
STATUTORY INSTRUMENTS

1977 No. 325 (C.11)

CONSUMER CREDIT

**The Consumer Credit Act 1974
(Commencement No. 2) Order 1977**

Made - - - - 28th February 1977

The Secretary of State, in exercise of powers conferred on him by sections 182(2) and (4) and 192(2) and (4) of the Consumer Credit Act 1974 and of all other powers enabling him in that behalf, hereby makes the following Order:—

Citation and interpretation

1.—(1) This Order may be cited as the Consumer Credit Act 1974 (Commencement No. 2) Order 1977.

(2) In this Order, “the Act” means the Consumer Credit Act 1974.

(3) The Interpretation Act 1889 shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

Appointment of days

2.—(1) For the purposes of paragraphs 1 and 19 of Schedule 3 to the Act, the appointed day shall be 1st April 1977.

(2) For the purposes of paragraphs 12, 42 and 48 of that Schedule the appointed day shall be 16th May 1977.

(3) For the purposes of paragraph 5 of that Schedule, the appointed day shall be 1st October 1977—

- (a) in the case of any consumer credit business, not being a consumer credit business which is carried on by an individual and in the course of which only the following regulated consumer credit agreements (excluding agreements made before that date) are made, namely—
 - (i) agreements for fixed-sum credit not exceeding £30, and
 - (ii) agreements for running-account credit where the credit limit does not exceed that amount, and
- (b) in the case of any consumer hire business.

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Amendments to Schedule 3 to the Act

3.—(1) Paragraphs 1 to 3 of Schedule 1 to this Order shall have effect for the purposes of amending Schedule 3 to the Act so as to insert express references to the days appointed by article 2 above.

(2) Paragraph 4 of Schedule 1 to this Order shall have effect for the purposes of further amending paragraphs 44 and 45 of Schedule 3 to the Act (which makes certain transitional provisions in relation to the licensing of ancillary credit business) as amended by article 3(b) of The Consumer Credit Act 1974 (Commencement No. 1) Order 1975⁽¹⁾, and accordingly the said article 3(b) shall cease to have effect.

Amendments to other Acts

4. The amendments specified in Schedule 4 to the Act which are set out in Schedule 2 to this Order shall come into operation on the dates specified in that Schedule.

Repeals

5. The repeals specified in Schedule 5 to the Act which are set out in Schedule 3 to this Order shall come into operation on the dates specified in that Schedule and shall have effect subject to the limitations there specified.

28th February 1977

John Fraser
Minister of State
Department of Prices and Consumer Protection

(1) (1975 III, p. 7922).

SCHEDULE 1

(Article 3)

AMENDMENTS TO SCHEDULE 3 TO THE ACT

1. There shall be substituted for the words “the day appointed for the purposes of this paragraph”, wherever they occur—

- (a) in paragraphs 1 and 19 the words “1st April 1977”; and
- (b) in paragraphs 12(1), 42 and 48 the words “16th May 1977”.

2. Paragraph 5 is amended so as to have effect as follows (the amendments being, for convenience, shown in bold type):

“Businesses needing a licence

5.—(1) Section 21 does not apply to the carrying on of any description of consumer credit business or consumer hire business—

- (a) **before 1st October 1977 in the case of a consumer credit business, not being a consumer credit business which is carried on by an individual and in the course of which only the following regulated consumer credit agreements (excluding agreements made before that date) are made, namely—**
 - (i) **agreements for fixed-sum credit not exceeding £30, and**
 - (ii) **agreements for running-account credit where the credit limit does not exceed that amount,**
- (b) **before the day appointed for the purposes of this paragraph in the case of any other description of consumer credit business, and**
- (c) **before 1st October 1977 in the case of any consumer hire business.**

(2) Where the person carrying on any description of consumer credit business or consumer hire business applies for a licence before the day **specified or referred to in subparagraph (1) above** in relation to a business of that description, he shall be deemed to have been granted on that day a licence covering that business and continuing in force until the licence applied for is granted or, if the application is refused, until the end of the appeal period.”

3. Paragraph 7 is amended so as to have effect as follows (the amendments being, for convenience, shown in bold type):

“Enforcement of agreements made by unlicensed trader

7. Section 40 does not apply to a regulated agreement made in the course of any business before the day **specified or referred to in paragraph 5(1) in relation to the description of business in question.**”

4. Paragraphs 44 and 45 are further amended so as to have effect as follows (the amendments being made to those paragraphs as originally enacted and being, for convenience, shown in bold type):

“Licensing

44.—(1) Section 21(1) does not apply (by virtue of section 147(1)) to the carrying on of any ancillary credit business before **3rd August 1976 in the case of any business so far as it comprises or relates to—**

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- (a) **debt-adjusting,**
- (b) **debt-counselling,**
- (c) **debt-collecting, or**
- (d) **the operation of a credit reference agency,**

or the day appointed for the purposes of this paragraph **in the case of any ancillary credit business so far as it comprises or relates to credit brokerage.**

(2) Where the person carrying on an ancillary credit business applies for a licence before **3rd August 1976** or the day appointed for the purposes of this paragraph **in the case of any ancillary credit business so far as it comprises or relates to credit brokerage**, he shall be deemed to have been granted on **3rd August 1976** or, **as the case may be, the day so appointed, a licence covering the description of ancillary credit business in question** and continuing in force until the licence applied for is granted or, if the application is refused, until the end of the appeal period.

