
STATUTORY INSTRUMENTS

1998 No. 1944

CONSUMER CREDIT

The Consumer Credit (Exempt Agreements) (Amendment) Order 1998

Made - - - - *7th August 1998*
Laid before Parliament *10th August 1998*
Coming into force - - *1st September 1998*

The Secretary of State, in exercise of the powers conferred upon him by section 16(5)(b) and 182(2) and (4) of the Consumer Credit Act 1974(1), and of all other powers enabling him in that behalf, hereby makes the following Order:

1. This Order may be cited as the Consumer Credit (Exempt Agreements) (Amendment) Order 1998 and shall come into force on 1st September 1998.

2. Subject to article 3 below, the Consumer Credit (Exempt Agreements) Order 1989(2) is hereby amended by the substitution, for article 4, of the following article:—

“Exemption of certain consumer credit agreements by reference to the rate of the total charge for credit.

3.—(1) The Act shall not regulate a debtor-creditor agreement—

- (a) which is an agreement of a type offered to a certain class or classes of persons and not offered to the public generally; and
- (b) under the terms of which the only charge included in the total charge for credit is interest which cannot at any time exceed the sum of one per cent and the highest of the base rates named in paragraph (2) below, being the latest rates in operation on the date 28 days before any such time.

(2) The banks referred to in paragraph (1) above are—

Bank of England

(1) 1974 c. 39: section 16 was amended by the Employment Protection Act 1975 (c. 71), section 125 and Schedule 18: the Telecommunications Act 1984 (c. 12), section 109 and Schedule 4, paragraph 60: the Building Societies Act 1986 (c. 53), section 120 and Schedules 18 and 19: the Housing and Planning Act 1986 (c. 63), section 22: the Banking Act 1987 (c. 22), section 88: the Housing (Scotland) Act 1987 (c. 26), section 339 and Schedule 23, paragraph 21 and the Housing Act 1988 (c. 50), section 140 and Schedule 17, paragraph 20.

(2) S.I. 1989/869, amended by S.I. 1989/1841, 1989/2337, 1991/1393, 1991/1949, 1991/2844, 1993/346, 1993/2922, 1994/2420, 1995/1250, 1995/2914, 1996/1445 and 1996/3081.

Bank of Scotland
Barclays Bank PLC
Clydesdale Bank PLC
Co-operative Bank Public Limited Company
Coutts & Co
Lloyds Bank PLC
Midland Bank Public Limited Company
National Westminster Bank Public Limited Company
the Royal Bank of Scotland p.l.c.
TSB Bank Plc.

(3) For the purposes of sub-paragraph (1)(b) above, “interest” means interest at a rate determined in accordance with the formula set out in paragraph (1) of regulation 7 of the Consumer Credit (Total Charge for Credit) Regulations 1980⁽³⁾, and in that formula as applied by that sub-paragraph “period rate of charge” has the meaning assigned to it in paragraph (2) of that regulation.”.

3. The Consumer Credit Act 1974 shall not regulate a consumer credit agreement which is an agreement of any of the descriptions of agreement specified in article 4 of the Consumer Credit (Exempt Agreements) Order 1989 as that article was before the substitution of the article set out in article 2 of this Order, provided that agreement is made on or before 31st July 1999.

Kim Howells,
Parliamentary Under-Secretary of State for
Competition and Consumer Affairs
Department of Trade and Industry

7th August 1998

(3) S.I. 1980/51, amended by S.I. 1985/1192 and 1989/596.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order provides for an amendment to be made to the Consumer Credit (Exempt Agreements) Order 1989.

It substitutes a new article for article 4 of that Order. Article 4 provides for the exemption of certain consumer credit agreements from regulation under the Consumer Credit Act 1974 by reference to the rate of the total charge for credit made under them. The article substituted now provides that exemption from regulation is only possible where two conditions are satisfied. The first condition is that the only charge that may be included in the total charge for credit is interest which must be charged at a rate which can never exceed the sum of one per cent and the highest of any of the base rates published by certain banks. The second condition is that the agreements are not offered to the public generally but only to a certain class or classes of person.

The Order contains a transitional provision which enables creditors whose agreements would have been exempt under article 4 as it was before this Order came into force to continue to enter into similar types of agreements provided they do so on or before 31st July 1999 and for those agreements to be exempt.

A Regulatory Appraisal of the costs and benefits that will result from this Order will be available in the libraries of the Houses of Parliament when the Order, having been made, is laid before Parliament and from the Consumer Affairs and Competition Policy Directorate, the Department of Trade and Industry, 1 Victoria Street, London SW1H 0ET.