

S.I. No. 319/1987 - Consumer Information (Consumer Credit) Order, 1987.

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CONSUMER INFORMATION (CONSUMER CREDIT) ORDER, 1987.

WHEREAS it appears to the Minister for Industry and Commerce to be necessary or expedient in the interest of persons to whom goods, services, accommodation or facilities of any description are to be supplied or provided that advertisements or any class of advertisements of the goods, services, accommodation or facilities should contain or refer to any information to be specified in relation to the supply or provision of credit facilities.

WHEREAS it appears to the said Minister to be necessary or expedient in the interest of persons to whom goods, services, accommodation or facilities of any description are supplied or provided that the expression "annual percentage rate of charge" should be understood as having a definite meaning in relation to the supply or provision of credit facilities.

NOW, I, ALBERT REYNOLDS, Minister for Industry and Commerce, in exercise of the powers conferred on me by sections 11 and 12 of the Consumer Information Act, 1978 (No. 1 of 1978), as adapted by the Industry, Trade, Commerce and Tourism (Alteration of Name of Department and Title of Minister) Order, 1986 (No. 41 of 1986), and after consultation with such persons as appears to me to be substantially interested in the general subject matter of the Order following, hereby make this Order with respect to which, pursuant to section 26(4) of that Act, a draft has been laid before each House of the Oireachtas and a resolution approving of the draft has been passed by each such House:

1. (1) This Order may be cited as the Consumer Information (Consumer Credit) Order, 1987.

(2) This Order shall come into operation on the 10th day of March, 1988.

2. In this Order—

"annual percentage rate of charge" has the meaning assigned to it by Article 3 of this Order;

"cash price" means the price or charge at which a person indicates that he is or may be willing to sell or supply goods or services to cash purchasers, being a price or charge—

(a) which, in relation to an advertisement, applies at the time at which the advertisement is published or, if a time is specified in the advertisement as a time at which the cash price applies, at that time,

(*b*) which takes no account of—

(i) any discount available only to particular persons or to a particular class of persons in particular circumstances except where the advertisement is expressly directed to them, and

(ii) any discount available by virtue of the sale or supply of goods or services in a quantity or amount greater than the minimum quantity or amount which a person indicates that he is or may be willing to sell or supply except where the advertisement states the quantity or amount in respect of which the discount is available;

"cash purchaser" means, in relation to any advertisement, a person who, for a money consideration—

(*a*) acquires the ownership of goods, or

(*b*) is provided with services,

under a transaction which is not financed by credit;

"consumer" means a natural person acting outside his trade, business or profession;

"credit agreement" means an agreement whereby a creditor grants or promises to grant credit to a consumer, in the form of a deferred payment, a loan or other financial accommodation, and under which the consumer repays the credit, including any interest and charges; and an agreement for the supply of goods or the provision of services concluded with a consumer which is financed by means of a credit agreement between the supplier of the goods or the provider of the services and the consumer shall be deemed to be a credit agreement;

"creditor" means a person who grants credit in the course of his trade, business or profession;

"the relevant date" means the earliest date specified or determinable under a credit agreement on which the credit is made available to the consumer or, if a date is not so specified or determined under the agreement, the date of the agreement;

"running account credit" means a facility under a credit agreement whereby the consumer is enabled to receive, from time to time, from the creditor or a third party, cash, goods or services to an amount or value such that, taking into account payments made by or to the credit of the consumer, the credit limit (if any) is not at any time exceeded;

"typical amount of charge" means, in relation to the amount or rate of charge of any item mentioned in an advertisement in connection with any transaction, an amount or rate of charge which is typical of the items in transactions of that description entered into by that advertiser generally or, where the advertisement is directed towards natural persons of a particular class, with persons of that class:

3. (1) For the purposes of this Order and whenever this Order prescribes the use of the expression "annual percentage rate of charge", that expression shall mean the total cost of credit expressed as an annual percentage of the amount of credit granted and calculated in accordance with Article 4 of this Order.

(2) For the purposes of paragraph (1) of this Article,

(a) the total cost of credit shall include—

(i) the total amount of interest on the credit payable under the agreement; and

(ii) all other charges at any time payable under the transaction or as a direct consequence of the agreement; and

(b) the total cost of credit shall not include—

(i) any exceptional charges such as fines or penalties payable under the transaction to the creditor due to non-fulfilment of the contract by the consumer; and

(ii) ancillary costs such as maintenance charges on goods in a hire purchase agreement not imposed by the creditor.

4. (1) Subject to the provisions of paragraph (2) of this Article, the annual percentage rate of charge shall be calculated in accordance with the First Schedule to this Order to one decimal place, all further decimal places being disregarded.

(2) Where neither the time of the payments (including charges) nor the amount of the repayments is specified at the beginning of a credit agreement (including running account credit) the annual percentage rate of charge shall be calculated in accordance with the First Schedule to this Order making the assumptions set out in the Second Schedule to this Order.

5. This Order shall not apply—

(a) where no interest or other charge is made for the provision of credit; or

(*b*) to hiring agreements except where such agreements provide or allow for the title to pass ultimately to the hirer.

6. (1) Any advertisement in which it is indicated that credit may be provided or arranged by the advertiser and which purports to show the cost of credit or includes any claims in relation to the cost of credit shall also indicate—

(*a*) the annual percentage rate of charge, or

(*b*) if it is not practicable to show the annual percentage rate of charge, an example which is representative of the annual percentage rate of charge, and

(*c*) where the advertisement relates to the provision of a good or a service, the cash price, the price payable under a credit agreement and the number and amount of instalments.

(2) An advertisement which refers directly or indirectly to the availability of credit, which is displayed at a premises where business is carried on, shall include the annual percentage rate of charge or, if it is not practicable to show the annual percentage rate of charge, an example which is representative of the annual percentage rate of charge.

(3) An advertisement to which this Order applies shall, if any security is required or is required in specific circumstances, state that such security is required.

(4) It shall not be an offence for a person to provide credit at a lower rate than the rate advertised under the provisions of this Article.

7. Where an advertisement, which refers directly or indirectly to the availability of credit, includes the amount or rate of charge for any good or service as an example of the terms and conditions which the advertiser is prepared to offer a consumer, the advertisement shall state that the amount or rate of charge is given as an example and that the amount or rate of charge so given is a typical amount or rate of charge.

8. Where a statement of the annual percentage rate of charge is included in any advertisement to which this Order applies, that statement shall be afforded in the advertisement—

(*a*) greater prominence than a statement relating to any other rate of charge, and

(*b*) no less prominence than a statement relating to—