



# Consumer Credit Act 2006

## 2006 CHAPTER 14

*Applications for licences and fitness to hold a licence etc.*

### 27 Charge on applicants for licences etc.

(1) After section 6 of the 1974 Act insert—

**“6A Charge on applicants for licences etc.**

- (1) An applicant for a licence, or for the renewal of a licence, shall pay the OFT a charge towards the costs of carrying out its functions under this Act.
- (2) The amount of the charge payable by an applicant shall be determined in accordance with provision made by the OFT by general notice.
- (3) The provision that may be made by the OFT under subsection (2) includes—
  - (a) different provision in relation to persons of different descriptions;
  - (b) provision for no charge at all to be payable by persons of specified descriptions.
- (4) The approval of the Secretary of State and the Treasury is required for a general notice under subsection (2).”

(2) In section 6 of that Act (which contains provision relating to applications) after subsection (2) insert—

“(2A) The application must also be accompanied—

- (a) in the case of an application for a licence or for the renewal of a licence, by the charge payable by virtue of section 6A;
- (b) in any other case, by the specified fee.”

(3) In section 189 of that Act (definitions) after subsection (1) insert—

“(1A) In sections 36E(3), 70(4), 73(4) and 75(2) and paragraphs 14 and 15 of Schedule A1 ‘costs’, in relation to proceedings in Scotland, means expenses.”

- (4) In section 191(1)(a) of that Act (special provisions as to Northern Ireland) after “notices” insert “, charges”.

## **28 Applications for standard licences**

After section 24 of the 1974 Act insert—

### **“24A Applications for standard licences**

- (1) An application for a standard licence shall, in relation to each type of business which is covered by the application, state whether the applicant is applying—
- (a) for the licence to cover the carrying on of that type of business with no limitation; or
  - (b) for the licence to cover the carrying on of that type of business only so far as it falls within one or more descriptions of business.
- (2) An application within subsection (1)(b) in relation to a type of business shall set out the description or descriptions of business in question.
- (3) References in this Part to a type of business are references to a type of business within subsection (4).
- (4) The types of business within this subsection are—
- (a) a consumer credit business;
  - (b) a consumer hire business;
  - (c) a business so far as it comprises or relates to credit brokerage;
  - (d) a business so far as it comprises or relates to debt-adjusting;
  - (e) a business so far as it comprises or relates to debt-counselling;
  - (f) a business so far as it comprises or relates to debt-collecting;
  - (g) a business so far as it comprises or relates to debt administration;
  - (h) a business so far as it comprises or relates to the provision of credit information services;
  - (i) a business so far as it comprises or relates to the operation of a credit reference agency.
- (5) The OFT—
- (a) shall by general notice specify the descriptions of business which can be set out in an application for the purposes of subsection (2) in relation to a type of business;
  - (b) may by general notice provide that applications within subsection (1)(b) cannot be made in relation to one or more of the types of business within subsection (4)(c) to (i).
- (6) The power of the OFT under subsection (5) includes power to make different provision for different cases or classes of case.”

## **29 Issue of standard licences**

- (1) In section 25 of the 1974 Act (licensee to be a fit person) for subsection (1) substitute—
- “(1) If an applicant for a standard licence—

- (a) makes an application within section 24A(1)(a) in relation to a type of business, and
- (b) satisfies the OFT that he is a fit person to carry on that type of business with no limitation,

he shall be entitled to be issued with a standard licence covering the carrying on of that type of business with no limitation.

(1AA) If such an applicant—

- (a) makes an application within subsection (1)(b) of section 24A in relation to a type of business, and
- (b) satisfies the OFT that he is a fit person to carry on that type of business so far as it falls within the description or descriptions of business set out in his application in accordance with subsection (2) of that section,

he shall be entitled to be issued with a standard licence covering the carrying on of that type of business so far as it falls within the description or descriptions in question.

