





The content

Debt Advice Handbook 15th edition

Description

With living costs and unemployment rising, budgets squeezed and problem debt on the increase, no adviser should be without this essential guide to the practice and process of giving money advice in England and Wales.

Who's this book for?

It is essential for debt advisers, welfare rights advisers, lawyers, local authority and housing association staff, social workers and union official.

What does it do?

The handbook provides the most comprehensive information needed by advisers on the key stages of money advice, including interviewing clients, establishing liability, prioritising debts, preparing a financial statement, negotiating with creditors and dealing with bailiffs. Fully indexed and cross-referenced to law, regulations and official guidance, and to court and tribunal decisions Includes tactical guidance and examples

What's new?

Fully updated to cover all recent changes to legislation, caselaw and court procedure and practice Emphasis is placed on taking due care of vulnerable clients and making sure that any payment arrangements agreed are appropriate. There is a focus on sustainable credit arrangements that do not affect a client's abilities to pay essential living expenses and priority debts.

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Bill of sale

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A bill of sale is also known as a 'chattel mortgage' or a 'logbook loan'. It is a way of raising money by offering an item of personal property (commonly, a car) as security for a loan. The essential feature of a bill of sale is that the goods used as security remain in the possession and use of the client, but ownership is transferred to the creditor, so they can be repossessed and sold if the debt is not repaid. Similar arrangements containing some, but not all, of these features are not bills of sale. For example, in the case of pawnbroking (see here), the goods are deposited with the creditor as security, but they remain the property of the client.

Bills of sale can be used to finance the actual purchase of motor vehicles. With hire purchase/conditional sale, the dealer sells the vehicle to the creditor, who then lets (hire purchase) or sells (conditional sale) it to the client. With a bill of sale, the dealer sells the car to the client, who then

enters into a credit agreement with the creditor (likely to be a regulated credit agreement), secured by a bill of sale. A bill of sale gives the creditor all the advantages of hire purchase/conditional sale agreements – ie:

- security for the debt;
- the right to repossess the vehicle if the client defaults;
- provided there is a term in the bill of sale, the right to forcibly enter the client's property to repossess the goods without a court order.

From the creditor's point of view, a bill of sale also removes some of the disadvantages of a hire purchase/conditional sale – ie:

- the client has no right to terminate the agreement and limit their liability to one-half of the total price;
- the vehicle is not protected from repossession without a court order once the client has paid one-third of the total price;
- a private individual (ie, someone who is not a motor dealer) who purchases the vehicle from the client without knowing it is subject to a bill of sale does not obtain ownership. They are, therefore, not protected from having the vehicle repossessed by the creditor, as would be the case if the vehicle were subject to a hire purchase/conditional sale agreement.

The legal position

Bills of sale are regulated by two pieces of nineteenth century legislation which still represent the law: the Bills of Sale Act 1878 and the Bills of Sale (1878) Amendment Act 1882. ¹ The formal agreement must be set out in the way specified by these Acts. If the bill of sale secures an agreement regulated by the Consumer Credit Act 1974, there must be a separate agreement, which should comply with the Consumer Credit Act and the regulations. This includes a requirement for the agreement to refer to the bill of sale. If the agreement is improperly executed, the creditor must apply for a court order to enforce its security under the bill of sale. If the agreement is completely unenforceable, the creditor cannot enforce its security.

There are many formalities associated with bills of sale and, if the creditor fails to comply with them, the creditor risks it being void and so unenforceable (although this does not necessarily affect the underlying credit agreement, which remains enforceable but as an unsecured debt).

¹ See G Skipwith, 'Bills of Sale (Law Commission report)', *Adviser* 178

Special features

To be valid and enforceable, a bill of sale must be registered at the High Court in London within seven days of its being made and then re-registered every five years. A copy of the registered document is forwarded to the local county court. Anyone can search, inspect, make extracts and obtain copies of the register on payment of the prescribed fee (currently £50), by visiting the court office.

