Consumer Credit Act 1974

1974 CHAPTER 39

An Act to establish for the protection of consumers a new system, administered by the Director General of Fair Trading, of licensing and other control of traders concerned with the provision of credit, or the supply of goods on hire or hire-purchase, and their transactions, in place of the present enactments regulating moneylenders, pawnbrokers and hire-purchase traders and their transactions; and for related matters. [31st July 1974]

Modifications etc. (not altering text)

C1 Act excluded by S.I. 1983/1553, **reg. 2(7A)** (as inserted by S.I. 1984/1600, **reg. 2**(*e*))
C2 Act excluded by S.I. 1989/869, **arts. 2(1)**, 3(1), 4(1), 5, 6
C3 Act modified (12.10.1992) by Timeshare Act 1992 (c. 35), **s. 12(5)**; S.I. 1992/1941, **art. 2**
C4 Act excluded (21.7.2008 with retrospective effect as stated in s. 8(2) of the amending Act) by Sale of Student Loans Act 2008 (c. 10), **ss. 8(1)**, 14 (with s. 9(5))
C5 Act excluded (1.2.2011) by S.I. 1989/869, art. 5A (as inserted by S.I. 2010/1010, regs. 67A, 99(1) (with regs. 100, 101) (as inserted by The Consumer Credit (Amendment) Regulations 2010 (S.I. 2010/1969), **reg. 21**))
C6 Power to amend conferred (prosp.) by Energy Act 2011 (c. 16), **ss. 30(1)**, 121(1) (with s. 41)

Commencement Information

I1 Act partly in force at Royal Assent see s. 192(1)(2)(3); Act wholly in force on 19.5.1985

PART I

DIRECTOR GENERAL OF FAIR TRADING

1 General functions of Director.

(1) It is the duty of the Director General of Fair Trading ("the Director ")—
(a) to administer the licensing system set up by this Act,

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(b) to exercise the adjudicating functions conferred on him by this Act in relation to the issue, renewal, variation, suspension and revocation of licences, and other matters,

(c) generally to superintend the working and enforcement of this Act, and regulations made under it, and

(d) where necessary or expedient, himself to take steps to enforce this Act, and regulations so made.

(2) It is the duty of the Director, so far as appears to him to be practicable and having regard both to the national interest and the interests of persons carrying on businesses to which this Act applies and their customers, to keep under review and from time to time advise the Secretary of State about—

(a) social and commercial developments in the United Kingdom and elsewhere relating to the provision of credit or bailment or (in Scotland) hiring of goods to individuals, and related activities; and

(b) the working and enforcement of this Act and orders and regulations made under it.

2 Powers of Secretary of State.

(1) The Secretary of State may by order—

(a) confer on the Director additional functions concerning the provision of credit or bailment or (in Scotland) hiring of goods to individuals, and related activities, and

(b) regulate the carrying out by the Director of his functions under this Act.

(2) The Secretary of State may give general directions indicating considerations to which the Director should have particular regard in carrying out his functions under this Act, and may give specific directions on any matter connected with the carrying out by the Director of those functions.

(3) The Secretary of State, on giving any directions under subsection (2), shall arrange for them to be published in such manner as he thinks most suitable for drawing them to the attention of interested persons.

(4) With the approval of the Secretary of State and the Treasury, the Director may charge, for any service or facility provided by him under this Act, a fee of an amount specified by general notice (the "specified fee ").

(5) Provision may be made under subsection (4) for reduced fees, or no fees at all, to be paid for certain services or facilities by persons of a specified description, and references in this Act to the specified fee shall, in such cases, be construed accordingly.

(6) An order under subsection (1)(a) shall be made by statutory instrument and shall be of no effect unless a draft of the order has been laid before and approved by each House of Parliament.

(7) References in subsection (2) to the functions of the Director under this Act do not include the making of a determination to which section 41 or 150 (appeals from Director to Secretary of State) applies.

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3 Supervision by Council on Tribunals. [X1]

[M1] The Tribunals and Inquiries Act 1971 is amended as follows (the amendments bringing the adjudicating functions of the Director under this Act under the supervision of the Council on Tribunals)—

(a) in section 8(2), insert "5A " after "paragraph ";

(b) in section 19(4), insert "or the Director General of Fair Trading referred to in paragraph 5A " after "or 46 " ;

(c) in Schedule 1, after paragraph 5, insert—

Consumer credit

"5A The Director General of Fair Trading, in respect of his functions under the Consumer Credit Act 1974 (c. 39), and any member of the Director's staff authorised to exercise those functions under paragraph 7 of Schedule I to the Fair Trading Act 1973."

Editorial Information

X1 The text of ss. 3(a)(b)(c), 5, 42(1)(2)(3), 192(3)(a)(b), Sch. 4 Pt. I paras. 1, 2, 5, 7 - 9, 11 - 17, 19, 22 - 28, 30 - 32, 34 - 37, Sch. 4 Pt. II paras. 39, 40, 43 -45, 49 - 51 and Sch. 5 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Marginal Citations

M1 1971 c. 62.

4 Dissemination of information and advice.

The Director shall arrange for the dissemination, in such form and manner as he considers appropriate, of such information and advice as it may appear to him expedient to give to the public in the United Kingdom about the operation of this Act, the credit facilities available to them, and other matters within the scope of his functions under this Act.

5 Annual and other reports. [X2]

At the end of subsection (2) of section 125 (annual and other reports of Director) of the Fair Trading Act 1973 insert "and shall set out any directions given to the Director under section 2(2) of the Consumer Credit Act 1974 during that year ".

Editorial Information

X2 The text of ss. 3(a)(b)(c), 5, 42(1)(2)(3), 192(3)(a)(b), Sch. 4 Pt. I paras. 1, 2, 5, 7 - 9, 11 - 17, 19, 22 - 28, 30 - 32, 34 - 37, Sch. 4 Pt. II paras. 39, 40, 43 -45, 49 - 51 and Sch. 5 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

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6 Form etc. of applications.

(1) An application to the Director under this Act is of no effect unless the requirements of this section are satisfied.

(2) The application must be in writing, and in such form, and accompanied by such particulars, as the Director may specify by general notice, and must be accompanied by the specified fee.

(3) After giving preliminary consideration to an application, the Director may by notice require the applicant to furnish him with such further information relevant to the application as may be described in the notice, and may require any information furnished by the applicant (whether at the time of the application or subsequently) to be verified in such manner as the Director may stipulate.

(4) The Director may by notice require the applicant to publish details of his application at a time or times and in a manner specified in the notice.

VALID FROM 16/06/2006

[F1 6A Charge on applicants for licences etc.

(1) An applicant for a licence, or for the renewal of a licence, shall pay the OFT a charge towards the costs of carrying out its functions under this Act.

(2) The amount of the charge payable by an applicant shall be determined in accordance with provision made by the OFT by general notice.

(3) The provision that may be made by the OFT under subsection (2) includes—

(a) different provision in relation to persons of different descriptions;

(b) provision for no charge at all to be payable by persons of specified descriptions.

(4) The approval of the Secretary of State and the Treasury is required for a general notice under subsection (2).**]**

Textual Amendments

F1 S. 6A inserted (16.6.2006 for certain purposes and otherwise 6.4.2008) by Consumer Credit Act 2006 (c. 14), ss. {27(1)}, 71(2) (with Sch. 3 para. 18(1)); S.I. 2006/1508, **art. 3(1)**, Sch. 1; S.I. 2007/3300, **art. 3(2)**, Sch. 2

7 Penalty for false information.

A person who, in connection with any application or request to the Director under this Act, or in response to any invitation or requirement of the Director under this Act, knowingly or recklessly gives information to the Director which, in a material particular, is false or misleading, commits an offence.

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PART II

CREDIT AGREEMENTS, HIRE AGREEMENTS AND LINKED TRANSACTIONS

8 Consumer credit agreements.

(1) A personal credit agreement is an agreement between an individual ("the debtor ") and any other person ("the creditor ") by which the creditor provides the debtor with credit of any amount.

(2) A consumer credit agreement is a personal credit agreement by which the creditor provides the debtor with credit not exceeding **[**F2£15,000**]**.

(3) A consumer credit agreement is a regulated agreement within the meaning of this Act if it is not an agreement (an "exempt agreement ") specified in or under section 16.

Textual Amendments

F2 "£15,000" substituted by S.I. 1983/1878, art. 4, **Sch. Pt. II**

9 Meaning of credit.

(1) In this Act "credit " includes a cash loan, and any other form of financial accommodation.

(2) Where credit is provided otherwise than in sterling it shall be treated for the purposes of this Act as provided in sterling of an equivalent amount.

(3) Without prejudice to the generality of subsection (1), the person by whom goods are bailed or (in Scotland) hired to an individual under a hire-purchase agreement shall be taken to provide him with fixed-sum credit to finance the transaction of an amount equal to the total price of the goods less the aggregate of the deposit (if any) and the total charge for credit.

(4) For the purposes of this Act, an item entering into the total charge for credit shall not be treated as credit even though time is allowed for its payment.

10 Running-account credit and fixed-sum credit.

(1) For the purposes of this Act—

(a) running-account credit is a facility under a personal credit agreement whereby the debtor is enabled to receive from time to time (whether in his own person, or by another person) from the creditor or a third party cash, goods and services (or any of them) to an amount or value such that, taking into account payments made by or to the credit of the debtor, the credit limit (if any) is not at any time exceeded; and

(b) fixed-sum credit is any other facility under a personal credit agreement whereby the debtor is enabled to receive credit (whether in one amount or by instalments).

(2) In relation to running-account credit, "credit limit " means, as respects any period, the maximum debit balance which, under the credit agreement, is allowed to stand on

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the account during that period, disregarding any term of the agreement allowing that maximum to be exceeded merely temporarily.

(3) For the purposes of section 8(2), running-account credit shall be taken not to exceed the amount specified in that subsection ("the specified amount ") if—

(a) the credit limit does not exceed the specified amount; or

(b) whether or not there is a credit limit, and if there is, notwithstanding that it exceeds the specified amount,—

(i) the debtor is not enabled to draw at any one time an amount which, so far as (having regard to section 9(4)) it represents credit, exceeds the specified amount, or

(ii) the agreement provides that, if the debit balance rises above a given amount (not exceeding the specified amount), the rate of the total charge for credit increases or any other condition favouring the creditor or his associate comes into operation, or

(iii) at the time the agreement is made it is probable, having regard to the terms of the agreement and any other relevant considerations, that the debit balance will not at any time rise above the specified amount.

11 Restricted-use credit and unrestricted-use credit.

(1) A restricted-use credit agreement is a regulated consumer credit agreement—

(a) to finance a transaction between the debtor and the creditor, whether forming part of that agreement or not, or

(b) to finance a transaction between the debtor and a person (the "supplier ") other than the creditor, or

(c) to refinance any existing indebtedness of the debtor's, whether to the creditor or another person,

and "restricted-use credit " shall be construed accordingly.

(2) An unrestricted-use credit agreement is a regulated consumer credit agreement not falling within subsection (1), and "unrestricted-use credit " shall be construed accordingly.

(3) An agreement does not fall within subsection (1) if the credit is in fact provided in such a way as to leave the debtor free to use it as he chooses, even though certain uses would contravene that or any other agreement.

(4) An agreement may fall within subsection (1)(b) although the identity of the supplier is unknown at the time the agreement is made.

12 Debtor-creditor supplier agreements.

A debtor-creditor-supplier agreement is a regulated consumer credit agreement being—

(a) a restricted-use credit agreement which falls within section 11(1)(a), or

(b) a restricted-use credit agreement which falls within section 11(1)(b) and is made by the creditor under pre-existing arrangements, or in contemplation of future arrangements, between himself and the supplier, or

(c) an unrestricted-use credit agreement which is made by the creditor under pre-existing arrangements between himself and a person (the "supplier ") other

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than the debtor in the knowledge that the credit is to be used to finance a transaction between the debtor and the supplier.

13 Debtor-creditor agreements.

A debtor-creditor agreement is a regulated consumer credit agreement being—

(a) a restricted-use credit agreement which falls within section 11(1)(b) but is not made by the creditor under pre-existing arrangements, or in contemplation of future arrangements, between himself and the supplier, or

(b) a restricted-use credit agreement which falls within section 11(1)(c), or

(c) an unrestricted-use credit agreement which is not made by the creditor under pre-existing arrangements between himself and a person (the "supplier ") other than the debtor in the knowledge that the credit is to be used to finance a transaction between the debtor and the supplier.

14 Credit-token agreements.

(1) A credit-token is a card, check, voucher, coupon, stamp, form, booklet or other document or thing given to an individual by a person carrying on a consumer credit business, who undertakes—

(a) that on the production of it (whether or not some other action is also required) he will supply cash, goods and services (or any of them) on credit, or

(b) that where, on the production of it to a third party (whether or not any other action is also required), the third party supplies cash, goods and services (or any of them), he will pay the third party for them (whether or not deducting any discount or commission), in return for payment to him by the individual.

(2) A credit-token agreement is a regulated agreement for the provision of credit in connection with the use of a credit-token.

(3) Without prejudice to the generality of section 9(1), the person who gives to an individual an undertaking falling within subsection (1)(b) shall be taken to provide him with credit drawn on whenever a third party supplies him with cash, goods or services.

(4) For the purposes of subsection (1), use of an object to operate a machine provided by the person giving the object or a third party shall be treated as the production of the object to him.

15 Consumer hire agreements.

(1) A consumer hire agreement is an agreement made by a person with an individual (the "hirer ") for the bailment or (in Scotland) the hiring of goods to the hirer, being an agreement which—

(a) is not a hire-purchase agreement, and

(b) is capable of subsisting for more than three months, and

(c) does not require the hirer to make payments exceeding **[**F3£15,000**]**.

(2) A consumer hire agreement is a regulated agreement if it is not an exempt agreement.

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Textual Amendments

F3 "£15,000" substituted by S.I. 1983/1878, art. 4, **Sch. Pt. II**

16 Exempt agreements.

(1) This Act does not regulate a consumer credit agreement where the creditor is a local authority . . . [F4], or a body specified, or of a description specified, in an order made by the Secretary of State, being—

(a) an insurance company,

(b) a friendly society,

(c) an organisation of employers or organisation of workers,

(d) a charity,

(e) a land improvement company, . . . [F5]

(f) a body corporate named or specifically referred to in any public general Act.

[[F6](ff) a body corporate named or specifically referred to in an order made under—

section 156(4), 444(1) or 447(2)(*a*) of the Housing Act 1985,

section **[**[F7]2 of the Home Purchase Assistance and Housing Corporation Guarantee Act 1978 or section 31 of the Tenants' Rights, &c. (Scotland) Act 1980**][**[F7]223 or 229 of the Housing (Scotland) Act 1987**]**, or

Article 154(1)(*a*) or 156AA of the Housing (Northern Ireland) Order 1981 or Article 10(6A) of the Housing (Northern Ireland) Order 1983; or**][**[F8], or

(g) a building society.**][**[F9], or

(h) an authorised institution or wholly-owned subsidiary (within the meaning of the Companies Act 1985) of such an institution.**]**

(2) Subsection (1) applies only where the agreement is—

(a) a debtor-creditor-supplier agreement financing—

(i) the purchase of land, or

(ii) the provision of dwellings on any land, and secured by a land mortgage on that land; or

(b) a debtor-creditor agreement secured by any land mortgage; or

(c) a debtor-creditor-supplier agreement financing a transaction which is a linked transaction in relation to—

(i) an agreement falling within paragraph (a), or

(ii) an agreement falling within paragraph (b) financing—

(aa) the purchase of any land, or

(bb) the provision of dwellings on any land,

and secured by a land mortgage on the land referred to in paragraph (a) or, as the case may be, the land referred to in sub-paragraph (ii).

(3) The Secretary of State shall not make, vary or revoke an order—

(a) under subsection (1)(a) without consulting the Minister of the Crown responsible for insurance companies,

(b) under subsection (1)(b) **[**[F10]or (c)**]** without consulting the Chief Registrar of Friendly Societies,

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(c) under subsection (1)(d) without consulting the Charity Commissioners, . . . [F5]

(d) under subsection (1)(e) **[**[F11], (f) or (ff)**]** without consulting any Minister of the Crown with responsibilities concerning the body in question.

[[F12]or

(e) under subsection (1)(*g*) without consulting the Building Societies Commission and the Treasury.**]**

[[F13]or

(f) under subsection (1)(h) without consulting the Treasury and the Bank of England.**]**

(4) An order under subsection (1) relating to a body may be limited so as to apply only to agreements by that body of a description specified in the order.

(5) The Secretary of State may by order provide that this Act shall not regulate other consumer credit agreements where—

(a) the number of payments to be made by the debtor does not exceed the number specified for that purpose in the order, or

(b) the rate of the total charge for credit does not exceed the rate so specified, or

(c) an agreement has a connection with a country outside the United Kingdom.

(6) The Secretary of State may by order provide that this Act shall not regulate consumer hire agreements of a description specified in the order where—

(a) the owner is a body corporate authorised by or under any enactment to supply electricity, gas or water, and

(b) the subject of the agreement is a meter or metering equipment,

[[F14]or where the owner is a public telecommunications operator specified in the order**]**.

[[F15](6A) This Act does not regulate a consumer credit agreement where the creditor is a housing authority and the agreement is secured by a land mortgage of a dwelling.

(6B) In subsection (6A) "housing authority " means—

(a) as regards England and Wales, **[**[F16]the Housing Corporation, Housing for Wales and**]** an authority or body within section 80(1) of the Housing Act 1985 (the landlord condition for secure tenancies), other than a housing association or a housing trust which is a charity;

(b) as regards Scotland, a development corporation established under an order made, or having effect as if made under the New Towns (Scotland) Act 1968, the Scottish Special Housing Association or the Housing Corporation;

(c) as regards Northern Ireland, the Northern Ireland Housing Executive.**]**

(7) Nothing in this section affects the application of sections 137 to 140 (extortionate credit bargains).

(8) In the application of this section to Scotland subsection (3)(c) shall not have effect.

(9) In the application of this section to Northern Ireland subsection (3) shall have effect as if any reference to a Minister of the Crown were a reference to a Northern Ireland department, any reference to the Chief Registrar of Friendly Societies were a reference to the Registrar of Friendly Societies for Northern Ireland, and any reference to the Charity Commissioners were a reference to the Department of Finance for Northern Ireland.

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Textual Amendments

F4 Words repealed by Building Societies Act 1986 (c. 53, SIF 16), s. 120, Sch. 18 Pt. I para. 10(2), **Sch. 19 Pt. I**

F5 Word repealed by Building Societies Act 1986 (c. 53, SIF 16), s. 120, **Sch. 19 Pt. I**

F6 S. 16(1)(*ff*) inserted by Housing and Planning Act 1986 (c. 63, SIF 60), **s. 22(2)**

F7 Words "223 or 229 of the Housing (Scotland) Act 1987 " substituted (S.) for words "2 of the 1978 Act or section 31 of the 1980 Act " by virtue of Housing (Scotland) Act 1987 (c. 26, SIF 61), s. 339, **Sch. 23 para. 21**

F8 Words inserted by Building Societies Act 1986 (c. 53, SIF 16), s. 120, **Sch. 18 para. 10(2)**

F9 S. 16(1)(h) and ", or " inserted by Banking Act 1987 (c. 22, SIF 10), **s. 88(2)**

F10 Words repealed (E.W.)(S.) by Employment Protection Act 1975 (c. 71), **Sch. 18**

F11 ", (*f*) or (*ff*) " substituted by Housing and Planning Act 1986 (c. 63, SIF 60), **s. 22(2)**

F12 "or " and s. 16(3)(*e*) inserted by Building Societies Act 1986 (c. 53, SIF 16), s. 120, **Sch. 18 Pt. I para. 10(3)**

F13 "or " and s. 16(3)(f) inserted by Banking Act 1987 (c. 22, SIF 10), **s. 88(3)**

F14 Words substituted by Telecommunications Act 1984 (c. 12, SIF 96), s. 109, Sch. 4 para. 60(1), **Sch. 5 para. 45**

F15 S. 16(6A)(6B) inserted by Housing and Planning Act 1986 (c. 63, SIF 60), **s. 22(3)**

F16 Words inserted (E.W.S) by Housing Act 1988 (c. 50, SIF 61), s. 140, **Sch. 17**, para. 20

VALID FROM 16/06/2006

[F17 16A Exemption relating to high net worth debtors and hirers

(1) The Secretary of State may by order provide that this Act shall not regulate a consumer credit agreement or a consumer hire agreement where—

(a) the debtor or hirer is a natural person;

(b) the agreement includes a declaration made by him to the effect that he agrees to forgo the protection and remedies that would be available to him under this Act if the agreement were a regulated agreement;

(c) a statement of high net worth has been made in relation to him; and

(d) that statement is current in relation to the agreement and a copy of it was provided to the creditor or owner before the agreement was made.

(2) For the purposes of this section a statement of high net worth is a statement to the effect that, in the opinion of the person making it, the natural person in relation to whom it is made—

(a) received during the previous financial year income of a specified description totalling an amount of not less than the specified amount; or

(b) had throughout that year net assets of a specified description with a total value of not less than the specified value.

(3) Such a statement—

(a) may not be made by the person in relation to whom it is made;

(b) must be made by a person of a specified description; and

(c) is current in relation to an agreement if it was made during the period of one year ending with the day on which the agreement is made.

(4) An order under this section may make provision about—

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(a) how amounts of income and values of net assets are to be determined for the purposes of subsection (2)(a) and (b);

(b) the form, content and signing of—

(i) statements of high net worth;

(ii) declarations for the purposes of subsection (1)(b).

(5) Where an agreement has two or more debtors or hirers, for the purposes of paragraph (c) of subsection (1) a separate statement of high net worth must have been made in relation to each of them; and paragraph (d) of that subsection shall have effect accordingly.

(6) In this section—

'previous financial year' means, in relation to a statement of high net worth, the financial year immediately preceding the financial year during which the statement is made;

'specified' means specified in an order under this section.

(7) In subsection (6) 'financial year' means a period of one year ending with 31st March.

