



# Consumer Credit Act 1974

## 1974 CHAPTER 39

### PART X

#### ANCILLARY CREDIT BUSINESSES

##### *Definitions*

#### **145 Types of ancillary credit business.**

- (1) An ancillary credit business is any business so far as it comprises or relates to—
  - (a) credit brokerage,
  - (b) debt-adjusting,
  - (c) debt-counselling,
  - (d) debt-collecting, or
  - (e) the operation of a credit reference agency.
- (2) Subject to section 146(5) [<sup>F1</sup>and (5A)], credit brokerage is the effecting of introductions—
  - (a) of individuals desiring to obtain credit—
    - (i) to persons carrying on businesses to which this sub-paragraph applies, or
    - (ii) in the case of an individual desiring to obtain credit to finance the acquisition or provision of a dwelling occupied or to be occupied by himself or his relative, to any person carrying on a business in the course of which he provides credit secured on land, or
  - (b) of individuals desiring to obtain goods on hire to persons carrying on businesses to which this paragraph applies, or
  - (c) of individuals desiring to obtain credit, or to obtain goods on hire, to other credit-brokers.
- (3) Subsection (2)(a)(i) applies to—
  - (a) a consumer credit business;

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- (b) a business which comprises or relates to consumer credit agreements being, otherwise than by virtue of section 16(5)(a), exempt agreements;
  - (c) a business which comprises or relates to unregulated agreements where—
    - (i) the [<sup>F2</sup>law applicable to] the agreement is the law of a country outside the United Kingdom, and
    - (ii) if the [<sup>F2</sup>law applicable to] the agreement were the law of a part of the United Kingdom it would be a regulated consumer credit agreement.
- (4) Subsection (2)(b) applies to—
- (a) a consumer hire business;
  - [<sup>F3</sup>(aa) a business which comprises or relates to consumer hire agreements being, otherwise than by virtue of section 16(6), exempt agreements;]
  - (b) a business which comprises or relates to unregulated agreements where—
    - (i) the [<sup>F2</sup>law applicable to] the agreement is the law of a country outside the United Kingdom, and
    - (ii) if th [<sup>F2</sup>law applicable to] the agreement were the law of a part of the United Kingdom it would be a regulated consumer hire agreement.
- (5) Subject to [<sup>F4</sup>section 146(5B) and (6)] , debt-adjusting is, in relation to debts due under consumer credit agreements or consumer hire agreements,—
- (a) negotiating with the creditor or owner, on behalf of the debtor or hirer, terms for the discharge of a debt, or
  - (b) taking over, in return for payments by the debtor or hirer, his obligation to discharge a debt, or
  - (c) any similar activity concerned with the liquidation of a debt.
- (6) Subject to [<sup>F5</sup>section 146(5C) and (6)] , debt-counselling is the giving of advice to debtors or hirers about the liquidation of debts due under consumer credit agreements or consumer hire agreements.
- (7) Subject to section 146(6), debt-collecting is the taking of steps to procure payment of debts due under consumer credit agreements or consumer hire agreements.
- [<sup>F6</sup>(7A) Subject to section 146(7), debt administration is the taking of steps—
- (a) to perform duties under a consumer credit agreement or a consumer hire agreement on behalf of the creditor or owner, or
  - (b) to exercise or to enforce rights under such an agreement on behalf of the creditor or owner,
- so far as the taking of such steps is not debt-collecting.]
- [<sup>F7</sup>(7B) A person provides credit information services if—
- (a) he takes any steps mentioned in subsection (7C) on behalf of an individual; or
  - (b) he gives advice to an individual in relation to the taking of any such steps.
- (7C) Those steps are steps taken with a view—
- (a) to ascertaining whether a credit information agency (other than that person himself if he is one) holds information relevant to the financial standing of an individual;
  - (b) to ascertaining the contents of such information held by such an agency;
  - (c) to securing the correction of, the omission of anything from, or the making of any other kind of modification of, such information so held; or
  - (d) to securing that such an agency which holds such information—

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- (i) stops holding it; or
- (ii) does not provide it to another person.

(7D) In subsection (7C) ‘credit information agency’ means—

- (a) a person carrying on a consumer credit business or a consumer hire business;
  - (b) a person carrying on a business so far as it comprises or relates to credit brokerage, debt-adjusting, debt-counselling, debt-collecting, debt administration or the operation of a credit reference agency;
  - (c) a person carrying on a business which would be a consumer credit business except that it comprises or relates to consumer credit agreements being, otherwise than by virtue of section 16(5)(a), exempt agreements; or
  - (d) a person carrying on a business which would be a consumer hire business except that it comprises or relates to consumer hire agreements being, otherwise than by virtue of section 16(6), exempt agreements.]
- (8) A credit reference agency is a person carrying on a business comprising the furnishing of persons with information relevant to the financial standing of individuals, being information collected by the agency for that purpose.

