where the period from the date on which the debtor makes the payment under section 94 to the date fixed by the agreement for the discharge of the indebtedness of the debtor is more than one year, or

(b) 0.5%, where that period is equal to or less than one year.”.

33. In section 97 (duty to give information)—

(a) in subsection (1), omit “in writing”;

(b) after subsection (2) insert—

“(2A) A request under subsection (1) need not be in writing unless the agreement is secured on land.”.

34. After section 97 (duty to give information) insert—

“Duty to give information on partial repayment

97A.—(1) Where a debtor under a regulated consumer credit agreement—

- (a) makes a payment by virtue of which part of his indebtedness is discharged under section 94, and
- (b) at the same time or subsequently requests the creditor to give him a statement concerning the effect of the payment on the debtor’s indebtedness,

the creditor must give the statement to the debtor before the end of the period of seven working days beginning with the day following that on which the creditor receives the request.

(2) The statement shall be in writing and shall contain the following particulars—

- (a) a description of the agreement sufficient to identify it,
- (b) the name, postal address and, where appropriate, any other address of the creditor and the debtor,
- (c) where the creditor is claiming an amount under section 95A(2), that amount and the method used to determine it,
- (d) the amount of any rebate to which the debtor is entitled—
 - (i) under the agreement, or
 - (ii) by virtue of section 95 where that is higher,
- (e) where the amount of the rebate mentioned in paragraph (d)(ii) is given, a statement indicating that this amount has been calculated having regard to the Consumer Credit (Early Settlement) Regulations 2004,
- (f) where the debtor is not entitled to any rebate, a statement to this effect,
- (g) any change to—
 - (i) the number, timing or amount of repayments to be made under the agreement, or
 - (ii) the duration of the agreement,which results from the partial discharge of the indebtedness of the debtor, and
- (h) the amount of the debtor’s indebtedness remaining under the agreement at the date the creditor gives the statement.”.

35. In section 120 (consequence of failure to redeem), in subsection (1), in paragraph (a), for the words from “the redemption period” to the end substitute—

- “(i) the redemption period is six months,
- (ii) the pawn is security for fixed-sum credit not exceeding £75 or running-account credit on which the credit limit does not exceed £75, and
- (iii) the pawn was not immediately before the making of the regulated consumer credit agreement a pawn under another regulated consumer credit agreement in respect of which the debtor has discharged his indebtedness in part under section 94(3); or”.

Assignment of rights

36. After section 82 (variation of agreements), insert—

“Assignment of rights

82A.—(1) Where rights of a creditor under a regulated consumer credit agreement are assigned to a third party, the assignee must arrange for notice of the assignment to be given to the debtor—

- (a) as soon as reasonably possible, or
- (b) if, after the assignment, the arrangements for servicing the credit under the agreement do not change as far as the debtor is concerned, on or before the first occasion that they do.

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

Open-end agreements

37. In section 87 (need for a default notice), after subsection (4), insert—

“(5) Subsection (1)(d) does not apply in a case referred to in section 98A(4) (termination or suspension of debtor’s right to draw on credit under open-end agreement).”.

38. After section 98 (duty to give notice of termination), insert—

“Termination etc of open-end consumer credit agreements

98A.—(1) The debtor under a regulated open-end consumer credit agreement, other than an excluded agreement, may by notice terminate the agreement, free of charge, at any time, subject to any period of notice not exceeding one month provided for by the agreement.

(2) Notice under subsection (1) need not be in writing unless the creditor so requires.

(3) Where a regulated open-end consumer credit agreement, other than an excluded agreement, provides for termination of the agreement by the creditor—

- (a) the termination must be by notice served on the debtor, and
- (b) the termination may not take effect until after the end of the period of two months, or such longer period as the agreement may provide, beginning with the day after the day on which notice is served.

(4) Where a regulated open-end consumer credit agreement, other than an excluded agreement, provides for termination or suspension by the creditor of the debtor’s right to draw on credit—

- (a) to terminate or suspend the right to draw on credit the creditor must serve a notice on the debtor before the termination or suspension or, if that is not practicable, immediately afterwards,
- (b) the notice must give reasons for the termination or suspension, and
- (c) the reasons must be objectively justified.

(5) Subsection (4)(a) and (b) does not apply where giving the notice—

- (a) is prohibited by an EU obligation, or
- (b) would, or would be likely to, prejudice—
 - (i) the prevention or detection of crime,
 - (ii) the apprehension or prosecution of offenders, or
 - (iii) the administration of justice.

(6) An objectively justified reason under subsection (4)(c) may, for example, relate to—

- (a) the unauthorised or fraudulent use of credit, or
- (b) a significantly increased risk of the debtor being unable to fulfil his obligation to repay the credit.

(7) Subsections (1) and (3) do not affect any right to terminate an agreement for breach of contract.

- (8) For the purposes of this section an agreement is an excluded agreement if it is—
- (a) an authorised non-business overdraft agreement,
 - (b) an authorised business overdraft agreement,
 - (c) a debtor-creditor agreement arising where the holder of a current account overdraws on the account without a pre-arranged overdraft or exceeds a pre-arranged overdraft limit, or
 - (d) an agreement secured on land.”.

39. In section 189 (definitions)(a), in subsection (1) after the definition of “OFT”, insert—
““open-end” in relation to a consumer credit agreement, means of no fixed duration;”.

Database access

40.—(1) Section 157 (duty to disclose name etc of agency) is amended as follows.

