



# Consumer Credit Act 1974

## 1974 CHAPTER 39

### PART III

#### LICENSING OF CREDIT AND HIRE BUSINESSES

##### *Licensing principles*

#### **21 Businesses needing a licence**

- (1) Subject to this section, a licence is required to carry on a consumer credit business or consumer hire business.
- (2) A local authority does not need a licence to carry on a business.
- (3) A body corporate empowered by a public general Act naming it to carry on a business does not need a licence to do so.

#### **22 Standard and group licences**

- (1) A licence may be—
  - (a) a standard licence, that is a licence, issued by the Director to a person named in the licence on an application made by him, which, during the prescribed period, covers such activities as are described in the licence, or
  - (b) a group licence, that is a licence, issued by the Director (whether on the application of any person or of his own motion), which, during such period as the Director thinks fit or, if he thinks fit, indefinitely, covers such persons and activities as are described in the licence.
- (2) A licence is not assignable or, subject to section 37, transmissible on death or in any other way.
- (3) Except in the case of a partnership or an unincorporated body of persons, a standard licence shall not be issued to more than one person.

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- (4) A standard licence issued to a partnership or an unincorporated body of persons shall be issued in the name of the partnership or body.
- (5) The Director may issue a group licence only if it appears to him that the public interest is better served by doing so than by obliging the persons concerned to apply separately for standard licences.
- (6) The persons covered by a group licence may be described by general words, whether or not coupled with the exclusion of named persons, or in any other way the Director thinks fit.
- (7) The fact that a person is covered by a group licence in respect of certain activities does not prevent a standard licence being issued to him in respect of those activities or any of them.
- (8) A group licence issued on the application of any person shall be issued to that person, and general notice shall be given of the issue of any group licence (whether on application or not).

### **23 Authorisation of specific activities**

- (1) Subject to this section, a licence to carry on a business covers all lawful activities done in the course of that business, whether by the licensee or other persons on his behalf.
- (2) A licence may limit the activities it covers, whether by authorising the licensee to enter into certain types of agreement only, or in any other way.
- (3) A licence covers the canvassing off trade premises of debtor-creditor-supplier agreements or regulated consumer hire agreements only if, and to the extent that, the licence specifically so provides ; and such provision shall not be included in a group licence.
- (4) Regulations may be made specifying other activities which, if engaged in by or on behalf of the person carrying on a business, require to be covered by an express term in his licence.

### **24 Control of name of business**

A standard licence authorises the licensee to carry on a business under the name or names specified in the licence, but not under any other name.

### **25 Licensee to be a fit person**

- (1) A standard licence shall be granted on the application of any person if he satisfies the Director that—
  - (a) he is a fit person to engage in activities covered by the licence, and
  - (b) the name or names under which he applies to be licensed is or are not misleading or otherwise undesirable.
- (2) In determining whether an applicant for a standard licence is a fit person to engage in any activities, the Director shall have regard to any circumstances appearing to him to be relevant, and in particular any evidence tending to show that the applicant, or any of the applicant's employees, agents or associates (whether past or present) or, where the

applicant is a body corporate, any person appearing to the Director to be a controller of the body corporate or an associate of any such person, has—

- (a) committed any offence involving fraud or other dishonesty, or violence,
  - (b) contravened any provision made by or under this Act, or by or under any other enactment regulating the provision of credit to individuals or other transactions with individuals,
  - (c) practised discrimination on grounds of sex, colour, race or ethnic or national origins in, or in connection with, the carrying on of any business, or
  - (d) engaged in business practices appearing to the Director to be deceitful or oppressive, or otherwise unfair or improper (whether unlawful or not).
- (3) In subsection (2), " associate ", in addition to the persons specified in section 184, includes a business associate.

## **26 Conduct of business**

Regulations may be made as to the conduct by a licensee of his business, and may in particular specify—

- (a) the books and other records to be kept by him, and
- (b) the information to be furnished by him to persons with whom he does business or seeks to do business, and the way it is to be furnished.