(8) Nothing in this section affects the application of sections 140A to 140C.**]**

Textual Amendments

F17 S. 16A inserted (16.6.2006 for certain purposes and otherwise 6.4.2008) by Consumer Credit Act 2006 (c. 14), ss. {3}, 71(2) (with Sch. 3 para. 15(4)); S.I. 2006/1508, **art. 3(1)**, Sch. 1; S.I. 2007/3300, **art. 3(2)**, Sch. 2

VALID FROM 16/06/2006

[F18 16B Exemption relating to businesses

(1) This Act does not regulate—

(a) a consumer credit agreement by which the creditor provides the debtor with credit exceeding £25,000, or

(b) a consumer hire agreement that requires the hirer to make payments exceeding £25,000,

if the agreement is entered into by the debtor or hirer wholly or predominantly for the purposes of a business carried on, or intended to be carried on, by him.

(2) If an agreement includes a declaration made by the debtor or hirer to the effect that the agreement is entered into by him wholly or predominantly for the purposes of a business carried on, or intended to be carried on, by him, the agreement shall be presumed to have been entered into by him wholly or predominantly for such purposes.

(3) But that presumption does not apply if, when the agreement is entered into—

(a) the creditor or owner, or

(b) any person who has acted on his behalf in connection with the entering into of the agreement,

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knows, or has reasonable cause to suspect, that the agreement is not entered into by the debtor or hirer wholly or predominantly for the purposes of a business carried on, or intended to be carried on, by him.

(4) The Secretary of State may by order make provision about the form, content and signing of declarations for the purposes of subsection (2).

(5) Where an agreement has two or more creditors or owners, in subsection (3) references to the creditor or owner are references to any one or more of them.

(6) Nothing in this section affects the application of sections 140A to 140C.**]**

Textual Amendments

F18 S. 16B inserted (16.6.2006 for certain purposes and otherwise 6.4.2008) by Consumer Credit Act 2006 (c. 14), ss. {4}, 71(2) (with Sch. 3 para. 15(4)); S.I. 2006/1508, **art. 3(1)**, Sch. 1; S.I. 2007/3300, **art. 3(2)**, Sch. 2

Modifications etc. (not altering text)

C7 S. 16B(2)-(5) applied (1.2.2011) by S.I. 1983/1553, reg. 8(1B) (as inserted by S.I. 2010/1010, regs. 53, 99(1) (with regs. 100, 101) (as substituted by The Consumer Credit (Amendment) Regulations 2010 (S.I. 2010/1969), **reg. 13**))

C8 S. 16B(2)-(5) applied (1.2.2011) by S.I. 2004/1481, reg. 2 (as substituted by S.I. 2010/1010, **regs. 75**, 99(1) (with regs. 100, 101) (as substituted by The Consumer Credit (Amendment) Regulations 2010 (S.I. 2010/1969), **reg. 24**))

VALID FROM 31/10/2008

[F19 16C Exemption relating to investment properties

(1) This Act does not regulate a consumer credit agreement if, at the time the agreement is entered into, any sums due under it are secured by a land mortgage on land where the condition in subsection (2) is satisfied. (2) The condition is that less than 40% of the land is used, or is intended to be used, as or in connection with a dwelling—

(a) by the debtor or a person connected with the debtor, or

(b) in the case of credit provided to trustees, by an individual who is the beneficiary of the trust or a person connected with such an individual.

(3) For the purposes of subsection (2) the area of any land which comprises a building or other structure containing two or more storeys is to be taken to be the aggregate of the floor areas of each of those storeys. (4) For the purposes of subsection (2) a person is "connected with" the debtor or an individual who is the beneficiary of a trust if he is—

(a) that person's spouse or civil partner;

(b) a person (whether or not of the opposite sex) whose relationship with that person has the characteristics of the relationship between husband and wife; or

(c) that person's parent, brother, sister, child, grandparent or grandchild.

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(5) Section 126 (enforcement of land mortgages) applies to an agreement which would but for this section be a regulated agreement. (6) Nothing in this section affects the application of sections 140A to 140C.**]**

Textual Amendments

F19 S. 16C inserted (31.10.2008) by The Legislative Reform (Consumer Credit) Order 2008 (S.I. 2008/2826), **art. 3(1)**

17 Small agreements.

(1) A small agreement is—

(a) A regulated consumer credit agreement for credit not exceeding **[**F20£50**]**, other than a hire-purchase or conditional sale agreement: or

(b) a regulated consumer hire agreement which does not require the hirer to make payments exceeding **[**F20£50**]**,

being an agreement which is either unsecured or secured by a guarantee or indemnity only (whether or not the guarantee or indemnity is itself secured).

(2) Section 10(3)(a) applies for the purposes of subsection (1) as it applies for the purposes of section 8(2).

(3) Where—

(a) two or more small agreements are made at or about the same time between the same parties, and

(b) it appears probable that they would instead have been made as a single agreement but for the desire to avoid the operation of provisions of this Act which would have applied to that single agreement but, apart from this subsection, are not applicable to the small agreements,

this Act applies to the small agreements as if they were regulated agreements other than small agreements.

(4) If, apart from this subsection, subsection (3) does not apply to any agreements but would apply if, for any party or parties to any of the agreements, there were substituted an associate of that party, or associates of each of those parties, as the case may be, then subsection (3) shall apply to the agreements.

Textual Amendments

F20 "£50" substituted by S.I. 1983/1878, art. 3, **Sch. Pt. I**

18 Multiple agreements.

(1) This section applies to an agreement (a "multiple agreement ") if its terms are such as—

(a) to place a part of it within one category of agreement mentioned in this Act, and another part of it within a different category of agreement so mentioned, or within a category of agreement not so mentioned, or

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(b) to place it, or a part of it, within two or more categories of agreement so mentioned.

(2) Where a part of an agreement falls within subsection (1), that part shall be treated for the purposes of this Act as a separate agreement.

(3) Where an agreement falls within subsection (1)(b), it shall be treated as an agreement in each of the categories in question, and this Act shall apply to it accordingly.

(4) Where under subsection (2) a part of a multiple agreement is to be treated as a separate agreement, the multiple agreement shall (with any necessary modifications) be construed accordingly; and any sum payable under the multiple agreement, if not apportioned by the parties, shall for the purposes of proceedings in any court relating to the multiple agreement be apportioned by the court as may be requisite.

(5) In the case of an agreement for running-account credit, a term of the agreement allowing the credit limit to be exceeded merely temporarily shall not be treated as a separate agreement or as providing fixed-sum credit in respect of the excess.

(6) This Act does not apply to a multiple agreement so far as the agreement relates to goods if under the agreement payments are to be made in respect of the goods in the form of rent (other than a rentcharge) issuing out of land.

19 Linked transactions.

(1) A transaction entered into by the debtor or hirer, or a relative of his, with any other person ("the other party "), except one for the provision of security, is a linked transaction in relation to an actual or prospective regulated agreement (the "principal agreement ") of which it does not form part if—

(a) the transaction is entered into in compliance with a term of the principal agreement; or

(b) the principal agreement is a debtor-creditor-supplier agreement and the transaction is financed, or to be financed, by the principal agreement; or

(c) the other party is a person mentioned in subsection (2), and a person so mentioned initiated the transaction by suggesting it to the debtor or hirer, or his relative, who enters into it—

(i) to induce the creditor or owner to enter into the principal agreement, or

(ii) for another purpose related to the principal agreement, or

(iii) where the principal agreement is a restricted-use credit agreement, for a purpose related to a transaction financed, or to be financed, by the principal agreement.

(2) The persons referred to in subsection (1)(c) are—

(a) the creditor or owner, or his associate;

(b) a person who, in the negotiation of the transaction, is represented by a credit-broker who is also a negotiator in antecedent negotiations for the principal agreement;

(c) a person who, at the time the transaction is initiated, knows that the principal agreement has been made or contemplates that it might be made.

(3) A linked transaction entered into before the making of the principal agreement has no effect until such time (if any) as that agreement is made.

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(4) Regulations may exclude linked transactions of the prescribed description from the operation of subsection (3).

20 Total charge for credit.

(1) The Secretary of State shall make regulations containing such provisions as appear to him appropriate for determining the true cost to the debtor of the credit provided or to be provided under an actual or prospective consumer credit agreement (the "total charge for credit "), and regulations so made shall prescribe—

(a) what items are to be treated as entering into the total charge for credit, and how their amount is to be ascertained;

(b) the method of calculating the rate of the total charge for credit.

(2) Regulations under subsection (1) may provide for the whole or part of the amount payable by the debtor or his relative under any linked transaction to be included in the total charge for credit, whether or not the creditor is a party to the transaction or derives benefit from it.

PART III

LICENSING OF CREDIT AND HIRE BUSINESSES

Licensing principles

21 Businesses needing a licence.

(1) Subject to this section, a licence is required to carry on a consumer credit business or consumer hire business.

(2) A local authority does not need a licence to carry on a business.

(3) A body corporate empowered by a public general Act naming it to carry on a business does not need a licence to do so.

Modifications etc. (not altering text)

C9 S. 21 restricted (1.1.1993) by S.I. 1992/3218, **reg. 5(1)(c)**
S. 21 excluded (1.1.1996) by S.I. 1995/3275, **reg. 5(1)(b)**
S. 21 excluded (1.12.2001) by 2000 c. 8, ss. 31(1)(b), 37, **Sch. 3 Pt. II para. 15(3)**; S.I. 2001/3538, **art. 2(1)**

22 Standard and group licences.

(1) A licence may be—

(a) a standard licence, that is a licence, issued by the Director to a person named in the licence on an application made by him, which, during the prescribed period, covers such activities as are described in the licence, or

(b) a group licence, that is a licence, issued by the Director (whether on the application of any person or of his own motion), which, during such period

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as the Director thinks fit or, if he thinks fit, indefinitely, covers such persons and activities as are described in the licence.

(2) A licence is not assignable or, subject to section 37, transmissible on death or in any other way.

(3) Except in the case of a partnership or an unincorporated body of persons, a standard licence shall not be issued to more than one person.

(4) A standard licence issued to a partnership or an unincorporated body of persons shall be issued in the name of the partnership or body.

(5) The Director may issue a group licence only if it appears to him that the public interest is better served by doing so than by obliging the persons concerned to apply separately for standard licences.

(6) The persons covered by a group licence may be described by general words, whether or not coupled with the exclusion of named persons, or in any other way the Director thinks fit.

(7) The fact that a person is covered by a group licence in respect of certain activities does not prevent a standard licence being issued to him in respect of those activities or any of them.

(8) A group licence issued on the application of any person shall be issued to that person, and general notice shall be given of the issue of any group licence (whether on application or not).

Modifications etc. (not altering text)
C10 S. 22 extended (1.1.1993) by S.I. 1992/3218, **reg. 57(1)**
S. 22 extended (1.1.1996) by S.I. 1995/3275, **reg. 34(1)**

23 Authorisation of specific activities.

(1) Subject to this section, a licence to carry on a business covers all lawful activities done in the course of that business, whether by the licensee or other persons on his behalf.

(2) A licence may limit the activities it covers, whether by authorising the licensee to enter into certain types of agreement only, or in any other way.

(3) A licence covers the canvassing off trade premises of debtor-creditor-supplier agreements or regulated consumer hire agreements only if, and to the extent that, the licence specifically so provides; and such provision shall not be included in a group licence.

(4) Regulations may be made specifying other activities which, if engaged in by or on behalf of the person carrying on a business, require to be covered by an express term in his licence.

24 Control of name of business.

A standard licence authorises the licensee to carry on a business under the name or names specified in the licence, but not under any other name.

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VALID FROM 16/06/2006

[F21 24A Applications for standard licences

(1) An application for a standard licence shall, in relation to each type of business which is covered by the application, state whether the applicant is applying—

(a) for the licence to cover the carrying on of that type of business with no limitation; or

(b) for the licence to cover the carrying on of that type of business only so far as it falls within one or more descriptions of business.

(2) An application within subsection (1)(b) in relation to a type of business shall set out the description or descriptions of business in question.

(3) References in this Part to a type of business are references to a type of business within subsection (4).

(4) The types of business within this subsection are—

(a) a consumer credit business;

(b) a consumer hire business;

(c) a business so far as it comprises or relates to credit brokerage;

(d) a business so far as it comprises or relates to debt-adjusting;

(e) a business so far as it comprises or relates to debt-counselling;

(f) a business so far as it comprises or relates to debt-collecting;

(g) a business so far as it comprises or relates to debt administration;

(h) a business so far as it comprises or relates to the provision of credit information services;

(i) a business so far as it comprises or relates to the operation of a credit reference agency.

(5) The OFT—

(a) shall by general notice specify the descriptions of business which can be set out in an application for the purposes of subsection (2) in relation to a type of business;

(b) may by general notice provide that applications within subsection (1)(b) cannot be made in relation to one or more of the types of business within subsection (4)(c) to (i).

(6) The power of the OFT under subsection (5) includes power to make different provision for different cases or classes of case.**]**

Textual Amendments

F21 S. 24A inserted (16.6.2006 for certain purposes and otherwise 6.4.2008) by Consumer Credit Act 2006 (c. 14), ss. {28}, 71(2); S.I. 2006/1508, **art. 3(1)**, Sch. 1; S.I. 2007/3300, **art. 3(2)**, Sch. 2

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25 Licensee to be a fit person.

(1) A standard licence shall be granted on the application of any person if he satisfies the Director that—

(a) he is a fit person to engage in activities covered by the licence, and

(b) the name or names under which he applies to be licensed is or are not misleading or otherwise undesirable.

(2) In determining whether an applicant for a standard licence is a fit person to engage in any activities, the Director shall have regard to any circumstances appearing to him to be relevant, and in particular any evidence tending to show that the applicant, or any of the applicant's employees, agents or associates (whether past or present) or, where the applicant is a body corporate, any person appearing to the Director to be a controller of the body corporate or an associate of any such person, has—

(a) committed any offence involving fraud or other dishonesty, or violence,

(b) contravened any provision made by or under this Act, or by or under any other enactment regulating the provision of credit to individuals or other transactions with individuals,

(c) practised discrimination on grounds of sex, colour, race or ethnic or national origins in, or in connection with, the carrying on of any business, or

(d) engaged in business practices appearing to the Director to be deceitful or oppressive, or otherwise unfair or improper (whether unlawful or not).

(3) In subsection (2), "associate ", in addition to the persons specified in section 184, includes a business associate.

Modifications etc. (not altering text)

C11 S. 25, 25(2)(b) extended (1.1.1993) by S.I. 1992/3218, **reg. 58(1)**
S. 25 modified (1.1.1996) by S.I. 1995/3275, **reg. 35**

VALID FROM 01/12/2007

[F22 25A Guidance on fitness test

(1) The OFT shall prepare and publish guidance in relation to how it determines, or how it proposes to determine, whether persons are fit persons as mentioned in section 25.

(2) If the OFT revises the guidance at any time after it has been published, the OFT shall publish it as revised.

(3) The guidance shall be published in such manner as the OFT thinks fit for the purpose of bringing it to the attention of those likely to be affected by it.

(4) In preparing or revising the guidance the OFT shall consult such persons as it thinks fit.

(5) In carrying out its functions under this Part the OFT shall have regard to the guidance as most recently published.**]**

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Textual Amendments

F22 S. 25A inserted (1.12.2007) by Consumer Credit Act 2006 (c. 14), ss. {30}, 71(2) (with Sch. 3 para. 19); S.I. 2007/3300, **art. 3(1)**, Sch. 1

26 Conduct of business.

Regulations may be made as to the conduct by a licensee of his business, and may in particular specify—

(a) the books and other records to be kept by him, and

(b) the information to be furnished by him to persons with whom he does business or seeks to do business, and the way it is to be furnished.

Modifications etc. (not altering text)

C12 S. 26 extended (1.1.1993) by S.I. 1992/3218, **reg. 59(1)**
S. 26 modified (1.1.1996) by S.I. 1995/3275, **reg. 36(1)**

Issue of licences

27 Determination of applications.

(1) Unless the Director determines to issue a licence in accordance with an application he shall, before determining the application, by notice—

(a) inform the applicant, giving his reasons, that, as the case may be, he is minded to refuse the application, or to grant it in terms different from those applied for, describing them, and

(b) invite the applicant to submit to the Director representations in support of his application in accordance with section 34.

(2) If the Director grants the application in terms different from those applied for then, whether or not the applicant appeals, the Director shall issue the licence in the terms approved by him unless the applicant by notice informs him that he does not desire a licence in those terms.

VALID FROM 06/04/2008

[F23 27A Consumer credit EEA firms

(1) Where—

(a) a consumer credit EEA firm makes an application for a standard licence, and

(b) the activities covered by the application are all permitted activities,

the OFT shall refuse the application.

(2) Subsection (3) applies where—

(a) a consumer credit EEA firm makes an application for a standard licence; and

(b) some (but not all) of the activities covered by the application are permitted activities.

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(3) In order to be entitled to be issued with a standard licence in accordance with section 25(1) to (1AB) in relation to a type of business, the firm need not satisfy the OFT that it is a fit person to carry on that type of business so far as it would involve any of the permitted activities covered by the application.

(4) A standard licence held by a consumer credit EEA firm does not at any time authorise the carrying on of an activity which is a permitted activity at that time.

(5) In this section 'permitted activity' means, in relation to a consumer credit EEA firm, an activity for which the firm has, or could obtain, permission under paragraph 15 of Schedule 3 to the Financial Services and Markets Act 2000.**]**

Textual Amendments

F23 S. 27A inserted (6.4.2008) by Consumer Credit Act 2006 (c. 14), ss. {33(5)}, 71(2); S.I. 2007/3300, **art. 3(2)**, Sch. 2

28 Exclusion from group licence.

Where the Director is minded to issue a group licence (whether on the application of any person or not), and in doing so to exclude any person from the group by name, he shall, before determining the matter,—

(a) give notice of that fact to the person proposed to be excluded, giving his reasons, and

(b) invite that person to submit to the Director representations against his exclusion in accordance with section 34.

VALID FROM 16/06/2006

Charges for indefinite licences[F24]

Textual Amendments

F24 S. 28B inserted (16.6.2006 for certain purposes and otherwise 6.4.2008) by Consumer Credit Act 2006 (c. 14), ss. {36}, 71(2); S.I. 2006/1508, **art. 3(1)**, Sch. 1; S.I. 2007/3300, **art. 3(2)**, Sch. 2

[F25 28A Charges to be paid by licensees etc. before end of payment periods

(1) The licensee under a standard licence which has effect indefinitely shall, before the end of each payment period of his, pay the OFT a charge towards the costs of carrying out its functions under this Act.

(2) The original applicant for a group licence which has effect indefinitely shall, before the end of each payment period of his, pay the OFT such a charge.

(3) The amount of the charge payable by a person under subsection (1) or (2) before the end of a payment period shall be determined in accordance with provision which—

(a) is made by the OFT by general notice; and

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(b) is current on such day as may be determined in accordance with provision made by regulations.

(4) The provision that may be made by the OFT under subsection (3)(a) includes—

(a) different provision in relation to persons of different descriptions (including persons whose payment periods end at different times);

(b) provision for no charge at all to be payable by persons of specified descriptions.

(5) The approval of the Secretary of State and the Treasury is required for a general notice under subsection (3)(a).

(6) For the purposes of this section a person's payment periods are to be determined in accordance with provision made by regulations.

Textual Amendments

F25 S. 28A and preceding cross-heading inserted (16.6.2006 for certain purposes and otherwise 6.4.2008) by Consumer Credit Act 2006 (c. 14), ss. {35}, 71(2); S.I. 2006/1508, **art. 3(1)**, Sch. 1; S.I. 2007/3300, **art. 3(2)**, Sch. 2

[F24 28B Extension of period to pay charge under s. 28A

(1) A person who is required under section 28A to pay a charge before the end of a period may apply once to the OFT for that period to be extended.

(2) The application shall be made before such day as may be determined in accordance with provision made by the OFT by general notice.

(3) If the OFT is satisfied that there is a good reason—

(a) why the applicant has not paid that charge prior to his making of the application, and

(b) why he cannot pay that charge before the end of that period,

it may, if it thinks fit, by notice to him extend that period by such time as it thinks fit having regard to that reason.

(4) The power of the OFT under this section to extend a period in relation to a charge—

(a) includes the power to extend the period in relation to a part of the charge only;

(b) may be exercised even though the period has ended.**]**

Textual Amendments

F25 S. 28A and preceding cross-heading inserted (16.6.2006 for certain purposes and otherwise 6.4.2008) by Consumer Credit Act 2006 (c. 14), ss. {35}, 71(2); S.I. 2006/1508, **art. 3(1)**, Sch. 1; S.I. 2007/3300, **art. 3(2)**, Sch. 2

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VALID FROM 06/04/2008

[F26 28C Failure to pay charge under s. 28A

(1) This section applies if a person (the 'defaulter') fails to pay a charge—

(a) before the end of a period (the 'payment period') as required under section 28A; or

(b) where the payment period is extended under section 28B, before the end of the payment period as extended (subject to subsection (2)).

(2) Where the payment period is extended under section 28B in relation to a part of the charge only, this section applies if the defaulter fails—

(a) to pay so much of the charge as is not covered by the extension before the end of the payment period disregarding the extension; or

(b) to pay so much of the charge as is covered by the extension before the end of the payment period as extended.

(3) Subject to subsection (4), if the charge is a charge under section 28A(1), the defaulter's licence terminates.

(4) If the defaulter has applied to the OFT under section 28B for the payment period to be extended and that application has not been determined—

(a) his licence shall not terminate before the application has been determined and the OFT has notified him of the determination; and

(b) if the OFT extends the payment period on that application, this section shall have effect accordingly.

(5) If the charge is a charge under section 28A(2), the charge shall be recoverable by the OFT.**]]**

Textual Amendments

F25 S. 28A and preceding cross-heading inserted (16.6.2006 for certain purposes and otherwise 6.4.2008) by Consumer Credit Act 2006 (c. 14), ss. {35}, 71(2); S.I. 2006/1508, **art. 3(1)**, Sch. 1; S.I. 2007/3300, **art. 3(2)**, Sch. 2

F26 S. 28C inserted (6.4.2008) by Consumer Credit Act 2006 (c. 14), ss. {37(1)}, 71(2); S.I. 2007/3300, **art. 3(2)**, Sch. 2

Renewal, variation, suspension and revocation of licences

29 Renewal.

(1) If the licensee under a standard licence, or the original applicant for, or any licensee under, a group licence of limited duration, wishes the Director to renew the licence, whether on the same terms (except as to expiry) or on varied terms, he must, during the period specified by the Director by general notice or such longer period as the Director may allow, make an application to the Director for its renewal.