#### Textual Amendments

- F1** Words in s. 145(2) inserted (31.10.2004) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No. 1\) Order 2003 \(S.I. 2003/1475\)](#), arts. 1(3), **21(1)(a)**
- F2** Words in s. 145(3)(c)(4)(b) substituted (1.4.1991) by [Contracts \(Applicable Law\) Act 1990 \(c. 36, SIF 30\)](#), s. 5, **Sch. 4 para. 2**; S.I. 1991/707, **art. 2**
- F3** S. 145(4)(aa) inserted (6.4.2008) by [Consumer Credit Act 2006 \(c. 14\)](#), ss. {5(4)}, 71(2); S.I. 2007/3300, **art. 3(2)**, **Sch. 2**
- F4** Words in s. 145(5) substituted (31.10.2004) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No. 1\) Order 2003 \(S.I. 2003/1475\)](#), arts. 1(3), **21(1)(b)**
- F5** Words in s. 145(6) substituted (31.10.2004) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No. 1\) Order 2003 \(S.I. 2003/1475\)](#), arts. 1(3), **21(1)(c)**
- F6** S. 145(7A) inserted (16.6.2006) by [Consumer Credit Act 2006 \(c. 14\)](#), ss. {24(2)}, 71(2); S.I. 2006/1508, **art. 3(1)**, **Sch. 1**
- F7** S. 145(7B)-(7D) inserted (16.6.2006) by [Consumer Credit Act 2006 \(c. 14\)](#), ss. {25(2)}, 71(2); S.I. 2006/1508, **art. 3(1)**, **Sch. 1**

#### 146 Exceptions from section 145.

- (1) A barrister or advocate acting in that capacity is not to be treated as doing so in the course of any ancillary credit business.
- (2) A solicitor engaging in contentious business (as defined in <sup>F8</sup>section 87(1) of the [Solicitors Act 1974](#)) is not to be treated as doing so in the course of any ancillary credit business.
- (3) A solicitor within the meaning of the <sup>M1</sup>[Solicitors \(Scotland\) Act 1933](#) engaging in business done in or for the purposes of proceedings before a court or before an arbiter is not to be treated as doing so in the course of any ancillary credit business.
- (4) A solicitor in Northern Ireland engaging in <sup>F9</sup>contentious business (as defined in Article 3(2) of the [Solicitors \(Northern Ireland\) Order 1976](#)), is not to be treated as doing so in the course of any ancillary credit business.

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- (5) For the purposes of section 145(2), introductions effected by an individual by canvassing off trade premises either debtor-creditor-supplier agreements falling within section 12(a) or regulated consumer hire agreements shall be disregarded if—
- (a) the introductions are not effected by him in the capacity of an employee, and
  - (b) he does not by any other method effect introductions falling within section 145(2).

[<sup>F10</sup>(5A) It is not credit brokerage for a person to effect the introduction of an individual desiring to obtain credit if the introduction is made—

[<sup>F11</sup>(a) to an authorised person, within the meaning of the 2000 Act, who has permission under that Act to enter into a relevant agreement as lender or home purchase provider (as the case may be); or]

(b) to a qualifying broker,

with a view to that individual obtaining credit under [<sup>F12</sup>the relevant agreement] .

(5B) It is not debt-adjusting for a person to carry on an activity mentioned in paragraph (a), (b) or (c) of section 145(5) if—

(a) the debt in question is due under a relevant agreement; and

(b) that activity is a regulated activity for the purposes of the 2000 Act.

(5C) It is not debt-counselling for a person to give advice to debtors about the liquidation of debts if—

(a) the debt in question is due under a relevant agreement; and

(b) giving that advice is a regulated activity for the purposes of the 2000 Act.

(5D) In this section—

“the 2000 Act” means the Financial Services and Markets Act 2000;

[<sup>F13</sup>“relevant agreement” means an agreement which—

(a) is secured by a land mortgage, or

(b) is or forms part of a regulated home purchase plan,

but only if entering into the agreement as lender or home purchase provider (as the case may be) is a regulated activity for the purposes of the 2000 Act.;

“qualifying broker” means a person who may effect introductions of the kind mentioned in subsection (5A) without contravening the general prohibition, within the meaning of section 19 of the 2000 Act,

and references to “regulated activities” [<sup>F14</sup>, “regulated home purchase plan” and “home purchase provider”] and the definition of “qualifying broker” must be read with—

(a) section 22 of the 2000 Act (regulated activities: power to specify classes of activity and categories of investment);

(b) any order for the time being in force under that section; and

(c) Schedule 2 to that Act.]