### *Issue of licences*

## **27 Determination of applications**

- (1) Unless the Director determines to issue a licence in accordance with an application he shall, before determining the application, by notice—
- (a) inform the applicant, giving his reasons, that, as the case may be, he is minded to refuse the application, or to grant it in terms different from those applied for, describing them, and
  - (b) invite the applicant to submit to the Director representations in support of his application in accordance with section 34.
- (2) If the Director grants the application in terms different from those applied for then, whether or not the applicant appeals, the Director shall issue the licence in the terms approved by him unless the applicant by notice informs him that he does not desire a licence in those terms.

## **28 Exclusion from group licence**

Where the Director is minded to issue a group licence (whether on the application of any person or not), and in doing so to exclude any person from the group by name, he shall, before determining the matter.—

- (a) give notice of that fact to the person proposed to be excluded, giving his reasons, and
- (b) invite that person to submit to the Director representations against his exclusion in accordance with section 34.

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*Renewal, variation, suspension and revocation of licences*

**29 Renewal**

- (1) If the licensee under a standard licence, or the original applicant for, or any licensee under, a group licence of limited duration, wishes the Director to renew the licence, whether on the same terms (except as to expiry) or on varied terms, he must, during the period specified by the Director by general notice or such longer period as the Director may allow, make an application to the Director for its renewal.
- (2) The Director may of his own motion renew any group licence.
- (3) The preceding provisions of this Part apply to the renewal of a licence as they apply to the issue of a licence, except that section 28 does not apply to a person who was already excluded in the licence up for renewal.
- (4) Until the determination of an application under subsection (1) and, where an appeal lies from the determination, until the end of the appeal period, the licence shall continue in force, notwithstanding that apart from this subsection it would expire earlier.
- (5) On the refusal of an application under this section, the Director may give directions authorising a licensee to carry into effect agreements made by him before the expiry of the licence.
- (6) General notice shall be given of the renewal of a group licence.

**30 Variation by request**

- (1) On an application made by the licensee, the Director may if he thinks fit by notice to the licensee vary a standard licence in accordance with the application.
- (2) In the case of a group licence issued on the application of any person, the Director, on an application made by that person, may if he thinks fit by notice to that person vary the terms of the licence in accordance with the application; but the Director shall not vary a group licence under this subsection by excluding a named person, other than the person making the request, unless that named person consents in writing to his exclusion.
- (3) In the case of a group licence from which (whether by name or description) a person is excluded, the Director, on an application made by that person, may if he thinks fit, by notice to that person, vary the terms of the licence so as to remove the exclusion.
- (4) Unless the Director determines to vary a licence in accordance with an application he shall, before determining the application, by notice—
  - (a) inform the applicant, giving his reasons, that he is minded to refuse the application, and
  - (b) invite the applicant to submit to the Director representations in support of his application in accordance with section 34.
- (5) General notice shall be given that a variation of a group licence has been made under this section.

### **31 Compulsory variation**

- (1) Where at a time during the currency of a licence the Director is of the opinion that, if the licence had expired at that time, he would, on an application for its renewal or further renewal on the same terms (except as to expiry), have been minded to grant the application but on different terms, and that therefore the licence should be varied, he shall proceed as follows.
- (2) In the case of a standard licence the Director shall, by notice—
  - (a) inform the licensee of the variations the Director is minded to make in the terms of the licence, stating his reasons, and
  - (b) invite him to submit to the Director representations as to the proposed variations in accordance with section 34.
- (3) In the case of a group licence the Director shall—
  - (a) give general notice of the variations he is minded to make in the terms of the licence, stating his reasons, and
  - (b) in the notice invite any licensee to submit to him representations as to the proposed variations in accordance with section 34.
- (4) In the case of a group licence issued on application the Director shall also—
  - (a) inform the original applicant of the variations the Director is minded to make in the terms of the licence, stating his reasons, and
  - (b) invite him to submit to the Director representations as to the proposed variations in accordance with section 34.
- (5) If the Director is minded to vary a group licence by excluding any person (other than the original applicant) from the group by name the Director shall, in addition, take the like steps under section 28 as are required in the case mentioned in that section.
- (6) General notice shall be given that a variation of any group licence has been made under this section.
- (7) A variation under this section shall not take effect before the end of the appeal period".

