
STATUTORY INSTRUMENTS

1992 No. 3218

**The Banking Coordination (Second
Council Directive) Regulations 1992**

PART VI

AMENDMENTS OF CONSUMER CREDIT ACT

Effect of standard licence

57.—(1) Section 22 of the Consumer Credit Act⁽¹⁾ (standard and group licences) shall have effect as if it included provision that a standard licence held by a European institution or quasi-European authorised institution does not cover the carrying on by that institution of any home-regulated activities.

(2) In this regulation and regulation 58 below “standard licence” has the meaning given by section 22(1)(a) of the Consumer Credit Act.

Grant of standard licence

58.—(1) Section 25 of the Consumer Credit Act (licensee to be a fit person) shall have effect as if—

- (a) it included provision that a standard licence shall not be issued to a European institution or quasi-European authorised institution in respect of any homeregulated activities; and
 - (b) the reference in subsection (2)(b) to any provision made by or under that Act, or by or under any enactment regulating the provision of credit to individuals or other transactions with individuals, included a reference to any corresponding provision in force in another member State.
- (2) That section shall also have effect as if it included provision that where—
- (a) a UK authorised institution applies for a standard licence; and
 - (b) the institution states in its application that it proposes to carry on a Consumer Credit Act business which consists of or includes one or more listed activities, the Director shall not grant the licence unless the UK authority has notified the Director that, were the licence granted, the UK authority would not by reason of that proposal exercise any of its relevant powers.
- (3) In paragraph (2) above “relevant powers” means—
- (a) in relation to the Bank, the powers conferred on it by section 11 or 12 of the Banking Act (power to revoke or restrict authorisations);
 - (b) in relation to the Commission, the powers conferred on it by section 42 or 43 of the Building Societies Act (power to impose conditions on or revoke authorisations).

Conduct of business

59.—(1) Section 26 of the Consumer Credit Act (conduct of business), and any existing regulations made otherwise than by virtue of section 54 of that Act, shall have effect as if any reference to a licensee included a reference to a European institution carrying on a Consumer Credit Act business.

(2) Section 54 of that Act (conduct of business regulations), and any existing regulations made by virtue of that section, shall have effect as if any reference to a licensee who carries on a consumer credit business, a consumer hire business or a business of credit brokerage, debt-adjusting or debt-counselling included a reference to a European institution who carries on such a business.

(3) In this regulation “existing regulations” means regulations made under section 26 of that Act before the commencement date.

The register

60. Section 35 of the Consumer Credit Act (the register) shall have effect as if the particulars to be included in the register included—

- (a) particulars of information received by the Director under regulation 13 above;
- (b) particulars of prohibitions and restrictions imposed by him under regulation 18 or 19 above;
- (c) such particulars of documents received by him under paragraph 3(3), 4(3) or 5(4) of Schedule 2 to these Regulations as he thinks fit; and
- (d) particulars of such other matters (if any) arising under these Regulations as he thinks fit.

Enforcement of agreements

61.—(1) Section 40 of the Consumer Credit Act (enforcement of agreements by unlicensed trader) shall have effect as if the reference in subsection (1) to a regulated agreement, other than a non-commercial agreement, made when the creditor or owner was unlicensed did not include a reference to such an agreement made when the creditor or owner was a relevant institution.

(2) Section 148 of that Act (enforcement of agreement for services of unlicensed trader) shall have effect as if the reference in subsection (1) to an agreement for the services of a person carrying on an ancillary credit business made when that person was unlicensed did not include a reference to such an agreement made when that person was a relevant institution.

(3) Section 149 of that Act (enforcement of regulated agreements made on the introduction of an unlicensed credit-broker) shall have effect as if references in subsections (1) and (2) to introductions by an unlicensed credit-broker did not include references to introductions by a credit-broker who was a relevant institution.

(4) In this regulation “relevant institution” means a European institution—

- (a) to which regulation 5(1)(c) above applies; and
- (b) which is not precluded from making the agreement or introductions in question by a restriction imposed under regulation 19 above.

Restrictions on disclosure of information

62. Section 174 of the Consumer Credit Act(2) (restrictions on disclosure of information) shall have effect as if in subsection (3A)—

(2) Section 174(3A) was inserted by section 87(1) of the Banking Act 1987 (c. 22).

- (a) the reference to the Bank's functions under the Banking Act included a reference to its functions under these Regulations; and
- (b) the reference to the Director's functions under the Consumer Credit Act included a reference to his functions under these Regulations.

Power to modify subordinate legislation in relation to European institutions

63.—(1) If the Secretary of State is satisfied that it is necessary to do so for the purpose of implementing the Second Council Directive so far as relating to any particular European institution, he may, on the application or with the consent of the institution, by order direct that all or any of the provisions of—

- (a) any regulations made under section 26 of the Consumer Credit Act(3); or
- (b) any regulations or orders made under Parts IV to VIII of that Act(4),

shall not apply to the institution or shall apply to it with such modifications as may be specified in the order.

(2) An order under this regulation may be subject to conditions.

(3) An order under this regulation may be revoked at any time by the Secretary of State; and the Secretary of State may at any time vary any such order on the application or with the consent of the European institution to which it applies.

(3) 1974 c. 39; regulations made to date are the Consumer Credit (Conduct of Business) (Credit References) Regulations 1977 (S.I.1977/330) and the Consumer Credit (Conduct of Business) (Pawn Records) Regulations 1983 (S.I. 1983/1565).

(4) The principal regulations and orders (some of which have been amended) are: the Consumer Credit (Total Charge for Credit) Regulations 1980 (S.I. 1980/51); the Consumer Credit (Agreements) Regulations 1983 (S.I. 1983/1553); the Consumer Credit (Prescribed Periods for Giving Information) Regulations 1983 (S.I. 1983/1569); the Consumer Credit (Increase of Monetary Limits) Order 1983 (S.I. 1983/1878); the Consumer Credit (Advertisements) Regulations 1989 (S.I. 1989/1125); and the Consumer Credit (Quotations) Regulations 1989 (S.I. 1989/1126). A complete and up to date list of relevant regulations and orders can be obtained from the Department of Trade and Industry or the Director General of Fair Trading.