

Chapter 7

Arrears, default and recovery (including repossessions)



7.15 Statute barred debts

7.15.1 **G** A debt is statute barred where the prescribed period within which a claim in relation to the debt may be brought expires. In England, Wales and Northern Ireland, the limitation period is generally six years in relation to debt. In Scotland, the prescriptive period is five years in relation to debt.

[Note: annex B1 of DCG]

7.15.2 **G** In England, Wales and Northern Ireland, a statute barred debt still exists and is recoverable.

[Note: paragraph 3.15a and annex B3 of DCG]

7.15.3 **G** In Scotland, a statute barred debt ceases to exist and is no longer recoverable if:

- (1) a relevant claim on behalf of the *lender* or *owner* has not been made during the relevant limitation period; and
- (2) the debt has not been acknowledged by, or on behalf of, the *customer* during the relevant limitation period.

[Note: annex B3 of DCG]

7.15.4 **R** Notwithstanding that a debt may be recoverable, a *firm* must not attempt to recover a statute barred debt in England, Wales or Northern Ireland if the *lender* or *owner* has not been in contact with the *customer* during the limitation period.

[Note: paragraph 3.15b of DCG]

7.15.5 **G** If the *lender* or *owner* has been in regular contact with the *customer* during the limitation period, the *firm* may continue to attempt to recover the debt.

[Note: paragraph 3.15b of DCG]

7.15.6 **R** A *firm* must endeavour to ensure that it does not mislead a *customer* as to the *customer's* rights and obligations.

[Note: paragraph 3.15b of DCG]

7.15.7 **G** It is misleading for a *firm* to suggest or state that a *customer* may be the subject of court action for the sum of the statute barred debt when the *firm* knows, or reasonably ought to know, that the relevant limitation period has expired.

[Note: paragraph 3.15b of DCG]

7.15.8 **R** A *firm* must not continue to demand payment from a *customer* after the *customer* has stated that he will not be paying the debt because it is statute barred.

[Note: paragraph 3.15b of DCG]

7.15.9 **R** A *firm* must identify for prospective purchasers of debts arising under *credit agreements* or *consumer hire agreements* or *P2P agreements* those debts which it knows or ought reasonably to know are statute barred, so as to avoid a *firm* taking inappropriate action against *customers* in relation to such debts.

[Note: paragraph 3.23c of DCG]

Complaints to the Financial Ombudsman Service and initiating legal proceedings

7.15.10 **R** A *lender* must not initiate legal proceedings in relation to a *regulated credit agreement* where the *lender* is aware that the *customer* has submitted a valid complaint or what appears to the *firm* may be a valid complaint relating to the agreement in question that is being considered by the *Financial Ombudsman Service*.

[Note: paragraph 7.9 (box) of ILG]