The bill of sale must also contain:

- the date of the bill of sale;
- the names and addresses of the parties;
- the amount paid by the creditor to, or on behalf of, the client, not including any item forming part of the total charge for credit in a regulated agreement secured by the bill;
- the client's acknowledgement that they have received the amount paid. This is obligatory, even though the money is not paid to them but to a third party – eg, the supplier of the goods;
- a transfer of ownership of the goods to the creditor as security for the debt;
- a description of the goods in a schedule to the bill (not in the main body of the bill);
- a monetary obligation. This can include an obligation to insure the goods or maintain the security;
- a statement of the sum secured, the rate of interest and the instalments by which repayment is to be made. Interest is an essential part of a bill and must be stated as a rate, even if it is also expressed as a lump sum. This is an area where creditors have frequently gone wrong, as it is not just a question of importing figures directly from the credit agreement. If the interest rate under a regulated agreement is not variable, there was no requirement before 31 May 2005 to include it in the agreement, as opposed to the annual percentage rate (APR). In the case of these agreements, if the bill of sale quotes the APR instead of the interest rate, it is not in the statutory form. Nor is the bill in accordance with the statutory form if the sum stated to be secured includes the interest charged under the credit agreement, because this would involve double charging of interest. Arguably, a bill of sale that refers to the credit agreement for the statement of these terms (or any of them) is not in accordance with the statutory form; ¹
- any terms that are agreed for the 'maintenance' or 'defeasance' of the security. A **'defeasance'** is a provision in a document which nullifies it if specified acts are performed. For example, when all sums due under the bill are paid, the security is void – ie, in this context, discharged. **'Maintenance of the security'** means the preservation of the whole security given by the bill of sale in as good a condition as when it was made. The following

terms are included: 2

- to insure the goods and produce receipts for premiums;
- to repair the goods and replace worn-out goods;
- to allow entry to inspect the goods;
- to allow the creditor to enter the premises in which the goods are situated in order to seize them (the bill of sale may even permit forcible entry);
- a proviso limiting the grounds of seizure. The bill of sale is void if it contains a power to seize, except in the case of: 3
 - default in repayments or in the performance of any terms in the bill of sale necessary to maintain the security;
 - the client's bankruptcy;
 - the fraudulent removal of the goods, or allowing them to be removed, from premises. In the case of a vehicle, this might include selling it without the lender's consent;
 - unreasonably refusing to produce the last receipt for rent, rates or taxes;
 - enforcement agents (bailiffs) taking control of goods for any debt. See Chapter 15 for more information on this;
- the client's signature. A bill need not be sealed; 4
- an attestation clause. This is essential and must be meticulously completed. The security is unenforceable unless the client's signature is witnessed by at least one person who is not a party to the bill; 5
- the name, address and description of the witness. The name alone without an address (which may be the business address and not necessarily a private address) and description (ie, the profession, trade or vocation of the witness) is insufficient;
- a schedule, referring to the goods included in the bill of sale. **Note:** the bill is void if it does not have a schedule.

Clients often present themselves to advisers with either a hire purchase/conditional sale agreement or an unsecured loan. In these circumstances, if the creditor is threatening to repossess the subject of the agreement (eg, the vehicle), you should establish whether the debt is, in fact, secured by a bill of sale. If so, check that the credit agreement is properly executed and that the bill of sale has been validly drawn up and registered. The creditor could be asked to supply a copy of the bill of sale showing the court stamp.

If the agreement secured by the bill of sale is a regulated credit agreement, the creditor must serve a default notice before being entitled to repossess the goods because the client has defaulted. Also, if the agreement is irredeemably unenforceable, the bill of sale cannot be

enforced. If the agreement can only be enforced with a court order, the bill of sale cannot be enforced until the creditor has obtained an enforcement order. ⁶

Seized goods should not be removed from the premises where they were seized until five clear days have expired. ⁷ During this period, the client could apply for a time order if appropriate (see here).