(2) The Director may of his own motion renew any group licence.

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(3) The preceding provisions of this Part apply to the renewal of a licence as they apply to the issue of a licence, except that section 28 does not apply to a person who was already excluded in the licence up for renewal.

(4) Until the determination of an application under subsection (1) and, where an appeal lies from the determination, until the end of the appeal period, the licence shall continue in force, notwithstanding that apart from this subsection it would expire earlier.

(5) On the refusal of an application under this section, the Director may give directions authorising a licensee to carry into effect agreements made by him before the expiry of the licence.

(6) General notice shall be given of the renewal of a group licence.

30 Variation by request.

(1) On an application made by the licensee, the Director may if he thinks fit by notice to the licensee vary a standard licence in accordance with the application.

(2) In the case of a group licence issued on the application of any person, the Director, on an application made by that person, may if he thinks fit by notice to that person vary the terms of the licence in accordance with the application; but the Director shall not vary a group licence under this subsection by excluding a named person, other than the person making the request, unless that named person consents in writing to his exclusion.

(3) In the case of a group licence from which (whether by name or description) a person is excluded, the Director, on an application made by that person, may if he thinks fit, by notice to that person, vary the terms of the licence so as to remove the exclusion.

(4) Unless the Director determines to vary a licence in accordance with an application he shall, before determining the application, by notice—

(a) inform the applicant, giving his reasons, that he is minded to refuse the application, and

(b) invite the applicant to submit to the Director representations in support of his application in accordance with section 34.

(5) General notice shall be given that a variation of a group licence has been made under this section.

31 Compulsory variation.

(1) Where at a time during the currency of a licence the Director is of the opinion that, if the licence had expired at that time, he would, on an application for its renewal or further renewal on the same terms (except as to expiry), have been minded to grant the application but on different terms, and that therefore the licence should be varied, he shall proceed as follows.

(2) In the case of a standard licence the Director shall, by notice—

(a) inform the licensee of the variations the Director is minded to make in the terms of the licence, stating his reasons, and

(b) invite him to submit to the Director representations as to the proposed variations in accordance with section 34.

Status: *Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Consumer Credit Act 1974 is up to date with all changes known to be in force on or before 10 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3) In the case of a group licence the Director shall—

(a) give general notice of the variations he is minded to make in the terms of the licence, stating his reasons, and

(b) in the notice invite any licensee to submit to him representations as to the proposed variations in accordance with section 34.

(4) In the case of a group licence issued on application the Director shall also—

(a) inform the original applicant of the variations the Director is minded to make in the terms of the licence, stating his reasons, and

(b) invite him to submit to the Director representations as to the proposed variations in accordance with section 34.

(5) If the Director is minded to vary a group licence by excluding any person (other than the original applicant) from the group by name the Director shall, in addition, take the like steps under section 28 as are required in the case mentioned in that section.

(6) General notice shall be given that a variation of any group licence has been made under this section.

(7) A variation under this section shall not take effect before the end of the appeal period.

32 Suspension and revocation.

(1) Where at a time during the currency of a licence the Director is of the opinion that if the licence had expired at that time he would have been minded not to renew it, and that therefore it should be revoked or suspended, he shall proceed as follows.

(2) In the case of a standard licence the Director shall, by notice—

(a) inform the licensee that, as the case may be, the Director is minded to revoke the licence, or suspend it until a specified date or indefinitely, stating his reasons, and

(b) invite him to submit representations as to the proposed revocation or suspension in accordance with section 34.

(3) In the case of a group licence the Director shall—

(a) give general notice that, as the case may be, he is minded to revoke the licence, or suspend it until a specified date or indefinitely, stating his reasons, and

(b) in the notice invite any licensee to submit to him representations as to the proposed revocation or suspension in accordance with section 34.

(4) In the case of a group licence issued on application the Director shall also—

(a) inform the original applicant that, as the case may be, the Director is minded to revoke the licence, or suspend it until a specified date or indefinitely, stating his reasons, and

(b) invite him to submit representations as to the proposed revocation or suspension in accordance with section 34.

(5) If he revokes or suspends the licence, the Director may give directions authorising a licensee to carry into effect agreements made by him before the revocation or suspension.

(6) General notice shall be given of the revocation or suspension of a group licence.

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(7) A revocation or suspension under this section shall not take effect before the end of the appeal period.

(8) Except for the purposes of section 29, a licensee under a suspended licence shall be treated, in respect of the period of suspension, as if the licence had not been issued; and where the suspension is not expressed to end on a specified date it may, if the Director thinks fit, be ended by notice given by him to the licensee or, in the case of a group licence, by general notice.

33 Application to end suspension.

(1) On an application made by a licensee the Director may, if he thinks fit, by notice to the licensee end the suspension of a licence, whether the suspension was for a fixed or indefinite period.

(2) Unless the Director determines to end the suspension in accordance with the application he shall, before determining the application, by notice—

(a) inform the applicant, giving his reasons, that he is minded to refuse the application, and

(b) invite the applicant to submit to the Director representations in support of his application in accordance with section 34.

(3) General notice shall be given that a suspension of a group licence has been ended under this section.

(4) In the case of a group licence issued on application—

(a) the references in subsection (1) to a licensee include the original applicant;

(b) the Director shall inform the original applicant that a suspension of a group licence has been ended under this section.

VALID FROM 01/12/2007

Further powers of OFT to regulate conduct of licensees etc.

VALID FROM 06/04/2008

[F27 33A Power of OFT to impose requirements on licensees

(1) This section applies where the OFT is dissatisfied with any matter in connection with—

(a) a business being carried on, or which has been carried on, by a licensee or by an associate or a former associate of a licensee;

(b) a proposal to carry on a business which has been made by a licensee or by an associate or a former associate of a licensee; or

(c) any conduct not covered by paragraph (a) or (b) of a licensee or of an associate or a former associate of a licensee.

(2) The OFT may by notice to the licensee require him to do or not to do (or to cease doing) anything specified in the notice for purposes connected with—

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(a) addressing the matter with which the OFT is dissatisfied; or

(b) securing that matters of the same or a similar kind do not arise.

(3) A requirement imposed under this section on a licensee shall only relate to a business which the licensee is carrying on, or is proposing to carry on, under the licence under which he is a licensee.

(4) Such a requirement may be framed by reference to a named person other than the licensee.

(5) For the purposes of subsection (1) it is immaterial whether the matter with which the OFT is dissatisfied arose before or after the licensee became a licensee.

(6) If—

(a) a person makes an application for a standard licence, and

(b) while dealing with that application the OFT forms the opinion that, if such a licence were to be issued to that person, it would be minded to impose on him a requirement under this section,

the OFT may, before issuing such a licence to that person, do (in whole or in part) anything that it must do under section 33D or 34(1) or (2) in relation to the imposing of the requirement.

(7) In this section 'associate', in addition to the persons specified in section 184, includes a business associate.**]**

Textual Amendments

F27 S. 33A and preceding cross-heading inserted (6.4.2008) by Consumer Credit Act 2006 (c. 14), ss. {38}, 71(2) (with Sch. 3 para. 20); S.I. 2007/3300, **art. 3(2)**, Sch. 2

VALID FROM 06/04/2008

[F28 33B Power of OFT to impose requirements on supervisory bodies

(1) This section applies where the OFT is dissatisfied with the way in which a responsible person in relation to a group licence—

(a) is regulating or otherwise supervising, or has regulated or otherwise supervised, persons who are licensees under that licence; or

(b) is proposing to regulate or otherwise to supervise such persons.

(2) The OFT may by notice to the responsible person require him to do or not to do (or to cease doing) anything specified in the notice for purposes connected with—

(a) addressing the matters giving rise to the OFT's dissatisfaction; or

(b) securing that matters of the same or a similar kind do not arise.

(3) A requirement imposed under this section on a responsible person in relation to a group licence shall only relate to practices and procedures for regulating or otherwise supervising licensees under the licence in connection with their carrying on of businesses under the licence.

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(4) For the purposes of subsection (1) it is immaterial whether the matters giving rise to the OFT's dissatisfaction arose before or after the issue of the group licence in question.

(5) If—

(a) a person makes an application for a group licence, and

(b) while dealing with that application the OFT forms the opinion that, if such a licence were to be issued to that person, it would be minded to impose on him a requirement under this section,

the OFT may, before issuing such a licence to that person, do (in whole or in part) anything that it must do under section 33D or 34(1) or (2) in relation to the imposing of the requirement.

(6) For the purposes of this Part a person is a responsible person in relation to a group licence if—

(a) he is the original applicant for it; and

(b) he has a responsibility (whether by virtue of an enactment, an agreement or otherwise) for regulating or otherwise supervising persons who are licensees under the licence.**]**

Textual Amendments

F28 S. 33B inserted (6.4.2008) by Consumer Credit Act 2006 (c. 14), ss. {39}, 71(2) (with Sch. 3 para. 21); S.I. 2007/3300, **art. 3(2)**, Sch. 2

VALID FROM 06/04/2008

[F29 33C Supplementary provision relating to requirements

(1) A notice imposing a requirement under section 33A or 33B may include provision about the time at or by which, or the period during which, the requirement is to be complied with.

(2) A requirement imposed under section 33A or 33B shall not have effect after the licence by reference to which it is imposed has itself ceased to have effect.

(3) A person shall not be required under section 33A or 33B to compensate, or otherwise to make amends to, another person.

(4) The OFT may by notice to the person on whom a requirement has been imposed under section 33A or 33B vary or revoke the requirement (including any provision made under subsection (1) of this section in relation to it) with effect from such date as may be specified in the notice.

(5) The OFT may exercise its power under subsection (4) in relation to a requirement either on its own motion or on the application of a person falling within subsection (6) or (7) in relation to the requirement.

(6) A person falls within this subsection in relation to a requirement if he is the person on whom the requirement is imposed.

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(7) A person falls within this subsection in relation to a requirement if—

(a) the requirement is imposed under section 33A;

(b) he is not the person on whom the requirement is imposed;

(c) the requirement is framed by reference to him by name; and

(d) the effect of the requirement is—

(i) to prevent him being an employee of the person on whom the requirement is imposed;

(ii) to restrict the activities that he may engage in as an employee of that person; or

(iii) otherwise to prevent him from doing something, or to restrict his doing something, in connection with a business being carried on by that person.**]**

Textual Amendments

F29 S. 33C inserted (6.4.2008) by Consumer Credit Act 2006 (c. 14), ss. {40}, 71(2); S.I. 2007/3300, **art. 3(2)**, Sch. 2

VALID FROM 06/04/2008

[F30 33D Procedure in relation to requirements

(1) Before making a determination—

(a) to impose a requirement on a person under section 33A or 33B,

(b) to refuse an application under section 33C(5) in relation to a requirement imposed under either of those sections, or

(c) to vary or to revoke a requirement so imposed,

the OFT shall proceed as follows.

(2) The OFT shall give a notice to every person to whom subsection (3) applies in relation to the determination—

(a) informing him, with reasons, that it is minded to make the determination; and

(b) inviting him to submit to it representations as to the determination under section 34.

(3) This subsection applies to a person in relation to the determination if he falls within, or as a consequence of the determination would fall within, section 33C(6) or (7) in relation to the requirement in question.

(4) This section does not require the OFT to give a notice to a person if the determination in question is in the same terms as a proposal made to the OFT by that person (whether as part of an application under this Part or otherwise).**]**

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Textual Amendments

F30 S. 33D inserted (6.4.2008) by Consumer Credit Act 2006 (c. 14), ss. {41}, 71(2); S.I. 2007/3300, **art. 3(2)**, Sch. 2

[F31 33E Guidance on requirements

(1) The OFT shall prepare and publish guidance in relation to how it exercises, or how it proposes to exercise, its powers under sections 33A to 33C.

(2) If the OFT revises the guidance at any time after it has been published, the OFT shall publish it as revised.

(3) The guidance shall be published in such manner as the OFT thinks fit for the purpose of bringing it to the attention of those likely to be affected by it.

(4) In preparing or revising the guidance the OFT shall consult such persons as it thinks fit.

(5) In exercising its powers under sections 33A to 33C the OFT shall have regard to the guidance as most recently published.**]**

Textual Amendments

F31 S. 33E inserted (1.12.2007) by Consumer Credit Act 2006 (c. 14), ss. {42}, 71(2) (with Sch. 3 para. 22); S.I. 2007/3300, **art. 3(2)**, Sch. 2

Miscellaneous

34 Representations to Director.

(1) Where this section applies to an invitation by the Director to any person to submit representations, the Director shall invite that person, within 21 days after the notice containing the invitation is given to him or published, or such longer period as the Director may allow,—

(a) to submit his representations in writing to the Director, and

(b) to give notice to the Director, if he thinks fit, that he wishes to make representations orally,

and where notice is given under paragraph (b) the Director shall arrange for the oral representations to be heard.

(2) In reaching his determination the Director shall take into account any representations submitted or made under this section.

(3) The Director shall give notice of his determination to the persons who were required to be invited to submit representations about it or, where the invitation to submit representations was required to be given by general notice, shall give general notice of the determination.

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VALID FROM 06/04/2008

[F32 34A Winding-up of standard licensee's business

(1) If it thinks fit, the OFT may, for the purpose of enabling the licensee's business, or any part of his business, to be transferred or wound up, include as part of a determination to which subsection (2) applies provision authorising the licensee to carry on for a specified period—

(a) specified activities, or

(b) activities of specified descriptions,

which, because of that determination, the licensee will no longer be licensed to carry on.

(2) This subsection applies to the following determinations—

(a) a determination to refuse to renew a standard licence in accordance with the terms of the application for its renewal;

(b) a determination to vary such a licence under section 31;

(c) a determination to suspend or revoke such a licence.

(3) Such provision—

(a) may specify different periods for different activities or activities of different descriptions;

(b) may provide for persons other than the licensee to carry on activities under the authorisation;

(c) may specify requirements which must be complied with by a person carrying on activities under the authorisation in relation to those activities;

and, if a requirement specified under paragraph (c) is not complied with, the OFT may by notice to a person carrying on activities under the authorisation terminate the authorisation (in whole or in part) from a specified date.

(4) Without prejudice to the generality of paragraph (c) of subsection (3), a requirement specified under that paragraph may have the effect of—

(a) preventing a named person from being an employee of a person carrying on activities under the authorisation, or restricting the activities he may engage in as an employee of such a person;

(b) preventing a named person from doing something, or restricting his doing something, in connection with activities being carried on by a person under the authorisation;

(c) securing that access to premises is given to officers of the OFT for the purpose of enabling them to inspect documents or to observe the carrying on of activities.

(5) Activities carried on under an authorisation shall be treated for the purposes of sections 39(1), 40, 148 and 149 as if carried on under a standard licence.**]**

Textual Amendments

F32 S. 34A inserted (6.4.2008) by Consumer Credit Act 2006 (c. 14), ss. {32(1)}, 71(2); S.I. 2007/3300, **art. 3(2)**, Sch. 2

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35 The register.

(1) The Director shall establish and maintain a register, in which he shall cause to be kept particulars of—

(a) applications not yet determined for the issue, variation or renewal of licences, or for ending the suspension of a licence;

(b) licences which are in force, or have at any time been suspended or revoked, with details of any variation of the terms of a licence;

(c) decisions given by him under this Act, and any appeal from those decisions; and

(d) such other matters (if any) as he thinks fit.

(2) The Director shall give general notice of the various matters required to be entered in the register, and of any change in them made under subsection (1)(d).

(3) Any person shall be entitled on payment of the specified fee—

(a) to inspect the register during ordinary office hours and take copies of any entry, or

(b) to obtain from the Director a copy, certified by the Director to be correct, of any entry in the register.

(4) The Director may, if he thinks fit, determine that the right conferred by subsection (3)(a) shall be exercisable in relation to a copy of the register instead of, or in addition to, the original.

(5) The Director shall give general notice of the place or places where, and times when, the register or a copy of it may be inspected.

Modifications etc. (not altering text)

C13 S. 35 extended (1.1.1993) by S.I. 1992/3218, **reg. 60**
S. 35 modified (1.1.1996) by S.I. 1995/3275, **reg. 37**

36 Duty to notify changes.

(1) Within 21 days working days after a change takes place in any particulars entered in the register in respect of a standard licence or the licensee under section 35(1)(d) (not being a change resulting from action taken by the Director), the licensee shall give the Director notice of the change; and the Director shall cause any necessary amendment to be made in the register.

(2) Within 21 working days after—

(a) any change takes place in the officers of—

(i) a body corporate, or an unincorporated body of persons, which is the licensee under a standard licence, or

(ii) a body corporate which is a controller of a body corporate which is such a licensee, or

(b) a body corporate which is such a licensee becomes aware that a person has become or ceased to be a controller of the body corporate, or

(c) any change takes place in the members of a partnership which is such a licensee (including a change on the amalgamation of the partnership with another firm, or a change whereby the number of partners is reduced to one),

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the licensee shall give the Director notice of the change.

(3) Within 14 working days after any change takes place in the officers of a body corporate which is a controller of another body corporate which is a licensee under a standard licence, the controller shall give the licensee notice of the change.

(4) Within 14 working days after a person becomes or ceases to be a controller of a body corporate which is a licensee under a standard licence, that person shall give the licensee notice of the fact.

(5) Where a change in a partnership has the result that the business ceases to be carried on under the name, or any of the names, specified in a standard licence the licence shall cease to have effect.

(6) Where the Director is given notice under subsection (1) or (2) of any change, and subsection (5) does not apply, the Director may by notice require the licensee to furnish him with such information, verified in such manner, as the Director may stipulate.

VALID FROM 01/12/2007

[F33 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.

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(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.**]**

Textual Amendments

F33 S. 36A inserted (1.12.2007 for specified purposes and otherwise 6.4.2008) by Consumer Credit Act 2006 (c. 14), ss. {45}, 71(2) (with Sch. 3 para. 24); S.I. 2007/3300, **art. 3(1)**, Sch. 1; S.I. 2007/3300, **art. 3(2)**, Sch. 2

VALID FROM 06/04/2008

[F34 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.

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(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).**]**

Textual Amendments

F34 S. 36B inserted (6.4.2008) by Consumer Credit Act 2006 (c. 14), ss. {46}, 71(2); S.I. 2007/3300, **art. 3(2)**, Sch. 2

VALID FROM 06/04/2008

[F35 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

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(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.**]**

Textual Amendments

F35 S. 36C inserted (6.4.2008) by Consumer Credit Act 2006 (c. 14), ss. {47}, 71(2); S.I. 2007/3300, **art. 3(2)**, Sch. 2

Status: *Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.*
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VALID FROM 06/04/2008

[F36 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.]

Textual Amendments

F36 S. 36D inserted (6.4.2008) by Consumer Credit Act 2006 (c. 14), ss. {48}, 71(2); S.I. 2007/3300, **art. 3(2)**, Sch. 2

VALID FROM 06/04/2008

[F37 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.

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(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.**]**

Textual Amendments

F37 S. 36E inserted (6.4.2008) by Consumer Credit Act 2006 (c. 14), ss. {49}, 71(2); S.I. 2007/3300, **art. 3(2)**, Sch. 2

VALID FROM 06/04/2008

[F38 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

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(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.**]**

Textual Amendments

F38 S. 36F inserted (6.4.2008) by Consumer Credit Act 2006 (c. 14), ss. {50}, 71(2); S.I. 2007/3300, **art. 3(2)**, Sch. 2

37 Death, bankruptcy etc. of licensee.

(1) A licence held by one individual terminates if he—

(a) dies, or

(b) is adjudged bankrupt, or

(c) becomes a patient within the meaning of Part VIII of the [M2]Mental Health Act 1959.

(2) In relation to a licence held by one individual, or a partnership or other unincorporated body of persons, or a body corporate, regulations may specify other events relating to the licensee on the occurrence of which the licence is to terminate.

(3) Regulations may—

(a) provide for the termination of a licence by subsection (1), or under subsection (2), to be deferred for a period not exceeding 12 months, and

(b) authorise the business of the licensee to be carried on under the licence by some other person during the period of deferment, subject to such conditions as may be prescribed.

(4) This section does not apply to group licences.

Modifications etc. (not altering text)

C14 S. 37(1) amended by S.I. 1976/1002, **reg. 3** (as substituted by S.I. 1981/614, **reg. 2**(*b*))

Marginal Citations

M2 1959 c. 72.

38 Application of s. 37 to Scotland and Northern Ireland.

(1) In the application of section 37 to Scotland the following shall be substituted for paragraphs (b) and (c) of subsection (1)—

"(b) has his estate sequestrated, or

(c) becomes incapable of managing his own affairs."

(2) In the application of section 37 to Northern Ireland the following shall be substituted for subsection (1)—

"(1) A licence held by one individual terminates if—

(a) he dies, or

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(b) he is adjudged bankrupt or his estate and effects vest in the official assignee under section 349 of the Irish Bankrupt and Insolvent Act 1857, or

(c) a declaration is made under section 15 of the Lunacy Regulation (Ireland) Act 1871 that he is of unsound mind and incapable of managing his person or property, or an order is made under section 68 of that Act in consequence of its being found that he is of unsound mind and incapable of managing his affairs.".

39 Offences against Part III.

(1) A person who engages in any activities for which a licence is required when he is not a licensee under a licence covering those activities commits an offence.

(2) A licensee under a standard licence who carries on business under a name not specified in the licence commits an offence.

(3) A person who fails to give the Director or a licensee notice under section 36 within the period required commits an offence.

