



Consumer Credit Act 2006

2006 CHAPTER 14

Powers and duties in relation to information

44 Provision of information etc. by applicants

- (1) In subsection (2) of section 6 of the 1974 Act (which contains provision relating to applications)—
 - (a) for “particulars” substitute “information and documents”;
 - (b) for “by” in the second place where it occurs substitute “or describe in a”.
- (2) For subsection (3) of that section substitute—

“(3) Where the OFT receives an application, it may by notice to the applicant at any time before the determination of the application require him to provide such information or documents relevant to the application as may be specified or described in the notice.”
- (3) After subsection (4) of that section insert—

“(5) Subsection (6) applies where a general notice under subsection (2) comes into effect—

 - (a) after an application has been made; but
 - (b) before its determination.
- (6) The applicant shall, within such period as may be specified in the general notice, provide the OFT with any information or document—
 - (a) which he has not previously provided in relation to the application by virtue of this section;
 - (b) which he would have been required to provide with his application had it been made after the general notice came into effect; and
 - (c) which the general notice requires to be provided for the purposes of this subsection.
- (7) An applicant shall notify the OFT, giving details, if before his application is determined—

Status: This is the original version (as it was originally enacted).

- (a) any information or document provided by him in relation to the application by virtue of this section is, to any extent, superseded or otherwise affected by a change in circumstances; or
 - (b) he becomes aware of an error in or omission from any such information or document.
- (8) A notification for the purposes of subsection (7) shall be given within the period of 28 days beginning with the day on which (as the case may be)—
- (a) the information or document is superseded;
 - (b) the change in circumstances occurs; or
 - (c) the applicant becomes aware of the error or omission.
- (9) Subsection (7) does not require an applicant to notify the OFT about—
- (a) anything of which he is required to notify it under section 36; or
 - (b) an error in or omission from any information or document which is a clerical error or omission not affecting the substance of the information or document.”

45 Duties to notify changes in information etc.

After section 36 of the 1974 Act insert—

“36A Further duties to notify changes etc.

- (1) Subsections (2) to (4) apply where a general notice under section 6(2) comes into effect.
- (2) A person who is the licensee under a standard licence or who is the original applicant for a group licence shall, in relation to each relevant application which he has made and which was determined before the general notice came into effect, provide the OFT with any information or document—
 - (a) which he would have been required to provide with the application had the application been made after the general notice came into effect; and
 - (b) which the general notice requires to be provided for the purposes of this subsection.
- (3) Any such information or document shall be provided within such period as may be specified in the general notice.
- (4) Subsection (2) does not require a person to provide any information or document—
 - (a) which he provided in relation to the application by virtue of section 6;
 - (b) which he has previously provided in relation to the application by virtue of this section; or
 - (c) which he would have been required to provide in relation to the application by virtue of subsection (5) but for subsection (6).
- (5) A person who is the licensee under a standard licence or who is the original applicant for a group licence shall, in relation to each relevant application which he has made, notify the OFT giving details if, after the application is determined, any information or document which he—
 - (a) provided in relation to the application by virtue of section 6, or

- (b) has so provided by virtue of this section,
is, to any extent, superseded or otherwise affected by a change in circumstances.
- (6) Subsection (5) does not require a person to notify the OFT about a matter unless it falls within a description of matters specified by the OFT in a general notice.
- (7) A description may be specified for the purposes of subsection (6) only if the OFT is satisfied that the matters which would fall within that description are matters which would be relevant to the question of—
 - (a) whether, having regard to section 25(2), a person is a fit person to carry on a business under a standard licence; or
 - (b) whether the public interest is better served by a group licence remaining in effect than by obliging the licensees under it to apply separately for standard licences.
- (8) A person who is the licensee under a standard licence or who is the original applicant for a group licence shall, in relation to each relevant application which he has made, notify the OFT about every error or omission—
 - (a) in or from any information or document which he provided by virtue of section 6, or which he has provided by virtue of this section, in relation to the application; and
 - (b) of which he becomes aware after the determination of the application.
- (9) A notification for the purposes of subsection (5) or (8) shall be given within the period of 28 days beginning with the day on which (as the case may be)—
 - (a) the information or document is superseded;
 - (b) the change in circumstances occurs; or
 - (c) the licensee or the original applicant becomes aware of the error or omission.
- (10) This section does not require a person to notify the OFT about—
 - (a) anything of which he is required to notify it under section 36; or
 - (b) an error in or omission from any information or document which is a clerical error or omission not affecting the substance of the information or document.
- (11) In this section ‘relevant application’ means, in relation to a person who is the licensee under a standard licence or who is the original applicant for a group licence—
 - (a) the original application for the licence; or
 - (b) an application for its renewal or for its variation.”