### **32 Suspension and revocation**

- (1) Where at a time during the currency of a licence the Director is of the opinion that if the licence had expired at that time he would have been minded not to renew it, and that therefore it should be revoked or suspended, he shall proceed as follows.
- (2) In the case of a standard licence the Director shall, by notice—
  - (a) inform the licensee that, as the case may be, the Director is minded to revoke the licence, or suspend it until a specified date or indefinitely, stating his reasons, and
  - (b) invite him to submit representations as to the proposed revocation or suspension in accordance with section 34.
- (3) In the case of a group licence the Director shall—
  - (a) give general notice that, as the case may be, he is minded to revoke the licence, or suspend it until a specified date or indefinitely, stating his reasons, and
  - (b) in the notice invite any licensee to submit to him representations as to the proposed revocation or suspension in accordance with section 34.

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- (4) In the case of a group licence issued on application the Director shall also—
  - (a) inform the original applicant that, as the case may be, the Director is minded to revoke the licence, or suspend it until a specified date or indefinitely, stating his reasons, and
  - (b) invite him to submit representations as to the proposed revocation or suspension in accordance with section 34.
- (5) If he revokes or suspends the licence, the Director may give directions authorising a licensee to carry into effect agreements made by him before the revocation or suspension.
- (6) General notice shall be given of the revocation or suspension of a group licence.
- (7) A revocation or suspension under this section shall not take effect before the end of the appeal period.
- (8) Except for the purposes of section 29, a licensee under a suspended licence shall be treated, in respect of the period of suspension, as if the licence had not been issued; and where the suspension is not expressed to end on a specified date it may, if the Director thinks fit, be ended by notice given by him to the licensee or, in the case of a group licence, by general notice.

### **33 Application to end suspension**

- (1) On an application made by a licensee the Director may, if he thinks fit, by notice to the licensee end the suspension of a licence, whether the suspension was for a fixed or indefinite period.
- (2) Unless the Director determines to end the suspension in accordance with the application he shall, before determining the application, by notice—
  - (a) inform the applicant, giving his reasons, that he is minded to refuse the application, and
  - (b) invite the applicant to submit to the Director representations in support of his application in accordance with section 34.
- (3) General notice shall be given that a suspension of a group licence has been ended under this section.
- (4) In the case of a group licence issued on application—
  - (a) the references in subsection (1) to a licensee include the original applicant;
  - (b) the Director shall inform the original applicant that a suspension of a group licence has been ended under this section.

### *Miscellaneous*

### **34 Representations to Director**

- (1) Where this section applies to an invitation by the Director to any person to submit representations, the Director shall invite that person, within 21 days after the notice containing the invitation is given to him or published, or such longer period as the Director may allow.—
  - (a) to submit his representations in writing to the Director, and

- (b) to give notice to the Director, if he thinks fit, that he wishes to make representations orally,  
and where notice is given under paragraph (b) the Director shall arrange for the oral representations to be heard.
- (2) In reaching his determination the Director shall take into account any representations submitted or made under this section.
- (3) The Director shall give notice of his determination to the persons who were required to be invited to submit representations about it or, where the invitation to submit representations was required to be given by general notice, shall give general notice of the determination.

### **35 The register**

- (1) The Director shall establish and maintain a register, in which he shall cause to be kept particulars of—
  - (a) applications not yet determined for the issue, variation or renewal of licences, or for ending the suspension of a licence;
  - (b) licences which are in force, or have at any time been suspended or revoked, with details of any variation of the terms of a licence;
  - (c) decisions given by him under this Act, and any appeal from those decisions ;  
and
  - (d) such other matters (if any) as he thinks fit.
- (2) The Director shall give general notice of the various matters required to be entered in the register, and of any change in them made under subsection (1)(d).
- (3) Any person shall be entitled on payment of the specified fee—
  - (a) to inspect the register during ordinary office hours and take copies of any entry, or
  - (b) to obtain from the Director a copy, certified by the Director to be correct, of any entry in the register.
- (4) The Director may, if he thinks fit, determine that the right conferred by subsection (3)
  - (a) shall be exercisable in relation to a copy of the register instead of, or in addition to, the original.
- (5) The Director shall give general notice of the place or places where, and times when, the register or a copy of it may be inspected.

