

Credit terminology – what does it mean?

Consumer credit and consumer hire agreements are complicated legal documents. They are contracts containing a lot of information usually in 'small print' that contains your rights and obligations under the agreement. Always read the small print and ask questions if you do not understand any of the terms before signing any agreement. Once you sign the contract, you may find it difficult to withdraw or cancel. There are specific terms (that are explained here) in relation to the type of agreement you are signing, the type of credit available, and information about defaults.

If you are uncertain about your obligations it is highly recommended that you seek advice before signing any agreement.

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Cancellable agreements

There are very limited circumstances where a consumer can withdraw or cancel a consumer credit or consumer hire agreement once it has been signed. Generally such rights are limited to agreements signed away from the creditor's business premises. Consumers are advised to read agreement terms carefully before signing any credit agreement.

Conditional sale agreements

The consumer does not obtain legal ownership of the goods until a specific time or event has occurred which can include but is not limited to a final payment. The requirements will be set out in the agreement and may relate to a specific number of payments due or specific requirements of the agreement. Once the condition has been met, the legal ownership of the goods passes to the consumer. Until that date the consumer is not permitted to transfer the goods to a third party as they have no legal ownership in the goods.

Credit information services

This describes businesses that help people find and correct their financial records, which may be held by organizations such as credit reference agencies. These businesses must hold consumer credit licences. Any business offering credit information services without holding an appropriate licence will commit a criminal offence and any agreements they enter into with consumers whilst unlicensed may be unenforceable.

Creditor and debtor

A creditor means the person providing credit under a consumer credit agreement or the person to whom his rights and duties under the agreement have passed by assignment or operation of law, for example a bank, finance company or a person who has had rights and duties under the agreement legally transferred to them.

A debtor is an individual who receives credit under a consumer credit agreement or a person who has had rights and duties under the agreement legally transferred to them.

Credit reference agencies

These agencies carry on a business supplying to persons information relevant to the financial standing of individuals, which is collected by the

agency for that purpose. for example, electoral roll details and records of county court judgments, bankruptcies and administration orders. If a person applies to a lender for credit, the lender will probably contact a credit reference agency for the persons credit record to see if they are an acceptable risk. A person has the right to check and, if necessary, correct information held on him/her by the credit reference agency.

Credit sale agreement

This is an agreement for the sale of goods where the purchase price (or part of it, where a deposit is paid) is payable in instalments. This is the most common type of credit agreement when buying goods. This is not the same as a conditional sale agreement. In a credit sale agreement the consumer obtains the goods and the legal ownership of the goods. In the event of a default the creditor can only take action for the outstanding amount due under the agreement and cannot take possession of the goods.

Credit token agreements

A credit token is a card, check, voucher, coupon, stamp, form, booklet or other document or thing given to a consumer by a person carrying on a consumer credit business, who undertakes that they will provide cash, goods or services to the consumer or will provide payment to a third party to provide cash, goods or services to the consumer. The most common example of this is a credit card.

Debt adjusting

This is the name given to a service provided by a business that negotiates terms with a creditor or owner, on behalf of a debtor or hirer, to settle the debt. It also includes businesses who take over, for a fee, the debtor's obligations to settle the debt.

Debt administration

This means to carry out duties, or to exercise or enforce the rights of a creditor or owner under a credit or hire agreement. Debt administrators must hold a consumer credit licence. They are often commonly referred to as debt collectors.

Default

This term is used when a debtor does not make the required payments or breaches another part of the contract. If a person is in default, the

creditor is entitled to take action to enforce the agreement. The creditor must follow specific procedures relating to the issue of a formal written notice known as a 'default notice'. This notice must be sent to the debtor before any enforcement action can be taken.

If advice is required in relation to a default or potential default, contact Citizens Advice (www.adviceguide.org.uk).

Equal liability

Section 75 of the Consumer Credit Act 1974 makes the provider of credit under a regulated agreement jointly and severally liable for any breach of contract or misrepresentation by the supplier in the sale of goods and services. This means if a person receives goods which are not of satisfactory quality or not as described, or a service is substandard, they can take legal action against the supplier, the credit provider or both. If a person has entered into a contract because of a statement made by a supplier, which turns out to be untrue (a misrepresentation, for example) they also have the right to take legal action against the supplier, the credit provider or both. This provision does not apply to hire purchase agreements.