Modifications etc. (not altering text)

C15 S. 39(1) restricted (1.1.1993) by S.I. 1992/3218, **reg. 5(1)(c)**
S. 39(1) excluded (1.1.1996) by S.I. 1995/3275, **reg. 5(1)(b)**
S. 39(1) excluded (1.12.2001) by 2000 c. 8, ss. 31(1)(b), 37, **Sch. 3 Pt. II para. 15(3)**; S.I. 2001/3538, **art. 2(1)**

VALID FROM 06/04/2008

[F39 39A Power of OFT to impose civil penalties

(1) Where the OFT is satisfied that a person (the 'defaulter') has failed or is failing to comply with a requirement imposed on him by virtue of section 33A, 33B or 36A, it may by notice to him (a 'penalty notice') impose on him a penalty of such amount as it thinks fit.

(2) The penalty notice shall—

(a) specify the amount of the penalty that is being imposed;

(b) set out the OFT's reasons for imposing a penalty and for specifying that amount;

(c) specify how the payment of the penalty may be made to the OFT; and

(d) specify the period within which the penalty is required to be paid.

(3) The amount of the penalty shall not exceed £50,000.

(4) The period specified in the penalty notice for the purposes of subsection (2)(d) shall not end earlier than the end of the period during which an appeal may be brought against the imposition of the penalty under section 41.

(5) If the defaulter does not pay the penalty to the OFT within the period so specified—

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(a) the unpaid balance from time to time shall carry interest at the rate for the time being specified in section 17 of the Judgments Act 1838; and

(b) the penalty and any interest payable on it shall be recoverable by the OFT.**]**

Textual Amendments

F39 S. 39A inserted (6.4.2008) by Consumer Credit Act 2006 (c. 14), ss. {52}, 71(2); S.I. 2007/3300, **art. 3(2)**, Sch. 2

VALID FROM 06/04/2008

[F40 39B Further provision relating to civil penalties

(1) Before determining to impose a penalty on a person under section 39A the OFT shall give a notice to that person—

(a) informing him that it is minded to impose a penalty on him;

(b) stating the proposed amount of the penalty;

(c) setting out its reasons for being minded to impose a penalty on him and for proposing that amount;

(d) setting out the proposed period for the payment of the penalty; and

(e) inviting him to submit representations to it about the matters mentioned in the preceding paragraphs in accordance with section 34.

(2) In determining whether and how to exercise its powers under section 39A in relation to a person's failure, the OFT shall have regard to (amongst other things)—

(a) any penalty or fine that has been imposed on that person by another body in relation to the conduct giving rise to the failure;

(b) other steps that the OFT has taken or might take under this Part in relation to that conduct.

(3) General notice shall be given of the imposition of a penalty under section 39A on a person who is a responsible person in relation to a group licence.

(4) That notice shall include the matters set out in the notice imposing the penalty in accordance with section 39A(2)(a) and (b).**]**

Textual Amendments

F40 S. 39B inserted (6.4.2008) by Consumer Credit Act 2006 (c. 14), ss. {53(1)}, 71(2)

VALID FROM 01/12/2007

[F41 39C Statement of policy in relation to civil penalties

(1) The OFT shall prepare and publish a statement of policy in relation to how it exercises, or how it proposes to exercise, its powers under section 39A.

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(2) If the OFT revises the statement of policy at any time after it has been published, the OFT shall publish it as revised.

(3) No statement of policy shall be published without the approval of the Secretary of State.

(4) The statement of policy shall be published in such manner as the OFT thinks fit for the purpose of bringing it to the attention of those likely to be affected by it.

(5) In preparing or revising the statement of policy the OFT shall consult such persons as it thinks fit.

(6) In determining whether and how to exercise its powers under section 39A in relation to a person's failure, the OFT shall have regard to the statement of policy as most recently published at the time the failure occurred.

(7) The OFT shall not impose a penalty on a person under section 39A in relation to a failure occurring before it has published a statement of policy.**]**

Textual Amendments

F41 S. 39C inserted (1.12.2007) by Consumer Credit Act 2006 (c. 14), ss. {54}, 71(2) (with Sch. 3 para. 25); S.I. 2007/3300, **art. 3(1)**, Sch. 1

40 Enforcement of agreements made by unlicensed trader.

(1) A regulated agreement, other than a non-commercial agreement, if made when the creditor or owner was unlicensed, is enforceable against the debtor or hirer only where the Director has made an order under this section which applies to the agreement.

(2) Where during any period an unlicensed person (the "trader ") was carrying on a consumer credit business or consumer hire business, he or his successor in title may apply to the Director for an order that regulated agreements made by the trader during that period are to be treated as if he had been licensed.

(3) Unless the Director determines to make an order under subsection (2) in accordance with the application, he shall, before determining the application, by notice—

(a) inform the applicant, giving his reasons, that, as the case may be, he is minded to refuse the application, or to grant it in terms different from those applied for, describing them, and

(b) invite the applicant to submit to the Director representations in support of his application in accordance with section 34.

(4) In determining whether or not to make an order under subsection (2) in respect of any period the Director shall consider, in addition to any other relevant factors—

(a) how far, if at all, debtors or hirers under regulated agreements made by the trader during that period were prejudiced by the trader's conduct,

(b) whether or not the Director would have been likely to grant a licence covering that period on an application by the trader, and

(c) the degree of culpability for the failure to obtain a licence.

(5) If the Director thinks fit, he may in an order under subsection (2)—

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(a) limit the order to specified agreements, or agreements of a specified description or made at a specified time;

(b) make the order conditional on the doing of specified acts by the applicant.

Modifications etc. (not altering text)

C16 S. 40 restricted (1.1.1993) by S.I. 1992/3218, **reg. 61(1)**
S. 40 modified (1.1.1996) by S.I. 1995/3275, **reg. 38(1)**

[F42]41 Appeals to Secretary of State under Part III.

(1) If, in the case of a determination by the Director such as is mentioned in column 1 of the table set out at the end of this section, a person mentioned in relation to that determination in column 2 of the table is aggrieved by the determination he may, within the prescribed period, and in the prescribed manner, appeal to the Secretary of State.

(2) Regulations may make provision as to the persons by whom (on behalf of the Secretary of State) appeals under this section are to be heard, the manner in which they are to be conducted, and any other matter connected with such appeals.

(3) On an appeal under this section, the Secretary of State may give such directions for disposing of the appeal as he thinks just, including a direction for the payment of costs by any party to the appeal.

(4) A direction under subsection (3) for payment of costs may be made a rule of the High Court on the application of the party in whose favour it is given.

(5) In Scotland a direction under subsection (3) for payment of expenses may be enforced in like manner as recorded decree arbitral.

TABLE

Determination	Appellant
Refusal to issue, renew or vary licence in accordance with terms of application.	The applicant.
Exclusion of person from group licence.	The person excluded.
Refusal to give directions in respect of a licensee under section 29(5) or 32(5).	The licensee.
Compulsory variation, or suspension or revocation, of standard licence.	The licensee.
Compulsory variation, or suspension or revocation, of group licence.	The original applicant or any licensee.
Refusal to end suspension of licence in accordance with terms of application.	The applicant.
Refusal to make order under section 40(2) in accordance with terms of application.	The applicant.

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Textual Amendments

F42 By S.I. 1992/3218, reg. 18(6), **Sch. 5 para. 5** it is provided that section 41 shall have effect (1.1.1993) as if -(a) the following determinations were mentioned in column 1 of the table set out at the end of that section, namely -(i) imposition of a prohibition or restriction or the variation of a restriction; and(ii) refusal of an application for the revocation of a prohibition or restriction; and (b) the European institution concerned were mentioned in column 2 of that table in relation to those determinations

Modifications etc. (not altering text)

C17 S. 41 extended (1.1.1996) by S.I. 1996/3275, reg. 15(6), **sch. 5 para. 5**
S. 41 applied (with modifications) (1.12.2001) by 2000 c. 8, s. 203(8), **Sch. 16 para. 5**; S.I. 2001/3538, **art. 2(1)**

42 Further appeal on point of law. [X3]

(1) In section 13 of the [M3] Tribunals and Inquiries Act 1971 (subsection (1) of which provides that on a point of law an appeal shall lie to the High Court from a decision of any tribunal mentioned in that subsection or the tribunal may be required,to state a case for the opinion of the High Court), insert the following new subsection after subsection (5)—

"(5A) Subsection (1) of this section shall apply to a decision of the Secretary of State on an appeal under section 41 of the Consumer Credit Act 1974 from a determination of the Director General of Fair Trading as it applies to a decision of any of the tribunals mentioned in that subsection, but with the substitution for the reference to a party to proceedings of a reference to any person who had a right to appeal to the Secretary of State (whether or not he has exercised that right); and accordingly references in subsections (1) and (3) of this section to a tribunal shall be construed, in relation to such an appeal, as references to the Secretary of State."

(2) In subsection (6)(a) of the said section 13 (application to Scotland), after the word "commissioners " there shall be inserted the words "or on an appeal under section 41 of the Consumer Credit Act 1974 by a company registered in Scotland or by any other person whose principal or prospective principal place of business in the United Kingdom is in Scotland ".

(3) In subsection (7) of the said section 13 (application to Northern Ireland) after "subsection (1) of this section " insert, "and in relation to a decision of the Secretary of State on appeal under section 41 of the Consumer Credit Act 1974 by company registered in Northern Ireland or by any other person whose principal or prospective principal place of business in the United Kingdom is in Northern Ireland. "

Editorial Information

X3 The text of ss. 3(a)(b)(c), 5, 42(1)(2)(3), 192(3)(a)(b), Sch. 4 Pt. I paras. 1, 2, 5, 7 - 9, 11 - 17, 19, 22 - 28, 30 - 32, 34 - 37, Sch. 4 Pt. II paras. 39, 40, 43 -45, 49 - 51 and Sch. 5 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

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Marginal Citations

M3 1971 c. 62.

VALID FROM 01/12/2007

[F43 Appeals F44]

Textual Amendments

F43 S. 40A and preceding cross-heading inserted (1.12.2007 for specified purposes and 6.4.2008 for further specified purposes and otherwise prosp.) by Consumer Credit Act 2006 (c. 14), ss. {55(1)}, 71(2) (with Sch. 3 para. 25); S.I. 2007/3300, **art. 3(1)**{(2)}, Schs. 1, 2

F44 S. 41A inserted (1.12.2007 for specified purposes and otherwise 6.4.2008) by Consumer Credit Act 2006 (c. 14), **ss. 57**, 71(2); S.I. 2007/3300, **art. 3(1)**, 3(2), Sch. 1, Sch. 2

[F43 40A The Consumer Credit Appeals Tribunal

(1) There shall be a tribunal known as the Consumer Credit Appeals Tribunal ('the Tribunal').

(2) The Tribunal shall have the functions conferred on it by or under this Part.

(3) The Lord Chancellor may by rules make such provision as he thinks fit for regulating the conduct and disposal of appeals before the Tribunal.

(4) Schedule A1 (which makes provision about the Tribunal and proceedings before it) shall have effect.

(5) But that Schedule does not limit the Lord Chancellor's powers under subsection (3).]

Modifications etc. (not altering text)

C18 S. 40A applied (15.12.2007) by The Money Laundering Regulations 2007 (S.I. 2007/2157), **reg. 44(5)**

VALID FROM 01/09/2009

[F45 41ZA Tribunal Procedure Rules: suspension of OFT determinations

In the case of appeals to the First-tier Tribunal under section 41, Tribunal Procedure Rules may make provision for the suspension of determinations of the OFT.

Textual Amendments

F45 Ss. 41ZA, 41ZB inserted (1.9.2009) by The Transfer of Functions of the Consumer Credit Appeals Tribunal Order 2009 (S.I. 2009/1835), arts. 1, 4(1), **Sch. 1 para. 5** (with Sch. 4)

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VALID FROM 01/09/2009

41ZB Disposal of appeals

(1) The First-tier Tribunal shall decide an appeal under section 41 by way of a rehearing of the determination appealed against.

(2) In disposing of an appeal under section 41 the First-tier Tribunal may do one or more of the following—

(a) confirm the determination appealed against;

(b) quash that determination;

(c) vary that determination;

(d) remit the matter to the OFT for reconsideration and determination in accordance with the directions (if any) given to it by the tribunal;

(e) give the OFT directions for the purpose of giving effect to its decision.

(3) In the case of an appeal under section 41 against a determination to impose a penalty, the First-tier Tribunal—

(a) has no power by virtue of subsection (2)(c) to increase the penalty;

(b) may extend the period within which the penalty is to be paid (including in cases where that period has already ended).

(4) Subsection (3) does not affect—

(a) the tribunal's power to give directions to the OFT under subsection (2)(d); or

(b) what the OFT can do where a matter is remitted to it under subsection (2)(d).

(5) Where the First-tier Tribunal remits a matter to the OFT, it may direct that the requirements of section 34 of this Act are not to apply, or are only to apply to a specified extent, in relation to the OFT's reconsideration of the matter.

(6) Subject to subsections (7) and (8), where the First-tier Tribunal remits an application to the OFT, section 6(1) and (3) to (9) of this Act shall apply as if the application had not been previously determined by the OFT.

(7) In the case of a general notice which came into effect after the determination appealed against was made but before the application was remitted, the applicant shall provide any information or document which he is required to provide under section 6(6) within—

(a) the period of 28 days beginning with the day on which the application was remitted; or

(b) such longer period as the OFT may allow.

(8) In the case of—

(a) any information or document which was superseded,

(b) any change in circumstances which occurred, or

(c) any error or omission of which the applicant became aware,

after the determination appealed against was made but before the application was remitted, any notification that is required to be given by the applicant under

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section 6(7) shall be given within the period of 28 days beginning with the day on which the application was remitted.**]**

Textual Amendments

F45 Ss. 41ZA, 41ZB inserted (1.9.2009) by The Transfer of Functions of the Consumer Credit Appeals Tribunal Order 2009 (S.I. 2009/1835), arts. 1, 4(1), **Sch. 1 para. 5** (with Sch. 4)

[F44 41A Appeals from the Consumer Credit Appeals Tribunal

(1) A party to an appeal to the Tribunal may with leave appeal—

(a) in England and Wales and Northern Ireland, to the Court of Appeal, or

(b) in Scotland, to the Court of Session,

on a point of law arising from a decision of the Tribunal.

(2) For the purposes of subsection (1) leave to appeal may be given by—

(a) the Tribunal; or

(b) the Court of Appeal or the Court of Session.

(3) An application for leave to appeal may be made to the Court of Appeal or the Court of Session only if the Tribunal has refused such leave.

(4) If on an appeal under this section the court considers that the decision of the Tribunal was wrong in law, it may do one or more of the following—

(a) quash or vary that decision;

(b) substitute for that decision a decision of its own;

(c) remit the matter to the Tribunal for rehearing and determination in accordance with the directions (if any) given to it by the court.

(5) An appeal may be brought from a decision of the Court of Appeal under this section only if leave to do so is given by the Court of Appeal or the House of Lords.

(6) Rules under section 40A(3) may make provision for regulating or prescribing any matters incidental to or consequential on an appeal under this section.

(7) In this section 'party' means, in relation to an appeal to the Tribunal, the appellant or the OFT.**]**

Modifications etc. (not altering text)

C19 S. 41A applied (15.12.2007) by The Money Laundering Regulations 2007 (S.I. 2007/2157), **reg. 44(5)**

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PART IV

SEEKING BUSINESS

Advertising

43 Advertisements to which Part IV applies.

(1) This Part applies to any advertisement, published for the purposes of a business carried on by the advertiser, indicating that he is willing—

(a) to provide credit, or

(b) to enter into an agreement for the bailment or (in Scotland) the hiring of goods by him.

(2) An advertisement does not fall within subsection (1) if the advertiser does not carry on—

(a) a consumer credit business or consumer hire business, or

(b) a business in the course of which he provides credit to individuals secured on land, or

(c) a business which comprises or relates to unregulated agreements where—

(i) the **[**F46proper law of**]****[**F46law applicable to**]** the agreement is the law of a country outside the United Kingdom, and

(ii) if the **[**F46proper law of**]****[**F46law applicable to**]** the agreement were the law of a part of the United Kingdom it would be a regulated agreement.

(3) An advertisement does not fall within subsection (1)(a) if it indicates—

(a) that the credit must exceed **[**F47£15,000**]**, and that no security is required, or the security is to consist of property other than land, or

(b) that the credit is available only to a body corporate.

(4) An advertisement does not fall within subsection (1)(b) if it indicates that the advertiser is not willing to enter into a consumer hire agreement.

(5) The Secretary of State may by order provide that this Part shall not apply to other advertisements of a description specified in the order.

Textual Amendments

F46 Words "law applicable to " substituted (*prosp.*) for "proper law of " by Contracts (Applicable Law) Act 1990 (c. 36, SIF 30), ss. 5, 7, **Sch. 4 para. 2**

F47 "£15,000" substituted by S.I. 1983/1878, art. 4, **Sch. Pt. II**

44 Form and content of advertisements.

(1) The Secretary of State shall make regulations as to the form and content of advertisements to which this Part applies, and the regulations shall contain such provisions as appear to him appropriate with a view to ensuring that, having regard to its subject-matter and the amount of detail included in it, an advertisement conveys a fair and reasonably comprehensive indication of the nature of the credit or hire facilities offered by the advertiser and of their true cost to persons using them.

Status: *Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.*
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(2) Regulations under subsection (1) may in particular—

(a) require specified information to be included in the prescribed manner in advertisements, and other specified material to be excluded;

(b) contain requirements to ensure that specified information is clearly brought to the attention of persons to whom advertisements are directed, and that one part of an advertisement is not given insufficient or excessive prominence compared with another.

45 Prohibition of advertisement where goods etc. not sold for cash.

If an advertisement to which this Part applies indicates that the advertiser is willing to provide credit under a restricted-use credit agreement relating to goods or services to be supplied by any person, but at the time when the advertisement is published that person is not holding himself out as prepared to sell the goods or provide the services (as the case may be) for cash, the advertiser commits an offence.

46 False or misleading advertisements.

(1) If an advertisement to which this Part applies conveys information which in a material respect is false or misleading the advertiser commits an offence.

(2) Information stating or implying an intention on the advertiser's part which he has not got is false.

47 Advertising infringements.

(1) Where an advertiser commits an offence against regulations made under section 44 or against section 45 or 46 or would be taken to commit such an offence but for the defence provided by section 168, a like offence is committed by—

(a) the publisher of the advertisement, and

(b) any person who, in the course of a business carried on by him, devised the advertisement, or a part of it relevant to the first-mentioned offence, and

(c) where the advertiser did not procure the publication of the advertisement, the person who did procure it.

(2) In proceedings for an offence under subsection (1)(a) it is a defence for the person charged to prove that—

(a) the advertisement was published in the course of a business carried on by him, and

(b) he received the advertisement in the course of that business, and did not know and had no reason to suspect that its publication would be an offence under this Part.

Modifications etc. (not altering text)

C20 S. 47(1) excluded (*temp.*) by S.I. 1989/1125, **reg. 10(1)**

C21 S. 47(1) restricted (31.10.2004) by The Consumer Credit (Advertisements) Regulations 2004 (S.I. 2004/1484), **reg. 12**

Status: *Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.*
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Canvassing etc.

48 Definition of canvassing off trade premises (regulated agreements).

(1) An individual (the "canvasser ") canvasses a regulated agreement off trade premises if he solicits the entry (as debtor or hirer) of another individual (the "consumer ") into the agreement by making oral representations to the consumer, or any other individual, during a visit by the canvasser to any place (not excluded by subsection (2)) where the consumer, or that other individual, as the case may be, is, being a visit—

(a) carried out for the purpose of making such oral representations to individuals who are at that place, but

(b) not carried out in response to a request made on a previous occasion.

(2) A place is excluded from subsection (1) if it is a place where a business is carried on (whether on a permanent or temporary basis) by—

(a) the creditor or owner, or

(b) a supplier, or

(c) the canvasser, or the person whose employee or agent the canvasser is, or

(d) the consumer.

49 Prohibition of canvassing debtor-creditor agreements off trade premises.

(1) It is an offence to canvass debtor-creditor agreements off trade premises.

(2) It is also an offence to solicit the entry of an individual (as debtor) into a debtor-creditor agreement during a visit carried out in response to a request made on a previous occasion, where—

(a) the request was not in writing signed by or on behalf of the person making it, and

(b) if no request for the visit had been made, the soliciting would have constituted the canvassing of a debtor-creditor agreement off trade premises.

(3) Subsections (1) and (2) do not apply to any soliciting for an agreement enabling the debtor to overdraw on a current account of any description kept with the creditor, where—

(a) the Director has determined that current accounts of that description kept with the creditor are excluded from subsections (1) and (2), and

(b) the debtor already keeps an account with the creditor (whether a current account or not).

(4) A determination under subsection (3)(a)—

(a) may be made subject to such conditions as the Director thinks fit, and

(b) shall be made only where the Director is of opinion that it is not against the interests of debtors.

(5) If soliciting is done in breach of a condition imposed under subsection (4)(a), the determination under subsection (3)(a) does not apply to it.

50 Circulars to minors.

(1) A person commits an offence, who, with a view to financial gain, sends to a minor any document inviting him to—

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(a) borrow money, or
(b) obtain goods on credit or hire, or
(c) obtain services on credit, or
(d) apply for information or advice on borrowing money or otherwise obtaining credit, or hiring goods.

(2) In proceedings under subsection (1) in respect of the sending of a document to a minor, it is a defence for the person charged to prove that he did not know, and had no reasonable cause to suspect, that he was a minor.

(3) Where a document is received by a minor at any school or other educational establishment for minors, a person sending it to him at that establishment knowing or suspecting it to be such an establishment shall be taken to have reasonable cause to suspect that he is a minor.

Modifications etc. (not altering text)
C22 S. 50 excluded by Education (Student Loans) Act 1990 (c. 6, SIF 41:1, 2), s. 1(5), **Sch. 2 para. 3(8)**

51 Prohibition of unsolicited credit-tokens.

(1) It is an offence to give a person a credit-token if he has not asked for it.

(2) To comply with subsection (1) a request must be contained in a document signed by the person making the request, unless the credit-token agreement is a small debtor-creditor-supplier agreement.

(3) Subsection (1) does not apply to the giving of a credit-token to a person—
(a) for use under a credit-token agreement already made, or
(b) in renewal or replacement of a credit-token previously accepted by him under a credit-token agreement which continues in force, whether or not varied.

