



STATUTORY INSTRUMENTS

**S.I. No. 579 of 2012**



EUROPEAN UNION (CONSUMER CREDIT AGREEMENTS)  
(AMENDMENT) REGULATIONS 2012

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I, MICHAEL NOONAN, Minister for Finance, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving effect to Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008<sup>1</sup>, as amended by Commission Directive 2011/90/EU of 14 November 2011<sup>2</sup>, hereby make the following regulations:

1. (1) These Regulations may be cited as the European Union (Consumer Credit Agreements) (Amendment) Regulations 2012.

(2) Paragraph (i) of Regulation 2 comes into operation on 1 January 2013.

2. The European Communities (Consumer Credit Agreements) Regulations 2010 (S.I. No. 281 of 2010) are amended—

(a) in Regulation 3(2), by substituting for paragraph (c) the following:

“(c) paragraphs (1), (2), (6) and (7) of Regulation 13,”,

(b) in Regulation 3, by substituting for paragraph (8) the following:

“(8) Parts 2 to 7 do not apply to credit agreements entered into by the following industrial and provident societies:

(a) Ardlea Credit Union Co-operative Ltd.;

(b) Finglas West Credit Co-operative Ltd.;

(c) Artane Credit Union Co-operative Ltd.”,

(c) in Regulation 4, by substituting—

(i) for paragraph (2) the following:

“(2) Subject to paragraph (4), parts III (other than sections 30(1) and (4)), IV (other than sections 42, 46, 47 and 48) and V of the Act of 1995 do not apply in relation to a credit agreement to which Parts 2 to 7 apply.”,

and

<sup>1</sup>OJ No. L133, 22.5.2008, p. 66

<sup>2</sup>OJ No. L296, 15.11.2011, p.36

*Notice of the making of this Statutory Instrument was published in  
“Iris Oifigiúil” of 11th January, 2013.*

(ii) for paragraph (4) the following:

“(4) Paragraph (2) does not affect the operation of any provision of Part III, IV or V of the Act of 1995 in relation to a contract of guarantee that relates to a credit agreement.”,

(d) by substituting for Regulation 5 the following:

“5. (1) Subject to paragraphs (2) and (3), Parts 2 to 7 do not apply to a credit agreement that is in operation immediately before the commencement of these Regulations.

(2) Regulations 14, 15, 16, 20 and 21(2) apply to an open-end credit agreement that is in operation immediately before the commencement of these Regulations.

(3) In the case of an open-end credit agreement of the type referred to in Regulation 21(1) that is in operation immediately before the commencement of these Regulations, the creditor concerned shall provide the information referred to in Regulation 9(1)(e) to the consumer concerned on a regular basis, on paper or another durable medium.”,

(e) in Regulation 9(1)(e), by deleting “initial” in clauses (i) and (ii),

(f) in Regulation 13(7), by deleting paragraph (g),

(g) in Regulation 18, by substituting for paragraph (1) the following:

“(1) Where a consumer has exercised a right of withdrawal from a contract for the supply of goods or services (being a right of withdrawal conferred by a law of the State giving effect to an Act of an institution of the European Union or a Regulation of such an institution concerning a contract for the supply of goods or services), he or she also ceases to be bound by any linked credit agreement.”,

(h) by substituting for Regulation 26 the following:

“26. The Central Bank of Ireland is the regulator of societies registered under the Friendly Societies Acts 1896 to 1977, other than any to which Parts 2 to 6 and this Part do not apply, in relation to compliance with Parts 2 to 6 and this Part.”,

(i) in Schedule 1, by substituting for Part 2 the following:

“Part 2

Additional assumptions for calculation of annual percentage rate of charge

II. The additional assumptions for the calculation of the annual percentage rate of charge shall be as follows:

- (a) If a credit agreement gives the consumer freedom of drawdown, the total amount of credit shall be deemed to be drawn down immediately and in full.
- (b) If a credit agreement gives the consumer freedom of drawdown in general but imposes, amongst the different ways of drawdown, a limitation with regard to the amount of credit and period of time, the amount of credit shall be deemed to be drawn down on the earliest date provided for in the credit agreement and in accordance with those drawdown limits.
- (c) If a credit agreement provides different ways of drawdown with different charges or borrowing rates, the total amount of credit shall be deemed to be drawn down at the highest charge and borrowing rate applied to the most common drawdown mechanism for this type of credit agreement.
- (d) In the case of an overdraft facility, the total amount of credit shall be deemed to be drawn down in full and for the whole duration of the credit agreement. If the duration of the overdraft facility is not known, the annual percentage rate of charge shall be calculated on the assumption that the duration of the credit is 3 months.
- (e) In the case of an open-end credit agreement, other than an overdraft facility, it shall be assumed that:
  - (i) the credit is provided for a period of 1 year starting from the date of the initial drawdown, and that the final payment made by the consumer clears the balance of capital, interest and other charges, if any;
  - (ii) the capital is repaid by the consumer in equal monthly payments, commencing 1 month after the date of the initial drawdown. However, in cases where the capital must be repaid only in full, in a single payment, within each payment period, successive drawdowns and repayments of the entire capital by the consumer shall be assumed to occur over the period of 1 year. Interest and other charges shall be applied in accordance with those drawdowns and repayments of capital and as provided for in the credit agreement.

For the purposes of this point, an open-end credit agreement is a credit agreement without fixed duration and includes credits which must be repaid in full within or after a period but, once repaid, become available to be drawn down again.