(2) Before subsection (1) insert—

“(A1) Where a creditor under a prospective regulated agreement, other than an excluded agreement, decides not to proceed with it on the basis of information obtained by the creditor from a credit reference agency, the creditor must, when informing the debtor of the decision—

- (a) inform the debtor that this decision has been reached on the basis of information from a credit reference agency, and
- (b) provide the debtor with the particulars of the agency including its name, address and telephone number.”.

(3) In subsection (1) insert at the beginning “In any other case,”.

(4) After subsection (2) insert—

“(2A) A creditor is not required to disclose information under this section if such disclosure—

- (a) contravenes the Data Protection Act 1998,
- (b) is prohibited by any EU obligation,
- (c) would create or be likely to create a serious risk that any person would be subject to violence or intimidation, or
- (d) would, or would be likely to, prejudice—
 - (i) the prevention or detection of crime,
 - (ii) the apprehension or prosecution of offenders, or
 - (iii) the administration of justice.”.

(5) In subsection (3) after “subsection” insert “(A1) or”.

(6) After subsection (3) insert—

“(4) For the purposes of subsection (A1) an agreement is an excluded agreement if it is—
(a) a consumer hire agreement, or
(b) an agreement secured on land.”.

Credit intermediaries

41. After section 160 (alternative procedure for business consumers) insert—

(a) Section 189(1) was amended by the Banking Act 1987 (c.22), section 88, and the relevant definition inserted by that Act was revoked by S.I. 2001/3649, article 176(a). It was also amended by the Enterprise Act 2002 (c.40), Schedule 25, paragraph 6(38) and by the Consumer Credit Act 2006 (c.14), sections 25(5) and 51(6).

“Credit intermediaries

160A.—(1) In this section “credit intermediary” means a person who in the course of business—

- (a) carries out any of the activities specified in subsection (2) for a consideration that is or includes a financial consideration, and
- (b) does not do so as a creditor.

(2) The activities are—

- (a) recommending or making available prospective regulated consumer credit agreements, other than agreements secured on land, to individuals,
- (b) assisting individuals by undertaking other preparatory work in relation to such agreements, or
- (c) entering into regulated consumer credit agreements, other than agreements secured on land, with individuals on behalf of creditors.

(3) A credit intermediary must in—

- (a) advertising of his relating to an activity in subsection (2) which is intended for individuals not acting the course of a business, or
- (b) documentation of his relating to an activity in subsection (2) which is intended for individuals,

indicate the extent to which the intermediary is acting independently and in particular whether he works exclusively with a creditor.

(4) Where a credit intermediary carries on an activity specified in subsection (2) for a debtor, the intermediary must secure that any financial consideration payable to him by the debtor for the activity is disclosed to the debtor and then agreed in writing before the regulated consumer credit agreement is concluded.

(5) Where a credit intermediary carries on an activity specified in subsection (2) for a debtor, the intermediary must disclose to the creditor the financial consideration for the activity payable by the debtor if the annual percentage rate of the total charge for credit prescribed under section 20 is to be ascertained by the creditor.

(6) A credit intermediary who fails to comply with a requirement of this section commits an offence.

(7) An offence under this section is to be treated for the purposes of the definition of “relevant offence” in section 38(1) and (2) of the Regulatory Enforcement and Sanctions Act 2008 as an offence contained in this Act immediately before the day on which that Act was passed.”.

42. In section 189 (definitions)(a), in subsection (1) after the definition of “credit information services”, insert—

““credit intermediary” has the meaning given by section 160A;”.

43. In Schedule 1 (prosecution and punishment of offences) after the entry for section 160(6) insert—

“160A	Failure of credit intermediary to comply with section 160A(3), (4) or (5).	Summarily.	Level 4 on the standard scale.”
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(a) Section 189(1) was amended by the Banking Act 1987 (c.22), section 88, and the relevant definition inserted by that Act was revoked by S.I. 2001/3649, article 176(a). It was also amended by the Enterprise Act 2002 (c.40), Schedule 25, paragraph 6(38) and by the Consumer Credit Act 2006 (c.14), sections 25(5) and 51(6).

Amount of credit in running-account agreement

44. In section 10(3) (running-account credit and fixed sum credit)—
- (a) for “paragraph (a) of section 16B(1)” substitute “any provision of this Act that specifies an amount of credit (except section 17(1)(a))”, and
 - (b) for “that paragraph” substitute “that provision”.
45. In section 17 (small agreements), for subsection (2) substitute—
- “(2) For the purposes of paragraph (a) of subsection (1), running-account credit shall be taken not to exceed the amount specified in that paragraph if the credit limit does not exceed that amount.”.

Enterprise Act 2002

46. In Schedule 13 to the Enterprise Act 2002 (listed Directives and Regulations)(a)—
- (a) omit paragraph 3 (Council Directive 87/102/EEC);
 - (b) after paragraph 9C insert—
- “9D. Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC.”.

PART 3

Amendments to secondary legislation

Consumer Credit (Notice of Variation of Agreements) Regulations 1977

47. The Consumer Credit (Notice of Variation of Agreements) Regulations 1977(b) are amended as follows.

48. In regulation 2 (notice valid for any variation in paragraph (b) omit “not less than seven days”.

49. In regulation 3 (notice valid for special variation) before “where” in paragraph (1) insert “secured on land”.

Consumer Credit (Total Charge for Credit) Regulations 1980

50. In the Consumer Credit (Total Charge for Credit) Regulations 1980(c), after regulation 1 (citation, commencement, interpretation and revocation), insert—

“Application

1A. These Regulations apply to regulated consumer credit agreements which are secured on land or to prospective regulated consumer credit agreements which are to be secured on land except to the extent that the Consumer Credit (Disclosure of Information) Regulations 2010 apply to such agreements.”.

