

2009 No. 0000

CONSUMER CREDIT

Consumer Credit (Total Charge for Credit) Regulations 2009

Made - - - - ***
Laid before Parliament ***
Coming into force - - *11th June 2010*

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 20 and 182(2) of the Consumer Credit Act 1974(a).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Consumer Credit (Total Charge for Credit) Regulations 2009 and shall come into force on 11th June 2010.

(2) In these Regulations—

“annual percentage rate of charge” means the rate of the total charge for credit, expressed as an annual percentage of the total amount of credit;

“borrowing rate” means the interest rate expressed as a fixed or variable percentage applied on an annual basis to the amount of credit drawn down;

“fixed borrowing rate” means that the creditor and the debtor agree in the consumer credit agreement on one borrowing rate for the entire duration of that agreement or on several borrowing rates for partial periods using exclusively a fixed specific percentage;

“overdraft facility” means an explicit agreement whereby a creditor makes available to a debtor funds which exceed the current balance in the debtor’s current account;

“total amount of credit” means the credit limit or the total sums made available under a consumer credit agreement; and

“total cost of credit to the debtor” means all costs, including interest, commissions, taxes and any other kind of fees which are required to be paid by or on behalf of the debtor or a relative of his in connection with the consumer credit agreement, whether payable to the creditor or to any other person, and which are known to the creditor, except for notarial costs.

Application and transitional provision

2.—(1) These Regulations shall not apply to consumer credit agreements which are secured on land or to prospective consumer credit agreements which are to be secured on land.

(2) These Regulations shall not apply to consumer credit agreements entered into on or before the date on which these Regulations come into force.

Total charge for credit

3.—(1) The total charge for credit which may be provided under an actual or prospective consumer credit agreement shall be the total cost of credit to the debtor determined in accordance with the requirements in paragraphs (2) to (5) below.

(2) Subject to paragraph (3), the following costs shall be included in the total cost of credit to the debtor—

- (a) the costs of maintaining an account recording both payment transactions and drawdowns;
- (b) the costs of using a means of payment for both payment transactions and drawdowns;
- (c) other costs relating to payment transactions.

(3) The costs at paragraph (2) shall not be included in the total cost of credit to the debtor where the opening of the account is optional and the costs of the account have been clearly and separately shown in the consumer credit agreement or in any other agreement made with the debtor.

(4) Costs in respect of ancillary services relating to the consumer credit agreement, in particular insurance premiums, shall be included in the total cost of credit to the debtor if the conclusion of a service contract is compulsory in order to obtain the credit or to obtain it on the terms and conditions marketed.

(5) The total cost of credit to the debtor shall not include—

- (a) any charges payable by or on behalf of the debtor or a relative of his for non-compliance with his commitments contained in the consumer credit agreement;
- (b) charges which, for purchases of goods or services, he or a relative of his is obliged to pay whether the transaction is effected in cash or on credit.

Calculation of the annual percentage rate of charge

4. The annual percentage rate of charge shall be calculated in accordance with the mathematical formula set out in the Schedule to these Regulations.

General provisions about calculation

5. For the purposes of calculating the total charge for credit and the annual percentage rate of charge—

- (a) it shall be assumed that the consumer credit agreement is to remain valid for the period agreed and that the creditor and the debtor will fulfil their obligations under the terms and by the dates specified in that agreement;
- (b) in the case of a consumer credit agreement allowing variations in—
 - (i) the borrowing rate; or
 - (ii) where applicable, charges contained in the annual percentage rate of charge,

where these cannot be quantified at the time of calculation, it shall be assumed that they will remain at the initial level and will be applicable for the entire duration of the consumer credit agreement;

- (c) where not all borrowing rates are determined in the consumer credit agreement, the borrowing rate shall be assumed to be fixed only for the partial periods for which the borrowing rates are determined exclusively by a fixed specific percentage agreed when the consumer credit agreement is made;
- (d) where different borrowing rates and charges are offered for a limited period or amount, the borrowing rate and the charges shall be assumed to be at the highest rate for the entire duration of the consumer credit agreement;
- (e) where there is a fixed borrowing rate agreed in relation to an initial period under a consumer credit agreement, at the end of which a new borrowing rate is determined and subsequently periodically adjusted according to an agreed indicator, it shall be assumed

Date

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

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SCHEDULE

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Calculation of the Annual Percentage Rate of Charge

1. The annual percentage rate of charge (“APR”) is calculated by means of the equation in paragraph 2 which equates, on an annual basis, the total present value of drawdowns with the total present value of repayments and payments of charges.

2. The equation referred to in paragraph 1 is—

$$\sum_{k=1}^m C_k (1 + X)^{-t_k} = \sum_{l=1}^{m'} D_l (1 + X)^{-s_l}$$

where

X is the APR;

m is the number of the last drawdown;

k is the number of a drawdown, thus $1 \leq k \leq m$;

C_k is the amount of drawdown k;

t_k is the interval, expressed in years and fractions of a year, between the date of the first drawdown and the date of each subsequent drawdown, thus $t_1 = 0$;

m' is the number of the last repayment or payment of charges;

l is the number of a repayment or payment of charges;

D_l is the amount of a repayment or payment of charges;

s_l is the interval, expressed in years and fractions of a year, between the date of the first drawdown and the date of each repayment or payment of charges.

3. For the purposes of paragraph 2—

- (a) the amounts paid by both parties at different times shall not necessarily be equal and shall not necessarily be paid at equal intervals;
- (b) the starting date shall be that of the first drawdown;
- (c) intervals between dates used in the calculations shall be expressed in years or in fractions of a year;
- (d) a year is assumed to have 365 days (366 days for leap years), 52 weeks or 12 equal months;
- (e) an equal month is assumed to have 30.41666 days (365/12) regardless of whether or not it is a leap year;
- (f) the result of the calculation shall be expressed with an accuracy of at least one decimal place; if the figure at the following decimal place is greater than or equal to 5, the figure at that particular decimal place shall be increased by one;
- (g) the equation can be rewritten as set out in sub-paragraph (h) using a single sum and the concept of flows (A_k), which will be positive or negative, either paid or received during periods 1 to n, expressed in years;
- (h) the equation referred to in sub-paragraph (g) is—

$$S = \sum_{k=1}^n A_k (1 + X)^{-t_k}$$

S being the present balance of flows; if the aim is to maintain the equivalence of flows, the value will be zero.

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EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement Article 19 and Annex I of 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”).

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