



## The Scope of the Consumer Credit Act 1974

This note provides a brief overview of the main scope of the Consumer Credit Act 1974 (CCA). It should not be relied upon as containing comprehensive or definitive statements of law and practice.

### WHEN DOES THE CCA APPLY?

The CCA applies to “*consumer credit agreements*” or “*consumer hire agreements*” and their definitions are wider than might be anticipated.

The following table sets out the essential criteria/elements of what constitutes a “*consumer credit agreement*” and a “*consumer hire agreement*” for the purposes of the CCA. More details about each of the criteria is set out below.

Consumer Credit Agreement	Consumer Hire Agreement
<ul style="list-style-type: none"> <li>• A person</li> <li>• Under an agreement with an “individual”</li> <li>• Provides “credit”</li> </ul>	<ul style="list-style-type: none"> <li>• A person</li> <li>• Under an agreement with an “individual”</li> <li>• Which is capable of lasting more than 3 months</li> <li>• Provides goods on hire (other than hire-purchase)</li> </ul>

### Who is a ‘person’?

A ‘person’ means any person (not necessarily a bank or business) and can include an individual acting in a personal capacity.

### What is an “individual”?

This is given a special meaning within the CCA. An “*individual*” means:

- An individual person or sole trader
- A partnership of two or three partners (unless all of the partners are corporate bodies) or
- An unincorporated body (unless it consists entirely of corporate bodies)

### What is “credit”?

Again, this is defined in the CCA. The term “*credit*” is much wider than its common meaning (such as a cash loan) and includes “*any other form of financial accommodation*”, which brings with its ambit:

- Allowing time to pay an amount due, whether repayment is made by instalments or simply deferred
- Hire purchase agreements and
- Conditional sale arrangements

Whether or not any interest is charged for the provision of credit is irrelevant for the purpose of this definition.

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## APPLICATION OF THE CCA TO YOUR AGREEMENTS

The CCA will apply to your agreements which fall within one of the above definitions (meaning they will be a 'regulated' agreements), unless any exemptions or other provisions apply which would have the effect of taking the agreement wholly or partly outside of the regulatory regime.

### Exemptions

The application of exemptions is a complex area. In broad terms, the main exemptions are in relation to certain agreements:

- Where the credit (or the amount of hire payments) is above £25,000 and is provided for business purposes
- With 'high net worth' debtors meeting certain criteria
- Which are secured by a land mortgage and regulated under the Financial Services and Markets Act 2000
- Where repayment of credit is required in four repayments or less over a period not exceeding 12 months
- Entered into by Local Authorities or Housing Associations which are secured by a land mortgage
- Where the rate of interest does not exceed a specific amount and where the agreements are only available to a particular class of persons

The application of the exemptions depends on the nature of the arrangements in any given case, therefore appropriate advice should always be sought as to whether any particular exemption applies to an agreement.

### Incomplete application of the CCA

Some agreements, whilst not fully 'exempt', are not subject to the same level of regulation under the CCA as other agreements. These are:

- Certain types of agreements where the credit (or the amount of hire payments) is less than £50 (known as "small agreements") and
- Agreements which are not made by the creditor (or the owner of hire goods) in the course of a business carried on by him (known as "non-commercial agreements")

### Unfair relationships

Even where agreements are not fully regulated, some provisions of the CCA, such as the rules relating to unfair relationships, will still apply. In essence, the court has very wide powers to make orders relating to agreements if it determines that the relationship between the creditor and the debtor is "unfair" to the debtor because of any of the terms of the agreement or anything done by the creditor (whether before or after the agreement was entered into).

## OTHER ACTIVITIES

The CCA also regulates a number of activities connected with consumer credit and consumer hire agreements. These include credit brokerage, advertising and promoting credit and hire agreements, debt adjusting, debt counselling, debt collecting and debt

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administration, the provision of credit information services, and acting as a credit reference agency.

### WHAT ARE THE EFFECTS OF THE CCA APPLYING?

If the CCA applies to your agreements, you may have to:

- Observe strict requirements regarding the form and content of the agreement
- Provide certain documents and information to the debtor (or hirer) before and after entering into the agreement
- Comply with certain requirements regarding advertising and/or
- Obtain a licence

Failure to observe the requirements of the CCA could result in your agreements being unenforceable and may in some circumstances constitute a criminal offence.

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