Consumer Credit (Agreements) Regulations 1983

51. The Consumer Credit (Agreements) Regulations 1983(d) are amended as follows.

(a) 2002 c.40.
(b) S.I. 1977/328; relevant amending instrument is S.I. 1979/661.
(c) S.I. 1980/51
(d) S.I. 1983/1553 as amended by S.I. 2004/1482.

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

(a) in paragraph (2) in the definition of “the Total Charge for Credit Regulations” for “Consumer Credit (Total Charge for Credit) Regulations 1980” substitute—

“Consumer Credit (Total Charge for Credit) Regulations 2010”;

(b) after paragraph (2A) insert—

“(2B) In relation to a regulated consumer credit agreement secured on land and to which the Consumer Credit (Disclosure of Information) Regulations 2010 do not apply, the definition of Total Charge for Credit Regulations in paragraph (2) shall apply as if for the words “Consumer Credit (Total Charge for Credit) Regulations 2010” there were substituted “Consumer Credit (Total Charge for Credit) Regulations 1980.”.

53. In regulation 8 (application of regulations), after paragraph (1), insert—

“(1A) These Regulations apply in respect of the following regulated agreements—

- (a) agreements secured on land;
- (b) agreements under which the creditor provides the debtor with credit exceeding £60,260; and
- (c) agreements 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).”.

54. In Schedule 1 (information to be contained in documents embodying regulated consumer credit agreements other than modifying agreements)—

(a) after paragraph 23, insert—

“Right of withdrawal

23A Agreements falling within regulation 8(1A)(c)

A statement providing details of the debtor’s right under section 66A of the Act to withdraw from the consumer credit agreement including—

- (1) the right to withdraw within 14 days without the debtor having to give any reason;
- (2) when that period of withdrawal begins and ends;
- (3) the requirement of the debtor to notify the creditor of his intention to withdraw, in writing or orally;
- (4) contact details of the person/creditor whom he must notify of this intention to withdraw from the agreement;
- (5) the requirement to repay the credit without delay and no later than 30 calendar days of giving notice of withdrawal;
- (6) the requirement to pay, without delay and no later than 30 calendar days of giving notice of withdrawal, the interest accrued from the date of drawing down the credit to the date of repaying it; and
- (7) the amount of interest payable per day expressed as a sum of money;

Paragraph (7) does not apply [in respect of agreements for running account credit] where it is not practicable for the creditor to state the amount of interest payable per day. In such cases, the agreement shall state that where credit is drawn down during the withdrawal period, the creditor shall inform the debtor, on request, without delay, of the amount of interest payable per day.”;

- (b) in paragraph 24, after “fixed-sum credit”, insert “secured on land”;
- (c) after paragraph 24, insert—

“24A Agreements falling within regulation 8(1A)(b) and (c)

A statement providing details of the debtor’s right of early repayment under section 94 of the Act including—
(1) the fact that the debtor has a right to repay early in full or part,
(2) the procedure for early repayment, and
(3) where applicable details of the creditor’s right to compensation under section 95A of the Act and the manner in which that compensation shall be determined.”

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, in paragraph 1) before “[Examples indicating the amount you have to pay appear in the agreement.]” insert “For agreements secured on land—”;
- (b) in form 15, in column 3 under Form of Statement before “[Examples indicating the amount you have to pay appear in the agreement.]” insert “For agreements secured on land—”;
- (c) in form 16, in column 3 under Form of Statement before “[Examples indicating the amount you have to pay appear in the agreement.]” insert “For agreements secured on land—”.

56. In Schedule 8 (information to be contained in documents embodying regulated consumer modifying agreements varying or supplementing earlier credit agreements)—

- (a) in paragraph 24, after “fixed-sum credit”, insert “secured on land”;
- (b) after paragraph 24, insert—

“24A Modifying agreements falling within regulation 8(1A)(b) or (c)

A statement providing details of the debtor’s right of early repayment under section 94 of the Act including—
(1) the fact that the debtor has a right to repay early in full or part;
(2) the procedure for early repayment, and
(3)) where applicable details of the creditor’s right to compensation under section 95A of the Act and the manner in which that compensation shall be determined.”

Consumer Credit (Payments Arising on Death) Regulations 1983

57.—(1) The Consumer Credit (Payments Arising on Death) Regulations 1983(a) are amended as follows.

(2) In regulation 2—

“(a) after “section 74(1)(c)” insert “and (IF)”;

(b) for “except section 56” substitute—

“except sections 55, 55A, 55B, 55C, 56, 60, 61, 61A and 66A”.

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

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

(2) In regulation 3(2)(b), at the end insert “or in the case of a copy of a consumer credit agreement to which section 66A of the Act applies, the date of the signature by the debtor to such an agreement”.

Consumer Credit (Settlement Information) Regulations 1983

59. The Consumer Credit (Settlement Information) Regulations 1983(c) are amended as follows.

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

61. In regulation 3 (settlement date)—

(a) in paragraph (2) omit the words “in writing”; and

(b) after paragraph (2) insert—

“(3) A request under paragraph (2) need not be in writing unless the agreement is secured on land.”.