(6) It is not debt-adjusting, debt-counselling or debt-collecting for a person to do anything in relation to a debt arising under an agreement if—

(a) he is the creditor or owner under the agreement, otherwise than by virtue of an assignment, or

(b) he is the creditor or owner under the agreement by virtue of an assignment made in connection with the transfer to the assignee of any business other than a debt-collecting business, or

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- (c) he is the supplier in relation to the agreement, or
- (d) he is a credit-broker who has acquired the business of the person who was the supplier in relation to the agreement, or
- (e) he is a person prevented by subsection (5) from being treated as a credit-broker, and the agreement was made in consequence of an introduction (whether made by him or another person) which, under subsection (5), is to be disregarded.

[<sup>F15</sup>(7) It is not debt administration for a person to take steps to perform duties, or to exercise or enforce rights, under an agreement on behalf of the creditor or owner if any of the conditions mentioned in subsection (6)(aa) to (e) is satisfied in relation to that person.]

#### Textual Amendments

- F8** Words in s. 146(2) substituted (31.1.1997 subject to transitional provisions) by 1996 c. 23, s. 107(1), **Sch. 3 para. 28(2)** (with s. 81(2)); S.I. 1996/3146, **art. 3**
- F9** Words in s. 146(4) substituted (31.1.1997 subject to transitional provisions) by 1996 c. 23, s. 107(1), **Sch. 3** para. 28(3) (with s. 81(2)); S.I. 1996/3146, **art. 3**
- F10** S. 146(5A)-(5D) inserted (31.10.2004) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No. 1) Order 2003 (S.I. 2003/1475), arts. 1(3), **21(2)**
- F11** S. 145(5A)(a) substituted (6.11.2006 for certain purposes and 6.4.2007 otherwise) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No.2) Order 2006 (S.I. 2006/2383), arts. 1(2), **25(4)(a)(i)**
- F12** Words in s. 145(5A) substituted (6.11.2006 for certain purposes and 6.4.2007 otherwise) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No.2) Order 2006 (S.I. 2006/2383), arts. 1(2), **25(4)(a)(ii)**
- F13** S. 145(5D): definition of "relevant agreement" substituted (6.11.2006 for certain purposes and 6.4.2007 otherwise) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No.2) Order 2006 (S.I. 2006/2383), arts. 1(2), **25(4)(b)(i)**
- F14** Words in s. 145(5D) inserted (6.11.2006 for certain purposes and 6.4.2007 otherwise) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No.2) Order 2006 (S.I. 2006/2383), arts. 1(2), **25(4)(b)(ii)**
- F15** S. 146(7) inserted (16.6.2006) by Consumer Credit Act 2006 (c. 14), ss. {24(4)}, 71(2); S.I. 2006/1508, **art. 3(1)**, Sch. 1

#### Modifications etc. (not altering text)

- C1** S. 146(2)(4) amended (1.1.1992) by S.I. 1991/2684, arts. 2, 4, **Sch. 1**

#### Marginal Citations

- M1** 1933 c. 21.

### Licensing

#### 147 Application of Part III.

- (1) <sup>F16</sup> .....
- (2) Without prejudice to the generality of section 26, regulations under that section <sup>F17</sup> . . . ) may include provisions regulating the collection and dissemination of information by credit reference agencies.

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#### Textual Amendments

- F16** S. 147(1) repealed (6.4.2008) by Consumer Credit Act 2006 (c. 14), ss. 70, 71(2), Sch. 4; S.I. 2007/3300, art. 3(2), Sch. 2
- F17** Words in s. 147(2) repealed (6.4.2008) by Consumer Credit Act 2006 (c. 14), ss. 70, 71(2), Sch. 4; S.I. 2007/3300, art. 3(2), Sch. 2

#### Modifications etc. (not altering text)

- C2** S. 147(1) restricted (1.1.1993) by S.I. 1992/3218, reg. 5(1)(c)  
S. 147(1) excluded (1.1.1996) by S.I. 1995/3275, reg. 5(1)(b)  
S. 147(1) excluded (1.12.2001) by 2000 c. 8, ss. 31(1)(b), 37, Sch. 3 Pt. II para. 15(3); S.I. 2001/3538, art. 2(1)