46 Power of OFT to require information generally

After section 36A of the 1974 Act (inserted by section 45 of this Act) insert—

“36B Power of OFT to require information generally

- (1) The OFT may by notice to a person require him—
 - (a) to provide such information as may be specified or described in the notice; or
 - (b) to produce such documents as may be so specified or described.

- (2) The notice shall set out the reasons why the OFT requires the information or documents to be provided or produced.
- (3) The information or documents shall be provided or produced—
- (a) before the end of such reasonable period as may be specified in the notice; and
 - (b) at such place as may be so specified.
- (4) A requirement may be imposed under subsection (1) on a person who is—
- (a) the licensee under a standard licence, or
 - (b) the original applicant for a group licence,
- only if the provision or production of the information or documents in question is reasonably required for purposes connected with the OFT's functions under this Act.
- (5) A requirement may be imposed under subsection (1) on any other person only if—
- (a) an act or omission mentioned in subsection (6) has occurred or the OFT has reason to suspect that such an act or omission has occurred; and
 - (b) the provision or production of the information or documents in question is reasonably required for purposes connected with—
 - (i) the taking by the OFT of steps under this Part as a consequence; or
 - (ii) its consideration of whether to take such steps as a consequence.
- (6) Those acts or omissions are acts or omissions which—
- (a) cast doubt on whether, having regard to section 25(2), a person is a fit person to carry on a business under a standard licence;
 - (b) cast doubt on whether the public interest is better served by a group licence remaining in effect, or being issued, than by obliging the persons who are licensees under it, or who would be licensees under it, to apply separately for standard licences;
 - (c) give rise, or are likely to give rise, to dissatisfaction for the purposes of section 33A(1) or 33B(1); or
 - (d) constitute or give rise to a failure of the kind mentioned in section 39A(1)."

47 Power of OFT to require access to premises

After section 36B of the 1974 Act (inserted by section 46 of this Act) insert—

“36C Power of OFT to require access to premises

- (1) The OFT may by notice to a licensee under a licence require him to secure that access to the premises specified or described in the notice is given to an officer of an enforcement authority in order for the officer—
- (a) to observe the carrying on of a business under the licence by the licensee; or
 - (b) to inspect such documents of the licensee relating to such a business as are—

- (i) specified or described in the notice; and
 - (ii) situated on the premises.
- (2) The notice shall set out the reasons why the access is required.
- (3) The premises which may be specified or described in the notice—
 - (a) include premises which are not premises of the licensee if they are premises from which he carries on activities in connection with the business in question; but
 - (b) do not include premises which are used only as a dwelling.
- (4) The licensee shall secure that the required access is given at such times as the OFT reasonably requires.
- (5) The OFT shall give reasonable notice of those times.
- (6) Where an officer is given access to any premises by virtue of this section, the licensee shall also secure that persons on the premises give the officer such assistance or information as he may reasonably require in connection with his observation or inspection of documents (as the case may be).
- (7) The assistance that may be required under subsection (6) includes (amongst other things) the giving to the officer of an explanation of a document which he is inspecting.
- (8) A requirement may be imposed under subsection (1) on a person who is—
 - (a) the licensee under a standard licence, or
 - (b) the original applicant for a group licence,only if the observation or inspection in question is reasonably required for purposes connected with the OFT's functions under this Act.
- (9) A requirement may be imposed under subsection (1) on any other person only if—
 - (a) an act or omission mentioned in section 36B(6) has occurred or the OFT has reason to suspect that such an act or omission has occurred; and
 - (b) the observation or inspection in question is reasonably required for purposes connected with—
 - (i) the taking by the OFT of steps under this Part as a consequence; or
 - (ii) its consideration of whether to take such steps as a consequence.
- (10) In this section—
 - (a) references to a licensee under a licence include, in relation to a group licence issued on application, references to the original applicant; and
 - (b) references to a business being carried on under a licence by a licensee include, in relation to the original applicant for a group licence, activities being carried on by him for the purpose of regulating or otherwise supervising (whether by virtue of an enactment, an agreement or otherwise) licensees under that licence in connection with their carrying on of businesses under that licence.”