62. In the Schedule (information to be contained in a statement given by a creditor of the amount of the payment required to discharge the debtor’s indebtedness under a regulated consumer credit agreement together with particulars showing how the amount is arrived at)—

(a) after paragraph 3 insert—

“Compensatory amount

3A. Where the creditor claims an amount under section 95A(2) of the Act, that amount and the method used to determine it.”;

(b) for paragraph 5 substitute—

“Amount of payment less any rebate on early settlement plus any compensation

5. The total amount payable by the debtor required to discharge his indebtedness under the agreement after taking into account the amount of any rebate on early settlement and the compensatory amount, namely the amount resulting from the deduction of the amount shown in paragraph 4 from the amount shown in paragraph 3 and the addition of the amount shown in paragraph 3A.”;

(c) omit sub-paragraphs 7(b) and (c).

(a) S.I. 1983/1554

(b) S.I. 1983/1557 as amended by S.I. 1984/1108, S.I. 2004/3236, other amendments which are not relevant.

(c) S.I. 1983/1564, amended by S.I. 2004/1483 and S.I. 2004/3236

Consumer Credit (Running-Account Credit Information) Regulations 1983

63. In the Consumer Credit (Running-Account Credit Information) Regulations 1983(a), in the Schedule (prescribed contents to be included in a statement to be given by a creditor to a debtor of the state of the account where running-account credit is provided under a regulated agreement)—

(a) at the end of paragraph 1, insert—

“**1A.** In the case of—

(a) an authorised non-business overdraft agreement, or

(b) 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,

the date of the previous statement.”;

(b) at the beginning of paragraph 6, insert “Subject to paragraph 7”;

(c) at the end of paragraph 6, insert—

“**7.** In the case of an authorised non-business overdraft agreement, only sub-paragraph (b) of paragraph 6 shall apply.”.

Consumer Credit (Exempt Agreements) Order 1989

64. The Consumer Credit (Exempt Agreements) Order 1989(b) is amended as follows.

65. In article 1 (citation, commencement, interpretation and revocation)—

(a) in paragraph (2) for “Consumer Credit (Total Charge for Credit) Regulations 1980” substitute—

“Consumer Credit (Total Charge for Credit) Regulations 2010”;

(b) after paragraph (2) insert—

“(2A) In relation to a consumer credit agreement secured on land and to which the Consumer Credit (Disclosure of Information) Regulations 2010 do not apply, paragraph (2) shall apply as if for the words “Consumer Credit (Total Charge for Credit) Regulations 2010” there were substituted “Consumer Credit (Total Charge for Credit) Regulations 1980.”.

66. In article 3 (exemption of certain consumer credit agreements by reference to the number of payments to be made by the debtor)—

(a) for paragraph (1)(a)(i) substitute—

“(i) an agreement for fixed-sum credit under which—

(aa) the total number of payments to be made by the debtor does not exceed four;

(bb) those payments are required to be made within a period not exceeding 12 months beginning with the date of the agreement; and

(cc) the credit is provided without interest and without any other charges; or”;

(b) for paragraph (1)(a)(ii) substitute—

“(ii) an agreement for running-account credit—

(aa) which provides for the making of payments by the debtor in relation to specified periods not exceeding 3 months;

(a) S.I. 1983/1570, to which there are amendments not relevant to these Regulations.

(b) S.I. 1989/869, amended by S.I. 1999/1956 and S.I. 2006/1273; there are other amending instruments but none is relevant.

- (bb) which requires that the number of payments to be made by the debtor in repayment of the whole amount of the credit provided in each such period shall not exceed one; and
- (cc) in relation to which no or insignificant charges are payable for the credit;”;
- (c) for paragraph (1)(b) substitute—
 - “(b) a debtor-creditor-supplier agreement financing the purchase of land under which—
 - (i) number of payments to be made by the debtor does not exceed four; and
 - (ii) the credit is provided without interest and without any other charges; and in this sub-paragraph, “payment” means a payment comprising or including an amount in respect of credit.”;
- (d) in paragraph (1)(c) for paragraph (iii) substitute—
 - “(iii) the credit is provided without interest and without any other charges;”;
- (e) in paragraph (1)(d) for paragraph (iii) substitute—
 - “(iii) the credit is provided without interest and without any other charges;”.
- (f) after paragraph (1) insert—
 - “(1A) In relation to a consumer credit agreement secured on land—
 - (a) paragraph (1)(a)(i) shall apply as if sub-paragraph (cc) were omitted
 - (b) paragraph (1) (a)(ii) shall apply as if—
 - (i) in sub-paragraph (aa) the words “not exceeding 3 months” were omitted; and
 - (ii) sub-paragraph (cc) were omitted;
 - (c) paragraph (1)(b) shall apply as if sub-paragraph (ii) were omitted;
 - (d) paragraph (1)(c)(iii) shall apply as if for the words “the credit is” to the end there were substituted—
 - “there is no charge forming part of the total charge for credit under the agreement other than interest at a rate not exceeding the rate of interest from time to time payable under the agreement mentioned in subparagraph (i);”;
 - (e) paragraph (1)(d)(iii) shall apply as if for the words “the credit is” to the end there were substituted—
 - there is no charge forming part of the total charge for credit under the agreement other than interest at a rate not exceeding the rate of interest from time to time payable under the agreement referred to in sub-paragraph (i);”.