### 148 Agreement for services of unlicensed trader.

- (1) An agreement for the services of a person carrying on an ancillary credit business (the “trader ”), if made when the trader was unlicensed, is enforceable against the other party (the “customer ”) only where the [F18OFT] has made an order under subsection (2) which applies to the agreement.
- (2) The trader or his successor in title may apply to the [F18OFT] for an order that agreements within subsection (1) are to be treated as if made when the trader was licensed.
- (3) Unless the [F18OFT] determines to make an order under subsection (2) in accordance with the application, [F19it] shall, before determining the application, by notice—
  - (a) inform the trader, giving [F20its] reasons, that, as the case may be, [F19it] is minded to refuse the application, or to grant it in terms different from those applied for, describing them, and
  - (b) invite the trader to submit to the [F18OFT] 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 [F18OFT] shall consider, in addition to any other relevant factors,—
  - (a) how far, if at all, customers, under agreements made by the trader during that period were prejudiced by the trader’s conduct,
  - (b) whether or not the [F18OFT] 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 [F18OFT] thinks fit, [F21it] may in an order under subsection (2)—
  - (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 trader.
- [F22(6) This section does not apply to an agreement made by a consumer credit EEA firm unless at the time it was made that firm was precluded from entering into it as a result of—
  - (a) a consumer credit prohibition imposed under section 203 of the Financial Services and Markets Act 2000; or
  - (b) a restriction imposed on the firm under section 204 of that Act.]

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### Textual Amendments

- F18** Words in s. 148 substituted (1.4.2003) by Enterprise Act 2002 (c. 40), ss. 278, 279, Sch. 25 para. 6(28)(a); S.I. 2003/766, art. 2, Sch. (with art. 3)
- F19** Words in s. 148(3) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), ss. 278, 279, Sch. 25 para. 6(28)(b)(i); S.I. 2003/766, art. 2, Sch. (with art. 3)
- F20** Word in s. 148(3)(a) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), ss. 278, 279, Sch. 25 para. 6(28)(b)(ii); S.I. 2003/766, art. 2, Sch. (with art. 3)
- F21** Word in s. 148(5) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), ss. 278, 279, Sch. 25 para. 6(28)(c); S.I. 2003/766, art. 2, Sch. (with art. 3)
- F22** S. 148(6) inserted (1.12.2001) by S.I. 2001/3649, art. 173

### Modifications etc. (not altering text)

- C3** S. 148 restricted (1.1.1998) by S.I. 1992/3218, reg. 61(2)  
S. 148 modified (1.1.1996) by S.I. 1995/3275, reg. 38(2)

## 149 Regulated agreements made on introductions by unlicensed credit-broker.

- (1) A regulated agreement made by a debtor or hirer who, for the purpose of making that agreement, was introduced to the creditor or owner by an unlicensed credit-broker is enforceable against the debtor or hirer only where—
- on the application of the credit-broker, the [F23OFT] has made an order under section 148(2) in respect of a period including the time when the introduction was made, and the order does not (whether in general terms or specifically) exclude the application of this paragraph to the regulated agreement, or
  - the [F23OFT] has made an order under subsection (2) which applies to the agreement.
- (2) Where during any period individuals were introduced to a person carrying on a consumer credit business or consumer hire business by an unlicensed credit-broker for the purpose of making regulated agreements with the person carrying on that business, that person or his successor in title may apply to the [F23OFT] for an order that regulated agreements so made are to be treated as if the credit-broker had been licensed at the time of the introduction.
- (3) Unless the [F23OFT] determines to make an order under subsection (2) in accordance with the application, [F24:it] shall, before determining the application, by notice—
- inform the applicant, giving [F25:its] reasons, that, as the case may be, [F24:it] is minded to refuse the application, or to grant it in terms different from those applied for, describing them, and
  - invite the applicant to submit to the [F23OFT] representations in support of his application in accordance with section 34.
- (4) In determining whether or not to make an order under subsection (2) the [F23OFT] shall consider, in addition to any other relevant factors—
- how far, if at all, debtors or hirers under regulated agreements to which the application relates were prejudiced by the credit-broker's conduct, and
  - the degree of culpability of the applicant in facilitating the carrying on by the credit-broker of his business when unlicensed.
- (5) If the [F23OFT] thinks fit, [F26:it] 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.

[<sup>F27</sup>(6) For the purposes of this section, “unlicensed credit-broker ” does not include a consumer credit EEA firm unless at the time the introduction was made that firm was precluded from making it as a result of—

- (a) a consumer credit prohibition imposed under section 203 of the Financial Services and Markets Act 2000; or
- (b) a restriction imposed on the firm under section 204 of that Act.]