Modifications etc. (not altering text)
C23 S. 51 applied (1.11.2009) by The Payment Services Regulations 2009 (S.I. 2009/209), regs. 1(2)(c), **52(a)** (with reg. 3)

PROSPECTIVE

F48 51A Restrictions on provision of credit card cheques

. . . . . .

Textual Amendments
F48 S. 51A omitted (26.7.2013 for specified purposes) by virtue of The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No.2) Order 2013 (S.I. 2013/1881), art. 1(2)(6)**20(16)**

Status: *Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.*
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PROSPECTIVE

F49F49... Section 51A: exemption for business

. . . . . .

Textual Amendments

F49 S. 51B omitted (26.7.2013 for specified purposes) by virtue of The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No.2) Order 2013 (S.I. 2013/1881), art. 1(2)(6)**20(17)**

Miscellaneous

52 Quotations.

(1) Regulations may be made—

(a) as to the form and content of any document (a "quotation ") by which a person who carries on a consumer credit business or consumer hire business, or a business in the course of which he provides credit to individuals secured on land, gives prospective customers information about the terms on which he is prepared to do business;

(b) requiring a person carrying on such a business to provide quotations to such persons and in such circumstances as are prescribed.

(2) Regulations under subsection (1)(a) may in particular contain provisions relating to quotations such as are set out in relation to advertisements in section 44.

53 Duty to display information.

Regulations may require a person who carries on a consumer credit business or consumer hire business, or a business in the course of which he provides credit to individuals secured on land, to display in the prescribed manner, at any premises where the business is carried on to which the public have access, prescribed information about the business.

54 Conduct of business regulations.

Without prejudice to the generality of section 26, regulations under that section may include provisions further regulating the seeking of business by a licensee who carries on a consumer credit business or a consumer hire business.

Modifications etc. (not altering text)

C24 S. 54 extended (1.1.1993) by S.I. 1992/3218, **reg. 59(2)**
S. 54 extended (1.1.1996) by S.I. 1995/3275, **reg. 36(2)**

Status: *Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.*
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PART V

ENTRY INTO CREDIT OR HIRE AGREEMENTS

Preliminary matters

55 Disclosure of information.

(1) Regulations may require specified information to be disclosed in the prescribed manner to the debtor or hirer before a regulated agreement is made.

(2) A regulated agreement is not properly executed unless regulations under subsection (1) were complied with before the making of the agreement.

VALID FROM 01/02/2011

[F50 55A Pre-contractual explanations etc

(1) Before a regulated consumer credit agreement, other than an excluded agreement, is made, the creditor must—

(a) provide the debtor with an adequate explanation of the matters referred to in subsection (2) in order to place him in a position enabling him to assess whether the agreement is adapted to his needs and his financial situation,

(b) advise the debtor—

(i) to consider the information which is required to be disclosed under section 55(1), and

(ii) where this information is disclosed in person to the debtor, that the debtor is able to take it away,

(c) provide the debtor with an opportunity to ask questions about the agreement, and

(d) advise the debtor how to ask the creditor for further information and explanation.

(2) The matters referred to in subsection (1)(a) are—

(a) the features of the agreement which may make the credit to be provided under the agreement unsuitable for particular types of use,

(b) how much the debtor will have to pay periodically and, where the amount can be determined, in total under the agreement,

(c) the features of the agreement which may operate in a manner which would have a significant adverse effect on the debtor in a way which the debtor is unlikely to foresee,

(d) the principal consequences for the debtor arising from a failure to make payments under the agreement at the times required by the agreement including legal proceedings and, where this is a possibility, repossession of the debtor's home, and

(e) the effect of the exercise of any right to withdraw from the agreement and how and when this right may be exercised.

(3) The advice and explanation may be given orally or in writing except as provided in subsection (4).

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(4) Where the explanation of the matters specified in paragraphs (a), (b) or (e) of subsection (2) is given orally or in person to a debtor, the explanation of the matters specified in paragraphs (c) and (d) of that subsection, and the advice required to be given by subsection (1)(b), must be given orally to him.

(5) Subsections (1) to (4) do not apply to a creditor if a credit intermediary (see section 160A) has complied with those subsections in respect of the agreement.

(6) For the purposes of this section an agreement is an excluded agreement if it is—

(a) an agreement under which the creditor provides the debtor with credit which exceeds £60, 260, or

(b) an agreement secured on land.

(7) Where the regulated consumer credit agreement is an agreement under which a person takes an article in pawn—

(a) the obligation in subsection (1)(a) only relates to the matters listed in paragraphs (d) and (e) of subsection (2), and

(b) the obligations in subsection (1)(b) and (d) do not apply.**]**

Textual Amendments

F50 S. 55A inserted (1.2.2011) by The Consumer Credit (EU Directive) Regulations 2010 (S.I. 2010/1010), **regs. 3**, 99(1) (with regs. 100, 101) (as amended by The Consumer Credit (Amendment) Regulations 2010 (S.I. 2010/1969), **reg. 6**)

VALID FROM 01/02/2011

[F51 55B Assessment of creditworthiness

(1) Before making a regulated consumer credit agreement, other than an excluded agreement, the creditor must undertake an assessment of the creditworthiness of the debtor.

(2) Before significantly increasing—

(a) the amount of credit to be provided under a regulated consumer credit agreement, other than an excluded agreement, or

(b) a credit limit for running-account credit under a regulated consumer credit agreement, other than an excluded agreement,

the creditor must undertake an assessment of the debtor's creditworthiness.

(3) A creditworthiness assessment must be based on sufficient information obtained from—

(a) the debtor, where appropriate, and

(b) a credit reference agency, where necessary.

(4) For the purposes of this section an agreement is an excluded agreement if it is—

(a) an agreement secured on land, or

(b) an agreement under which a person takes an article in pawn.**]**

Status: *Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.*
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Textual Amendments

F51 S. 55B inserted (1.2.2011) by The Consumer Credit (EU Directive) Regulations 2010 (S.I. 2010/1010), **regs. 5**, 99(1) (with regs. 100, 101)

VALID FROM 01/02/2011

[F52 55C Copy of draft consumer credit agreement

(1) Before a regulated consumer credit agreement, other than an excluded agreement, is made, the creditor must, if requested, give to the debtor without delay a copy of the prospective agreement (or such of its terms as have at that time been reduced to writing).

(2) Subsection (1) does not apply if at the time the request is made, the creditor is unwilling to proceed with the agreement.

(3) A breach of the duty imposed by subsection (1) is actionable as a breach of statutory duty.

(4) For the purposes of this section an agreement is an excluded agreement if it is—

(a) an agreement secured on land,

(b) an agreement under which a person takes an article in pawn,

(c) an agreement under which the creditor provides the debtor with credit which exceeds £60, 260, or

(d) an agreement entered into by the debtor wholly or predominantly for the purposes of a business carried on, or intended to be carried on, by him.

(5) Subsections (2) to (5) of section 16B (declaration by the debtor as to the purposes of the agreement)

apply for the purposes of subsection (4)(d).]

Textual Amendments

F52 S. 55C inserted (1.2.2011) by The Consumer Credit (EU Directive) Regulations 2010 (S.I. 2010/1010), **regs. 6**, 99(1) (with regs. 100, 101)

56 Antecedent negotiations.

(1) In this Act "antecedent negotiations " means any negotiations with the debtor or hirer—

(a) conducted by the creditor or owner in relation to the making of any regulated agreement, or

(b) conducted by a credit-broker in relation to goods sold or proposed to be sold by the credit-broker to the creditor before forming the subject-matter of a debtor-creditor-supplier agreement within section 12(a), or

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(c) conducted by the supplier in relation to a transaction financed or proposed to be financed by a debtor-creditor-supplier agreement within section 12(b) or (c),

and "negotiator " means the person by whom negotiations are so conducted with the debtor or hirer.

(2) Negotiations with the debtor in a case falling within subsection (1)(b) or (c) shall be deemed to be conducted by the negotiator in the capacity of agent of the creditor as well as in his actual capacity.

(3) An agreement is void if, and to the extent that, it purports in relation to an actual or prospective regulated agreement—

(a) to provide that a person acting as, or on behalf of, a negotiator is to be treated as the agent of the debtor or hirer, or

(b) to relieve a person from liability for acts or omissions of any person acting as, or on behalf of, a negotiator.

(4) For the purposes of this Act, antecedent negotiations shall be taken to begin when the negotiator and the debtor or hirer first enter into communication (including communication by advertisement), and to include any representations made by the negotiator to the debtor or hirer and any other dealings between them.

57 Withdrawal from prospective agreement.

(1) The withdrawal of a party from a prospective regulated agreement shall operate to apply this Part to the agreement, any linked transaction and any other thing done in anticipation of the making of the agreement as it would apply if the agreement were made and then cancelled under section 69.

(2) The giving to a party of a written or oral notice which, however expressed, indicates the intention of the other party to withdraw from a prospective regulated agreement operates as a withdrawal from it.

(3) Each of the following shall be deemed to be the agent of the creditor or owner for the purpose of receiving a notice under subsection (2)—

(a) a credit-broker or supplier who is the negotiator in antecedent negotiations, and

(b) any person who, in the course of a business carried on by him, acts on behalf of the debtor or hirer in any negotiations for the agreement.

(4) Where the agreement, if made, would not be a cancellable agreement, subsection (1) shall nevertheless apply as if the contrary were the case.

58 Opportunity for withdrawal from prospective land mortgage.

(1) Before sending to the debtor or hirer, for his signature, an unexecuted agreement in a case where the prospective regulated agreement is to be secured on land (the "mortgaged land "), the creditor or owner shall give the debtor or hirer a copy of the unexecuted agreement which contains a notice in the prescribed form indicating the right of the debtor or hirer to withdraw from the prospective agreement, and how and when the right is exercisable, together with a copy of any other document referred to in the unexecuted agreement.

(2) Subsection (1) does not apply to—

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(a) a restricted-use credit agreement to finance the purchase of the mortgaged land, or

(b) an agreement for a bridging loan in connection with the purchase of the mortgaged land or other land.

59 Agreement to enter future agreement void.

(1) An agreement is void if, and to the extent that, it purports to bind a person to enter as debtor or hirer into a prospective regulated agreement.

(2) Regulations may exclude from the operation of subsection (1) agreements such as are described in the regulations.

Making the agreement

60 Form and content of agreements.

(1) The Secretary of State shall make regulations as to the form and content of documents embodying regulated agreements, and the regulations shall contain such provisions as appear to him appropriate with a view to ensuring that the debtor or hirer is made aware of—

(a) the rights and duties conferred or imposed on him by the agreement,

(b) the amount and rate of the total charge for credit (in the case of a consumer credit agreement),

(c) the protection and remedies available to him under this Act, and

(d) any other matters which, in the opinion of the Secretary of State, it is desirable for him to know about in connection with the agreement.

(2) Regulations under subsection (1) may in particular—

(a) require specified information to be included in the prescribed manner in documents, and other specified material to be excluded;

(b) contain requirements to ensure that specified information is clearly brought to the attention of the debtor or hirer, and that one part of a document is not given insufficient or excessive prominence compared with another.

(3) If, on an application made to the Director by a person carrying on a consumer credit business or a consumer hire business, it appears to the Director impracticable for the applicant to comply with any requirement of regulations under subsection (1) in a particular case, he may, by notice to the applicant direct that the requirement be waived or varied in relation to such agreements, and subject to such conditions (if any), as he may specify, and this Act and the regulations shall have effect accordingly.

(4) The Director shall give a notice under subsection (3) only if he is satisfied that to do so would not prejudice the interests of debtors or hirers.

61 Signing of agreement.

(1) A regulated agreement is not properly executed unless—

(a) a document in the prescribed form itself containing all the prescribed terms and conforming to regulations under section 60(1) is signed in the prescribed manner both by the debtor or hirer and by or on behalf of the creditor or owner, and

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(b) the document embodies all the terms of the agreement, other than implied terms, and

(c) the document is, when presented or sent to the debtor or hirer for signature, in such a state that all its terms are readily legible.

(2) In addition, where the agreement is one to which section 58(1) applies, it is not properly executed unless—

(a) the requirements of section 58(1) were complied with, and

(b) the unexecuted agreement was sent, for his signature, to the debtor or hirer by post not less than seven days after a copy of it was given to him under section 58(1), and

(c) during the consideration period, the creditor or owner refrained from approaching the debtor or hirer (whether in person, by telephone or letter, or in any other way) except in response to a specific request made by the debtor or hirer after the beginning of the consideration period, and

(d) no notice of withdrawal by the debtor or hirer was received by the creditor or owner before the sending of the unexecuted agreement.

(3) In subsection (2)(c), "the consideration period " means the period beginning with the giving of the copy under section 58(1) and ending—

(a) at the expiry of seven days after the day on which the unexecuted agreement is sent, for his signature, to the debtor or hirer, or

(b) on its return by the debtor or hirer after signature by him,

whichever first occurs.

(4) Where the debtor or hirer is a partnership or an unincorporated body of persons, subsection (1)(a) shall apply with the substitution for "by the debtor or hirer " of "by or on behalf of the debtor or hirer ".

VALID FROM 01/02/2011

[F53 61A Duty to supply copy of executed consumer credit agreement

(1) Where a regulated consumer credit agreement, other than an excluded agreement, has been made, the creditor must give a copy of the executed agreement, and any other document referred to in it, to the debtor.

(2) Subsection (1) does not apply if—

(a) a copy of the unexecuted agreement (and of any other document referred to in it) has already been given to the debtor, and

(b) the unexecuted agreement is in identical terms to the executed agreement.

(3) In a case referred to in subsection (2), the creditor must inform the debtor in writing—

(a) that the agreement has been executed,

(b) that the executed agreement is in identical terms to the unexecuted agreement a copy of which has already been given to the debtor, and

(c) that the debtor has the right to receive a copy of the executed agreement if the debtor makes a request for it at any time before the end of the period referred to in section 66A(2).

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(4) Where a request is made under subsection (3)(c) the creditor must give a copy of the executed agreement to the debtor without delay.

(5) If the requirements of this section are not observed, the agreement is not properly executed.

(6) For the purposes of this section, an agreement is an excluded agreement if it is—

(a) a cancellable agreement, or

(b) an agreement—

(i) secured on land,

(ii) under which the creditor provides the debtor with credit which exceeds £60,260, or

(iii) entered into by the debtor wholly or predominantly for the purposes of a business carried on, or intended to be carried on, by him,

unless the creditor or a credit intermediary has complied with or purported to comply with regulation 3(2) of the Consumer Credit (Disclosure of Information) Regulations 2010.

(7) Subsections (2) to (5) of section 16B (declaration by the debtor as to the purposes of the agreement) apply for the purposes of subsection (6)(b)(iii).**]**

Textual Amendments

F53 S. 61A inserted (1.2.2011) by The Consumer Credit (EU Directive) Regulations 2010 (S.I. 2010/1010), **regs. 8**, 99(1) (with regs. 100, 101)

VALID FROM 01/02/2011

[F54 61B Duty to supply copy of overdraft agreement

(1) Where an authorised business overdraft agreement or an authorised non-business overdraft agreement has been made, a document containing the terms of the agreement must be given to the debtor.

(2) The creditor must provide the document referred to in subsection (1) to the debtor before or at the time the agreement is made unless—

(a) the creditor has provided the debtor with the information referred to in regulation 10(3) of the Consumer Credit (Disclosure of Information) Regulations 2010, in which case it may be provided after the agreement is made,

(b) the creditor has provided the debtor with the information referred to in regulation 10(3)(c), (e), (f), (h) and (k) of those Regulations, in which case it must be provided immediately after the agreement is made, or

(c) the agreement is an agreement of a description referred to in regulation 10(4)(b) of those Regulations, in which case it must be provided immediately after the agreement is made.

Status: *Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.*
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(3) If the requirements of this section are not observed, the agreement is enforceable against the debtor on an order of the court only (and for these purposes a retaking of goods or land to which the agreement relates is an enforcement of the agreement).**]**

Textual Amendments

F54 S. 61B inserted (1.2.2011) by The Consumer Credit (EU Directive) Regulations 2010 (S.I. 2010/1010), **regs. 9**, 99(1) (with regs. 100, 101) (as amended by The Consumer Credit (Amendment) Regulations 2010 (S.I. 2010/1969), **reg. 7**)

62 Duty to supply copy of unexecuted agreement.

(1) If the unexecuted agreement is presented personally to the debtor or hirer for his signature, but on the occasion when he signs it the document does not become an executed agreement, a copy of it, and of any other document referred to in it, must be there and then delivered to him.

(2) If the unexecuted agreement is sent to the debtor or hirer for his signature, a copy of it, and of any other document referred to in it, must be sent to him at the same time.

(3) A regulated agreement is not properly executed if the requirements of this section are not observed.

63 Duty to supply copy of executed agreement.

(1) If the unexecuted agreement is presented personally to the debtor or hirer for his signature, and on the occasion when he signs it the document becomes an executed agreement, a copy of the executed agreement, and of any other document referred to in it, must be there and then delivered to him.

(2) A copy of the executed agreement, and of any other document referred to in it, must be given to the debtor or hirer within the seven days following the making of the agreement unless—

(a) subsection (1) applies, or

(b) the unexecuted agreement was sent to the debtor or hirer for his signature and, on the occasion of his signing it, the document became an executed agreement.

(3) In the case of a cancellable agreement, a copy under subsection (2) must be sent by post.

(4) In the case of a credit-token agreement, a copy under subsection (2) need not be given within the seven days following the making of the agreement if it is given before or at the time when the credit-token is given to the debtor.

(5) A regulated agreement is not properly executed if the requirements of this section are not observed.

64 Duty to give notice of cancellation rights.

(1) In the case of a cancellable agreement, a notice in the prescribed form indicating the right of the debtor or hirer to cancel the agreement, how and when that right is

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exercisable, and the name and address of a person to whom notice of cancellation may be given,—

(a) must be included in every copy given to the debtor or hirer under section 62 or 63, and

(b) except where section 63(2) applied, must also be sent by post to the debtor or hirer within the seven days following the making of the agreement.

(2) In the case of a credit-token agreement, a notice under subsection (1)(b) need not be sent by post within the seven days following the making of the agreement if either—

(a) it is sent by post to the debtor or hirer before the credit-token is given to him, or

(b) it is sent by post to him together with the credit-token.

(3) Regulations may provide that except where section 63(2) applied a notice sent under subsection (1)(b) shall be accompanied by a further copy of the executed agreement, and of any other document referred to in it.

(4) Regulations may provide that subsection (1)(b) is not to apply in the case of agreements such as are described in the regulations, being agreements made by a particular person, if—

(a) on an application by that person to the Director, the Director has determined that, having regard to—

(i) the manner in which antecedent negotiations for agreements with the applicant of that description are conducted, and

(ii) the information provided to debtors or hirers before such agreements are made,

the requirement imposed by subsection (1)(b) can be dispensed with without prejudicing the interests of debtors or hirers; and

(b) any conditions imposed by the Director in making the determination are complied with.

(5) A cancellable agreement is not properly executed if the requirements of this section are not observed.

65 Consequences of improper execution.

(1) An improperly-executed regulated agreement is enforceable against the debtor or hirer on an order of the court only.

(2) A retaking of goods or land to which a regulated agreement relates is an enforcement of the agreement.

66 Acceptance of credit-tokens.

(1) The debtor shall not be liable under a credit-token agreement for use made of the credit-token by any person unless the debtor had previously accepted the credit-token, or the use constituted an acceptance of it by him.

(2) The debtor accepts a credit-token when—

(a) it is signed, or

(b) a receipt for it is signed, or

(c) it is first used,

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either by the debtor himself or by a person who, pursuant to the agreement, is authorised by him to use it.

Modifications etc. (not altering text)

C25 S. 66 applied (1.11.2009) by The Payment Services Regulations 2009 (S.I. 2009/209), regs. 1(2)(c), **52(b)** (with reg. 3)

VALID FROM 01/02/2011

[F55 Withdrawal from certain agreements

Textual Amendments

F55 S. 66A and preceding cross-heading inserted (1.2.2011) by The Consumer Credit (EU Directive) Regulations 2010 (S.I. 2010/1010, {regs. 13}, 99(1) (with regs. 100, 101) (as amended by The Consumer Credit (Amendment) Regulations 2010 (S.I. 2010/1969), **reg. 8** (with reg. 46))

66A Withdrawal from consumer credit agreement

(1) The debtor under a regulated consumer credit agreement, other than an excluded agreement, may withdraw from the agreement, without giving any reason, in accordance with this section.

(2) To withdraw from an agreement under this section the debtor must give oral or written notice of the withdrawal to the creditor before the end of the period of 14 days beginning with the day after the relevant day.

(3) For the purposes of subsection (2) the relevant day is whichever is the latest of the following—

(a) the day on which the agreement is made;

(b) where the creditor is required to inform the debtor of the credit limit under the agreement, the day on which the creditor first does so;

(c) in the case of an agreement to which section 61A (duty to supply copy of executed consumer credit agreement) applies, the day on which the debtor receives a copy of the agreement under that section or on which the debtor is informed as specified in subsection (3) of that section;

(d) in the case of an agreement to which section 63 (duty to supply copy of executed agreement: excluded agreements) applies, the day on which the debtor receives a copy of the agreement under that section.

(4) Where oral notice under this section is given to the creditor it must be given in a manner specified in the agreement.

(5) Where written notice under this section is given by facsimile transmission or electronically—

(a) it must be sent to the number or electronic address specified for the purpose in the agreement, and

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(b) where it is so sent, it is to be regarded as having been received by the creditor at the time it is sent (and section 176A does not apply).

(6) Where written notice under this section is given in any other form—

(a) it must be sent by post to, or left at, the postal address specified for the purpose in the agreement, and

(b) where it is sent by post to that address, it is to be regarded as having been received by the creditor at the time of posting (and section 176 does not apply).

(7) Subject as follows, where the debtor withdraws from a regulated consumer credit agreement under this section—

(a) the agreement shall be treated as if it had never been entered into, and

(b) where an ancillary service relating to the agreement is or is to be provided by the creditor, or by a third party on the basis of an agreement between the third party and the creditor, the ancillary service contract shall be treated as if it had never been entered into.