(1AB) If such an applicant makes an application within section 24A(1)(a) or (b) in relation to a type of business but fails to satisfy the OFT as mentioned in subsection (1) or (1AA) (as the case may be), he shall nevertheless be entitled to be issued with a standard licence covering the carrying on of that type of business so far as it falls within one or more descriptions of business if—

- (a) he satisfies the OFT that he is a fit person to carry on that type of business so far as it falls within the description or descriptions in question;
- (b) he could have applied for the licence to be limited in that way; and
- (c) the licence would not cover any activity which was not covered by his application.

(1AC) In this section ‘description of business’ means, in relation to a type of business, a description of business specified in a general notice under section 24A(5)(a).

(1AD) An applicant shall not, by virtue of this section, be issued with a licence unless he satisfies the OFT that the name or names under which he would be licensed is or are not misleading or otherwise undesirable.”

(2) For subsection (2) of that section substitute—

“(2) In determining whether an applicant for a licence is a fit person for the purposes of this section the OFT shall have regard to any matters appearing to it to be relevant including (amongst other things)—

- (a) the applicant’s skills, knowledge and experience in relation to consumer credit businesses, consumer hire businesses or ancillary credit businesses;
- (b) such skills, knowledge and experience of other persons who the applicant proposes will participate in any business that would be carried on by him under the licence;
- (c) practices and procedures that the applicant proposes to implement in connection with any such business;
- (d) evidence of the kind mentioned in subsection (2A).

(2A) That evidence is 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 OFT 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—
  - (i) this Act;
  - (ii) Part 16 of the Financial Services and Markets Act 2000 so far as it relates to the consumer credit jurisdiction under that Part;
  - (iii) any other enactment regulating the provision of credit to individuals or other transactions with individuals;
- (c) contravened any provision in force in an EEA State which corresponds to a provision of the kind mentioned in paragraph (b);
- (d) 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
- (e) engaged in business practices appearing to the OFT to be deceitful or oppressive or otherwise unfair or improper (whether unlawful or not).

(2B) For the purposes of subsection (2A)(e), the business practices which the OFT may consider to be deceitful or oppressive or otherwise unfair or improper include practices in the carrying on of a consumer credit business that appear to the OFT to involve irresponsible lending.”

(3) In subsection (3) of that section for “(2)” substitute “(2A)”.

### **30 Guidance on fitness test**

After section 25 of the 1974 Act insert—

#### **“25A Guidance on fitness test**

- (1) The OFT shall prepare and publish guidance in relation to how it determines, or how it proposes to determine, whether persons are fit persons as mentioned in section 25.
- (2) If the OFT revises the guidance at any time after it has been published, the OFT shall publish it as revised.
- (3) The guidance shall be published in such manner as the OFT thinks fit for the purpose of bringing it to the attention of those likely to be affected by it.
- (4) In preparing or revising the guidance the OFT shall consult such persons as it thinks fit.
- (5) In carrying out its functions under this Part the OFT shall have regard to the guidance as most recently published.”

### **31 Variation of standard licences etc.**

(1) In section 30 of the 1974 Act (variation of licences by request) for subsection (1) substitute—

- “(1) If it thinks fit, the OFT may by notice to the licensee under a standard licence—
- (a) in the case of a licence which covers the carrying on of a type of business only so far as it falls within one or more descriptions of business, vary the licence by—
    - (i) removing that limitation;
    - (ii) adding a description of business to that limitation; or
    - (iii) removing a description of business from that limitation;
  - (b) in the case of a licence which covers the carrying on of a type of business with no limitation, vary the licence so that it covers the carrying on of that type of business only so far as it falls within one or more descriptions of business;
  - (c) vary the licence so that it no longer covers the carrying on of a type of business at all;
  - (d) vary the licence so that a type of business the carrying on of which is not covered at all by the licence is covered either—
    - (i) with no limitation; or
    - (ii) only so far as it falls within one or more descriptions of business; or
  - (e) vary the licence in any other way except for the purpose of varying the descriptions of activities covered by the licence.
- (1A) The OFT may vary a licence under subsection (1) only in accordance with an application made by the licensee.
- (1B) References in this section to a description of business in relation to a type of business—
- (a) are references to a description of business specified in a general notice under section 24A(5)(a); and
  - (b) in subsection (1)(a) (apart from sub-paragraph (ii)) include references to a description of business that was, but is no longer, so specified.”