67. In article 4 (exemption of certain consumer credit agreements by reference to the rate of the total charge for credit)—

- (a) in paragraph (1)(b), for “subject to paragraph (2)” substitute—
 - “subject to paragraphs (2) and (2A)”;
- (b) in paragraph (1)(c) for “subject to paragraph (2)” substitute—
 - “subject to paragraphs (2) and (2A)”;
- (c) after paragraph (2) insert—
 - “(2A) Where the agreement referred to in paragraph (1)(b) or (c)—
 - (a) is not an agreement offered by a creditor who is an employer to a debtor as an incident of employment with the creditor, or
 - (b) is not an agreement secured on land,

those paragraphs do not apply to the agreement unless the conditions in paragraph (2B) are satisfied.

(2B) The conditions referred to in paragraph (2A) are—

- (a) the agreement is offered under an enactment with a general interest purpose, and
- (b) the rate of interest (if any) on the credit which may be provided under the agreement is—
 - (i) at a rate which is lower than that prevailing on the market,` or
 - (ii) at a rate which is not higher than that prevailing on the market where the other terms on which credit may be provided are more favourable for the debtor than those prevailing on the market.”.

Education (Student Loans) Regulations 1998

68. In Schedule 2 (Terms of Loans) to the Education (Student Loans) Regulations 1998(a) in paragraph 1 in the definition of “APR” for “Consumer Credit (Total Charge for Credit) Regulations 1980” substitute—

“Consumer Credit (Total Charge for Credit) Regulations 2010”.

Enterprise Act 2002 (Part 8 Community Infringements Specified UK Laws) Order 2003

69. In the Schedule to the Enterprise Act 2002 (Part 8 Community Infringements Specified UK Laws) Order 2003(b) (listed directives)—

- (a) omit the entry for Council Directive 87/102/EEC for the approximation of the laws, regulations and administrative provisions of the Member States concerning consumer credit(c) as last amended by Directive 98/7/EC(d); and
- (b) after the entry for Directive 2005/29/EC insert—

“Directive 2008/48/EC of the European Parliament and of the Council on credit agreements for consumers and repealing Council Directive 87/102/EEC	Consumer Credit Act 1974 and secondary legislation made thereunder (not including consumer hire agreements)”
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Consumer Credit (Advertisements) Regulations 2004

70. The Consumer Credit (Advertisements) Regulations 2004(e) are amended as follows.

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

- (a) in paragraph (2) in the definition of “the Total Charge for Credit Regulations” for “Consumer Credit (Total Charge for Credit) Regulations 1980” substitute—
 - “Consumer Credit (Total Charge for Credit) Regulations 2010”;
- (b) after paragraph (2) insert—
 - “(2A) In relation to a regulated consumer credit agreement secured on land the definition of Total Charge for Credit Regulations in paragraph (2) shall apply as for the words Consumer “Credit (Total Charge for Credit) Regulations 2010” there were substituted “Consumer Credit (Total Charge for Credit) Regulations 1980”.”.

72. After regulation 1 insert—

(a) S.I. 1998/211 to which there are amendments not relevant to these regulations.
 (b) S.I. 2003/1374 amended by S.I. 2008/1277; there are other amending instruments but none is relevant.
 (c) OJ No L42, 12.2.1987, p 48.
 (d) OJ No L101, 1.4.1998, p 17.
 (e) S.I. 2004/1484, amended by S.I. 2008/1277.

“Application

1A. These Regulations apply to a credit advertisement in so far as it relates to a credit consumer agreement secured on land.”.

Consumer Credit (Disclosure of Information) Regulations 2004

73. The Consumer Credit (Disclosure of Information) Regulations 2004(a) are amended as follows.

74. In regulation 1 (citation, commencement and interpretation), in paragraph (2) before the definition of “the Agreements Regulations” insert—

““the Act” means the Consumer Credit Act 1974;”.

75. For regulation 2 (agreements to which these Regulations apply) substitute—

“2.—(1) Subject to paragraph (3) these Regulations apply in respect of the following regulated agreements—

- (a) consumer credit agreements secured on land except those to which section 58 of the Act (opportunity for withdrawal from prospective land mortgage) applies,
- (b) consumer hire agreements,
- (c) consumer credit agreements under which the creditor provides the debtor with credit which exceeds £60,260,
- (d) consumer credit agreements 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
- (e) small debtor-creditor-supplier agreements for restricted-use credit,

except to the extent the Consumer Credit (Disclosure of Information) Regulations 2010 apply to such agreements.

(2) 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 (1)(d).

(3) These Regulations do not apply to distance contracts.”.

76. In regulation 3 (information to be disclosed to a debtor or hirer before a regulated agreement is made), after paragraph (1), insert—

“(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 in accordance with section 157(A1) of the Act that if the creditor decides not to proceed with a prospective regulated consumer credit agreement he must, when informing the debtor of this decision, inform the debtor that this decision has been reached on the basis of information from a credit reference agency and of the particulars of that agency.”.

Consumer Credit (Early Settlement) Regulations 2004

77. The Consumer Credit (Early Settlement) Regulations 2004(b) are amended as follows.

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

(a) in paragraph 2—

(i) in the definition of “early settlement” for “regulation 2(1)” substitute—

“regulation 2(1A)”;

(ii) in the definition of “the relevant date” for the words from “shall be determined” to the end substitute—

(a) S.I. 2004/1481.

(b) S.I. 2004/1483, amended by S.I. 2004/2619.