If a bill of sale is believed to be invalid and unenforceable but the creditor does not accept this and threatens to go ahead with repossessing the goods, a rarely used procedure known as applying to 'expunge' (ie, remove) the registration of the bill of sale must be used. This is, in effect, a declaration of unenforceability. As bills of sale are registered in the High Court, the application must be made to the High Court under Part 8 of the Civil Procedure Rules, even though the bill of sale may secure a regulated credit agreement. Specialist advice is needed.

If the creditor has already repossessed the goods under an invalid or unregistered bill of sale, the creditor should be challenged. While the client may still owe the balance outstanding under the loan agreement, it may be possible to persuade the creditor to write off the debt. Specialist advice may be needed.

Code of practice

Following concerns about using bills of sale secured against vehicles, the industry now operates under a code of practice. ⁸ This includes the following.

- When providing pre-contract information, the client must also be provided with a copy of the Bill of Sale Borrower Information Sheet (available at ccta.co.uk/consumer/codes-of-practice).
- Clients in arrears can hand over the vehicle in full settlement of the debt and are not liable for any shortfall between the outstanding debt and the vehicle's value.
- Consumer loans do not provide for 'balloon payments' – ie, small, initial interest-only payments, with the capital being repaid in a single, final payment.
- Charges imposed on clients in arrears must be disclosed at the pre-contract stage and must only cover the creditor's costs.
- If a client gets into difficulty, creditors must consider proposals for alternative payment arrangements and should repossess the vehicle only if attempts to arrange alternative ways of repayment fail.
- Creditors should take all reasonable steps to ensure that repossessed vehicles are sold for the highest obtainable market price.

¹ *Lee v Barnes* [1886] 17 QBD 77

- 2 *Re Morritt ex parte Official Receiver* [1886] 18 QBD 222
- 3 s7 Bills of Sale Act (1878) Amendment Act 1882
- 4 s1(1)(b) Law of Property (Miscellaneous Provisions) Act 1989
- 5 Although a party may not attest the bill, a party's agent, manager or employee may do so; *Peace v Brookes* [1895] 2 QB 451
- 6 s113 CCA 1974
- 7 s13 Bills of Sale Act (1878) Amendment Act 1882
- 8 For further discussion of the provisions of the code, see G Skipwith, 'Bills of Sale: codes of practice', *Adviser* 145

Checklist for action

Advisers should take the following action.

- Consider whether emergency action is necessary. If repossession of goods essential to the client is threatened, **this is likely to be a priority debt**. See Chapter 8.
- Check liability, including the validity of the bill of sale and the enforceability of the agreement under the Consumer Credit Act.
- If the goods have already been repossessed, this is a non-priority debt. Assist the client to choose a strategy from Chapter 9.

Budget account

The legal position

Special features

Checklist for action

A budget account is a type of revolving credit (see here) provided by shops. The client can spend up to an agreed credit limit and makes regular repayments.

The legal position

This type of account is a regulated credit agreement, provided the credit is for no more than £25,000 (if the agreement was made before 6 April 2008) or £15,000 (if made before 1 May 1998). ¹ If the agreement was made on or after 6 April 2008, it is regulated regardless of the amount, unless it is exempt (see here).

1 s8 CCA 1974

Special features

Many large stores offer budget account facilities, which – by requiring clients to pay a monthly amount even when they have not recently purchased anything – can be a powerful incentive to continue shopping at that store. Instant credit is often available, including interest-free credit (see here) on larger purchases.

These debts are non-priority debts (see Chapter 9).

Checklist for action

Advisers should take the following action.

- Check liability, including the enforceability of the agreement under the Consumer Credit Act 1974.
- Check to see if an application for breathing space would be appropriate (see here).
- Assist the client to choose a strategy from Chapter 9, as this is a non-priority debt.

Charge card

The legal position

Special features

Checklist for action

A charge card (eg, American Express) is not a credit card. Purchases are made and the amount is charged to the account, but the balance must be cleared in full at the end of each charging period (usually monthly).

