

Good news for consumers

A good excuse to use your credit card

by Jennie Jones, Nockolds LLP

With spending on credit cards at an all time high, and an estimated £54.5 billion on credit cards (February 2007), the 74.6 million credit cards in the UK are seen as a cause for concern. There may be times when using your credit card is the best option, whether or not you need credit. The Consumer Credit Act 1974 provides protection for cardholders as well as governing hire purchase agreements and loans. The CCA allows cardholders to claim against the card company if something goes wrong. If the trader breaks the contract or wrongly describes the goods to you, the consumer protection legislation means you can claim against the credit card company rather than the trader. Generally this has been used where the retailer goes bust before an item is delivered, but after the payment has been taken, for example Time and TINY computers in the 1990's. The credit card companies had argued that this protection only applied here in the UK. The Office of Fair Trading has taken this issue through the courts to establish if this safeguard is extended outside the UK. The House of Lords have/has? now set out that card companies are equally liable both here and abroad.

This gives consumers greater protection. With the increase in independent travel and online bookings this development is great news for holiday-makers. By paying for items or services, such as hotels or villas, using a credit card, you have a potential right to claim against the credit card company if the supplier breaches their obligations in supplying the goods or services.



For example in a recent case, a tourist was able to claim against his credit card company, American Express, when he was injured when he slipped and fell in the hotel, arguing that the hotel had failed to exercise reasonable care and skill in providing the hotel facilities and services. He argued the owner of the villa had breached the agreement to provide a reasonably safe property, and under the Consumer Credit Act, the credit card company was equally liable, and the cardholder could pursue a claim against the card company. They may in turn claim against the trader.

To obtain this protection:

1. the credit card must be issued under a UK credit agreement
2. the card must be issued to a consumer (this does not apply to company credits)
3. the cost of the item or service purchased is more than £100 but less than £30,000.

The act was intended to protect consumers and it was felt that the credit card companies had more power and influence to recover the financial cost from traders and spread the burden.

As well as consumer protection, and providing a venue to claim in the event of something going wrong on holiday, many credit cards also carry extra benefits. These may include legal expenses insurance to pursue a variety of claims or resolve disputes, Accident or Bodily Injury Insurance and Travel Insurance. So while we are all aware of the need to keep credit cards under control, they do have their uses and can be used to our advantage.

If you have any queries about this or any personal injury or insurance issue, please contact Jennie Jones, Nockolds LLP on 01279 755777 or at jsj@nockolds.co.uk

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New consumer protection laws come into force

by Jennie Jones, Nockolds LLP

2008 sees the introduction of the Consumer Protection from Unfair Trading Regulations 2007 which in April replaces the Trade Descriptions Act 1968 and Consumer Protection Act 1987. The regulations impose wide and sweeping obligations on retailers not to treat consumers unfairly, and create new offences to try and combat retailer aggressive commercial practices.

Practices that distort a consumer's behaviour or impacts on their ability to make an informed decision meaning a consumer buys a product or enters an agreement when they would not have done so are banned. The regulations also list commercial practices which will be prohibited under the act.

Traders are supposed to apply standards of honest market practice in that field or general principles of good practice. The use of false information or information that is presented in a way that would deceive a typical consumer on the price, the items included and it's fitness for purpose will also be banned.

It is hoped the regulations will be used to counter high pressure sales tactics. Further practical examples are thought to be where holiday companies fail to mention a five star hotel is next door to a building site. The regulations allow fines to be imposed and prosecution may carry a prison sentence.

Jennie Jones, Partner at Nockolds LLP says "the new regulations should help to protect consumers

and give authorities the power to redress the balance between big business and consumers. While we have yet to see how the general obligations will be imposed by the courts, they mean that the Office of Fair Trading and the other consumer protection groups have the necessary powers."



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