48 Entry to premises under warrant

After section 36C of the 1974 Act (inserted by section 47 of this Act) insert—

“36D Entry to premises under warrant

- (1) A justice of the peace may issue a warrant under this section if satisfied on information on oath given on behalf of the OFT that there are reasonable grounds for believing that the following conditions are satisfied.
- (2) Those conditions are—
 - (a) that there is on the premises specified in the warrant information or documents in relation to which a requirement could be imposed under section 36B; and
 - (b) that if such a requirement were to be imposed in relation to the information or documents—
 - (i) it would not be complied with; or
 - (ii) the information or documents would be tampered with.
- (3) A warrant under this section shall authorise an officer of an enforcement authority—
 - (a) to enter the premises specified in the warrant;
 - (b) to search the premises and to seize and detain any information or documents appearing to be information or documents specified in the warrant or information or documents of a description so specified;
 - (c) to take any other steps which may appear to be reasonably necessary for preserving such information or documents or preventing interference with them; and
 - (d) to use such force as may be reasonably necessary.
- (4) An officer entering premises by virtue of this section may take such persons and equipment with him as he thinks necessary.
- (5) In the application of this section to Scotland—
 - (a) the reference to a justice of the peace includes a reference to a sheriff;
 - (b) for ‘information on oath’ there is substituted ‘evidence on oath’.
- (6) In the application of this section to Northern Ireland the reference to a justice of the peace shall be construed as a reference to a lay magistrate.”

49 Failure to comply with information requirement

After section 36D of the 1974 Act (inserted by section 48 of this Act) insert—

“36E Failure to comply with information requirement

- (1) If on an application made by the OFT it appears to the court that a person (the ‘information defaulter’) has failed to do something that he was required to do by virtue of section 36B or 36C, the court may make an order under this section.
- (2) An order under this section may require the information defaulter—
 - (a) to do the thing that it appears he failed to do within such period as may be specified in the order;

- (b) otherwise to take such steps to remedy the consequences of the failure as may be so specified.
- (3) If the information defaulter is a body corporate, a partnership or an unincorporated body of persons which is not a partnership, the order may require any officer who is (wholly or partly) responsible for the failure to meet such costs of the application as are specified in the order.
- (4) In this section—
 - ‘court’ means—
 - (a) in England and Wales and Northern Ireland, the High Court or the county court;
 - (b) in Scotland, the Court of Session or the sheriff;
 - ‘officer’ means—
 - (a) in relation to a body corporate, a person holding a position of director, manager or secretary of the body or any similar position;
 - (b) in relation to a partnership or to an unincorporated body of persons, a member of the partnership or body.
- (5) In subsection (4) ‘director’ means, in relation to a body corporate whose affairs are managed by its members, a member of the body.”

50 Officers of enforcement authorities other than OFT

After section 36E of the 1974 Act (inserted by section 49 of this Act) insert—

“36F Officers of enforcement authorities other than OFT

- (1) A relevant officer may only exercise powers by virtue of section 36C or 36D in pursuance of arrangements made with the OFT by or on behalf of the enforcement authority of which he is an officer.
- (2) Anything done or omitted to be done by, or in relation to, a relevant officer in the exercise or purported exercise of a power by virtue of section 36C or 36D shall be treated for all purposes as having been done or omitted to be done by, or in relation to, an officer of the OFT.
- (3) Subsection (2) does not apply for the purposes of any criminal proceedings brought against the officer, the enforcement authority of which he is an officer or the OFT in respect of anything done or omitted to be done by the officer.
- (4) A relevant officer shall not disclose to a person other than the OFT information obtained by his exercise of a power by virtue of section 36C or 36D unless—
 - (a) he has the approval of the OFT to do so; or
 - (b) he is under a duty to make the disclosure.
- (5) In this section ‘relevant officer’ means an officer of an enforcement authority other than the OFT.”