“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 making of the agreement;”;
- (iii) in the definition of “the Total Charge for Credit Regulations” for “Consumer Credit (Total Charge for Credit) Regulations 1980” substitute—

“Consumer Credit (Total Charge for Credit) Regulations 2010”;

- (b) omit paragraph (3);
- (c) after paragraph (2) insert—

“(4) In relation to a regulated consumer credit agreement secured on land and to which the Consumer Credit (Disclosure of Information) Regulations 2010 do not apply, the definition of the Total Charge for Credit Regulations in paragraph (2) shall apply as if for the words “Consumer Credit (Total Charge for Credit) Regulations 2010” there were substituted “Consumer Credit (Total Charge for Credit) Regulations 1980.”.

79. In regulation 2 (entitlement to rebate)—

- (a) for paragraph (1) substitute—

“(1) Where early settlement takes place the creditor shall, subject to the following provisions of this regulation, allow to the debtor under a regulated consumer credit agreement a rebate at least equal to that calculated in accordance with the following provisions of these Regulations.”;

- (b) after paragraph (1) insert—

“(1A) Early settlement takes place under paragraph (1) where—

- (a) the indebtedness of the debtor is discharged or becomes payable before the time fixed by the agreement—
 - (i) under section 94(1) of the Act,
 - (ii) on refinancing,
 - (iii) on breach of the agreement, or
 - (iv) for any other reason,
- (b) the indebtedness of the debtor is discharged in part under section 94(3) of the Act, or
- (c) any sum becomes payable by the debtor before the time fixed by the agreement.”.

80. In regulation 3 (items included in the calculation of rebate)—

- (a) in paragraph (2)—

- (i) in paragraph (a)—

- (aa) at the beginning insert—

“so much of the amount of”;

- (bb) at the end insert—

“as is attributable to the period before the settlement date”;

- (ii) in paragraph (d)—

- (aa) at the beginning insert—

“so much of”;

- (bb) at the end insert—

“as is attributable to the period before the settlement date”;

- (b) after paragraph (2) insert—

- “(3) In relation to a regulated consumer credit agreement secured on land—
- (a) paragraph (2)(a) shall apply as if the words “so much of the amount of” and “as is attributable to the period before the settlement date” were omitted; and
 - (b) paragraph (2)(d) shall apply as if the words “so much of” and “as is attributable to the period before the settlement date” were omitted.”.

81. In regulation 4 (calculation of the amount of the rebate)—

- (a) before paragraph (1) insert—
 - “(A1) This regulation provides for the calculation of the amount of the rebate where early settlement takes place as provided in regulation 2(1A)(a) or (c) and the debtor pays the amount or sum by the time specified in regulation 5(1).”;
- (b) in paragraph (2)—
 - (i) after “repayment of credit” insert “not”;
 - (ii) omit the words “other than that”; and
 - (iii) after “agreement” insert “(other than one made under section 94(3) of the Act)”;
- (c) omit paragraph (3).

82. After regulation 4 insert—

“Calculation of the amount of rebate (indebtedness discharged in part)

4A.—(1) This regulation provides for the calculation of the amount of the rebate where early settlement takes place as provided in regulation 2(1A)(b) and the debtor pays the amount by the time specified in regulation 5(2).

(2) The amount of the rebate is the amount given by the following formula—

$$F - K - P$$

where:

F = the total amount of repayments of credit that would fall due for payment after the settlement date if early settlement did not take place,

K = the total amount of repayments of credit that will fall due for payment after the settlement date if early settlement takes place; in calculating K—

- (i) the amount of the credit outstanding from the debtor and the amount of the accrued charges remaining unpaid by the debtor under the agreement on the settlement date if early settlement takes place are to be determined in accordance with the formula given in regulation 4(1), and
- (ii) the amount paid by the debtor to the creditor where early settlement takes place shall be treated as though it were reduced by the amount (if any) which the creditor may claim under section 95A(2) of the Act,

and

P = the amount paid by the debtor to the creditor where early settlement takes place.

(3) In calculating the rebate, where the creditor so elects, any repayment of credit not made at a time or a rate provided for in the agreement (other than one made under section 94(3) of the Act) shall be taken to have been made at the time or rate provided for.”.

83. In regulation 5 (settlement date)—

- (a) regulation 5 is renumbered as paragraph (1) of that regulation;
- (b) in paragraph (1) as so renumbered—
 - (i) after “calculation of the rebate” insert—
 - “in regulation 4”;

- (ii) in sub-paragraph (a) for “section 94” substitute—
“section 94(1)”;
 - (c) after paragraph (1) as so renumbered, insert—
“(2) The settlement date for the calculation of the rebate in regulation 4A shall be taken to be the date falling 28 days after the date on which the notice under section 94(4)(a) of the Act was received by the creditor, or any later date specified as the date of early settlement in the notice, if the debtor pays the amount in question not later than that date.”.
- 84.** Omit the Schedule.