Enforcement of agreements made by unlicensed trader

45. Section 148(1) does not apply to an agreement made in the course of any business before **3rd August 1976 in the case of any business so far as it comprises or relates to—**

- (a) **debt-adjusting,**
- (b) **debt-counselling,**
- (c) **debt-collecting, or**
- (d) **the operation of a credit reference agency,**

or the day appointed for the purposes of paragraph 44 in the case of any ancillary credit business so far as it comprises or relates to credit brokerage.”

SCHEDULE 2

(Article 4)

MINOR AND CONSEQUENTIAL AMENDMENTS
SPECIFIED IN SCHEDULE 4 TO THE ACT

PART I

UNITED KINGDOM

| <i>Paragraph of Schedule 4 to the Act</i> | <i>Chapter</i> | <i>Short Title</i> | <i>Day appointed for coming into operation</i> |
|---|----------------|------------------------------|--|
| 19 | 1959 c. 22. | County Courts Act 1959. | 30th March 1977 |
| 28 | 1968 c. 29. | Trade Descriptions Act 1968. | 1st April 1977 |

PART II
NORTHERN IRELAND

| <i>Paragraph of Schedule 4 to the Act</i> | <i>Chapter</i> | <i>Short Title</i> | <i>Day appointed for coming into operation</i> |
|---|----------------|--|--|
| 51 | 1972 c. 11 | Miscellaneous Transferred (N.I.). Excise Duties Act (Northern Ireland) 1972. | 1st October 1977 |

SCHEDULE 3

(Article 5)

REPEALS SPECIFIED IN SCHEDULE 5 TO THE ACT

PART I
UNITED KINGDOM

| <i>Chapter</i> | <i>Short Title</i> | <i>Extent of Repeal</i> | <i>Agreements in relation to which repeal not to have effect</i> | <i>Day appointed for coming into operation</i> |
|-----------------------------|----------------------------|--|--|--|
| 1872 (35 & 36 Vict.) c.93. | Pawnbrokers Act 1872. | Sections 37 to 44 and Schedule 6. | | 1st August 1977 |
| | | In section 52, the words “or by the refusal of a certificate for a licence”. | | 1st August 1977 |
| 1894 (56 & 57 Vict.) c.73. | Local Government Act 1894. | Section 27(1)(b). | | 1st August 1977 |
| 1900 (63 & 64 Vict.) c.51. | Moneylenders Act 1900. | Section 1. | Agreements made before 16th May 1977 which are not personal credit agreements. | 16th May 1977 |
| 1927 (17 & 18 Geo. 5) c.21. | Moneylenders Act 1927. | Sections 1 to 3, 4(1) and, in section 4(2), the words “the provisions of the last foregoing section and of”. | | 1st August 1977 |

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| Chapter | Short Title | Extent of Repeal | Agreements in relation to which repeal not to have effect | Day appointed for coming into operation |
|---|-------------------------------------|---|--|--|
| | | Section 10. | In the case of section 10, agreements made before 16th May 1977 which are not personal credit agreements. | 16th May 1977 |
| | | In section 13(2), the words “Without prejudice to the powers of a court under section one of the Moneylenders Act, 1900”. | In the case of the said words in section 13(2), agreements made before 16th May 1977 which are not personal credit agreements. | 16th May 1977 |
| | | Section 18(a), (b) and (c). | | 1st August 1977 |
| 1948 (11 & 12 Geo. 6) c.38. | Companies Act 1948. | Section 201(2)(c). | | 1st August 1977 |
| 1949 (12 & 13 Geo. 6) c.47. | Finance Act 1949. | In section 15, sub-sections (1) to (3) and (6) to (8A). | | 1st August 1977 |
| 1952 (15 & 16 Geo. 6 and 1 Eliz. 2) c.44. | Customs and Excise Act 1952. | In section 313(1) the words “or section 15 of the Finance Act 1949”. | | 1st August 1977 |
| 1961 (9 & 10 Eliz. 2) c.36. | Finance Act 1961. | Section 11(1) from “or section 15 of the Finance Act 1949” onwards. | | 1st August 1977 |
| 1964 c. 42. | Administration of Justice Act 1964. | Section 9(3)(b). | | 1st August 1977 |
| 1966 c. 42. | Local Government Act 1966. | In Schedule 3, Part II, the entries relating to section 37 of the Pawnbrokers Act 1872 and section 1(1) of | | 1st August 1977 |