(8) In the case referred to in subsection (7)(b) the creditor must without delay notify any third party of the fact that the debtor has withdrawn from the agreement.

(9) Where the debtor withdraws from an agreement under this section—

(a) the debtor must repay to the creditor any credit provided and the interest accrued on it (at the rate provided for under the agreement), but

(b) the debtor is not liable to pay to the creditor any compensation, fees or charges except any non-returnable charges paid by the creditor to a public administrative body.

(10) An amount payable under subsection (9) must be paid without undue delay and no later than the end of the period of 30 days beginning with the day after the day on which the notice of withdrawal was given (and if not paid by the end of that period may be recovered by the creditor as a debt).

(11) Where a regulated consumer credit agreement is a conditional sale, hire-purchase or credit-sale agreement and—

(a) the debtor withdraws from the agreement under this section after the credit has been provided, and

(b) the sum payable under subsection (9)(a) is paid in full by the debtor,

title to the goods purchased or supplied under the agreement is to pass to the debtor on the same terms as would have applied had the debtor not withdrawn from the agreement.

(12) In subsections (2), (4), (5), (6) and (9)(a) references to the creditor include a person specified by the creditor in the agreement.

(13) In subsection (7)(b) the reference to an ancillary service means a service that relates to the provision of credit under the agreement and includes in particular an insurance or payment protection policy.

(14) For the purposes of this section, an agreement is an excluded agreement if it is—

(a) an agreement for credit exceeding £60, 260,

(b) an agreement secured on land,

(c) a restricted-use credit agreement to finance the purchase of land, or

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(d) an agreement for a bridging loan in connection with the purchase of land.**]**

Cancellation of certain agreements within cooling-off period

67 Cancellable agreements.

A regulated agreement may be cancelled by the debtor or hirer in accordance with this Part if the antecedent negotiations included oral representations made when in the presence of the debtor or hirer by an individual acting as, or on behalf of, the negotiator, unless—

(a) the agreement is secured on land, or is a restricted-use credit agreement to finance the purchase of land or is an agreement for a bridging loan in connection with the purchase of land, or

(b) the unexecuted agreement is signed by the debtor or hirer at premises at which any of the following is carrying on any business (whether on a permanent or temporary basis)—

(i) the creditor or owner;

(ii) any party to a linked transaction (other than the debtor or hirer or a relative of his);

(iii) the negotiator in any antecedent negotiations.

68 Cooling-off period.

The debtor or hirer may serve notice of cancellation of a cancellable agreement between his signing of the unexecuted agreement and—

(a) the end of the fifth day following the day on which he received a copy under section 63(2) or a notice under section 64(1)(b), or

(b) if (by virtue of regulations made under section 64(4)) section 64(1)(b) does not apply, the end of the fourteenth day following the day on which he signed the unexecuted agreement.

69 Notice of cancellation.

(1) If within the period specified in section 68 the debtor or hirer under a cancellable agreement serves on—

(a) the creditor or owner, or

(b) the person specified in the notice under section 64(1), or

(c) a person who (whether by virtue of subsection (6) or otherwise) is the agent of the creditor or owner,

a notice (a "notice of cancellation ") which, however expressed and whether or not conforming to the notice given under section 64(1), indicates the intention of the debtor or hirer to withdraw from the agreement, the notice shall operate—

(i) to cancel the agreement, and any linked transaction, and

(ii) to withdraw any offer by the debtor or hirer, or his relative, to enter into a linked transaction.

(2) In the case of a debtor-creditor-supplier agreement for restricted-use credit financing—

(a) the doing of work or supply of goods to meet an emergency, or

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(b) the supply of goods which, before service of the notice of cancellation, had by the act of the debtor or his relative become incorporated in any land or thing not comprised in the agreement or any linked transaction,

subsection (1) shall apply with the substitution of the following for paragraph (i)—

"(i) to cancel only such provisions of the agreement and any linked transaction as—

(aa) relate to the provision of credit, or

(bb) require the debtor to pay an item in the total charge for credit, or

(cc) subject the debtor to any obligation other than to pay for the doing of the said work, or the supply of the said goods".

(3) Except so far as is otherwise provided, references in this Act to the cancellation of an agreement or transaction do not include a case within subsection (2).

(4) Except as otherwise provided by or under this Act, an agreement or transaction cancelled under subsection (1) shall be treated as if it had never been entered into.

(5) Regulations may exclude linked transactions of the prescribed description from subsection (1)(i) or (ii).

(6) Each of the following shall be deemed to be the agent of the creditor or owner for the purpose of receiving a notice of cancellation—

(a) a credit-broker or supplier who is the negotiator in antecedent negotiations, and

(b) any person who, in the course of a business carried on by him, acts on behalf of the debtor or hirer in any negotiations for the agreement.

(7) Whether or not it is actually received by him, a notice of cancellation sent by post to a person shall be deemed to be served on him at the time of posting.

70 Cancellation: recovery of money paid by debtor or hirer.

(1) On the cancellation of a regulated agreement, and of any linked transaction,—

(a) any sum paid by the debtor or hirer, or his relative, under or in contemplation of the agreement or transaction, including any item in the total charge for credit, shall become repayable, and

(b) any sum, including any item in the total charge for credit, which but for the cancellation is, or would or might become, payable by the debtor or hirer, or his relative, under the agreement or transaction shall cease to be, or shall not become, so payable, and

(c) in the case of a debtor-creditor-supplier agreement falling within section 12(b), any sum paid on the debtor's behalf by the creditor to the supplier shall become repayable to the creditor.

(2) If, under the terms of a cancelled agreement or transaction, the debtor or hirer, or his relative, is in possession of any goods, he shall have a lien on them for any sum repayable to him under subsection (1) in respect of that agreement or transaction, or any other linked transaction.

(3) A sum repayable under subsection (1) is repayable by the person to whom it was originally paid, but in the case of a debtor-creditor-supplier agreement falling within section 12(b) the creditor and the supplier shall be under a joint and several liability to repay sums paid by the debtor, or his relative, under the agreement or under a linked

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transaction falling within section 19(1)(b) and accordingly, in such a case, the creditor shall be entitled, in accordance with rules of court, to have the supplier made a party to any proceedings brought against the creditor to recover any such sums.

(4) Subject to any agreement between them, the creditor shall be entitled to be indemnified by the supplier for loss suffered by the creditor in satisfying his liability under subsection (3), including costs reasonably incurred by him in defending proceedings instituted by the debtor.

(5) Subsection (1) does not apply to any sum which, if not paid by a debtor, would be payable by virtue of section 71, and applies to a sum paid or payable by a debtor for the issue of a credit-token only where the credit-token has been returned to the creditor or surrendered to a supplier.

(6) If the total charge for credit includes an item in respect of a fee or commission charged by a credit-broker, the amount repayable under subsection (1) in respect of that item shall be the excess over **[**F56£3**]** of the fee or commission.

(7) If the total charge for credit includes any sum payable or paid by the debtor to a credit-broker otherwise than in respect of a fee or commission charged by him, that sum shall for the purposes of subsection (6) be treated as if it were such a fee or commission.

(8) So far only as is necessary to give effect to section 69(2), this section applies to an agreement or transaction within that subsection as it applies to a cancelled agreement or transaction.

Textual Amendments

F56 Amount "Â£3 " substituted by S.I. 1983/1571, art. 4, **Sch. Pt. II** (which S.I. was revoked by S.I. 1998/997, **art. 2**

71 Cancellation: repayment of credit.

(1) Notwithstanding the cancellation of a regulated consumer credit agreement, other than a debtor-creditor-supplier agreement for restricted-use credit, the agreement shall continue in force so far as it relates to repayment of credit and payment of interest.

(2) If, following the cancellation of a regulated consumer credit agreement, the debtor repays the whole or a portion of the credit—

(a) before the expiry of one month following service of the notice of cancellation, or

(b) in the case of a credit repayable by instalments, before the date on which the first instalment is due,

no interest shall be payable on the amount repaid.

(3) If the whole of a credit repayable by instalments is not repaid on or before the date specified in subsection (2)(b), the debtor shall not be liable to repay any of the credit except on receipt of a request in writing in the prescribed form, signed by or on behalf of the creditor, stating the amounts of the remaining instalments (recalculated by the creditor as nearly as may be in accordance with the agreement and without extending the repayment period), but excluding any sum other than principal and interest.

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(4) Repayment of a credit, or payment of interest, under a cancelled agreement shall be treated as duly made if it is made to any person on whom, under section 69, a notice of cancellation could have been served, other than a person referred to in section 69(6)(b).

72 Cancellation: return of goods.

(1) This section applies where any agreement or transaction relating to goods, being—

(a) a restricted-use debtor-creditor-supplier agreement, a consumer hire agreement, or a linked transaction to which the debtor or hirer under any regulated agreement is a party, or

(b) a linked transaction to which a relative of the debtor or hirer under any regulated agreement is a party,

is cancelled after the debtor or hirer (in a case within paragraph (a)) or the relative (in a case within paragraph (b)) has acquired possession of the goods by virtue of the agreement or transaction.

(2) In this section—

(a) "the possessor " means the person who has acquired possession of the goods as mentioned in subsection (1),

(b) "the other party " means the person from whom the possessor acquired possession, and

(c) "the pre-cancellation period " means the period beginning when the possessor acquired possession and ending with the cancellation.

(3) The possessor shall be treated as having been under a duty throughout the pre-cancellation period—

(a) to retain possession of the goods, and

(b) to take reasonable care of them.

(4) On the cancellation, the possessor shall be under a duty, subject to any lien, to restore the goods to the other party in accordance with this section, and meanwhile to retain possession of the goods and take reasonable care of them.

(5) The possessor shall not be under any duty to deliver the goods except at his own premises and in pursuance of a request in writing signed by or on behalf of the other party and served on the possessor either before, or at the time when, the goods are collected from those premises.

(6) If the possessor—

(a) delivers the goods (whether at his own premises or elsewhere) to any person on whom, under section 69, a notice of cancellation could have been served (other than a person referred to in section 69(6)(b)), or

(b) sends the goods at his own expense to such a person,

he shall be discharged from any duty to retain the goods or deliver them to any person.

(7) Where the possessor delivers the goods as mentioned in subsection (6)(a), his obligation to take care of the goods shall cease; and if he sends the goods as mentioned in subsection (6)(b), he shall be under a duty to take reasonable care to see that they are received by the other party and not damaged in transit, but in other respects his duty to take care of the goods shall cease.

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(8) Where, at any time during the period of 21 days following the cancellation, the possessor receives such a request as is mentioned in subsection (5), and unreasonably refuses or unreasonably fails to comply with it, his duty to take reasonable care of the goods shall continue until he delivers or sends the goods as mentioned in subsection (6), but if within that period he does not receive such a request his duty to take reasonable care of the goods shall cease at the end of that period.

(9) The preceding provisions of this section do not apply to—

(a) perishable goods, or

(b) goods which by their nature are consumed by use and which, before the cancellation, were so consumed, or

(c) goods supplied to meet an emergency, or

(d) goods which, before the cancellation, had become incorporated in any land or thing not comprised in the cancelled agreement or a linked transaction.

(10) Where the address of the possessor is specified in the executed agreement, references in this section to his own premises are to that address and no other.

(11) Breach of a duty imposed by this section is actionable as a breach of statutory duty.

73 Cancellation: goods given in part-exchange.

(1) This section applies on the cancellation of a regulated agreement where, in antecedent negotiations, the negotiator agreed to take goods in part-exchange (the "part-exchange goods ") and those goods have been delivered to him.

(2) Unless, before the end of the period of ten days beginning with the date of cancellation, the part-exchange goods are returned to the debtor or hirer in a condition substantially as good as when they were delivered to the negotiator, the debtor or hirer shall be entitled to recover from the negotiator a sum equal to the part-exchange allowance (as defined in subsection (7)(b)).

(3) In the case of a debtor-creditor-supplier agreement within section 12(b), the negotiator and the creditor shall be under a joint and several liability to pay to the debtor a sum recoverable under subsection (2).

(4) Subject to any agreement between them, the creditor shall be entitled to be indemnified by the negotiator for loss suffered by the creditor in satisfying his liability under subsection (3), including costs reasonably incurred by him in defending proceedings instituted by the debtor.

(5) During the period of ten days beginning with the date of cancellation, the debtor or hirer, if he is in possession of goods to which the cancelled agreement relates, shall have a lien on them for—

(a) delivery of the part-exchange goods, in a condition substantially as good as when they were delivered to the negotiator, or

(b) a sum equal to the part-exchange allowance;

and if the lien continues to the end of that period it shall thereafter subsist only as a lien for a sum equal to the part-exchange allowance.

(6) Where the debtor or hirer recovers from the negotiator or creditor, or both of them jointly, a sum equal to the part-exchange allowance, then, if the title of the debtor or

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hirer to the part-exchange goods has not vested in the negotiator, it shall so vest on the recovery of that sum.

(7) For the purposes of this section—

(a) the negotiator shall be treated as having agreed to take goods in part-exchange if, in pursuance of the antecedent negotiations, he either purchased or agreed to purchase those goods or accepted or agreed to accept them as part of the consideration for the cancelled agreement, and

(b) the part-exchange allowance shall be the sum agreed as such in the antecedent negotiations or, if no such agreement was arrived at, such sum as it would have been reasonable to allow in respect of the part-exchange goods if no notice of cancellation had been served.

(8) In an action brought against the creditor for a sum recoverable under subsection (2), he shall be entitled, in accordance with rules of court, to have the negotiator made a party to the proceedings.

Exclusion of certain agreements from Part V

74 Exclusion of certain agreements from Part V.

(1) This Part (except section 56) does not apply to—

(a) a non-commercial agreement, or

(b) a debtor-creditor agreement enabling the debtor to overdraw on a current account, or

(c) a debtor-creditor agreement to finance the making of such payments arising on, or connected with, the death of a person as may be prescribed.

(2) This Part (except sections 55 and 56) does not apply to a small debtor-creditor-supplier agreement for restricted-use credit.

[[F57](2A) In the case of an agreement to which the Consumer Protection (Cancellation of Contracts Concluded away from Business Premises) Regulations 1987 apply the reference in subsection (2) to a small agreement shall be construed as if in section 17(1)(a) and (b) "£35 " were substituted for "£50 ".**]**

(3) Subsection (1)(b) or (c) applies only where the Director so determines, and such a determination—

(a) may be made subject to such conditions as the Director thinks fit, and

(b) shall be made only if the Director is of the opinion that it is not against the interests of debtors.

[[F58](3A) Notwithstanding anything in subsection (3)(*b*) above, in relation to a debtor-creditor agreement under which the creditor is the Bank of England or a bank within the meaning of the Bankers' Books Evidence Act 1879, the Director shall make a determination that subsection (1)(*b*) above applies unless he considers that it would be against the public interest to do so**]**

(4) If any term of an agreement falling within subsection **[**[F59](1)(*c*)**]** or (2) is expressed in writing, regulations under section 60(1) shall apply to that term (subject to section 60(3)) as if the agreement were a regulated agreement not falling within subsection **[**[F59](1)(*c*)**]** or (2).

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Textual Amendments

F57 S. 74(2A) added by S.I. 1987/2117, **reg. 9**

F58 S. 74(3A) inserted by Banking Act 1979 (c. 37, SIF 10), **s. 38(1)**

F59 "(1)(*c*) " substituted by Banking Act 1979 (c. 37, SIF 10), **s. 38(1)**

VALID FROM 01/02/2011

[F60PART VA

CURRENT ACCOUNT OVERDRAFTS

Textual Amendments

F60 Pt. VA inserted (1.2.2011) by The Consumer Credit (EU Directive) Regulations 2010 (S.I. 2010/1010), **regs. 21**, 99(1) (with regs. 100, 101) (as substituted by The Consumer Credit (Amendment) Regulations 2010 (S.I. 2010/1969), **reg. 9**)

74A Information to be provided on a current account agreement

(1) This section applies to a current account agreement where—

(a) there is the possibility that the account-holder may be allowed to overdraw on the current account without a pre-arranged overdraft or exceed a pre-arranged overdraft limit, and

(b) if the account-holder did so, this would be a regulated consumer credit agreement.

(2) The current account agreement must include the following information at the time it is made—

(a) the rate of interest charged on the amount by which an account-holder overdraws on the current account or exceeds the pre-arranged overdraft limit,

(b) any conditions applicable to that rate,

(c) any reference rate on which that rate is based,

(d) information on any changes to the rate of interest (including the periods that the rate applies and any conditions or procedure applicable to changing that rate), and

(e) any other charges payable by the debtor under the agreement (and the conditions under which those charges may be varied).

(3) The account-holder must be informed in writing at least annually of the information in subsection (2).

(4) For the purposes of subsections (2) and (3) where different rates of interest are charged in different circumstances, the creditor must provide the information in subsection (2)(a) to (d) in respect of each rate.

(5) Subsection (3) does not apply where the overdraft or excess would be secured on land.

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[F61 74B Information to be provided on significant overdrawing without prior arrangement

(1) Where—

(a) the holder of a current account overdraws on the account without a pre-arranged overdraft, or exceeds a pre-arranged overdraft limit, for a period exceeding one month,

(b) the amount of that overdraft or excess is significant throughout that period,

(c) that overdraft or excess is a regulated consumer credit agreement, and

(d) the account-holder has not been informed in writing of the matters mentioned in subsection (2) within that period,

the account-holder must be informed in writing of those matters without delay.

(2) The matters referred to in subsection (1) are—

(a) the fact that the current account is overdrawn or the overdraft limit has been exceeded,

(b) the amount of that overdraft or excess,

(c) the rate of interest charged on it, and

(d) any other charges payable by the debtor in relation to it (including any penalties and any interest on those charges).

(3) For the purposes of subsection (1)(b) the amount of the overdraft or excess is to be treated as significant if—

(a) the account-holder is liable to pay a charge for which he would not otherwise be liable,

(b) the overdraft or excess is likely to have an adverse effect on the debtor's ability to receive further credit (including any effect on the information about the debtor held by a credit reference agency), or

(c) it otherwise appears significant, having regard to all the circumstances.

(4) Where the overdraft or excess is secured on land, subsection (1)(a) is to be read as if the reference to one month were a reference to three months.**]]**

Textual Amendments

F61 S. 74B inserted (1.2.2011) by The Consumer Credit (EU Directive) Regulations 2010 (S.I. 2010/1010), **regs. 22**, 99(1) (with regs. 100, 101) (as substituted by The Consumer Credit (Amendment) Regulations 2010 (S.I. 2010/1969), **reg. 10**)

PART VI

MATTERS ARISING DURING CURRENCY OF CREDIT OR HIRE AGREEMENTS

75 Liability of creditor for breaches by supplier.

(1) If the debtor under a debtor-creditor-supplier agreement falling within section 12(b) or (c) has, in relation to a transaction financed by the agreement, any claim against the supplier in respect of a misrepresentation or breach of contract, he shall have a

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like claim against the creditor, who, with the supplier, shall accordingly be jointly and severally liable to the debtor.

(2) Subject to any agreement between them, the creditor shall be entitled to be indemnified by the supplier for loss suffered by the creditor in satisfying his liability under subsection (1), including costs reasonably incurred by him in defending proceedings instituted by the debtor.

(3) Subsection (1) does not apply to a claim—

(a) under a non-commercial agreement, or

(b) so far as the claim relates to any single item to which the supplier has attached a cash price not exceeding **[**F62£100**]** or more than **[**F63£30,000**]**.

(4) This section applies notwithstanding that the debtor, in entering into the transaction, exceeded the credit limit or otherwise contravened any term of the agreement.

(5) In an action brought against the creditor under subsection (1) he shall be entitled, in accordance with rules of court, to have the supplier made a party to the proceedings.

Textual Amendments

F62 "£100 " substituted by S.I. 1983/1878, art. 3, **Sch. Pt. I**

F63 "£30,000" substituted by S.I. 1983/1878, arts. 3, 4, **Sch. Pt. II**

VALID FROM 01/02/2011

[F64**75A Further provision for liability of creditor for breaches by supplier**

(1) If the debtor under a linked credit agreement has a claim against the supplier in respect of a breach of contract the debtor may pursue that claim against the creditor where any of the conditions in subsection (2) are met.

(2) The conditions in subsection (1) are—

(a) that the supplier cannot be traced,

(b) that the debtor has contacted the supplier but the supplier has not responded,

(c) that the supplier is insolvent, or

(d) that the debtor has taken reasonable steps to pursue his claim against the supplier but has not obtained satisfaction for his claim.

(3) The steps referred to in subsection (2)(d) need not include litigation.

(4) For the purposes of subsection (2)(d) a debtor is to be deemed to have obtained satisfaction where he has accepted a replacement product or service or other compensation from the supplier in settlement of his claim.

(5) In this section "linked credit agreement" means a regulated consumer credit agreement which serves exclusively to finance an agreement for the supply of specific goods or the provision of a specific service and where—

(a) the creditor uses the services of the supplier in connection with the preparation or making of the credit agreement, or

(b) the specific goods or provision of a specific service are explicitly specified in the credit agreement.

Status: *Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.*
***Changes to legislation:** Consumer Credit Act 1974 is up to date with all changes known to be in force on or before 10 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(6) This section does not apply where—

(a) the cash value of the goods or service is £30, 000 or less,

(b) the linked credit agreement is for credit which exceeds £60, 260, or

(c) the linked credit agreement is entered into by the debtor wholly or predominantly for the purposes of a business carried on, or intended to be carried on, by him.

(7) Subsections (2) to (5) of section 16B (declaration by the debtor as to the purposes of the agreement) apply for the purposes of subsection (6)(c).

(8) This section does not apply to an agreement secured on land.**]**

Textual Amendments

F64 S. 75A inserted (1.2.2011) by The Consumer Credit (EU Directive) Regulations 2010 (S.I. 2010/1010), **regs. 25**, 99(1) (with regs. 100, 101) (as inserted by The Consumer Credit (Amendment) Regulations 2010 (S.I. 2010/1969), **reg. 11**)

76 Duty to give notice before taking certain action.

(1) The creditor or owner is not entitled to enforce a term of a regulated agreement by—

(a) demanding earlier payment of any sum, or

(b) recovering possession of any goods or land, or

(c) treating any right conferred on the debtor or hirer by the agreement as terminated, restricted or deferred,

except by or after giving the debtor or hirer not less than seven days' notice of his intention to do so.