Financial Services (Distance Marketing) Regulations 2004

- 85.** The Financial Services (Distance Marketing) Regulations 2004(a) are amended as follows.
- 86.** In regulation 2 (interpretation), in paragraph (1)—
- (a) after the definition of “appointed representative” insert—
““authorised non-business overdraft agreement” has the same meaning as in section 189 of the 1974 Act;”;
 - (b) after the definition of “consumer” insert—
““consumer credit agreement” has the same meaning as in section 189 of the 1974 Act;”.
 - (c) after the definition of “the Directive” insert—
““the Disclosure of Information Regulations” means the Consumer Credit (Disclosure of Information) Regulations 2010;”.
 - (d) after the definition of “durable medium” insert—
““the European Consumer Credit Information form” means the form set out in schedule 3 to the Disclosure of Information Regulations;”
 - (e) after the definition of “Regulated Activities Order” insert—
““regulated consumer credit agreement” means a consumer credit agreement regulated by the 1974 Act.”.
- 87.** In regulation 7 (information required prior to the conclusion of the contract)—
- (a) in paragraph (1), for “paragraphs (1A) and (4)”, substitute “paragraphs (1A), (4), (6) and (7)”;
 - (b) after paragraph (5), insert—
“(6) This regulation shall not apply to a distance contract which is also a consumer credit agreement (other than an authorised non-business overdraft agreement) in respect of which the supplier has disclosed the pre-contract credit information required by regulations 3, 4 or 5, as the case may be, and 7, of the Disclosure of Information Regulations (information to be disclosed to a debtor before a regulated consumer credit agreement is made) in accordance with those Regulations.
(7) This regulation shall not apply to a distance contract which is also an authorised non-business overdraft agreement in respect of which—
(a) the supplier has disclosed the information required by regulation 10(2) of the Disclosure of Information Regulations (authorised non-business overdraft agreements) by means of the European Consumer Credit Information form in accordance with those Regulations; or
(b) in the case of a voice telephone communication, the supplier has—

(a) S.I. 2004/2095, amended by S.I. 2009/209; there are other amending instruments but none is relevant.

- (i) disclosed the information required by regulation 10(5) of the Disclosure of Information Regulations in accordance with those Regulations; and
- (ii) provided a copy of the written agreement in accordance with section 61B(2)(b) of the Consumer Credit Act 1974; or
- (c) in the case of an agreement made using a means of distance communication, other than voice telephone communication, such that the supplier is unable to provide the information required by regulation 10(2) of the Disclosure of Information Regulations, the supplier has—
 - (i) provided a copy of the written agreement in accordance with section 61B(2)(c) of the Consumer Credit Act 1974, and
 - (ii) in relation to the contractual obligations which would arise if the distance contract were concluded, provided information which accurately reflects the contractual obligations which would arise under the law presumed to be applicable to that contract.”.

88. In regulation 8 (written and additional information)—

- (a) in paragraph (1) for “paragraph (1A)” substitute “paragraphs (1A) to (1C)”;
- (b) after regulation 8(1A), insert—

“(1B) Paragraph (1) shall not apply to a distance contract which is also a consumer credit agreement (other than an authorised non-business overdraft agreement) in respect of which the supplier has disclosed the pre-contract credit information required by regulations 3, 4 or 5, as the case may be, and 7 of the Disclosure of Information Regulations in accordance with those Regulations.

(1C) Paragraph (1) shall not apply to a distance contract which is also an authorised non-business overdraft agreement in respect of which—

- (a) the supplier has—
 - (i) disclosed the information required by regulation 10(2) of the Disclosure of Information Regulations (authorised non-business overdraft agreements) by means of the European Consumer Credit Information form in accordance with those Regulations; and
 - (ii) provided a copy of the contractual terms and conditions, or
- (b) in the case of a voice telephone communication the supplier has—
 - (i) disclosed the information required by regulation 10(5) of the Disclosure of Information Regulations in accordance with those Regulations; and
 - (ii) provided a copy of the written agreement in accordance with section 61B(2)(b) of the Consumer Credit Act 1974; or
- (c) in the case of an agreement made using a means of distance communication, other than voice telephone communication, such that the supplier is unable to provide the information required by regulation 10(2) of the Disclosure of Information Regulations, the supplier has provided a copy of the written agreement in accordance with section 61B(2)(c) of the Consumer Credit Act 1974.”.

89. In regulation 11 (exceptions to the right to cancel), at the end of paragraph (1)(g) insert—

- “(h) a regulated consumer credit agreement within the meaning of the 1974 Act to which the right of withdrawal applies under section 66A of that Act.”.

Education (Student Loans for Tuition Fees) (Scotland) Regulations 2006

90. In regulation 11 (interest) of the Education (Student Loans for Tuition Fees) (Scotland) Regulations 2006(a) in paragraph (1) for “Consumer Credit (Total Charge for Credit) Regulations 1980” substitute—

“Consumer Credit (Total Charge for Credit) Regulations 2010”.

Education (Student Loans) (Scotland) Regulations 2007

91. In regulation 14 (interest) of the Education (Student Loans) (Scotland) Regulations(b) in paragraph (1) for “Consumer Credit (Total Charge for Credit) Regulations 1980” substitute—

“Consumer Credit (Total Charge for Credit) Regulations 2010”.

Consumer Credit (Exempt Agreements) Order 2007

92. In article 2 (exemption for high net worth debtors and hirers) of the Consumer Credit (Exempt Agreements) Order 2007(c), after sub-paragraph (a) insert—

“(aa) in the case of a consumer credit agreement other than an agreement secured on land, the agreement is for credit which exceeds £60,260;”.

Graduate Endowment (Scotland) Regulations 2008

93. In regulation 11 (interest) of the Graduate Endowment (Scotland) Regulations 2008(d) in paragraph (1) for “Consumer Credit (Total Charge for Credit) Regulations 1980” substitute—

“Consumer Credit (Total Charge for Credit) Regulations 2010”.

Cancellation of Contracts made in a Consumer’s Home or Place of Work etc. Regulations 2008

94. The Cancellation of Contracts made in a Consumer’s Home or Place of Work etc. Regulations 2008(e) are amended as follows.

