



# Consumer Credit Act 1974

## 1974 CHAPTER 39

### PART X

#### ANCILLARY CREDIT BUSINESSES

##### *Definitions*

#### **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>F1</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>F2</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.
- (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>F3</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—

*Status: Point in time view as at 06/04/2008. This version of this provision has been superseded.*

*Changes to legislation: Consumer Credit Act 1974, Section 146 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- [<sup>F4</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>F5</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>F6</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>F7</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
- (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.

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[<sup>F8</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

- F1** 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**
- F2** 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**
- F3** 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)**
- F4** 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)**
- F5** 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)**
- F6** 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)**
- F7** 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)**
- F8** 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.

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