



Consumer Credit Act 2006

2006 CHAPTER 14

Default under regulated agreements

8 OFT to prepare information sheets on arrears and default

At the beginning of Part 7 of the 1974 Act insert—

“Information sheets

86A OFT to prepare information sheets on arrears and default

- (1) The OFT shall prepare, and give general notice of, an arrears information sheet and a default information sheet.
- (2) The arrears information sheet shall include information to help debtors and hirers who receive notices under section 86B or 86C.
- (3) The default information sheet shall include information to help debtors and hirers who receive default notices.
- (4) Regulations may make provision about the information to be included in an information sheet.
- (5) An information sheet takes effect for the purposes of this Part at the end of the period of three months beginning with the day on which general notice of it is given.
- (6) If the OFT revises an information sheet after general notice of it has been given, it shall give general notice of the information sheet as revised.
- (7) A revised information sheet takes effect for the purposes of this Part at the end of the period of three months beginning with the day on which general notice of it is given.”

9 Notice of sums in arrears under fixed-sum credit agreements etc.

After section 86A of the 1974 Act (inserted by section 8 of this Act) insert—

“Sums in arrears and default sums

86B Notice of sums in arrears under fixed-sum credit agreements etc.

- (1) This section applies where at any time the following conditions are satisfied—
 - (a) that the debtor or hirer under an applicable agreement is required to have made at least two payments under the agreement before that time;
 - (b) that the total sum paid under the agreement by him is less than the total sum which he is required to have paid before that time;
 - (c) that the amount of the shortfall is no less than the sum of the last two payments which he is required to have made before that time;
 - (d) that the creditor or owner is not already under a duty to give him notices under this section in relation to the agreement; and
 - (e) if a judgment has been given in relation to the agreement before that time, that there is no sum still to be paid under the judgment by the debtor or hirer.
- (2) The creditor or owner—
 - (a) shall, within the period of 14 days beginning with the day on which the conditions mentioned in subsection (1) are satisfied, give the debtor or hirer a notice under this section; and
 - (b) after the giving of that notice, shall give him further notices under this section at intervals of not more than six months.
- (3) The duty of the creditor or owner to give the debtor or hirer notices under this section shall cease when either of the conditions mentioned in subsection (4) is satisfied; but if either of those conditions is satisfied before the notice required by subsection (2)(a) is given, the duty shall not cease until that notice is given.
- (4) The conditions referred to in subsection (3) are—
 - (a) that the debtor or hirer ceases to be in arrears;
 - (b) that a judgment is given in relation to the agreement under which a sum is required to be paid by the debtor or hirer.
- (5) For the purposes of subsection (4)(a) the debtor or hirer ceases to be in arrears when—
 - (a) no sum, which he has ever failed to pay under the agreement when required, is still owing;
 - (b) no default sum, which has ever become payable under the agreement in connection with his failure to pay any sum under the agreement when required, is still owing;
 - (c) no sum of interest, which has ever become payable under the agreement in connection with such a default sum, is still owing; and
 - (d) no other sum of interest, which has ever become payable under the agreement in connection with his failure to pay any sum under the agreement when required, is still owing.

- (6) A notice under this section shall include a copy of the current arrears information sheet under section 86A.
- (7) The debtor or hirer shall have no liability to pay any sum in connection with the preparation or the giving to him of a notice under this section.
- (8) Regulations may make provision about the form and content of notices under this section.
- (9) In the case of an applicable agreement under which the debtor or hirer must make all payments he is required to make at intervals of one week or less, this section shall have effect as if in subsection (1)(a) and (c) for ‘two’ there were substituted ‘four’.
- (10) If an agreement mentioned in subsection (9) was made before the beginning of the relevant period, only amounts resulting from failures by the debtor or hirer to make payments he is required to have made during that period shall be taken into account in determining any shortfall for the purposes of subsection (1)(c).
- (11) In subsection (10) ‘relevant period’ means the period of 20 weeks ending with the day on which the debtor or hirer is required to have made the most recent payment under the agreement.
- (12) In this section ‘applicable agreement’ means an agreement which—
 - (a) is a regulated agreement for fixed-sum credit or a regulated consumer hire agreement; and
 - (b) is neither a non-commercial agreement nor a small agreement.”

10 Notice of sums in arrears under running-account credit agreements

After section 86B of the 1974 Act (inserted by section 9 of this Act) insert—

“86C Notice of sums in arrears under running-account credit agreements

- (1) This section applies where at any time the following conditions are satisfied—
 - (a) that the debtor under an applicable agreement is required to have made at least two payments under the agreement before that time;
 - (b) that the last two payments which he is required to have made before that time have not been made;
 - (c) that the creditor has not already been required to give a notice under this section in relation to either of those payments; and
 - (d) if a judgment has been given in relation to the agreement before that time, that there is no sum still to be paid under the judgment by the debtor.
- (2) The creditor shall, no later than the end of the period within which he is next required to give a statement under section 78(4) in relation to the agreement, give the debtor a notice under this section.
- (3) The notice shall include a copy of the current arrears information sheet under section 86A.