95. In regulation 6 (scope of application)—

(a) at the end of paragraph (1)(c) insert—

“(ca) a consumer credit agreement regulated under the 1974 Act to which the right of withdrawal applies under section 66A of that Act”;

(b) in paragraph (2) for “(c) or (d)(iii)” substitute “(c), (ca) or (d)(iii)”.

96. In regulation 11 (automatic cancellation of related credit agreement), in paragraph (5) for “regulation 6(1)(d)(iii)” substitute “regulation 6(1)(ca) or 6(1)(d)(iii)”.

Payment Services Regulations 2009

97. In regulation 52 (disapplication of certain regulations in the case of consumer credit agreements) of the Payment Services Regulations 2009(f),

(a) omit the full stop at the end of paragraph (d) and insert “; and”;

(b) after paragraph (d) insert—

(a) S.S.I. 2006/333, amended by S.S.I. 2009/189; there are other amending instruments but none is relevant.
(b) S.S.I. 2007/154, amended by S.S.I. 2009/189; there are other amending instruments but none is relevant.
(c) S.I. 2007/1168.
(d) S.S.I. 2008/235.
(e) S.I. 2008/1816.
(f) S.I. 2009/209, to which there are amendments not relevant to these Regulations.

“(e) section 98A(4) to (6) (termination of open-end consumer credit agreement) in place of regulation 56(2) to (6).”.

Education (Student Loans) (Repayment) Regulations 2009

98. In regulation 21 (interest rate on the loans) of the Education (Student Loans) (Repayment) Regulations 2009^(a) in paragraph (1) for “Consumer Credit (Total Charge for Credit) Regulations 1980” substitute—

“Consumer Credit (Total Charge for Credit) 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);

(a) S.I. 2009/470.

- (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(a);
- (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.

(a) S.I. 2010/1013.

Kevin Brennan

Minister for Further Education, Skills, Apprenticeships and Consumer Affairs
Department for Business, Innovation and Skills

28th March 2010

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement Directive 2008/48/EC of the European Parliament and of the Council on credit agreements for consumers (OJ No L133, 22.5.2008, p66) (“the Directive”) except for article 4, paragraphs 1 to 5 of article 5, article 10 and article 19.

Part 2 contains amendments to the Enterprise Act 2002 and to the Consumer Credit Act 1974 (“the Act”). Regulations 3 to 5 insert provisions into the Act which require a creditor to provide adequate explanations to debtors and to assess creditworthiness before entering into a regulated consumer credit agreement. Regulations 6 to 12 insert provisions concerning the giving of copies of agreements. Regulations 13 to 15 insert provisions dealing with the right to withdraw from regulated consumer credit agreements to which the right applies. Regulations 21 to 23 insert new provision dealing with current account overdrafts. Regulation 24 amends section 75 of the Act to ensure that the application of this section does not change following changes made by regulation 66 to the Consumer Credit (Exempt Agreements) Order 1989. Regulation 25 inserts a provision making a creditor secondarily liable where a debtor has a claim against a supplier of goods or services provided under a linked credit agreement. Regulations 26 to 28 insert provisions concerning the giving of certain information to debtors. Regulations 29 to 35 insert provisions giving debtors the right to settle their debts in part early and a right to a rebate when doing so. The provisions also give creditors the ability to claim compensation where early settlement occurs in full or in part. Regulation 36 inserts provisions requiring notice of assignment to be given to debtors. Regulations 37 to 39 insert provisions concerning the debtor’s right to terminate open-end agreements. Regulation 40 inserts provisions to require creditors to disclose certain information to debtors where the creditor has consulted a credit reference agency. Regulations 41 to 43 insert provisions which place certain disclosure and other requirements on credit intermediaries. Regulation 46 amends the Enterprise Act 2002 to ensure that contraventions of laws implementing the Directive can be enforced under that Act as a Community infringement.

Part 3 contains amendments to secondary legislation. Regulations 51 to 56 make amendments to regulations made under the Act relating to information to be included in consumer credit agreements outside scope of the regulations implementing the Directive. Regulation 58 amends regulations made under the Act requiring copies of documents to be sent to debtors. Regulations 59 to 62 and 77 to 84 make amendments to regulations made under the Act relating to early settlement of debts. Regulations 64 to 67 and 92 amend Orders made under the Act which exempt certain credit agreements to ensure that credit agreements which fall within the scope of the Directive are covered by the Act. Regulations 73 to 76 amend regulations made under the Act relating to information to be disclosed before an agreement is made in respect of agreement outside the scope of regulations implementing the Directive. Regulations 85 to 89 amend regulations applying to distance marketing of financial services to limit their application in respect of consumer credit agreements which are also distance contracts.

Part 4 contains commencement, transitional and saving provision. Regulation 99 provides that most of the provisions of the Regulations come into force on 1st February 2011. Regulation 101 provides that the Regulations apply only to agreements entered into on or after 1st February 2011. It also provides that some of the regulations apply from 1st February 2011 to certain categories of agreement entered into before that date. Regulation 101 provides that Parts 1 to 3 of the Regulations may apply before 1st February 2011 in relation to a prospective consumer credit agreement and any subsequent agreement where certain conditions are satisfied.

A transposition note and an impact assessment of the effect of this instrument will have on the costs to business and the voluntary sector are available from the BIS website (www.bis.gov.uk). They are also annexed to the Explanatory Memorandum which is available alongside the instrument on the OPSI website (www.opsi.gov.uk). Copies have also been placed in the Libraries of both Houses of Parliament.