The legal position

Agreements for charge cards made before 1 February 2011 are exempt from the Consumer Credit Act 1974 because there is no extended credit. Agreements for charge cards made on or after 1 February 2011 are not exempt unless there are only 'insignificant' charges for the credit. There is no guidance in the legislation or in the government guidance on what is 'significant' in this context.

Special features

To obtain a charge card, it is necessary to pay an annual fee and show proof of a high income.

Checklist for action

Advisers should take the following action.

- Check liability, including whether the Consumer Credit Act 1974 applies and, if so, the enforceability of the agreement.
- Check if a breathing space application would be appropriate (see here).
- Assist the client to choose a strategy from Chapter 9, as this is a non-priority debt.

Conditional sale agreement

[The legal position](#)

[Special features](#)

[Checklist for action](#)

A conditional sale agreement is a sale made on credit subject to conditions that give the client possession of the goods during the repayment period, but the goods only become the client's property when the last payment has been made. Conditional sale agreements are mostly used for motor vehicles (and are very similar to hire purchase agreements – see here).

The legal position

Agreements are regulated credit agreements, provided the credit is for no more than £25,000 (if the agreement was made before 6 April 2008) or £15,000 (if made before 1 May 1998). ¹ If the agreement was made on or after 6 April 2008, it is regulated regardless of the amount, unless it is exempt (see here).

¹ s8 CCA 1974

Special features

Conditional sale has a number of special features. These are the same as those for hire purchase (see here) and the two types of credit operate in the same way.

Checklist for action

Advisers should take the following action.

- Consider whether emergency action is necessary to prevent repossession of goods (see Chapter 8).
- Check liability, including the enforceability of the agreement under the Consumer Credit Act 1974.
- Check that the goods purchased were as described and of satisfactory quality (see here).
- Assist the client to choose a strategy from Chapter 8, **if this is a priority debt**, or Chapter 9 if the goods are not essential.

Credit sale agreement

The legal position

Special features

Checklist for action

Goods bought on credit sale are owned immediately by the client. Regular payments are due in accordance with the agreement. The creditor is often the supplier of the goods and this type of credit is used extensively to sell furniture and cars.

The FCA has reiterated its expectations of creditors for the treatment of borrowers who are affected by the rising cost of living and struggling with payments. The FCA has stated that the existing tailored coronavirus support guidance is also applicable to the cost of living crisis. The current version of the guidance is available at [fca.org.uk/publication/finalised-guidance/consumer-credit-coronavirus-tailored-support-guidance.pdf](https://www.fca.org.uk/publication/finalised-guidance/consumer-credit-coronavirus-tailored-support-guidance.pdf).

The legal position

The agreement is a regulated credit agreement provided the credit is for £25,000 or less (if made before 6 April 2008) or £15,000 (if made before 1 May 1998). If the agreement was made on or after 6 April 2008, it is regulated regardless of the amount, unless it is exempt (see here).

Special features

The creditor has no rights over the goods. The client simply takes the goods, signs the agreement, and starts to make payments. Sometimes, interest-free credit (see here) is given in the form of a credit sale agreement.

Some credit sale agreements (particularly for cars) provide that:

- the client must not sell the goods during the lifetime of the agreement; *and*

- if the client does sell the goods, they must pay the proceeds to the creditor.

Arguably, this restriction on the sale of the goods is an unfair contract term, which means a client is probably not in breach of it if they do sell the goods. However, it is not unfair for the creditor to require payment of the proceeds, although the creditor must serve the client with a notice under section 76 of the Consumer Credit Act 1974 before being entitled to take action to enforce such a term. ¹ The client is in default if they cannot comply with such a notice. For a discussion of unfair contract terms, see [here](#).

1 A creditor is required to give seven days' notice of its intention to enforce a term of the agreement allowing it to demand early payment of any sum in cases where this right arises, even though the client is not in default

Checklist for action

Advisers should take the following action.