#### Textual Amendments

- F23** Words in s. 149 substituted (1.4.2003) by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 6(29)(a)**; S.I. 2003/766, **art. 2**, Sch. (with art. 3)
- F24** Words in s. 149(3) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 6(29)(b)(i)**; S.I. 2003/766, **art. 2**, Sch. (with art. 3)
- F25** Word in s. 149(3)(a) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 6(29)(b)(ii)**; S.I. 2003/766, **art. 2**, Sch. (with art. 3)
- F26** Word in s. 149(5) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 6(29)(c)**; S.I. 2003/766, **art. 2**, Sch. (with art. 3)
- F27** S. 149(6) inserted (1.12.2001) by S.I. 2001/3649, **art. 174**

#### Modifications etc. (not altering text)

- C4** S. 149 restricted (1.1.1993) by S.I. 1992/3218, **reg. 61(3)**  
S. 149 modified (1.1.1996) by S.I. 1995/3275, **reg. 38(3)**

### 150 Appeals to Secretary of State against licensing decisions.

<sup>F28</sup> .....

#### Textual Amendments

- F28** S. 150 repealed (6.4.2008) by Consumer Credit Act 2006 (c. 14), ss. 70, 71(2), **Sch. 4**; S.I. 2007/3300, **art. 3(2)**, Sch. 2

### *Seeking business*

### 151 Advertisements.

- (1) Sections 44 to 47 apply to an advertisement published for the purposes of a business of credit brokerage carried on by any person, whether it advertises the services of that person or the services of persons to whom he effects introductions, as they apply to an advertisement to which Part IV applies.
- (2) Sections 44, 46 and 47 apply to an advertisement, published for the purposes of a business carried on by the advertiser, indicating that he is willing to advise on debts, or engage in transactions concerned with the liquidation of debts, as they apply to an advertisement to which Part IV applies.



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- [<sup>F29</sup>(2A) An advertisement does not fall within subsection (1) or (2) in so far as it is a communication of an invitation or inducement to engage in investment activity within the meaning of section 21 of the Financial Services and Markets Act 2000, other than an exempt generic communication (as defined in section 43(3B)).]
- (3) The Secretary of State may by order provide that an advertisement published for the purposes of a business of credit brokerage, debt adjusting or debt counselling shall not fall within subsection (1) or (2) if it is of a description specified in the order.
- (4) An advertisement does not fall within subsection (2) if it indicates that the advertiser is not willing to act in relation to consumer credit agreements and consumer hire agreements.
- (5) In subsections (1) and (3) “credit brokerage” includes the effecting of introductions of individuals desiring to obtain credit to any person carrying on a business in the course of which he provides credit secured on land.

#### Textual Amendments

**F29** S. 151(2A) inserted (1.9.2002) by S.I. 2001/544, arts. 2, 90(7); S.I. 2001/3538, art. 2

### 152 Application of sections 52 to 54 to credit brokerage etc.

- (1) Sections 52 to 54 apply to a business of credit brokerage, debt-adjusting or debt-counselling as they apply to a consumer credit business.
- (2) In their application to a business of credit brokerage, sections 52 and 53 shall apply to the giving of quotations and information about the business of any person to whom the credit-broker effects introductions as well as to the giving of quotations and information about his own business.

### 153 Definition of canvassing off trade premises (agreements for ancillary credit services).

- (1) An individual (the “canvasser”) canvasses off trade premises the services of a person carrying on an ancillary credit business if he solicits the entry of another individual (the “consumer”) into an agreement for the provision to the consumer of those services by making oral representations to the consumer, or any other individual, during a visit by the canvasser to any place (not excluded by subsection (2)) where the consumer, or that other individual as the case may be, is, being a visit—
- (a) carried out for the purpose of making such oral representations to individuals who are at that place, but
- (b) not carried out in response to a request made on a previous occasion.
- (2) A place is excluded from subsection (1) if it is a place where (whether on a permanent or temporary basis)—
- (a) the ancillary credit business is carried on, or
- (b) any business is carried on by the canvasser or the person whose employee or agent the canvasser is, or by the consumer.

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#### 154 Prohibition of canvassing certain ancillary credit services off trade premises.

It is an offence to canvass off trade premises the services of a person carrying on a business of credit-brokerage, debt-adjusting or debt-counselling.

#### 155 Right to recover brokerage fees.

- (1) [<sup>F30</sup>Subject to subsection (2A),]the excess over [<sup>F31</sup>£5] of a fee or commission for his services charged by a credit-broker to an individual to whom this subsection applies shall cease to be payable or, as the case may be, shall be recoverable by the individual if the introduction does not result in his entering into a relevant agreement within the six months following the introduction (disregarding any agreement which is cancelled under section 69(1) or becomes subject to section 69(2)).
- (2) Subsection (1) applies to an individual who sought an introduction for a purpose which would have been fulfilled by his entry into—
  - (a) a regulated agreement, or
  - (b) in the case of an individual such as is referred to in section 145(2)(a)(ii), an agreement for credit secured on land, or
  - (c) an agreement such as is referred to in section 145(3)(b) or (c) or (4)(b).

