

**EXPLANATORY MEMORANDUM TO  
THE CONSUMER CREDIT (ENFORCEMENT, DEFAULT & TERMINATION  
NOTICES) (AMENDMENT) REGULATIONS 2006**

**2006 No. 3094**

1. This explanatory memorandum has been prepared by the Department of Trade and Industry and is laid before Parliament by Command of Her Majesty.

**2. Description**

2.1. The Consumer Credit (Enforcement, Default and Termination Notices)(Amendment) Regulations 2006 (“the 2006 Regulations”) are intended to update the Consumer Credit (Enforcement, Default & Termination Notices) Regulations 1983 (“the 1983 Regulations”) to bring them into line with changes made by the Consumer Credit Act 2006 (“the 2006 Act”) that came into force on 1 October 2006.

2.2. At the moment lenders must give consumers at least seven days to respond to a default notice. The amendment increases this to fourteen days, although lenders can allow a longer time period if they wish.

**3. Matters of special interest to the Joint Committee on Statutory Instruments**

3.1. None

**4. Legislative Background**

4.1. Section 88 of the 1974 Act provides for the sending of default notices and allows regulations to be made specifying the form and content of these notices. The 1983 Regulations prescribe the form and content of these notices, including a minimum time within which a consumer should respond.

4.2. The 2006 Act amended the ‘74 Act to increase the seven day period to fourteen days and consequential changes are necessary to other pieces of legislation that state this time frame.

**5. Extent**

5.1. These Regulations extend to Northern Ireland. The responsibility for consumer credit regulation is transferred to Northern Ireland under the devolved settlement. However, as the Northern Ireland Assembly is currently suspended, it was agreed that the provisions of the 2006 Act would also apply to Northern Ireland

**6. European Convention on Human Rights**

6.1. As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

- 7.1. The Consumer Credit White Paper of 2003 set out the Government Agenda for change in the consumer credit market. Various pieces of secondary legislation, standardising the way APR (Annual Percentage Rates) is calculated, the provision of key information on a product up front and the simplification of early settlement rules came into force in 2004.
- 7.2. The Consumer Credit Act 2006 continued the aim of enhancing consumer redress, improving the regulation of consumer credit businesses and ensuring that regulation is appropriate.
- 7.3. One perceived problem was that the minimum period of time that a consumer had to respond to a default notice was too short at 7 days. There was not enough time for a consumer to work out what is required and respond within such a short timeframe. As a result the 2006 Act increased the minimum period from 7 to 14 days. This came into effect through Commencement Order 2006 No. 1508 (C.52) on 1 October 2006.
- 7.4. This Statutory Instrument brings the 1983 regulations into line with the 2006 Act and needs to come into force as soon as possible as the amendment should have been made at the time of the Commencement Order. It will come into force on 19 December 2006.

## **8. Impact**

- 8.1. Any impact was considered as part of the regulatory impact assessment for the Consumer Credit Bill published in November 2004. Default notices are discussed in sections 10, 44 and 47 of the impact assessment. As businesses already incur costs in respect of defaulters, the impact assessment concluded that a 14-day rather than a 7-day minimum period would not impose additional costs.

## **9. Contact**

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