- Check liability, including the enforceability of the agreement under the Consumer Credit Act 1974.
- Check if a breathing space application would be appropriate ([see here](#)).
- Check that the goods purchased were as described and of satisfactory quality ([see here](#)).
- Assist the client to choose a strategy from Chapter 9, as this is not a priority debt.

Hire purchase agreement

[The legal position](#)

[Special features](#)

[Checklist for action](#)

A hire purchase agreement hires goods to the client for an agreed period. At the end of this period, the client has the option to buy them (usually for a nominal amount). Hire purchase is predominantly used for motor vehicles and household goods. The creditor (who is the hirer) owns the goods, generally having bought them from the supplier who introduced the client to the hirer.

The FCA has reiterated its expectations of creditors for the treatment of borrowers who are affected by the rising cost of living and struggling with payments. The FCA has stated that the existing tailored coronavirus support guidance is also applicable to the cost of living crisis. The guidance is at [fca.org.uk/publication/finalised-guidance/consumer-credit-coronavirus-tailored](https://www.fca.org.uk/publication/finalised-guidance/consumer-credit-coronavirus-tailored).

support-guidance.pdf

The legal position

Hire purchase agreements for £25,000 or less (if made before 6 April 2008) or £15,000 (if made before 1 May 1998) are regulated credit agreements. If the agreement was made on or after 6 April 2008, it is regulated regardless of the amount, unless it is exempt (see here).

The contract is between the client and the hirer of the goods, rather than the supplier – ie, in the case of a car, between the client and the finance company, rather than with the garage. Therefore the hirer (ie, the finance company) is liable for compensation if there has been misrepresentation (see here) or the goods are faulty. **Note:** the Consumer Credit Act 1974 treats hire purchase and conditional sale in the same way, so the following also applies to conditional sale agreements.

Special features

The goods belong to the hirer until the end of the agreement. The client must not sell them during this period without the hirer's permission. The client can choose to return the goods to the hirer at any time during the agreement's lifetime. The client must first give written notice to the hirer of their wish to terminate the agreement. So that there is no doubt as to what the client is doing (particularly if the hirer is threatening to repossess the goods), the letter should refer to the client exercising their right to terminate the agreement and request instructions from the hirer on returning the goods.

The amount payable (which the client does not have to pay before either the termination of the agreement or the return of the goods) depends on the amount already paid.

- If less than half the total purchase price (as stated on the agreement) has been paid, the client must pay either half the total purchase price minus the payments already made, or any arrears of payments which have become due by the termination date, whichever is greater. In this context, the 'total purchase price' is the cash price of the goods plus the charges for credit.
- If more than half the total purchase price has already been paid, the client may return the goods and owes nothing further except any arrears on payments due.
- If the client has not taken reasonable care of the goods, they are liable to compensate the hirer.

The FCA takes the view that any 'deferred payments' are a 'liability under the agreement which has accrued' under section 99(2) CCA 1974 and should be considered when calculating the amount payable by the client following termination. When clients inform hirers that they can no

longer afford the repayments and wish to end the agreement, they are often advised to surrender the vehicle voluntarily. A 'voluntary surrender' is not the same thing as a termination. A voluntary surrender has the same legal consequences as if the hirer had terminated the agreement and repossessed the goods. While hirers are under no duty to inform clients of their rights, they must not mislead them.

Hirers often put obstacles in the way of clients attempting to end their agreements – eg, by claiming that the client cannot end the agreement if it is in arrears or that the sum due on ending the agreement must be paid as a pre-condition of ending it. This is not correct; the right to end the agreement is unconditional. Default notices issued since 1 October 2008 must contain the following statement: 'You will need to pay X if you wish to end this agreement' (where X is the amount calculated as above). The former Office of Fair Trading agreed that this sum is the amount the hirer is liable to pay if they exercise the right to terminate and is not a condition of termination. However, the regulations have still not been amended to reflect this.

If the hirer challenges the client's right to end the agreement, specialist advice should be sought.