51 Consequential amendments relating to information

- (1) For section 7 of the 1974 Act (penalty for false information) substitute—

“7 Penalty for false information

A person commits an offence if, for the purposes of, or in connection with, any requirement imposed or other provision made by or under this Act, he knowingly or recklessly gives information to the OFT, or to an officer of the OFT, which, in a material particular, is false or misleading.”

(2) In subsection (1)(b)(ii) of section 162 of that Act (powers of entry and inspection) for the words from “recorded” onwards substitute “to provide him with that information;”.

(3) At the end of that section insert—

“(8) References in this section to a breach of any provision of or under this Act do not include references to—

- (a) a failure to comply with a requirement imposed under section 33A or 33B;
- (b) a failure to comply with section 36A; or
- (c) a failure in relation to which the OFT can apply for an order under section 36E.”

(4) In section 165 of that Act (obstruction of authorised officers) after subsection (1) insert—

“(1A) A failure to give assistance or information shall not constitute an offence under subsection (1)(c) if it is also—

- (a) a failure to comply with a requirement imposed under section 33A or 33B;
- (b) a failure to comply with section 36A; or
- (c) a failure in relation to which the OFT can apply for an order under section 36E.”

(5) In Part 12 of that Act before section 175 insert—

“174A Powers to require provision of information or documents etc.

(1) Every power conferred on a relevant authority by or under this Act (however expressed) to require the provision or production of information or documents includes the power—

- (a) to require information to be provided or produced in such form as the authority may specify, including, in relation to information recorded otherwise than in a legible form, in a legible form;
- (b) to take copies of, or extracts from, any documents provided or produced by virtue of the exercise of the power;
- (c) to require the person who is required to provide or produce any information or document by virtue of the exercise of the power—
 - (i) to state, to the best of his knowledge and belief, where the information or document is;
 - (ii) to give an explanation of the information or document;
 - (iii) to secure that any information provided or produced, whether in a document or otherwise, is verified in such manner as may be specified by the authority;

- (iv) to secure that any document provided or produced is authenticated in such manner as may be so specified;
- (d) to specify a time at or by which a requirement imposed by virtue of paragraph (c) must be complied with.
- (2) Every power conferred on a relevant authority by or under this Act (however expressed) to inspect or to seize documents at any premises includes the power to take copies of, or extracts from, any documents inspected or seized by virtue of the exercise of the power.
- (3) But a relevant authority has no power under this Act—
- (a) to require another person to provide or to produce,
 - (b) to seize from another person, or
 - (c) to require another person to give access to premises for the purposes of the inspection of,
any information or document which the other person would be entitled to refuse to provide or produce in proceedings in the High Court on the grounds of legal professional privilege or (in Scotland) in proceedings in the Court of Session on the grounds of confidentiality of communications.
- (4) In subsection (3) ‘communications’ means—
- (a) communications between a professional legal adviser and his client;
 - (b) communications made in connection with or in contemplation of legal proceedings and for the purposes of those proceedings.
- (5) In this section ‘relevant authority’ means—
- (a) the OFT or an enforcement authority (other than the OFT);
 - (b) an officer of the OFT or of an enforcement authority (other than the OFT).”
- (6) In section 189(1) of that Act (definitions) after the definition of “deposit” insert—
- “‘documents’ includes information recorded in any form;”.
- (7) In Part 1 of Schedule 1 to the Criminal Justice and Police Act 2001 (c. 16) (powers of seizure to which section 50 applies) before paragraph 19 insert—
- “18A The power of seizure conferred by section 36D(3) of the Consumer Credit Act 1974.”