[<sup>F32</sup>(2A) But subsection (1) does not apply where—

- (a) the fee or commission relates to the effecting of an introduction of a kind mentioned in section 146(5A); and
  - (b) the person charging that fee or commission is an authorised person or an appointed representative, within the meaning of the Financial Services and Markets Act 2000.]
- (3) An agreement is a relevant agreement for the purposes of subsection (1) in relation to an individual if it is an agreement such as is referred to in subsection (2) in relation to that individual.
  - (4) In the case of an individual desiring to obtain credit under a consumer credit agreement, any sum payable or paid by him to a credit-broker otherwise than as a fee or commission for the credit-broker's services shall for the purposes of subsection (1) be treated as such a fee or commission if it enters, or would enter, into the total charge for credit.

#### Textual Amendments

**F30** Words in s. 155(1) inserted (31.10.2004) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No. 1\) Order 2003 \(S.I. 2003/1475\)](#), arts. 1(3), **22(2)**

**F31** "£5" substituted (1.5.1998) in s. 155(1) by [S.I. 1998/997](#), art. 3, **Sch.**

**F32** S. 155(2A) inserted (31.10.2004) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No. 1\) Order 2003 \(S.I. 2003/1475\)](#), arts. 1(3), **22(3)**

#### *Entry into agreements*

#### 156 Entry into agreements.

Regulations may make provision, in relation to agreements entered into in the course of a business of credit brokerage, debt-adjusting or debt-counselling, corresponding,

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with such modifications as the Secretary of State thinks fit, to the provision which is or may be made by or under sections 55, 60, 61, 62, 63, 65, 127, 179 or 180 in relation to agreements to which those sections apply.

### *Credit reference agencies*

#### **157 Duty to disclose name etc. of agency.**

- (1) A creditor, owner or negotiator, within the prescribed period after receiving a request in writing to that effect from the debtor or hirer, shall give him notice of the name and address of any credit reference agency from which the creditor, owner or negotiator has, during the antecedent negotiations, applied for information about his financial standing.
- (2) Subsection (1) does not apply to a request received more than 28 days after the termination of the antecedent negotiations, whether on the making of the regulated agreement or otherwise.
- (3) If the creditor, owner or negotiator fails to comply with subsection (1) he commits an offence.

#### **158 Duty of agency to disclose filed information.**

- (1) A credit reference agency, within the prescribed period after receiving,—
  - <sup>F33</sup>(a) a request in writing to that effect from a consumer,]
  - (b) such particulars as the agency may reasonably require to enable them to identify the file, and
  - (c) a fee of [<sup>F34</sup>£2],shall give the consumer a copy of the file relating to [<sup>F35</sup>it] kept by the agency.
- (2) When giving a copy of the file under subsection (1), the agency shall also give the consumer a statement in the prescribed form of [<sup>F36</sup>the consumer's] rights under section 159.
- (3) If the agency does not keep a file relating to the consumer it shall give [<sup>F36</sup>the consumer]notice of that fact, but need not return any money paid.
- (4) If the agency contravenes any provision of this section it commits an offence.

[<sup>F37</sup>(4A) In this section ‘consumer’ means—

- (a) a partnership consisting of two or three persons not all of whom are bodies corporate; or
  - (b) an unincorporated body of persons which does not consist entirely of bodies corporate and is not a partnership.]
- (5) In this Act “file ”, in relation to an individual, means all the information about him kept by a credit reference agency, regardless of how the information is stored, and “copy of the file ”, as respects information not in plain English, means a transcript reduced into plain English.

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### Textual Amendments

- F33** S. 158(1)(a) substituted (6.4.2007) by [Consumer Credit Act 2006 \(c. 14\)](#), ss. {5(5)}, 71(2); [S.I. 2007/123](#), [art. 3\(2\)](#), [Sch. 2](#) (as amended by [S.I. 2007/387](#), [art. 2\(3\)\(a\)](#))
- F34** "£2" substituted (1.5.1998) in s. 158(1) by [S.I. 1998/997](#), [art. 3](#), [Sch.](#)
- F35** Word in s. 158(1) substituted (1.3.2000) by [1998 c. 29](#), [s. 62\(1\)\(a\)\(ii\)](#) (with [Sch. 14 para. 20](#)); [S.I. 2000/183](#), [art. 2](#)
- F36** Words in s. 158(2)(3) substituted (1.3.2000) by [1998 c. 29](#), [ss. 62\(1\)\(b\)\(c\)](#) (with [Sch. 14 para. 20](#)); [S.I. 2000/183](#), [art. 2](#)
- F37** S. 158(4A) inserted (6.4.2007) by [Consumer Credit Act 2006 \(c. 14\)](#), ss. {5(6)}, 71(2); [S.I. 2007/123](#), [art. 3\(2\)](#), [Sch. 2](#) (as amended by [S.I. 2007/387](#), [art. 2\(3\)\(a\)](#))