(2) Subsection (1) applies only where—

(a) a period for the duration of the agreement is specified in the agreement, and

(b) that period has not ended when the creditor or owner does an act mentioned in subsection (1),

but so applies notwithstanding that, under the agreement, any party is entitled to terminate it before the end of the period so specified.

(3) A notice under subsection (1) is ineffective if not in the prescribed form.

(4) Subsection (1) does not prevent a creditor from treating the right to draw on any credit as restricted or deferred and taking such steps as may be necessary to make the restriction or deferment effective.

(5) Regulations may provide that subsection (1) is not to apply to agreements described by the regulations.

(6) Subsection (1) does not apply to a right of enforcement arising by reason of any breach by the debtor or hirer of the regulated agreement.

Status: *Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Consumer Credit Act 1974 is up to date with all changes known to be in force on or before 10 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Modifications etc. (not altering text)

C26 S. 76 applied (1.11.2009) by The Payment Services Regulations 2009 (S.I. 2009/209), regs. 1(2)(c), **52(d)** (with reg. 3)

77 Duty to give information to debtor under fixed-sum credit agreement.

(1) The creditor under a regulated agreement for fixed-sum credit, within the prescribed period after receiving a request in writing to that effect from the debtor and payment of a fee of **[**[F65]50p**]**, shall give the debtor a copy of the executed agreement (if any) and of any other document referred to in it, together with a statement signed by or on behalf of the creditor showing, according to the information to which it is practicable for him to refer,—

(a) the total sum paid under the agreement by the debtor;

(b) the total sum which has become payable under the agreement by the debtor but remains unpaid, and the various amounts comprised in that total sum, with the date when each became due; and

(c) the total sum which is to become payable under the agreement by the debtor, and the various amounts comprised in that total sum, with the date, or mode of determining the date, when each becomes due.

(2) If the creditor possesses insufficient information to enable him to ascertain the amounts and dates mentioned in subsection (1)(c), he shall be taken to comply with that paragraph if his statement under subsection (1) gives the basis on which, under the regulated agreement, they would fall to be ascertained.

(3) Subsection (1) does not apply to—

(a) an agreement under which no sum is, or will or may become, payable by the debtor, or

(b) a request made less than one month after a previous request under that subsection relating to the same agreement was complied with.

(4) If the creditor under an agreement fails to comply with subsection (1)—

(a) he is not entitled, while the default continues, to enforce the agreement; and

(b) if the default continues for one month he commits an offence.

(5) This section does not apply to a non-commercial agreement.

Textual Amendments

F65 Amount "50p " substituted for "15p " by S.I. 1983/1571, art. 4, **Sch. Pt. II** (which S.I. was revoked (1.5.1998) by S.I. 1998/997, **art. 2**)

VALID FROM 16/06/2006

[[F66]77A Statements to be provided in relation to fixed-sum credit agreements

(1) The creditor under a regulated agreement for fixed-sum credit—

Status: *Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.*
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(a) shall, within the period of one year beginning with the day after the day on which the agreement is made, give the debtor a statement under this section; and

(b) after the giving of that statement, shall give the debtor further statements under this section at intervals of not more than one year.

(2) Regulations may make provision about the form and content of statements under this section.

(3) The debtor shall have no liability to pay any sum in connection with the preparation or the giving to him of a statement under this section.

(4) The creditor is not required to give the debtor any statement under this section once the following conditions are satisfied—

(a) that there is no sum payable under the agreement by the debtor; and

(b) that there is no sum which will or may become so payable.

(5) Subsection (6) applies if at a time before the conditions mentioned in subsection (4) are satisfied the creditor fails to give the debtor—

(a) a statement under this section within the period mentioned in subsection (1)(a); or

(b) such a statement within the period of one year beginning with the day after the day on which such a statement was last given to him.

(6) Where this subsection applies in relation to a failure to give a statement under this section to the debtor—

(a) the creditor shall not be entitled to enforce the agreement during the period of non-compliance;

(b) the debtor shall have no liability to pay any sum of interest to the extent calculated by reference to the period of non-compliance or to any part of it; and

(c) the debtor shall have no liability to pay any default sum which (apart from this paragraph)—

(i) would have become payable during the period of non-compliance; or

(ii) would have become payable after the end of that period in connection with a breach of the agreement which occurs during that period (whether or not the breach continues after the end of that period).

(7) In this section 'the period of non-compliance' means, in relation to a failure to give a statement under this section to the debtor, the period which—

(a) begins immediately after the end of the period mentioned in paragraph (a) or (as the case may be) paragraph (b) of subsection (5); and

(b) ends at the end of the day on which the statement is given to the debtor or on which the conditions mentioned in subsection (4) are satisfied, whichever is earlier.

(8) This section does not apply in relation to a non-commercial agreement or to a small agreement.**]**

Status: *Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Consumer Credit Act 1974 is up to date with all changes known to be in force on or before 10 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F66 S. 77A inserted (16.6.2006 for certain purposes and otherwise 1.10.2008) by Consumer Credit Act 2006 (c. 14), ss. {6}, 71(2) (with Sch. 3 para. 2); S.I. 2006/1508, **art. 3(1)**, Sch. 1; S.I. 2007/3300, **art. 3(3)**, Sch. 3

VALID FROM 01/02/2011

[F67 77B Fixed-sum credit agreement: statement of account to be provided on request

(1) This section applies to a regulated consumer credit agreement—

(a) which is for fixed-sum credit,

(b) which is of fixed duration,

(c) where the credit is repayable in instalments by the debtor, and

(d) which is not an excluded agreement.

(2) Upon a request from the debtor, the creditor must as soon as reasonably practicable give to the debtor a statement in writing which complies with subsections (3) to (5).

(3) The statement must include a table showing the details of each instalment owing under the agreement as at the date of the request.

(4) Details to be provided under subsection (3) must include—

(a) the date on which the instalment is due,

(b) the amount of the instalment,

(c) any conditions relating to payment of the instalment, and

(d) a breakdown of the instalment showing how much of it is made up of capital repayment, interest payment and other charges.

(5) Where the rate of interest is variable or the charges under the agreement may be varied, the statement must also indicate clearly and concisely that the information in the table is valid only until the rate of interest or charges are varied.

(6) The debtor may make a request under subsection (2) at any time that the agreement is in force unless a previous request has been made less than a month before and has been complied with.

(7) The debtor shall have no liability to pay any sum in connection with the preparation or the giving of a statement under this section.

(8) A breach of the duty imposed by this section is actionable as a breach of statutory duty.

(9) For the purposes of this section, an agreement is an excluded agreement if it is—

(a) an agreement secured on land,

(b) an agreement under which a person takes an article in pawn,

(c) an agreement under which the creditor provides the debtor with credit which exceeds £60, 260, or

(d) an agreement entered into by the debtor wholly or predominantly for the purpose of a business carried on, or intended to be carried on, by him.

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(10) Subsections (2) to (5) of section 16B (declaration by the debtor as to the purposes of the agreement) apply for the purposes of subsection (9)(d).**]**

Textual Amendments

F67 S. 77B inserted (1.2.2011) by The Consumer Credit (EU Directive) Regulations 2010 (S.I. 2010/1010), **regs. 26**, 99(1) (with regs. 100, 101)

78 Duty to give information to debtor under running-account credit agreement.

(1) The creditor under a regulated agreement for running-account credit, within the prescribed period after receiving a request in writing to that effect from the debtor and payment of a fee of **[**[F68]50p**]**, shall give the debtor a copy of the executed agreement (if any) and of any other document referred to in it, together with a statement signed by or on behalf of the creditor showing, according to the information to which it is practicable for him to refer,—

(a) the state of the account, and

(b) the amount, if any currently payable under the agreement by the debtor to the creditor, and

(c) the amounts and due dates of any payments which, if the debtor does not draw further on the account, will later become payable under the agreement by the debtor to the creditor.

(2) If the creditor possesses insufficient information to enable him to ascertain the amounts and dates mentioned in subsection (1)(c), he shall be taken to comply with that paragraph if his statement under subsection (1) gives the basis on which, under the regulated agreement, they would fall to be ascertained.

(3) Subsection (1) does not apply to—

(a) an agreement under which no sum is, or will or may become, payable by the debtor, or

(b) a request made less than one month after a previous request under that subsection relating to the same agreement was complied with.

(4) Where running-account credit is provided under a regulated agreement, the creditor shall give the debtor statements in the prescribed form, and with the prescribed contents—

(a) showing according to the information to which it is practicable for him to refer, the state of the account at regular intervals of not more than twelve months, and

(b) where the agreement provides, in relation to specified periods, for the making of payments by the debtor, or the charging against him of interest or any other sum, showing according to the information to which it is practicable for him to refer the state of the account at the end of each of those periods during which there is any movement in the account.

(5) A statement under subsection (4) shall be given within the prescribed period after the end of the period to which the statement relates.

(6) If the creditor under an agreement fails to comply with subsection (1)—

(a) he is not entitled, while the default continues, to enforce the agreement; and

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(b) if the default continues for one month he commits an offence.

(7) This section does not apply to a non-commercial agreement, and subsections (4) and (5) do not apply to a small agreement.

Textual Amendments

F68 Amount "50p " substituted for "15p " by S.I. 1983/1571, art. 4, **Sch. Pt. II** (which S.I. was revoked (1.5.1998) by S.I. 1998/997, **art. 2**)

VALID FROM 01/02/2011

[F69 78A Duty to give information to debtor on change of rate of interest

(1) Where the rate of interest charged under a regulated consumer credit agreement, other than an excluded agreement, is to be varied, the creditor must inform the debtor in writing of the matters mentioned in subsection (3) before the variation can take effect.

(2) But subsection (1) does not apply where—

(a) the agreement provides that the creditor is to inform the debtor in writing periodically of the matters mentioned in subsection (3) in relation to any variation, at such times as may be provided for in the agreement,

(b) the agreement provides that the rate of interest is to vary according to a reference rate,

(c) the reference rate is publicly available,

(d) information about the reference rate is available on the premises of the creditor, and

(e) the variation of the rate of interest results from a change to the reference rate.

(3) The matters referred to in subsections (1) and (2)(a) are—

(a) the variation in the rate of interest,

(b) the amount of any payments that are to be made after the variation has effect, if different, expressed as a sum of money where practicable, and

(c) if the number or frequency of payments changes as a result of the variation, the new number or frequency.

(4) In the case of an agreement mentioned in subsection (5) this section applies as follows—

(a) the obligation in subsection (1) only applies if the rate of interest increases, and

(b) subsection (3) is to be read as if paragraphs (b) and (c) were omitted.

(5) The agreements referred to in subsection (4) are—

(a) an authorised business overdraft agreement,

(b) an authorised non-business overdraft agreement, or

(c) an agreement which would be an authorised non-business overdraft agreement but for the fact that the credit is not repayable on demand or within three months.

(6) For the purposes of this section an agreement is an excluded agreement if it is—

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(a) a debtor-creditor agreement arising where the holder of a current account overdraws on the account without a pre-arranged overdraft or exceeds a pre-arranged overdraft limit, or

(b) an agreement secured on land.**]**

Textual Amendments

F69 S. 78A inserted (1.2.2011) by The Consumer Credit (EU Directive) Regulations 2010 (S.I. 2010/1010), **regs. 27**, 99(1) (with regs. 100, 101)

79 Duty to give hirer information.

(1) The owner under a regulated consumer hire agreement, within the prescribed period after receiving a request in writing to that effect from the hirer and payment of a fee of **[**F70 50p**]**, shall give to the hirer a copy of the executed agreement and of any other document referred to in it, together with a statement signed by or on behalf of the owner showing, according to the information to which it is practicable for him to refer, the total sum which has become payable under the agreement by the hirer but remains unpaid and the various amounts comprised in that total sum, with the date when each became due.

(2) Subsection (1) does not apply to—

(a) an agreement under which no sum is, or will or may become, payable by the hirer, or

(b) a request made less than one month after a previous request under that subsection relating to the same agreement was complied with.

(3) If the owner under an agreement fails to comply with subsection (1)—

(a) he is not entitled, while the default continues, to enforce the agreement; and

(b) if the default continues for one month he commits an offence.

(4) This section does not apply to a non-commercial agreement.

Textual Amendments

F70 Aount “50p ” substituted for “15p ” by S.I. 1983/1571, art. 4, **Sch. Pt. II** (which S.I. was revoked (1.5.1998) by S.I. 1998/997, **art. 2**)

80 Debtor or hirer to give information about goods.

(1) Where a regulated agreement, other than a non-commercial agreement, requires the debtor or hirer to keep goods to which the agreement relates in his possession or control, he shall, within seven working days after he has received a request in writing to that effect from the creditor or owner, tell the creditor or owner where the goods are.

(2) If the debtor or hirer fails to comply with subsection (1), and the default continues for 14 days, he commits an offence.

Status: *Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.*
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81 Appropriation of payments.

(1) Where a debtor or hirer is liable to make to the same person payments in respect of two or more regulated agreements, he shall be entitled, on making any payment in respect of the agreements which is not sufficient to discharge the total amount then due under all the agreements, to appropriate the sum so paid by him—

(a) in or towards the satisfaction of the sum due under any one of the agreements, or

(b) in or towards the satisfaction of the sums due under any two or more of the agreements in such proportions as he thinks fit.

(2) If the debtor or hirer fails to make any such appropriation where one or more of the agreements is—

(a) a hire-purchase agreement or conditional sale agreement, or

(b) a consumer hire agreement, or

(c) an agreement in relation to which any security is provided,

the payment shall be appropriated towards the satisfaction of the sums due under the several agreements respectively in the proportions which those sums bear to one another.

82 Variation of agreements.

(1) Where, under a power contained in a regulated agreement, the creditor or owner varies the agreement, the variation shall not take effect before notice of it is given to the debtor or hirer in the prescribed manner.

(2) Where an agreement (a "modifying agreement ") varies or supplements an earlier agreement, the modifying agreement shall for the purposes of this Act be treated as—

(a) revoking the earlier agreement, and

(b) containing provisions reproducing the combined effect of the two agreements,

and obligations outstanding in relation to the earlier agreement shall accordingly be treated as outstanding instead in relation to the modifying agreement.

(3) If the earlier agreement is a regulated agreement but (apart from this subsection) the modifying agreement is not then, unless the modifying agreement is for running-account credit, it shall be treated as a regulated agreement.

(4) If the earlier agreement is a regulated agreement for running-account credit, and by the modifying agreement the creditor allows the credit limit to be exceeded but intends the excess to be merely temporary, Part V (except section 56) shall not apply to the modifying agreement.

(5) If—

(a) the earlier agreement is a cancellable agreement, and

(b) the modifying agreement is made within the period applicable under section 68 to the earlier agreement,

then, whether or not the modifying agreement would, apart from this subsection, be a cancellable agreement, it shall be treated as a cancellable agreement in respect of which a notice may be served under section 68 not later than the end of the period applicable under that section to the earlier agreement.

(6) Except under subsection (5), a modifying agreement shall not be treated as a cancellable agreement.

Status: *Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.*
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(7) This section does not apply to a non-commercial agreement.

VALID FROM 01/02/2011

[F71 82A Assignment of rights

(1) Where rights of a creditor under a regulated consumer credit agreement are assigned to a third party, the assignee must arrange for notice of the assignment to be given to the debtor—

(a) as soon as reasonably possible, or

(b) if, after the assignment, the arrangements for servicing the credit under the agreement do not change as far as the debtor is concerned, on or before the first occasion that they do.

(2) This section does not apply to an agreement secured on land.**]**

Textual Amendments

F71 S. 82A inserted (1.2.2011) by The Consumer Credit (EU Directive) Regulations 2010 (S.I. 2010/1010), **regs. 36**, 99(1) (with regs. 100, 101)

83 Liability for misuse of credit facilities.

(1) The debtor under a regulated consumer credit agreement shall not be liable to the creditor for any loss arising from use of the credit facility by another person not acting, or to be treated as acting, as the debtor's agent.

(2) This section does not apply to a non-commercial agreement, or to any loss in so far as it arises from misuse of an instrument to which section 4 of the [M4]Cheques Act 1957 applies.

Modifications etc. (not altering text)

C27 S. 83 applied (1.11.2009) by The Payment Services Regulations 2009 (S.I. 2009/209), regs. 1(2)(c), **52(c)** (with reg. 3)

Marginal Citations

M4 1957 c. 36.

84 Misuse of credit-tokens.

(1) Section 83 does not prevent the debtor under a credit-token agreement from being made liable to the extent of **[**F72£50**]** (or the credit limit if lower) for loss to the creditor arising from use of the credit-token by other persons during a period beginning when the credit-token ceases to be in the possession of any authorised person and ending when the credit-token is once more in the possession of an authorised person.

Status: *Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.*
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(2) Section 83 does not prevent the debtor under a credit-token agreement from being made liable to any extent for loss to the creditor from use of the credit-token by a person who acquired possession of it with the debtor's consent.

(3) Subsections (1) and (2) shall not apply to any use of the credit-token after the creditor has been given oral or written notice that it is lost or stolen, or is for any other reason liable to misuse.

(4) Subsections (1) and (2) shall not apply unless there are contained in the credit-token agreement in the prescribed manner particulars of the name, address and telephone number of a person stated to be the person to whom notice is to be given under subsection (3).

(5) Notice under subsection (3) takes effect when received, but where it is given orally, and the agreement so requires, it shall be treated as not taking effect if not confirmed in writing within seven days.

(6) Any sum paid by the debtor for the issue of the credit-token, to the extent (if any) that it has not been previously offset by use made of the credit-token, shall be treated as paid towards satisfaction of any liability under subsection (1) or (2).

(7) The debtor, the creditor, and any person authorised by the debtor to use the credit-token, shall be authorised persons for the purposes of subsection (1).

(8) Where two or more credit-tokens are given under one credit-token agreement, the preceding provisions of this section apply to each credit-token separately.

Textual Amendments

F72 Amount "Â£50 " substitituted by S.I. 1983/1571, art. 4, **Sch. Pt. II** (which S.I. was revoked (1.5.1998) by S.I. 1998/997, **art. 2**)

85 Duty on issue of new credit-tokens.

(1) Whenever, in connection with a credit-token agreement, a credit-token (other than the first) is given by the creditor to the debtor, the creditor shall give the debtor a copy of the executed agreement (if any) and of any other document referred to in it.

(2) If the creditor fails to comply with this section—

(a) he is not entitled, while the default continues, to enforce the agreement; and

(b) if the default continues for one month he commits an offence.

(3) This section does not apply to a small agreement.

86 Death of debtor or hirer.

(1) The creditor or owner under a regulated agreement is not entitled, by reason of the death of the debtor or hirer, to do an act specified in paragraphs (a) to (e) of section 87(1) if at the death the agreement is fully secured.

(2) If at the death of the debtor or hirer a regulated agreement is only partly secured or is unsecured, the creditor or owner is entitled, by reason of the death of the debtor or hirer, to do an act specified in paragraphs (a) to (e) of section 87(1) on an order of the court only.

Status: *Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Consumer Credit Act 1974 is up to date with all changes known to be in force on or before 10 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3) This section applies in relation to the termination of an agreement only where—

(a) a period for its duration is specified in the agreement, and

(b) that period has not ended when the creditor or owner purports to terminate the agreement,

but so applies notwithstanding that, under the agreement, any party is entitled to terminate it before the end of the period so specified.

(4) This section does not prevent the creditor from treating the right to draw on any credit as restricted or deferred, and taking such steps as may be necessary to make the restriction or deferment effective.

(5) This section does not affect the operation of any agreement providing for payment of sums—

(a) due under the regulated agreement, or

(b) becoming due under it on the death of the debtor or hirer,

out of the proceeds of a policy of assurance on his life.

(6) For the purposes of this section an act is done by reason of the death of the debtor or hirer if it is done under a power conferred by the agreement which is—

(a) exercisable on his death, or

(b) exercisable at will and exercised at any time after his death.

PART VII

DEFAULT AND TERMINATION

Default notices

87 Need for default notice.

(1) Service of a notice on the debtor or hirer in accordance with section 88 (a "default notice ") is necessary before the creditor or owner can become entitled, by reason of any breach by the debtor or hirer of a regulated agreement,—

(a) to terminate the agreement, or

(b) to demand earlier payment of any sum, or

(c) to recover possession of any goods or land, or

(d) to treat any right conferred on the debtor or hirer by the agreement as terminated, restricted or deferred, or

(e) to enforce any security.

(2) Subsection (1) does not prevent the creditor from treating the right to draw upon any credit as restricted or deferred, and taking such steps as may be necessary to make the restriction or deferment effective.

(3) The doing of an act by which a floating charge becomes fixed is not enforcement of a security.

(4) Regulations may provide that subsection (1) is not to apply to agreements described by the regulations.

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Modifications etc. (not altering text)

C28 S. 87 applied (1.11.2009) by The Payment Services Regulations 2009 (S.I. 2009/209), regs. 1(2)(c), **52(d)** (with reg. 3)

88 Contents and effect of default notice.

(1) The default notice must be in the prescribed form and specify—

(a) the nature of the alleged breach;

(b) if the breach is capable of remedy, what action is required to remedy it and the date before which that action is to be taken;

(c) if the breach is not capable of remedy, the sum (if any) required to be paid as compensation for the breach, and the date before which it is to be paid.

(2) A date specified under subsection (1) must not be less than seven days after the date of service of the default notice, and the creditor or owner shall not take action such as is mentioned in section 87(1) before the date so specified or (if no requirement is made under subsection (1)) before those seven days have elapsed.

(3) The default notice must not treat as a breach failure to comply with a provision of the agreement which becomes operative only on breach of some other provision, but if the breach of that other provision is not duly remedied or compensation demanded under subsection (1) is not duly paid, or (where no requirement is made under subsection (1)) if the seven days mentioned in subsection (2) have elapsed, the creditor or owner may treat the failure as a breach and section 87(1) shall not apply to it.

(4) The default notice must contain information in the prescribed terms about the consequences of failure to comply with it.