The creditor is not responsible for collecting the goods if a client terminates the agreement and, if the creditor has to collect the goods because the client refuses to return them, the client is liable for any charges incurred. On the other hand, if the creditor insists on collecting the goods, the client should challenge any collection charges the creditor seeks to impose. ¹

If the client claims to have terminated the agreement, specialist advice should be obtained if the creditor is nevertheless seeking to recover the total balance due under the agreement. The client loses the right to terminate the agreement if the hirer has already done so or called in the balance due under the agreement.

If the client defaults on payments, the hirer can repossess the goods. It must obtain a court order, unless:

- the client gives permission. This must be free and informed – ie, the client has not been misled about their rights; *or*
- less than one-third of the total purchase price has been paid and the goods are not on private premises.

Where the client has paid one-third or more of the total purchase price, the goods become 'protected goods' and the hirer is not allowed to repossess those goods from the client as the result of a breach of that agreement by the client without a court order (unless the client has consented to the repossession as above). If the hirer repossesses protected goods in breach of these provisions, the CCA 1974 provides severe sanctions: not only is the agreement terminated (if not previously terminated), but also the client is released from all further liability under the

agreement and is entitled to recover from the hirer all sums they have already paid under the agreement. ²

If the hirer repossesses the goods (including in 'voluntary surrender' cases where the client returns the goods without terminating the agreement in writing), the client is liable for the outstanding balance due under the agreement, less the sale proceeds of the goods. ³

Insurance

Many hire purchase/conditional sale agreements also incorporate credit agreements for insurance sold as part of the same transaction – eg:

- payment protection insurance (PPI) to cover the repayments in the event of the client's unemployment, sickness, disability or death;
- mechanical breakdown insurance;
- vehicle recovery insurance;
- accident assistance insurance;
- extended warranties or guarantees;
- guaranteed asset protection, also known as shortfall insurance, which covers any shortfall if, following an accident, the write-off value of the goods is less than the balance owed to the creditor.

A credit agreement for such insurance (known as the 'subsidiary agreement') is a different, separate agreement to the hire purchase/conditional sale (known as the 'principal agreement'). However, a subsidiary agreement for such insurance (but not for any other insurance or products) can be included in the same document as the principal agreement containing only the consumer credit heading and signature box for the principal agreement.

- The client does not have the right to terminate the subsidiary agreement and so termination of the principal agreement does not affect their liability under the subsidiary agreement. The client must deal with this separately – eg, settle the agreement early, complain about any mis-selling of the insurance or raise any unenforceability issues.
- When calculating whether the client has paid one-third or one-half of the total price in connection with protected goods and termination rights (see above), you should take into account only the payments due or made in relation to the principal agreement. You should check the one-third and one-half figures in the agreement.
- If the client was required to take out PPI as a condition of making the hire purchase/conditional sale agreement, it may be that both agreements are irredeemably unenforceable and specialist advice should be sought.

Personal contract purchase

Personal contract purchase (PCP) (also known as 'contract purchase plans') is an increasingly popular form of motor vehicle finance. PCP is a form of hire purchase agreement, but differs in one important respect: the client does not pay the purchase price of the vehicle (together with interest). Instead, they pay the amount the finance company estimates the vehicle will lose in value (ie, the depreciation over the term of the agreement, typically 24 or 36 months) together with interest minus any deposit by monthly instalments. The resulting figure (ie, the purchase price less depreciation) is known as the guaranteed minimum future value (GMFV). The monthly payments are usually less than under a standard hire purchase agreement. At the end of the agreement and assuming the client has made all the payments due, the client has the following options.

- Buy the vehicle. The client can pay a 'balloon payment', which is a lump sum representing the difference between the GMFV and the original purchase price together with a nominal fee, in order to own the vehicle. This is likely to be more expensive than taking out a standard hire purchase agreement. For more information, see moneysavingexpert.com/loans/personal-contract-purchase.
- Exchange the vehicle for a new one under another PCP. Should the GMFV be more than the actual value of the vehicle, this 'equity' can be put towards the deposit on the new vehicle but cannot be taken in cash.
- Return the vehicle. The client has nothing further to pay except possibly:
 - any excess mileage charge. This will arise if the vehicle has done more miles than was agreed at the start of the contract. The finance company uses the estimated mileage in the calculation of the GMFV and so the client needs to be realistic in assessing this to avoid the risk of having to pay this charge;
 - the cost of any damage to the vehicle, other than normal wear and tear (as with a standard hire purchase agreement if the vehicle is returned).