### **36 Duty to notify changes**

- (1) Within 21 working days after a change takes place in any particulars entered in the register in respect of a standard licence or the licensee under section 35(1)(d) (not being a change resulting from action taken by the Director), the licensee shall give the Director notice of the change; and the Director shall cause any necessary amendment to be made in the register.
- (2) Within 21 working days after—
  - (a) any change takes place in the officers of—
    - (i) a body corporate, or an unincorporated body of persons, which is the licensee under a standard licence, or

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- (ii) a body corporate which is a controller of a body corporate which is such a licensee, or
  - (b) a body corporate which is such a licensee becomes aware that a person has become or ceased to be a controller of the body corporate, or
  - (c) any change takes place in the members of a partnership which is such a licensee (including a change on the amalgamation of the partnership with another firm, or a change whereby the number of partners is reduced to one),the licensee shall give the Director notice of the change.
- (3) Within 14 working days after any change takes place in the officers of a body corporate which is a controller of another body corporate which is a licensee under a standard licence, the controller shall give the licensee notice of the change.
- (4) Within 14 working days after a person becomes or ceases to be a controller of a body corporate which is a licensee under a standard licence, that person shall give the licensee notice of the fact.
- (5) Where a change in a partnership has the result that the business ceases to be carried on under the name, or any of the names, specified in a standard licence the licence shall cease to have effect.
- (6) Where the Director is given notice under sub-section (1) or (2) of any change, and subsection (5) does not apply, the Director may by notice require the licensee to furnish him with such information, verified in such manner, as the Director may stipulate.

### **37 Death, bankruptcy etc. of licensee**

- (1) A licence held by one individual terminates if he—
  - (a) dies, or
  - (b) is adjudged bankrupt, or
  - (c) becomes a patient within the meaning of Part VIII of the Mental Health Act 1959.
- (2) In relation to a licence held by one individual, or a partnership or other unincorporated body of persons, or a body corporate, regulations may specify other events relating to the licensee on the occurrence of which the licence is to terminate.
- (3) Regulations may—
  - (a) provide for the termination of a licence by subsection (1), or under subsection (2), to be deferred for a period not exceeding 12 months, and
  - (b) authorise the business of the licensee to be carried on under the licence by some other person during the period of deferment, subject to such conditions as may be prescribed.
- (4) This section does not apply to group licences.

### **38 Application of s. 37 to Scotland and Northern Ireland**

- (1) In the application of section 37 to Scotland the following shall be substituted for paragraphs (b) and (c) of subsection (1)—
  - “(b) has his estate sequestrated, or
  - (c) becomes incapable of managing his own affairs.”



(2) In the application of section 37 to Northern Ireland the following shall be substituted for subsection (1)—

“(1) A licence held by one individual terminates if—

- (a) he dies, or
- (b) he is adjudged bankrupt or his estate and effects vest in the official assignee under section 349 of the Irish Bankrupt and Insolvent Act 1857, or
- (c) a declaration is made under section 15 of the Lunacy Regulation (Ireland) Act 1871 that he is of unsound mind and incapable of managing his person or property, or an order is made under section 68 of that Act in consequence of its being found that he is of unsound mind and incapable of managing his affairs.”.

### **39 Offences against Part III**

- (1) A person who engages in any activities for which a licence is required when he is not a licensee under a licence covering those activities commits an offence.
- (2) A licensee under a standard licence who carries on business under a name not specified in the licence commits an offence.
- (3) A person who fails to give the Director or a licensee notice under section 36 within the period required commits an offence.