## 159 Correction of wrong information.

- [<sup>F38</sup>(1) Any individual (the “objector”) given—
- (a) information under section 7 of the Data Protection Act 1998 by a credit reference agency, or
  - (b) information under section 158,
- who considers that an entry in his file is incorrect, and that if it is not corrected he is likely to be prejudiced, may give notice to the agency requiring it either to remove the entry from the file or amend it.]
- (2) Within 28 days after receiving a notice under subsection (1), the agency shall by notice inform the [<sup>F39</sup>objector] that it has—
- (a) removed the entry from the file, or
  - (b) amended the entry, or
  - (c) taken no action,
- and if the notice states that the agency has amended the entry it shall include a copy of the file so far as it comprises the amended entry.
- (3) Within 28 days after receiving a notice under subsection (2), or where no such notice was given, within 28 days after the expiry of the period mentioned in subsection (2), the [<sup>F39</sup>objector] may, unless he has been informed by the agency that it has removed the entry from his file, serve a further notice on the agency requiring it to add to the file an accompanying notice of correction (not exceeding 200 words) drawn up by the [<sup>F39</sup>objector], and include a copy of it when furnishing information included in or based on that entry.
- (4) Within 28 days after receiving a notice under subsection (3), the agency, unless it intends to apply to the [<sup>F39</sup>the relevant authority] under subsection (5), shall by notice inform the [<sup>F39</sup>objector] that it has received the notice under subsection (3) and intends to comply with it.
- (5) If—
- (a) the [<sup>F39</sup>objector] has not received a notice under subsection (4) within the time required, or
  - (b) it appears to the agency that it would be improper for it to publish a notice of correction because it is incorrect, or unjustly defames any person, or is frivolous or scandalous, or is for any other reason unsuitable,

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the [<sup>F39</sup>objector] or, as the case may be, the agency may, in the prescribed manner and on payment of the specified fee, apply to [<sup>F39</sup>the relevant authority], who may make such order on the application as he thinks fit.

(6) If a person to whom an order under this section is directed fails to comply with it within the period specified in the order he commits an offence.

[<sup>F40</sup>(7) The [<sup>F41</sup>Information Commissioner] may vary or revoke any order made by him under this section.

(8) In this section “the relevant authority ” means—

- (a) where the objector is a partnership or other unincorporated body of persons, the [<sup>F42</sup>OFT] , and
- (b) in any other case, the [<sup>F41</sup>Information Commissioner].]

#### Textual Amendments

**F38** S. 159(1) substituted (1.3.2000) by 1998 c. 29, s.62(2); S.I. 2000/183, art. 2 (with ss. 159, 160)

**F39** Words in s. 159(2)-(6) substituted (1.3.2000) by 1998 c. 29, s. 62(3)(a)(b); S.I. 2000/183, art. 2 (with art. 2(2))

**F40** S. 159(7)(8) inserted (1.3.2000) by 1998 c. 29, s. 62(4); S.I. 2000/183, art. 2 (with art. 2(2))

**F41** Words in s. 159(7)(8)(b) substituted (30.1.2001) by 2000 c. 36, ss. 18(4), 87(2), Sch. 2 Pt. I para. 7 (with ss. 7(1)(7), 56, 78)

**F42** Words in s. 159 substituted (1.4.2003) by Enterprise Act 2002 (c. 40), ss. 278, 279, Sch. 25 para. 6(30); S.I. 2003/766, art. 2, Sch. (with art. 3)

#### 160 Alternative procedure for business consumers.

(1) The [<sup>F43</sup>OFT] , on an application made by a credit reference agency, may direct that this section shall apply to the agency if [<sup>F44</sup>it] is satisfied—

- (a) that compliance with section 158 in the case of consumers who carry on a business would adversely affect the service provided to its customers by the agency, and
- (b) that, having regard to the methods employed by the agency and to any other relevant factors, it is probable that consumers carrying on a business would not be prejudiced by the making of the direction.