(2) In subsection (1) of section 31 of that Act (compulsory variation of licences) for “the licence should be varied” substitute “it should take steps mentioned in subsection (1A)”.

(3) After that subsection insert—

“(1A) Those steps are—

    - (a) in the case of a standard licence, steps mentioned in section 30(1)(a) (ii) and (iii), (b), (c) and (e);
    - (b) in the case of a group licence, the varying of terms of the licence.”

(4) After subsection (7) of that section insert—

“(8) Subsection (1) shall have effect in relation to a standard licence as if an application could be made for the renewal or further renewal of the licence on the same terms (except as to expiry) even if such an application could not be made because of provision made in a general notice under section 24A(5).

(9) Accordingly, in applying subsection (1AA) of section 25 in relation to the licence for the purposes of this section, the OFT shall treat references in

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*Status: This is the original version (as it was originally enacted).*

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that subsection to the description or descriptions of business in relation to a type of business as references to the description or descriptions of business included in the licence in relation to that type of business, notwithstanding that provision under section 24A(5).”

- (5) In section 32 of that Act (suspension and revocation of licences) after subsection (8) insert—

“(9) The OFT has no power to revoke or to suspend a standard licence simply because, by virtue of provision made in a general notice under section 24A(5), a person cannot apply for the renewal of such a licence on terms which are the same as the terms of the licence in question.”

### **32 Winding-up of standard licensee’s business**

- (1) After section 34 of the 1974 Act insert—

#### **“34A Winding-up of standard licensee’s business**

- (1) If it thinks fit, the OFT may, for the purpose of enabling the licensee’s business, or any part of his business, to be transferred or wound up, include as part of a determination to which subsection (2) applies provision authorising the licensee to carry on for a specified period—

- (a) specified activities, or
- (b) activities of specified descriptions,

which, because of that determination, the licensee will no longer be licensed to carry on.

- (2) This subsection applies to the following determinations—

- (a) a determination to refuse to renew a standard licence in accordance with the terms of the application for its renewal;
- (b) a determination to vary such a licence under section 31;
- (c) a determination to suspend or revoke such a licence.

- (3) Such provision—

- (a) may specify different periods for different activities or activities of different descriptions;
- (b) may provide for persons other than the licensee to carry on activities under the authorisation;
- (c) may specify requirements which must be complied with by a person carrying on activities under the authorisation in relation to those activities;

and, if a requirement specified under paragraph (c) is not complied with, the OFT may by notice to a person carrying on activities under the authorisation terminate the authorisation (in whole or in part) from a specified date.

- (4) Without prejudice to the generality of paragraph (c) of subsection (3), a requirement specified under that paragraph may have the effect of—

- (a) preventing a named person from being an employee of a person carrying on activities under the authorisation, or restricting the activities he may engage in as an employee of such a person;

- (b) preventing a named person from doing something, or restricting his doing something, in connection with activities being carried on by a person under the authorisation;
  - (c) securing that access to premises is given to officers of the OFT for the purpose of enabling them to inspect documents or to observe the carrying on of activities.
- (5) Activities carried on under an authorisation shall be treated for the purposes of sections 39(1), 40, 148 and 149 as if carried on under a standard licence.”
- (2) In section 29 of that Act (renewal of licences) after subsection (3) insert—
  - “(3A) In its application to the renewal of standard licences by virtue of subsection (3) of this section, section 27(1) shall have effect as if for paragraph (b) there were substituted—
    - “(b) invite the applicant to submit to the OFT in accordance with section 34 representations—
      - (i) in support of his application; and
      - (ii) about the provision (if any) that should be included under section 34A as part of the determination were the OFT to refuse the application or grant it in terms different from those applied for.””
- (3) Subsection (5) of that section (which gives the OFT power to give directions allowing licensees to carry agreements into effect) shall cease to have effect.
- (4) In section 31(2) of that Act (procedure to be followed in case of proposed compulsory variation of a standard licence) for paragraph (b) substitute—
  - “(b) invite him to submit to the OFT in accordance with section 34 representations—
    - (i) as to the proposed variations; and
    - (ii) about the provision (if any) that should be included under section 34A as part of the determination were the OFT to vary the licence.”
- (5) In subsection (2) of section 32 of that Act (procedure to be followed in case of proposed revocation or suspension of a standard licence) for paragraph (b) substitute—
  - “(b) invite him to submit to the OFT in accordance with section 34 representations—
    - (i) as to the proposed revocation or suspension; and
    - (ii) about the provision (if any) that should be included under section 34A as part of the determination were the OFT to revoke or suspend the licence.”
- (6) Subsection (5) of that section (which gives the OFT power to give directions allowing licensees to carry agreements into effect) shall cease to have effect.

