

CONSUMER CREDIT

As in Ireland, the business of providing consumer credit is subject to special regulation in England and Wales. This regulation is separate to Financial Services legislation, which also contains consumer protection rules which may apply to Irish businesses in dealings with UK consumers.

Certain consumer or credit businesses must be licensed by the Office of Fair Trading (OFT). These includes businesses which sell on credit, hire or lease goods for more than three months, lends money, issues credit cards, arranges credit for others, offers hire purchase, collects consumer credit debts, help people with debt problems or advise on credit standing.

The regulations apply to all agreements where the borrower is an individual regardless of the amount of the cost of service. This legislation also applies to individuals who trade such as sole traders, small partnerships and incorporated associations. Careful legal advice is required if activities in any of the above areas are being undertaking in the UK.

The Office of Fair Trading will only licence activities if they are fit to be licensed. The Office will take account of competence, past history, compliance with legislation, complaints procedures, conduct of business, information from regulators etc. A licence can be revoked.

If a business provides credit or hire facilities in the UK, certain requirements apply. A written agreement setting out the terms of the agreement and the respective rights and duties must be provided. Consumers must be given clear information on the terms of the agreement so that they know what they are signing up for. Certain key financial information, including the amount of credit, the credit and the period, total cost and annual percentage rate of charge must be set out. Information must be included on the rate of default interest and early payment charges.



Consumers have a "cooling off" period during which they can cancel the agreement. Certain other rules apply where there is any mortgage or charge on land involved.

Consumers must be given a signed copy of the agreements and details of cooling off rights. Consumers must be given certain other information on request.

Enforcement and Miscellaneous

Any enforcement involving a termination notice must be sent in paper format and must contain prescribed information. Where a business finances credit purchases, consumers have a right of redress from the business or the supplier in relation to any breach of the terms of the sale contract.

Debtors must not be harassed and certain undesirable debt collection methods are prohibited. Consumers have a right to complain about lenders and other credit businesses to the Financial Ombudsman Service and to challenge unfair agreements in Court. The rules are complex and detailed advice should always be taken.

Credit providers must provide annual statements on credit agreements. They must give notice of sums in arrears if the consumer misses payments and falls behind by a certain amount. Certain other notices are required if default sums are to be charged.

There are rules on advertising credit. Credit advertisement and publicity material must not be false or misleading. If the interest rate is mentioned, a typical Annual Percentage Rate (APR) of charge must be included. The APR must be more prominent than other financial information, at least 1½ times the size in print or electronic advertisement. Key information, must together as a whole be given equal prominence. Certain terms, such as "interest free", etc. can only be used in limited circumstances.

This Guide is intended as an overview and broad outline of the matters covered in it. Its purpose is to inform and raise awareness. We are happy to offer specific legal advice on particular circumstances.

This Guide should not be relied on as a substitute for comprehensive legal advice with reference to the particular circumstances.

While we have taken due care in the preparation of this publication, we do not accept legal liability as a result of any reliance placed on anything in this Guide. The reader should rely only on specific legal or taxation advice.

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