### **40 Enforcement of agreements made by unlicensed trader**

- (1) A regulated agreement, other than a non-commercial agreement, if made when the creditor or owner was unlicensed, is enforceable against the debtor or hirer only where the Director has made an order under this section which applies to the agreement.
- (2) Where during any period an unlicensed person (the "trader") was carrying on a consumer credit business or consumer hire business, he or his successor in title may apply to the Director for an order that regulated agreements made by the trader during that period are to be treated as if he had been licensed.
- (3) Unless the Director determines to make an order under subsection (2) in accordance with the application, he shall, before determining the application, by notice—
  - (a) inform the applicant, giving his reasons, that, as the case may be, he is minded to refuse the application, or to grant it in terms different from those applied for, describing them, and
  - (b) invite the applicant to submit to the Director representations in support of his application in accordance with section 34.
- (4) In determining whether or not to make an order under subsection (2) in respect of any period the Director shall consider, in addition to any other relevant factors—
  - (a) how far, if at all, debtors or hirers under regulated agreements made by the trader during that period were prejudiced by the trader's conduct,
  - (b) whether or not the Director would have been likely to grant a licence covering that period on an application by the trader, and
  - (c) the degree of culpability for the failure to obtain a licence.
- (5) If the Director thinks fit, he may in an order under subsection (2)—

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- (a) limit the order to specified agreements, or agreements of a specified description or made at a specified time ;
- (b) make the order conditional on the doing of specified acts by the applicant.

#### **41 Appeals to Secretary of State under Part III**

- (1) If, in the case of a determination by the Director such as is mentioned in column 1 of the table set out at the end of this section, a person mentioned in relation to that determination in column 2 of the table is aggrieved by the determination he may, within the prescribed period, and in the prescribed manner, appeal to the Secretary of State.
- (2) Regulations may make provision as to the persons by whom (on behalf of the Secretary of State) appeals under this section are to be heard, the manner in which they are to be conducted, and any other matter connected with such appeals.
- (3) On an appeal under this section, the Secretary of State may give such directions for disposing of the appeal as he thinks just, including a direction for the payment of costs by any party to the appeal.
- (4) A direction under subsection (3) for payment of costs may be made a rule of the High Court on the application of the party in whose favour it is given.
- (5) In Scotland a direction under subsection (3) for payment of expenses may be enforced in like manner as a recorded decree arbitral.

TABLE

<i>Determination</i>	<i>Appellant</i>
Refusal to issue, renew or vary licence in accordance with terms of application.	The applicant.
Exclusion of person from group licence.	The person excluded.
Refusal to give directions in respect of a licensee under section 29(5) or 32(5).	The licensee.
Compulsory variation, or suspension or revocation, of standard licence.	The licensee.
Compulsory variation, or suspension or revocation, of group licence.	The original applicant or any licensee.
Refusal to end suspension of licence in accordance with terms of application.	The applicant.
Refusal to make order under section 40(2) in accordance with terms of application.	The applicant.

#### **42 Further appeal on point of law**

- (1) In section 13 of the Tribunals and Inquiries Act 1971 (subsection (1) of which provides that on a point of law an appeal shall lie to the High Court from a decision of any tribunal mentioned in that subsection or the tribunal may be required to state a case for

the opinion of the High Court), insert the following new subsection after subsection (5)

“(5A) Subsection (1) of this section shall apply to a decision of the Secretary of State on an appeal under section 41 of the Consumer Credit Act 1974 from a determination of the Director General of Fair Trading as it applies to a decision of any of the tribunals mentioned in that subsection, but with the substitution for the reference to a party to proceedings of a reference to any person who had a right to appeal to the Secretary of State (whether or not he has exercised that right); and accordingly references in subsections (1) and (3) of this section to a tribunal shall be construed, in relation to such an appeal, as references to the Secretary of State.”

- (2) In subsection (6)(a) of the said section 13 (application to Scotland), after the word "commissioners" there shall be inserted the words " or on an appeal under section 41 of the Consumer Credit Act 1974 by a company registered in Scotland or by any other person whose principal or prospective principal place of business in the United Kingdom is in Scotland ".
- (3) In subsection (7) of the said section 13 (application to Northern Ireland) after "subsection (1) of this section" insert " and in relation to a decision of the Secretary of State on an appeal under section 41 of the Consumer Credit Act 1974 by a company registered in Northern Ireland or by any other person whose principal or prospective principal place of business in the United Kingdom is in Northern Ireland. "