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- (4) The notice may be incorporated in a statement or other notice which the creditor gives the debtor in relation to the agreement by virtue of another provision of this Act.
- (5) The debtor shall have no liability to pay any sum in connection with the preparation or the giving to him of the notice.
- (6) Regulations may make provision about the form and content of notices under this section.
- (7) In this section ‘applicable agreement’ means an agreement which—
 - (a) is a regulated agreement for running-account credit; and
 - (b) is neither a non-commercial agreement nor a small agreement.”

11 Failure to give notice of sums in arrears

After section 86C of the 1974 Act (inserted by section 10 of this Act) insert—

“86D Failure to give notice of sums in arrears

- (1) This section applies where the creditor or owner under an agreement is under a duty to give the debtor or hirer notices under section 86B but fails to give him such a notice—
 - (a) within the period mentioned in subsection (2)(a) of that section; or
 - (b) within the period of six months beginning with the day after the day on which such a notice was last given to him.
- (2) This section also applies where the creditor under an agreement is under a duty to give the debtor a notice under section 86C but fails to do so before the end of the period mentioned in subsection (2) of that section.
- (3) The creditor or owner shall not be entitled to enforce the agreement during the period of non-compliance.
- (4) The debtor or hirer shall have no liability to pay—
 - (a) any sum of interest to the extent calculated by reference to the period of non-compliance or to any part of it; or
 - (b) any default sum which (apart from this paragraph)—
 - (i) would have become payable during the period of non-compliance; or
 - (ii) would have become payable after the end of that period in connection with a breach of the agreement which occurs during that period (whether or not the breach continues after the end of that period).
- (5) In this section ‘the period of non-compliance’ means, in relation to a failure to give a notice under section 86B or 86C to the debtor or hirer, the period which—
 - (a) begins immediately after the end of the period mentioned in (as the case may be) subsection (1)(a) or (b) or (2); and
 - (b) ends at the end of the day mentioned in subsection (6).
- (6) That day is—

- (a) in the case of a failure to give a notice under section 86B as mentioned in subsection (1)(a) of this section, the day on which the notice is given to the debtor or hirer;
- (b) in the case of a failure to give a notice under that section as mentioned in subsection (1)(b) of this section, the earlier of the following—
 - (i) the day on which the notice is given to the debtor or hirer;
 - (ii) the day on which the condition mentioned in subsection (4)(a) of that section is satisfied;
- (c) in the case of a failure to give a notice under section 86C, the day on which the notice is given to the debtor.”

12 Notice of default sums

After section 86D of the 1974 Act (inserted by section 11 of this Act) insert—

“86E Notice of default sums

- (1) This section applies where a default sum becomes payable under a regulated agreement by the debtor or hirer.
- (2) The creditor or owner shall, within the prescribed period after the default sum becomes payable, give the debtor or hirer a notice under this section.
- (3) The notice under this section may be incorporated in a statement or other notice which the creditor or owner gives the debtor or hirer in relation to the agreement by virtue of another provision of this Act.
- (4) The debtor or hirer shall have no liability to pay interest in connection with the default sum to the extent that the interest is calculated by reference to a period occurring before the 29th day after the day on which the debtor or hirer is given the notice under this section.
- (5) If the creditor or owner fails to give the debtor or hirer the notice under this section within the period mentioned in subsection (2), he shall not be entitled to enforce the agreement until the notice is given to the debtor or hirer.
- (6) The debtor or hirer shall have no liability to pay any sum in connection with the preparation or the giving to him of the notice under this section.
- (7) Regulations may—
 - (a) provide that this section does not apply in relation to a default sum which is less than a prescribed amount;
 - (b) make provision about the form and content of notices under this section.
- (8) This section does not apply in relation to a non-commercial agreement or to a small agreement.”

13 Interest on default sums

After section 86E of the 1974 Act (inserted by section 12 of this Act) insert—

“86F Interest on default sums

- (1) This section applies where a default sum becomes payable under a regulated agreement by the debtor or hirer.
- (2) The debtor or hirer shall only be liable to pay interest in connection with the default sum if the interest is simple interest.”

14 Default notices

- (1) In subsections (2) and (3) of section 88 of the 1974 Act (contents and effect of default notice) for “seven” wherever occurring substitute “14”.
- (2) In subsection (4) of that section after “it” insert “and any other prescribed matters relating to the agreement”.
- (3) After that subsection insert—
 - “(4A) The default notice must also include a copy of the current default information sheet under section 86A.”

15 Enforceability of regulated agreements

In section 127 of the 1974 Act (enforcement orders in cases of infringement) subsections (3) to (5) shall cease to have effect.