- (f) In the case of credit agreements other than overdraft facilities and open-end credits as referred to in the assumptions set out in points (d) and (e):
- (i) if the date or amount of a repayment of capital to be made by the consumer cannot be ascertained, it shall be assumed that the repayment is made at the earliest date provided for in the credit agreement and is for the lowest amount for which the credit agreement provides;
  - (ii) if the date of conclusion of the credit agreement is not known, the date of the initial drawdown shall be assumed to be the date which results in the shortest interval between that date and the date of the first payment to be made by the consumer.
- (g) Where the date or amount of a payment to be made by the consumer cannot be ascertained on the basis of the credit agreement or the assumptions set out in points (d), (e) or (f), it shall be assumed that the payment is made in accordance with the dates and conditions required by the creditor and, when these are unknown:
- (i) interest charges are paid together with the repayments of capital;
  - (ii) a non-interest charge expressed as a single sum is paid at the date of the conclusion of the credit agreement;
  - (iii) non-interest charges expressed as several payments are paid at regular intervals, commencing with the date of the first repayment of capital, and if the amount of such payments is not known they shall be assumed to be equal amounts;
  - (iv) the final payment clears the balance of capital, interest and other charges, if any.
- (h) If the ceiling applicable to the credit has not yet been agreed, that ceiling is assumed to be €1 500.
- (i) If different borrowing rates and charges are offered for a limited period or amount, the borrowing rate and the charges shall be deemed to be the highest rate for the whole duration of the credit agreement.
- (j) For consumer credit agreements for which a fixed borrowing rate is agreed in relation to the initial period, at the end of which a new borrowing rate is determined and subsequently periodically adjusted according to an agreed indicator, the calculation of the annual percentage rate shall be based on

the assumption that, at the end of the fixed borrowing rate period, the borrowing rate is the same as at the time of calculating the annual percentage rate, based on the value of the agreed indicator at that time.”,

(j) in Schedule 2, by substituting for paragraph 3 the following:

“3 Costs of the credit

<p>The borrowing rate or, if applicable, different borrowing rates which apply to the credit agreement</p>	<p>[% — fixed or, — variable (with the index or reference rate applicable to the initial borrowing rate), — periods]</p>
<p>Annual Percentage Rate of Charge (APR) <i>This is the total cost expressed as an annual percentage of the total amount of credit.</i>  <i>The APR is there to help you compare different offers.</i></p>	<p>[ % A representative example mentioning all the assumptions used for calculating the rate to be set out here]</p>
<p>Is it compulsory, in order to obtain the credit or to obtain it on the terms and conditions marketed, to take out  — an insurance policy securing the credit, or — another ancillary service contract?  <i>If the costs of these services are not known by the creditor they are not included in the APR.</i></p>	<p>Yes/no [if yes, specify the kind of insurance]  Yes/no [if yes, please specify the kind of ancillary service] Service]</p>
<p><b>Related costs</b></p>	
<p>If applicable  Maintaining one or more accounts is required for recording both payment transactions and drawdowns</p>	

<p>If applicable</p> <p>Amount of costs for using a specific means of payment (e.g. a credit card)</p>	
<p>If applicable</p> <p>Amount of costs deriving from the credit agreement</p>	
<p>If applicable</p> <p>Conditions under which the abovementioned costs related to the credit agreement can be changed</p>	
<p>Costs in the case of late payments</p> <p>Missing payments could have severe consequences for you (e.g. forced sale) and make obtaining credit more difficult.</p>	<p>You will be charged [ XXX (applicable interest rate and arrangements for its adjustment and, where applicable, default charges)] for late payments.</p>

and

(k) in Schedule 3, by substituting for paragraph 3 the following:

“Costs of the credit

<p>The borrowing rate or, if applicable, different borrowing rates which apply to the credit agreement</p>	<p>[% — fixed or, — variable (with the index or reference rate applicable to the initial borrowing rate)],</p>
<p>If applicable Costs If applicable The conditions under which those costs may be changed</p>	<p>[The costs applicable from the time the credit agreement is concluded]</p>
<p>Costs in the case of late payments</p>	<p>You will be charged [ ..... (applicable interest rate and arrangements for its adjustment and, where applicable, default charges)] for late payments.</p>



GIVEN under my Official Seal,  
20 December 2012.

MICHAEL NOONAN,  
Minister for Finance.



## EXPLANATORY NOTE

*(This note is not part of the Instrument and does not purport to be a legal interpretation.)*

These Regulations give effect to EU Directive 2011/90/EU of 14 November 2011 (“Amending Regulations”) amending Part II of Annex I to Directive 2008/48/EC of the European Parliament and of the Council providing additional assumptions for the calculation of the annual percentage rate of charge. In addition, the Regulations give effect to changes contained within Corrigenda OJ L 234, 10/09/2011, p. 46 and Corrigenda OJ L 199, 31/07/2010, p. 40. Other amendments have been introduced to rectify technical and minor errors in S.I. 281 of 2010 European Communities (Consumer Credit Agreements) Regulations 2010. Such amendments are the substitution of Regulations 3(2)(c), 3(8), 4(2), 4(4), 5, 18(1), 26, Schedule 1 Part 2, Schedule 2 paragraph 3, Schedule 3 paragraph 3, the removal of the word “initial” in Regulation 9(1)(3) clauses (i) and (ii) and the deletion of Regulation 13(7)(g).

Le ceannach ó  
FOILSEACHÁIN RIALTAIS,  
AONAD 20 PÁIRC MIONDÍOLA COIS LOCHA, CLÁR CHLAINNE MHUIRIS,  
CONTAE MHAIGH EO,  
(Teil: 01 - 6476834 nó 1890 213434; Fax: 094 - 9378964 nó 01 - 6476843)  
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