(2) Where an agency to which this section applies receives a request, particulars and a fee under section 158(1) from a consumer who carries on a business, and section 158(3) does not apply, the agency, instead of complying with section 158, may elect to deal with the matter under the following subsections.

(3) Instead of giving the consumer a copy of the file, the agency shall within the prescribed period give notice to the consumer that it is proceeding under this section, and by notice give the consumer such information included in or based on entries in the file as the [<sup>F43</sup>OFT] may direct, together with a statement in the prescribed form of the consumer’s rights under subsections (4) and (5).

(4) If within 28 days after receiving the information given [<sup>F45</sup>to the consumer] under subsection (3), or such longer period as the [<sup>F43</sup>OFT] may allow, the consumer—

- (a) gives notice to the [<sup>F43</sup>OFT] that [<sup>F46</sup>the consumer] is dissatisfied with the information, and

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- (b) satisfies the [F43OFT] that [F46the consumer] has taken such steps in relation to the agency as may be reasonable with a view to removing the cause of [F46the consumer's] dissatisfaction, and
  - (c) pays the [F43OFT] the specified fee,
- the [F43OFT] may direct the agency to give the [F43OFT] a copy of the file, and the [F43OFT] may disclose to the consumer such of the information on the file as the [F43OFT] thinks fit.
- (5) Section 159 applies with any necessary modifications to information given to the consumer under this section as it applies to information given under section 158.
- (6) If an agency making an election under subsection (2) fails to comply with subsection (3) or (4) it commits an offence.

[F47(7) In this section “consumer ” has the same meaning as in section 158.]

#### Textual Amendments

- F43** Words in s. 160 substituted (1.4.2003) by Enterprise Act 2002 (c. 40), ss. 278, 279, Sch. 25 para. 6(31)(a); S.I. 2003/766, art. 2, Sch. (with art. 3)
- F44** Word in s. 160(1) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), ss. 278, 279, Sch. 25 para. 6(31)(b); S.I. 2003/766, art. 2, Sch. (with art. 3)
- F45** Words in s. 160(4) substituted (1.3.2000) by 1998 c. 29, s. 62(5)(a)(i); S.I. 2000/183, art. 2 (with art. 2(2))
- F46** Words in s. 160(4)(a)(b) substituted (1.3.2000) by 1998 c. 29, s. 62(5)(a)(ii); S.I. 2000/183, art. 2 (with art. 2(2))
- F47** S. 160(7) inserted (1.3.2000) by 1998 c. 29, s. 62(5)(b); S.I. 2000/183, art. 2 (with art. 2(2))

VALID FROM 30/04/2010

#### [F48]160A Credit intermediaries

- (1) In this section “credit intermediary” means a person who in the course of business—
- (a) carries out any of the activities specified in subsection (2) for a consideration that is or includes a financial consideration, and
  - (b) does not do so as a creditor.
- (2) The activities are—
- (a) recommending or making available prospective regulated consumer credit agreements, other than agreements secured on land, to individuals,
  - (b) assisting individuals by undertaking other preparatory work in relation to such agreements, or
  - (c) entering into regulated consumer credit agreements, other than agreements secured on land, with individuals on behalf of creditors.
- (3) A credit intermediary must in—
- (a) advertising of his relating to an activity in subsection (2) which is intended for individuals not acting the course of a business, or
  - (b) documentation of his relating to an activity in subsection (2) which is intended for individuals,

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indicate the extent to which the intermediary is acting independently and in particular whether he works exclusively with a creditor.

- (4) Where a credit intermediary carries on an activity specified in subsection (2) for a debtor, the intermediary must secure that any financial consideration payable to him by the debtor for the activity is disclosed to the debtor and then agreed in writing before the regulated consumer credit agreement is concluded.
- (5) Where a credit intermediary carries on an activity specified in subsection (2) for a debtor, the intermediary must disclose to the creditor the financial consideration for the activity payable by the debtor if the annual percentage rate of the total charge for credit prescribed under section 20 is to be ascertained by the creditor.
- (6) A credit intermediary who fails to comply with a requirement of this section commits an offence.
- (7) An offence under this section is to be treated for the purposes of the definition of “relevant offence” in section 38(1) and (2) of the Regulatory Enforcement and Sanctions Act 2008 as an offence contained in this Act immediately before the day on which that Act was passed.]

#### Textual Amendments

**F48** S. 160A inserted (30.4.2010 for certain purposes and otherwise 1.2.2011) by [The Consumer Credit \(EU Directive\) Regulations 2010 \(S.I. 2010/1010\)](#), [regs. 41, 99\(1\)\(2\)\(c\)](#) (with [regs. 100, 101](#))

**Status:**

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