16 Time orders

- (1) In subsection (1) of section 129 of the 1974 Act (time orders) before paragraph (c) insert—
 - “(ba) on an application made by a debtor or hirer under this paragraph after he has been given a notice under section 86B or 86C; or”.
- (2) After that section insert—

“129A Debtor or hirer to give notice of intent etc. to creditor or owner

- (1) A debtor or hirer may make an application under section 129(1)(ba) in relation to a regulated agreement only if—
 - (a) following his being given the notice under section 86B or 86C, he gave a notice within subsection (2) to the creditor or owner; and
 - (b) a period of at least 14 days has elapsed after the day on which he gave that notice to the creditor or owner.
- (2) A notice is within this subsection if it—
 - (a) indicates that the debtor or hirer intends to make the application;
 - (b) indicates that he wants to make a proposal to the creditor or owner in relation to his making of payments under the agreement; and
 - (c) gives details of that proposal.”
- (3) In section 143(b) of that Act (provision which may be made by rules of court in Northern Ireland) after “129(1)(b)” insert “or (ba)”.

- (4) In section 32(1) of the Sheriff Courts (Scotland) Act 1971 (c. 58) (regulation of civil procedure in sheriff court) after paragraph (l) insert—
- “(m) permitting the debtor or hirer in proceedings for—
 - (i) a time order under section 129 of the Consumer Credit Act 1974 (time orders), or
 - (ii) variation or revocation, under section 130(6) of that Act (variation and revocation of time orders), of a time order made under section 129,to be represented by a person who is neither an advocate nor a solicitor.”
- (5) In section 32(2B) of the Solicitors (Scotland) Act 1980 (c. 46) (offence for unqualified persons to prepare certain documents)—
- (a) after “represent” insert “—(a)”; and
 - (b) after “cause” insert—
 - “(b) a debtor or hirer in proceedings for—
 - (i) a time order under section 129 of the Consumer Credit Act 1974 (time orders); or
 - (ii) variation or revocation, under section 130(6) of that Act (variation and revocation of time orders), of a time order made under section 129”.

17 Interest payable on judgment debts etc.

After section 130 of the 1974 Act insert—

“Interest

130A Interest payable on judgment debts etc.

- (1) If the creditor or owner under a regulated agreement wants to be able to recover from the debtor or hirer post-judgment interest in connection with a sum that is required to be paid under a judgment given in relation to the agreement (the ‘judgment sum’), he—
 - (a) after the giving of that judgment, shall give the debtor or hirer a notice under this section (the ‘first required notice’); and
 - (b) after the giving of the first required notice, shall give the debtor or hirer further notices under this section at intervals of not more than six months.
- (2) The debtor or hirer shall have no liability to pay post-judgment interest in connection with the judgment sum to the extent that the interest is calculated by reference to a period occurring before the day on which he is given the first required notice.
- (3) If the creditor or owner fails to give the debtor or hirer a notice under this section within the period of six months beginning with the day after the day on which such a notice was last given to the debtor or hirer, the debtor or hirer shall have no liability to pay post-judgment interest in connection with the judgment sum

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to the extent that the interest is calculated by reference to the whole or to a part of the period which—

- (a) begins immediately after the end of that period of six months; and
- (b) ends at the end of the day on which the notice is given to the debtor or hirer.

- (4) The debtor or hirer shall have no liability to pay any sum in connection with the preparation or the giving to him of a notice under this section.
- (5) A notice under this section may be incorporated in a statement or other notice which the creditor or owner gives the debtor or hirer in relation to the agreement by virtue of another provision of this Act.
- (6) Regulations may make provision about the form and content of notices under this section.
- (7) This section does not apply in relation to post-judgment interest which is required to be paid by virtue of any of the following—
 - (a) section 4 of the Administration of Justice (Scotland) Act 1972;
 - (b) Article 127 of the Judgments Enforcement (Northern Ireland) Order 1981;
 - (c) section 74 of the County Courts Act 1984.
- (8) This section does not apply in relation to a non-commercial agreement or to a small agreement.
- (9) In this section ‘post-judgment interest’ means interest to the extent calculated by reference to a period occurring after the giving of the judgment under which the judgment sum is required to be paid.”

18 Definition of “default sum”

- (1) After section 187 of the 1974 Act insert—

“187A Definition of ‘default sum’

- (1) In this Act ‘default sum’ means, in relation to the debtor or hirer under a regulated agreement, a sum (other than a sum of interest) which is payable by him under the agreement in connection with a breach of the agreement by him.
 - (2) But a sum is not a default sum in relation to the debtor or hirer simply because, as a consequence of his breach of the agreement, he is required to pay it earlier than he would otherwise have had to.”
- (2) In section 189(1) of that Act (definitions) after the definition of “default notice” insert—

“‘default sum’ has the meaning given by section 187A;”.