Executed/unexecuted agreements

An unexecuted agreement is one which sets out, in writing, all the terms that are required by law to be contained in the prospective agreement. The agreement becomes executed when it is signed by all relevant parties, provided that it meets the legal requirements that relate to the format of credit agreements.

Hire agreements

These agreements involve the hire of goods. The debtor never owns the goods. If the debtor does not pay, the goods can be repossessed and action can be taken for outstanding debts.

Hire purchase agreements

With these types of agreements, the consumer makes regular payments but does not obtain legal ownership until the end of the agreement, when they exercise their 'option to purchase'. The consumer cannot usually exercise this option to purchase until all the payments have been made. The consumer is in essence hiring the goods for the period of the agreement and then purchases the goods by exercising the option. This can be making a final payment or some other specified

condition contained within the agreement. The creditor has a right to repossess the goods on default until such time as one third of the payments have been made. After this time, the creditor must obtain a court order to repossess the goods. This type of agreement is most commonly associated with motor vehicles.

Interest and APR

The APR (annual percentage rate) is the interest charged per year for taking the loan, expressed as a percentage. It is the best way of comparing different loans - the higher the APR, the more expensive the loan. There are specific regulations that govern the use of the APR and in particular require that the APR must be indicated and must be the most prominent of all the interest rates quoted in an advertisement. Other rates of interest, such as 'flat rates', may be indicated, but a consumer should always look for the APR as their guide to how much taking the credit will cost.

Pawn

This means an article of value which a pawnbroker accepts as security in return for a loan. The consumer must be given a receipt and has the option to redeem the article after paying what is owed as set out in the agreement. Pawnbrokers must hold consumer credit licences.

Restricted use credit

This credit is used to finance a transaction between a debtor and a creditor, or a debtor and a supplier. This term also covers refinancing of an existing debt. The credit can only be used for a specific purpose, such as a car loan, and can be made payable to the supplier of the goods or services to ensure that the credit is spent in accordance with the agreement.

Secured credit

The debtor must provide security to the creditor to secure the carrying out of the obligations of the debtor under the agreement. The most common security is a house. If the debtor fails to pay, the creditor can repossess the property that has been provided as security to the value of the outstanding debt. The property can then be sold to settle the outstanding debt. If there are insufficient funds to settle the outstanding debt the debtor will remain liable for the shortfall. The most common secured loan is a mortgage. However, other loans may require security.

A consumer should take legal advice before signing any agreement that seeks to secure a charge against their home.

Time order

If a debtor or hirer receives a notice of arrears from the creditor or owner, they can apply to the court for a time order. A court may then reschedule any payments due under the agreement. The debtor or hirer can only apply for a time order after they have given written notice containing details that they intend to apply for a time order and giving details of proposal to settle the debt to the creditor or owner and a further 14 days have passed following the serving of the notice. Advice in relation to time orders can be obtained from Citizens Advice (www.adviceguide.org.uk).

Unrestricted use credit

The credit can be used for any purpose. The debtor may receive a cheque or have their bank account credited with the amount of the loan and can also describe the provision of credit through credit cards

Unsecured credit

The debtor is not required to provide security for their loan, for example their house. If the debtor defaults, the creditor can only sue for the outstanding money.

Relevant Legislation

Consumer Credit Act 1974

(<http://www.legislation.gov.uk/ukpga/1974/39/contents>)

Consumer Credit Act 2006

(<http://www.legislation.gov.uk/ukpga/2006/14/contents>)

Where can I get further help?

This leaflet is not an authoritative interpretation of the law and is intended only for guidance. Any legislation referred to, while still current, may have been amended from the form in which it was originally enacted. For further information, please contact Citizens Advice.

The Citizens Advice consumer service provides free, confidential and impartial advice on consumer issues. Visit www.adviceguide.org.uk or call the Citizens Advice consumer helpline on 08454 04 05 06.

If you are a business, contact us by any of the following methods:

Derbyshire Trading Standards Service
Chatsworth Hall
Chesterfield Road
Matlock
Derbyshire
DE4 3FW

Telephone: Call Derbyshire 08 456 058 058

Fax: 01629 536197

Website: www.derbyshire.gov.uk/tradingstandards

We want everyone to be able to understand us. On request, we will arrange:

- Language interpreters, including for sign language
- Translation of written materials into other languages
- Materials in large print, on tape or in Braille.

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