

CONSUMER CREDIT ACT 2006

EXPLANATORY NOTES

BUSINESSES REQUIRING A LICENCE AND CONSEQUENCES OF NOT BEING LICENSED

Section 23: Definitions of consumer credit business and consumer hire business

53. *Section 23* redefines “consumer credit business” and “consumer hire business” to clarify that these include respectively being a creditor or an owner under regulated agreements. “Creditor” and “owner” are defined in section 189(1) of the 1974 Act.

Section 24: Debt administration

54. *Section 24* amends section 145 of the 1974 Act to include ‘debt administration’ as a type of ancillary credit business. ‘Debt administration’ means the taking of steps to perform duties under a consumer credit or consumer hire agreement on behalf of the creditor or owner, or to exercise or enforce rights under such an agreement on behalf of the creditor or owner (so far as these steps do not constitute debt collecting). As a consequence, people carrying on a business of debt administration will need to be licensed.

Section 25: Credit information services

55. *Section 25* amends section 145 of the 1974 Act to include provision of ‘credit information services’ as a type of ancillary credit business. ‘Credit information services’ covers those businesses that help individuals to locate and correct records relating to their financial standing held by credit reference agencies and others in the credit and hire industries. As a consequence, people providing credit information services as part of their business will need to be licensed.

Section 26: Enforcement of agreements by unlicensed trader etc

56. *Section 26* amends sections 40(1) and (2) of the 1974 Act to provide that a regulated consumer credit or hire agreement is unenforceable by a person acting in the course of a consumer credit or hire business who is not licensed to carry on a consumer credit or a consumer hire business of a description which covers the enforcement of the agreement. In addition, as under the current section 40, the new section 40(1A) provides that a regulated agreement is unenforceable if the creditor or owner who made the agreement did so in the course of a consumer credit or a consumer hire business but was not licensed at that time to make the agreement. Where a person has made an agreement without being licensed, that person may apply to OFT for an order to treat him as if he had been licensed to make the agreement.
57. Subsections (8) and (9) of the amended section 40 ensure that a person who is not required to have a licence under section 21(2) or (3) of the 1974 Act to carry out the acts referred to in sections 40(1) and (1A) is not caught by these provisions.