As with other hire purchase agreements, the client can voluntarily terminate the agreement and return the car. The issue might then arise as to whether the finance company can recover any excess mileage charges. It is arguable that the legislation (sections 99(2), 100(1) and 100(4) of the Consumer Credit Act 1974) makes no provision for the recovery of such charges and, indeed, is inconsistent with the right to do so and, therefore, is void under section 173. Some finance companies have argued that exceeding mileage limits falls under 'failing to take reasonable care of the goods' (section 100(4)), as the vehicle's value will have been reduced, but 'reasonable care' in law generally means the duty to avoid causing physical damage, not pure economic loss. There has to date been no decision by any court on this issue. ⁴

¹ See P Madge, 'Take it Back', *Adviser* 106

2 ss90 & 91 CCA 1974. In *Santander Consumer (UK) plc v Chaudhry* [2024] EWHC 170 (KB), the High Court held that these sections only applied where goods are recovered from the debtor or their agent, but not from a third party. Therefore, when Ms C's motor car was driven with her consent by her brother - who was uninsured and banned from driving - and was repossessed by SC from the police compound, where it had been taken following seizure by the police, the sections did not apply.

3 *First Response v Donnelly*, Durham County Court, 16 October 2006 (*Adviser* 122 consumer abstracts). For a discussion on challenging this approach to creditor termination, see C Meehan and P Madge, 'Letters', *Adviser* 125 and 127.

4 See G Skipwith, 'Consultancy corner: PCPs', *Adviser* 185

Checklist for action

Advisers should take the following action.

- Consider whether emergency action is necessary to prevent repossession of goods (see Chapter 8).
- Check liability, including the enforceability of the agreement under the Consumer Credit Act 1974.
- Check that the goods purchased were as described and of satisfactory quality (see here).
- Assist the client to choose a strategy from Chapter 8, if **this is a priority debt**, or Chapter 9 if the goods are not essential.

Mail order catalogue

The legal position

Special features

Checklist for action

Mail order catalogues offer a way of buying goods by post and usually spread payment over a period of weeks by instalments. Payments are sometimes collected by an agent – often a friend or neighbour of the client.

The legal position

Catalogue debts are regulated credit agreements whether or not there is a charge for credit, provided the credit is for no more than £25,000 (if the arrangement began before 6 April 2008) or £15,000 (if before 1 May 1998). If the arrangement began on or after 6 April 2008, the agreement

is regulated regardless of the amount, unless it is exempt (see here).

Some mail order companies provide goods on the basis that they are paid for in full on receipt. These agreements are not regulated credit agreements. If in doubt about whether a catalogue debt is regulated, obtain specialist advice.

Special features

Often clients do not receive an agreement to sign. This means that the client's liability for the debt is enforceable only with a court order if the arrangement began on or after 6 April 2007. ¹

Mail order purchases can be cancelled by returning the goods within seven days of receipt.

Catalogues are often particularly important to people on low incomes as the only way of affording essential items such as bedding or clothing.

¹ s127(3) CCA 1974 (repealed from 6 April 2008, but not retrospectively, by s15 and Sch 3 para 11 CCA 2006)

Checklist for action

Advisers should take the following action.

- Check liability by asking the creditor to supply a copy of the agreement signed by the client.
- Check if breathing space application would be appropriate (see here).
- Check that the goods were of satisfactory quality and as described (see here).
- If the client decides not to challenge liability, assist them to choose a strategy from Chapter 9, as this is a non-priority debt unless using mail order catalogues is the only way in which they can buy essential goods (see here).

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