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| <i>Chapter</i> | <i>Short Title</i> | <i>Extent of Repeal</i> | <i>Agreements in relation to which repeal not to have effect</i> | <i>Day appointed for coming into operation</i> |
|----------------|---------------------------------------|---|--|--|
| 1966 c. 51. | Local Government (Scotland) Act 1966. | the Moneylenders Act 1927. In Schedule 4, Part II, the entries relating to section 37 of the Pawnbrokers Act 1872 and section 1(1) of the Moneylenders Act 1927. | | 1st August 1977 |
| 1968 c. 60. | Theft Act 1968. | In Schedule 2, Part III, the entry relating to the Pawnbrokers Act 1872. | | 1st August 1977 |
| 1971 c. 23. | Courts Act 1971. | In Schedule 9, Part I, the entry relating to the Moneylenders Act 1927. | | 1st August 1977 |
| 1972 c. 70. | Local Government Act 1972. | Section 213(1)(a) and (b) and (3). | | 1st August 1977 |
| 1973 c. 65. | Local Government (Scotland) Act 1973. | In Schedule 27, paragraph 96. In Schedule 29, the entry relating to the Finance Act 1949. | | 1st August 1977 1st August 1977 |

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PART II
NORTHERN IRELAND

| <i>Chapter</i> | <i>Short Title</i> | <i>Extent of Repeal</i> | <i>Agreements in relation to which repeal not to have effect</i> | <i>Day appointed for coming into operation</i> |
|--------------------------|--|--|--|--|
| 1842 (5 & 6 Vict.) c.75. | Charitable Pawn Offices (Ireland) Act 1842. | The whole Act. | | 1st October 1977 |
| 1933 c. 23 (N.I.). | Moneylenders Act (Northern Ireland) 1933. | Sections 1 to 3 and 4(1). | | 1st August 1977 |
| | | In section 4(2) the words “the provisions of subsection (1) of this section and of” and, in paragraph (a), the words “followed by the words “licensed moneylender””. | | 1st August 1977 |
| | | Sections 10 and 11. | In the case of sections 10 and 11, agreements made before 16th May 1977 which are not personal credit agreements. | 16th May 1977 |
| | | In section 13(2), the words “Without prejudice to the powers of a court under section one of the Moneylenders Act 1900”. | In the case of the said words in section 13(2), agreements made before 16th May 1977 which are not personal credit agreements. | 16th May 1977 |
| 1954 c. 30 (N.I.). | Pawnbrokers Act (Northern Ireland) 1954. | Sections 5 to 9. | | 1st August 1977 |
| 1957 c. 19 (N.I.). | Betting and Lotteries Act (Northern Ireland) 1957. | Section 3(1)(j). | | 1st August 1977 |

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|--------------------|---|---|--|--|
| 1960 c. 22 (N.I.). | Companies Act (Northern Ireland) 1960. | Section 192(3)(c). | | 1st August 1977 |
| 1969 c. 16 (N.I.). | Theft Act (Northern Ireland) 1969. | In Schedule 2, the entry relating to the Pawnbrokers Act (Northern Ireland) 1954. | | 1st August 1977 |
| 1971 c. 13 (N.I.). | Licensing Act (Northern Ireland) 1971. | Section 2(5)(b). | | 1st August 1977 |
| 1972 c. 11 (N.I.). | Miscellaneous Transferred Duties Act (Northern Ireland) 1972. | Part VI. | | 1st October 1977 |
| | | Part VII. | | 1st August 1977 |
| | | In Schedule 4 the entry relating to the Pawnbrokers Act (Northern Ireland) 1954. | | 1st August 1977 |

EXPLANATORY NOTE

This Order brings into operation certain provisions of the Consumer Credit Act 1974 by appointing days for the purposes of Schedule 3 to that Act (which contains transitional and commencement provisions).

The appointed days (see article 2) are as follows:—

| Paragraph of Schedule 3 to the Act | Subject matter | Appointed day |
|------------------------------------|--|----------------|
| 1 | Consumer credit and consumer hire agreements made on and after appointed day to be regulated agreements. | 1st April 1977 |

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| Paragraph of <i>Schedule 3</i> to the Act | Subject matter | Appointed day |
|---|---|--|
| 19 | Section 82 (which relates to the variation of regulated agreements) to come into operation on appointed day. | 1st April 1977 |
| 12 | Section 56 (which relates to antecedent negotiations) to apply to regulated agreements where negotiations begin after appointed day. | 16th May 1977 |
| 42 | Sections 137 to 140 (which relate to extortionate credit bargains) to come into operation on appointed day and to apply to agreements and transactions whenever made. | 16th May 1977 |
| 8 | Sections 157 and 158 (which relate to credit reference agencies) to apply to requests for information received on and after appointed day. | 16th May 1977 |
| 5 | Section 21 (which requires businesses to be licensed) not to apply to any description of business before the day appointed in relation to that description of business. | 1st October 1977 in the case of all consumer credit and consumer hire businesses except those consumer credit businesses carried on by individuals (defined in the Act as including partnerships and other unincorporated bodies of persons not consisting entirely of bodies corporate) in the course of which only regulated consumer credit agreements for credit not exceeding £30 are made. |

Articles 3(1), 4 and 5 introduce consequential amendments and repeals; article 3(2) makes separate provision correcting amendments introduced by an earlier commencement order.