### **33 Consequential amendments relating to ss. 27 to 32**

- (1) In section 21(1) of the 1974 Act (businesses needing a licence) for “consumer hire business” substitute “a consumer hire business or an ancillary credit business”.
- (2) In section 22 of that Act (standard and group licences) after subsection (5) insert—

“(5A) A group licence to carry on a business may limit the activities it covers in any way the OFT thinks fit.”

- (3) In subsection (1) of section 23 of that Act (authorisation of specific activities) for “this section” substitute “the terms of the licence”.
- (4) In subsection (4) of that section for “Regulations may be made specifying” substitute “The OFT may by general notice specify”.
- (5) After section 27 of that Act insert—

**“27A Consumer credit EEA firms**

- (1) Where—
  - (a) a consumer credit EEA firm makes an application for a standard licence, and
  - (b) the activities covered by the application are all permitted activities, the OFT shall refuse the application.
- (2) Subsection (3) applies where—
  - (a) a consumer credit EEA firm makes an application for a standard licence; and
  - (b) some (but not all) of the activities covered by the application are permitted activities.
- (3) In order to be entitled to be issued with a standard licence in accordance with section 25(1) to (1AB) in relation to a type of business, the firm need not satisfy the OFT that it is a fit person to carry on that type of business so far as it would involve any of the permitted activities covered by the application.
- (4) A standard licence held by a consumer credit EEA firm does not at any time authorise the carrying on of an activity which is a permitted activity at that time.
- (5) In this section ‘permitted activity’ means, in relation to a consumer credit EEA firm, an activity for which the firm has, or could obtain, permission under paragraph 15 of Schedule 3 to the Financial Services and Markets Act 2000.”
- (6) In the Table in section 41 of that Act (appeals) in the entry relating to “refusal to make order under section 40(2) in accordance with terms of application” after “40(2)” insert “, 148(2) or 149(2)”.
- (7) In sections 194(3) and 203(4) of the 2000 Act (powers of intervention and prohibition) for “(a) to (d) of section 25(2)” substitute “(a) to (e) of section 25(2A)”.
- (8) In section 203(10) of that Act (definitions relating to Consumer Credit Act businesses) in the definition of “associate” for “25(2)” substitute “25(2A)”.
- (9) In paragraph 15(3) of Schedule 3 to that Act (EEA passport rights) for “21, 39(1) and 147(1)” substitute “21 and 39(1)”.
- (10) In paragraph 23 of that Schedule in sub-paragraph (1) for “Sub-paragraph (2) applies” substitute “Sub-paragraphs (2) and (2A) apply”.



(11) In sub-paragraph (2) of that paragraph for “(a) to (d) of section 25(2)” substitute “(a) to (e) of section 25(2A)”.

(12) After that sub-paragraph insert—

“(2A) The Authority may also exercise its power under section 45 in respect of the firm if the Office of Fair Trading has informed the Authority that it has concerns about any of the following—

- (a) the firm’s skills, knowledge and experience in relation to Consumer Credit Act businesses;
- (b) such skills, knowledge and experience of other persons who are participating in any Consumer Credit Act business being carried on by the firm;
- (c) practices and procedures that the firm is implementing in connection with any such business.”