(5) A default notice making a requirement under subsection (1) may include a provision for the taking of action such as is mentioned in section 87(1) at any time after the restriction imposed by subsection (2) will cease, together with a statement that the provision will be ineffective if the breach is duly remedied or the compensation duly paid.

89 Compliance with default notice.

If before the date specified for that purpose in the default notice the debtor or hirer takes the action specified under section 88(1)(b) or (c) the breach shall be treated as not having occurred.

Further restriction of remedies for default

90 Retaking of protected hire-purchase etc. goods.

(1) At any time when—

(a) the debtor is in breach of a regulated hire-purchase or a regulated conditional sale agreement relating to goods, and

(b) the debtor has paid to the creditor one-third or more of the total price of the goods, and

(c) the property in the goods remains in the creditor,

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the creditor is not entitled to recover possession of the goods from the debtor except on an order of the court.

(2) Where under a hire-purchase or conditional sale agreement the creditor is required to carry out any installation and the agreement specifies, as part of the total price, the amount to be paid in respect of the installation (the "installation charge ") the reference in subsection (1)(b) to one-third of the total price shall be construed as a reference to the aggregate of the installation charge and one-third of the remainder of the total price.

(3) In a case where—

(a) subsection (1)(a) is satisfied, but not subsection (1)(b), and

(b) subsection (1)(b) was satisfied on a previous occasion in relation to an earlier agreement, being a regulated hire-purchase or regulated conditional sale agreement, between the same parties, and relating to any of the goods comprised in the later agreement (whether or not other goods were also included),

subsection (1) shall apply to the later agreement with the omission of paragraph (b).

(4) If the later agreement is a modifying agreement, subsection (3) shall apply with the substitution, for the second reference to the later agreement, of a reference to the modifying agreement.

(5) Subsection (1) shall not apply, or shall cease to apply, to an agreement if the debtor has terminated, or terminates, the agreement.

(6) Where subsection (1) applies to an agreement at the death of the debtor, it shall continue to apply (in relation to the possessor of the goods) until the grant of probate or administration, or (in Scotland) confirmation (on which the personal representative would fall to be treated as the debtor).

(7) Goods falling within this section are in this Act referred to as "protected goods ".

91 Consequences of breach of s. 90.

If goods are recovered by the creditor in contravention of section 90—

(a) the regulated agreement, if not previous terminated, shall terminate, and

(b) the debtor shall be released from all liability under the agreement, and shall be entitled to recover from the creditor all sums paid by the debtor under the agreement.

92 Recovery of possession of goods or land.

(1) Except under an order of the court, the creditor or owner shall not be entitled to enter any premises to take possession of goods subject to a regulated hire-purchase agreement, regulated conditional sale agreement or regulated consumer hire agreement.

(2) At any time when the debtor is in breach of a regulated conditional sale agreement relating to land, the creditor is entitled to recover possession of the land from the debtor, or any person claiming under him, on an order of the court only.

(3) An entry in contravention of subsection (1) or (2) is actionable as a breach of statutory duty.

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93 Interest not to be increased on default.

The debtor under a regulated consumer credit agreement shall not be obliged to pay interest on sums which, in breach of the agreement, are unpaid by him at a rate—

(a) where the total charge for credit includes an item in respect of interest, exceeding the rate of that interest, or

(b) in any other case, exceeding what would be the rate of the total charge for credit if any items included in the total charge for credit by virtue of section 20(2) were disregarded.

[F73 93A Summary diligence not competent in Scotland.

Summary diligence shall not be competent in Scotland to enforce payment of a debt due under a regulated agreement or under any security related thereto.]

Textual Amendments

F73 S. 93A inserted (S.) by Debtors (Scotland) Act 1987 (c. 18, SIF 45:2), ss. 108(1)(2), 109(3), Sch. 6 para. 16, **Sch. 7 para. 5**

Early payment by debtor

94 Right to complete payments ahead of time.

(1) The debtor under a regulated consumer credit agreement is entitled at any time, by notice to the creditor and the payment to the creditor of all amounts payable by the debtor to him under the agreement (less any rebate allowable under section 95), to discharge the debtor's indebtedness under the agreement.

(2) A notice under subsection (1) may embody the exercise by the debtor of any option to purchase goods conferred on him by the agreement, and deal with any other matter arising on, or in relation to, the termination of the agreement.

95 Rebate on early settlement.

(1) Regulations may provide for the allowance of a rebate of charges for credit to the debtor under a regulated consumer credit agreeement where, under section 94, on refinancing, on breach of the agreement, or for any other reason, his indebtedness is discharged or becomes payable before the time fixed by the agreement, or any sum becomes payable by him before the time so fixed.

(2) Regulations under subsection (1) may provide for calculation of the rebate by reference to any sums paid or payable by the debtor or his relative under or in connection with the agreement (whether to the creditor or some other person), including sums under linked transactions and other items in the total charge for credit.

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VALID FROM 01/02/2011

[F74 95A Compensatory amount

(1) This section applies where—

(a) a regulated consumer credit agreement, other than an agreement secured on land, provides for the rate of interest on the credit to be fixed for a period of time, and

(b) under section 94 the debtor discharges all or part of his indebtedness during that period.

(2) The creditor may claim an amount equal to the cost which the creditor has incurred as a result only of the debtor's indebtedness being discharged during that period if—

(a) the amount of the payment under section 94 exceeds £8,000 or, where more than one such payment is made in any 12 month period, the total of those payments exceeds £8,000,

(b) the agreement is not a debtor-creditor agreement enabling the debtor to overdraw on a current account, and

(c) the amount of the payment under section 94 is not paid from the proceeds of a contract of payment protection insurance.

(3) The amount in subsection (2)—

(a) must be fair,

(b) must be objectively justified, and

(c) must not exceed whichever is the lower of—

(i) the relevant percentage of the amount of the payment under section 94, and

(ii) the total amount of interest that would have been paid by the debtor under the agreement in the period from the date on which the debtor makes the payment under section 94 to the date fixed by the agreement for the discharge of the indebtedness of the debtor.

(4) In subsection (3)(c)(i) "relevant percentage" means—

(a) 1%, where the period from the date on which the debtor makes the payment under section 94 to the date fixed by the agreement for the discharge of the indebtedness of the debtor is more than one year, or

(b) 0.5%, where that period is equal to or less than one year.]

Textual Amendments

F74 S. 95A inserted (1.2.2011) by The Consumer Credit (EU Directive) Regulations 2010 (S.I. 2010/1010), **regs. 32**, 99(1) (with regs. 100, 101) (as amended (31.1.2011) by S.I. 2011/11, **reg. 3**)

VALID FROM 21/03/2012

[F75 95B Compensatory amount: green deal finance

(1) This section applies where—

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(a) a regulated consumer credit agreement provides for the rate of interest on the credit to be fixed for a period of time ("the fixed rate period"),

(b) the agreement is a green deal plan (within the meaning of section 1 of the Energy Act 2011) which is of a duration specified for the purposes of this section in regulations, and

(c) under section 94 the debtor discharges all or part of his indebtedness during the fixed rate period.

(2) The creditor may claim an amount equal to the cost which the creditor has incurred as a result only of the debtor's indebtedness being discharged during the fixed rate period if—

(a) the amount of the payment under section 94 is not paid from the proceeds of a contract of payment protection insurance, and

(b) such other conditions as may be specified for the purposes of this section in regulations are satisfied.

(3) The amount in subsection (2)—

(a) must be fair,

(b) must be objectively justified,

(c) must be calculated by the creditor in accordance with provision made for the purposes of this section in regulations, and

(d) must not exceed the total amount of interest that would have been paid by the debtor under the agreement in the period from the date on which the debtor makes the payment under section 94 to the date fixed by the agreement for the discharge of the indebtedness of the debtor.

(4) If a creditor could claim under either section 95A or this section, the creditor may choose under which section to claim.**]**

Textual Amendments

F75 S. 95B inserted (E.W.S.) (prosp.) by Energy Act 2011 (c. 16), **ss. 29(2)**, 121(1) (with s. 41)

96 Effect on linked transactions.

(1) Where for any reason the indebtedness of the debtor under a regulated consumer credit agreement is discharged before the time fixed by the agreement, he, and any relative of his, shall at the same time be discharged from any liability under a linked transaction, other than a debt which has already become payable.

(2) Subsection (1) does not apply to a linked transaction which is itself an agreement providing the debtor or his relative with credit.

(3) Regulations may exclude linked transactions of the prescribed description from the operation of subsection (1).

97 Duty to give information.

(1) The creditor under a regulated consumer credit agreement, within the prescribed period after he has received a request in writing to that effect from the debtor, shall give the debtor a statement in the prescribed form indicating, according to the information

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to which it is practicable for him to refer, the amount of the payment required to discharge the debtor's indebtedness under the agreement, together with the prescribed particulars showing how the amount is arrived at.

(2) Subsection (1) does not apply to a request made less than one month after a previous request under that subsection relating to the same agreement was complied with.

(3) If the creditor fails to comply with subsection (1)—

(a) he is not entitled, while the default continues, to enforce the agreement; and

(b) if the default continues for one month he commits an offence.

VALID FROM 01/02/2011

[F76 97A Duty to give information on partial repayment

(1) Where a debtor under a regulated consumer credit agreement—

(a) makes a payment by virtue of which part of his indebtedness is discharged under section 94, and

(b) at the same time or subsequently requests the creditor to give him a statement concerning the effect of the payment on the debtor's indebtedness,

the creditor must give the statement to the debtor before the end of the period of seven working days beginning with the day following that on which the creditor receives the request.

(2) The statement shall be in writing and shall contain the following particulars—

(a) a description of the agreement sufficient to identify it,

(b) the name, postal address and, where appropriate, any other address of the creditor and the debtor,

(c) where the creditor is claiming an amount under section 95A(2), that amount and the method used to determine it,

(d) the amount of any rebate to which the debtor is entitled—

(i) under the agreement, or

(ii) by virtue of section 95 where that is higher,

(e) where the amount of the rebate mentioned in paragraph (d)(ii) is given, a statement indicating that this amount has been calculated having regard to the Consumer Credit (Early Settlement) Regulations 2004,

(f) where the debtor is not entitled to any rebate, a statement to this effect,

(g) any change to—

(i) the number, timing or amount of repayments to be made under the agreement, or

(ii) the duration of the agreement,

which results from the partial discharge of the indebtedness of the debtor, and

(h) the amount of the debtor's indebtedness remaining under the agreement at the date the creditor gives the statement.**]**

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Textual Amendments

F76 S. 97A inserted (1.2.2011) by The Consumer Credit (EU Directive) Regulations 2010 (S.I. 2010/1010), **regs. 34**, 99(1) (with regs. 100, 101)

Termination of agreements

98 Duty to give notice of termination (non-default cases).

(1) The creditor or owner is not entitled to terminate a regulated agreement except by or after giving the debtor or hirer not less than seven days' notice of the termination.

(2) Subsection (1) applies only where—

(a) a period for the duration of the agreement is specified in the agreement, and

(b) that period has not ended when the creditor or owner does an act mentioned in subsection (1),

but so applies notwithstanding that, under the agreement, any party is entitled to terminate it before the end of the period so specified.

(3) A notice under subsection (1) is ineffective if not in the prescribed form.

(4) Subsection (1) does not prevent a creditor from treating the right to draw on any credit as restricted or deferred and taking such steps as may be necessary to make the restriction or deferment effective.

(5) Regulations may provide that subsection (1) is not to apply to agreements described by the regulations.

(6) Subsection (1) does not apply to the termination of a regulated agreement by reason of any breach by the debtor or hirer of the agreement.

VALID FROM 01/02/2011

[F77 98A Termination etc of open-end consumer credit agreements

(1) The debtor under a regulated open-end consumer credit agreement, other than an excluded agreement, may by notice terminate the agreement, free of charge, at any time, subject to any period of notice not exceeding one month provided for by the agreement.

(2) Notice under subsection (1) need not be in writing unless the creditor so requires.

(3) Where a regulated open-end consumer credit agreement, other than an excluded agreement, provides for termination of the agreement by the creditor—

(a) the termination must be by notice served on the debtor, and

(b) the termination may not take effect until after the end of the period of two months, or such longer period as the agreement may provide, beginning with the day after the day on which notice is served.

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(4) Where a regulated open-end consumer credit agreement, other than an excluded agreement, provides for termination or suspension by the creditor of the debtor's right to draw on credit—

(a) to terminate or suspend the right to draw on credit the creditor must serve a notice on the debtor before the termination or suspension or, if that is not practicable, immediately afterwards,

(b) the notice must give reasons for the termination or suspension, and

(c) the reasons must be objectively justified.

(5) Subsection (4)(a) and (b) does not apply where giving the notice—

(a) is prohibited by an EU obligation, or

(b) would, or would be likely to, prejudice—

(i) the prevention or detection of crime,

(ii) the apprehension or prosecution of offenders, or

(iii) the administration of justice.

(6) An objectively justified reason under subsection (4)(c) may, for example, relate to—

(a) the unauthorised or fraudulent use of credit, or

(b) a significantly increased risk of the debtor being unable to fulfil his obligation to repay the credit.

(7) Subsections (1) and (3) do not affect any right to terminate an agreement for breach of contract.

(8) For the purposes of this section an agreement is an excluded agreement if it is—

(a) an authorised non-business overdraft agreement,

(b) an authorised business overdraft agreement,

(c) a debtor-creditor agreement arising where the holder of a current account overdraws on the account without a pre-arranged overdraft or exceeds a pre-arranged overdraft limit, or

(d) an agreement secured on land.**]**

Textual Amendments

F77 S. 98A inserted (1.2.2011) by The Consumer Credit (EU Directive) Regulations 2010 (S.I. 2010/1010), **regs. 38**, 99(1) (with regs. 100, 101)

99 Right to terminate hire-purchase etc. agreements.

(1) At any time before the final payment by the debtor under a regulated hire-purchase or regulated conditional sale agreement falls due, the debtor shall be entitled to terminate the agreement by giving notice to any person entitled or authorised to receive the sums payable under the agreement.

(2) Termination of an agreement under subsection (1) does not affect any liability under the agreement which has accrued before the termination.

(3) Subsection (1) does not apply to a conditional sale agreement relating to land after the title to the land has passed to the debtor.

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(4) In the case of a conditional sale agreement relating to goods, where the property in the goods, having become vested in the debtor, is transferred to a person who does not become the debtor under the agreement, the debtor shall not thereafter be entitled to terminate the agreement under subsection (1).

(5) Subject to subsection (4), where a debtor under a conditional sale agreement relating to goods terminates the agreement under this section after the property in the goods has become vested in him, the property in the goods shall thereupon vest in the person (the "previous owner ") in whom it was vested immediately before it became vested in the debtor:

Provided that if the previous owner has died, or any other event has occurred whereby that property, if vested in him immediately before that event, would thereupon have vested in some other person, the property shall be treated as having devolved as if it had been vested in the previous owner immediately before his death or immediately before that event, as the case may be.

100 Liability of debtor on termination of hire-purchase etc. agreement.

(1) Where a regulated hire-purchase or regulated conditional sale agreement is terminated under section 99 the debtor shall be liable, unless the agreement provides for a smaller payment, or does not provide for any payment, to pay to the creditor the amount (if any) by which one-half of the total price exceeds the aggregate of the sums paid and the sums due in respect of the total price immediately before the termination.

(2) Where under a hire-purchase or conditional sale agreement the creditor is required to carry out any installation and the agreement specifies, as part of the total price, the amount to be paid in respect of the installation (the "installation charge ") the reference in subsection (1) to one-half of the total price shall be construed as a reference to the aggregate of the installation charge and one-half of the remainder of the total price.

(3) If in any action the court is satisfied that a sum less than the amount specified in subsection (1) would be equal to the loss sustained by the creditor in consequence of the termination of the agreement by the debtor, the court may make an order for the payment of that sum in lieu of the amount specified in subsection (1).

(4) If the debtor has contravened an obligation to take reasonable care of the goods or land, the amount arrived at under subsection (1) shall be increased by the sum required to recompense the creditor for that contravention, and subsection (2) shall have effect accordingly.

(5) Where the debtor, on the termination of the agreement, wrongfully retains possession of goods to which the agreement relates, then, in any action brought by the creditor to recover possession of the goods from the debtor, the court, unless it is satisfied that having regard to the circumstances it would not be just to do so, shall order the goods to be delivered to the creditor without giving the debtor an option to pay the value of the goods.

101 Right to terminate hire agreement.

(1) The hirer under a regulated consumer hire agreement is entitled to terminate the agreement by giving notice to any person entitled or authorised to receive the sums payable under the agreement.

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(2) Termination of an agreement under subsection (1) does not affect any liability under the agreement which has accrued before the termination.

(3) A notice under subsection (1) shall not expire earlier than eighteen months after the making of the agreement, but apart from that the minimum period of notice to be given under subsection (1), unless the agreement provides for a shorter period, is as follows.

(4) If the agreement provides for the making of payments by the hirer to the owner at equal intervals, the minimum period of notice is the length of one interval or three months, whichever is less.

(5) If the agreement provides for the making of such payments at differing intervals, the minimum period of notice is the length of the shortest interval or three months, whichever is less.

(6) In any other case, the minimum period of notice is three months.

(7) This section does not apply to—

(a) any agreement which provides for the making by the hirer of payments which in total (and without breach of the agreement) exceed **[**F78£900**]** in any year, or

(b) any agreement where—

(i) goods are bailed or (in Scotland) hired to the hirer for the purposes of a business carried on by him, or the hirer holds himself out as requiring the goods for those purposes, and

(ii) the goods are selected by the hirer, and acquired by the owner for the purposes of the agreement at the request of the hirer from any person other than the owner's associate, or

(c) any agreement where the hirer requires, or holds himself out as requiring, the goods for the purpose of bailing or hiring them to other persons in the course of a business carried on by him.

(8) If, on an application made to the Director by a person carrying on a consumer hire business, it appears to the Director that it would be in the interest of hirers to do so, he may by notice to the applicant direct that this section shall not apply to consumer hire agreements made by the applicant, and subject to such conditions (if any) as the Director may specify, this Act shall have effect accordingly.

(9) In the case of a modifying agreement, subsection (3) shall apply with the substitution, for "the making of the agreement " of "the making of the original agreement ".

Textual Amendments

F78 Amount "Â£900 " substituted by S.I. 1983/1571, art. 4, **Sch. Pt. II** (which S.I. was revoked (1.5.1998) by S.I. 1998/997, **art. 2**)

102 Agency for receiving notice of rescission.

(1) Where the debtor or hirer under a regulated agreement claims to have a right to rescind the agreement, each of the following shall be deemed to be the agent of the creditor or owner for the purpose of receiving any notice rescinding the agreement which is served by the debtor or hirer—

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(a) a credit-broker or supplier who was the negotiator in antecedent negotiations, and

(b) any person who, in the course of a business carried on by him, acted on behalf of the debtor or hirer in any negotiations for the agreement.

(2) In subsection (1) "rescind " does not include—

(a) service of a notice of cancellation, or

(b) termination of an agreement under section 99 or 101 or by the exercise of a right or power in that behalf expressly conferred by the agreement.

103 Termination statements.

(1) If an individual (the "customer ") serves on any person (the "trader ") a notice—

(a) stating that—

(i) the customer was the debtor or hirer under a regulated agreement described in the notice, and the trader was the creditor or owner under the agreement, and

(ii) the customer has discharged his indebtedness to the trader under the agreement, and

(iii) the agreement has ceased to have any operation; and

(b) requiring the trader to give the customer a notice, signed by or on behalf of the trader, confirming that those statements are correct,

the trader shall, within the prescribed period after receiving the notice, either comply with it or serve on the customer a counter-notice stating that, as the case may be, he disputes the correctness of the notice or asserts that the customer is not indebted to him under the agreement.

(2) Where the trader disputes the correctness of the notice he shall give particulars of the way in which he alleges it to be wrong.

(3) Subsection (1) does not apply in relation to any agreement if the trader has previously complied with that subsection on the service of a notice under it with respect to that agreement.

(4) Subsection (1) does not apply to a non-commercial agreement.

(5) If the trader fails to comply with subsection (1), and the default continues for one month, he commits an offence.

104 Goods not to be treated as subject to landlord's hypothec in Scotland.

Goods comprised in a hire-purchase agreement or goods comprised in a conditional sale agreement which have not become vested in the debtor shall not be treated in Scotland as subject to the landlord's hypothec—

(a) during the period between the service of a default notice in respect of the goods and the date on which the notice expires or is earlier complied with; or

(b) if the agreement is enforceable on an order of the court only, during the period between the commencement and termination of an action by the creditor to enforce the agreement.

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PART VIII

SECURITY

General

105 Form and content of securities.

(1) Any security provided in relation to a regulated agreement shall be expressed in writing.

(2) Regulations may prescribe the form and content of documents ("security instruments ") to be made in compliance with subsection (1).

(3) Regulations under subsection (2) may in particular—

(a) require specified information to be included in the pre-scribed manner in documents, and other specified material to be excluded;

(b) contain requirements to ensure that specified information is clearly brought to the attention of the surety, and that one part of a document is not given insufficient or excessive prominence compared with another.

(4) A security instrument is not properly executed unless—

(a) a document in the prescribed form, itself containing all the prescribed terms and conforming to regulations under subsection (2), is signed in the prescribed manner by or on behalf of the surety, and

(b) the document embodies all the terms of the security, other than implied terms, and

(c) the document, when presented or sent for the purpose of being signed by or on behalf of the surety, is in such state that its terms are readily legible, and

(d) when the document is presented or sent for the purpose of being signed by or on behalf of the surety there is also presented or sent a copy of the document.

(5) A security instrument is not properly executed unless—

(a) where the security is provided after, or at the time when, the regulated agreement is made, a copy of the executed agreement, together with a copy of any other document referred to in it, is given to the surety at the time the security is provided, or

(b) where the security is provided before the regulated agreement is made, a copy of the executed agreement, together with a copy of any other document referred to in it, is given to the surety within seven days after the regulated agreement is made.

(6) Subsection (1) does not apply to a security provided by the debtor or hirer.

(7) If—

(a) in contravention of subsection (1) a security is not expressed in writing, or

(b) a security instrument is improperly executed,

the security, so far as provided in relation to a regulated agreement, is enforceable against the surety on an order of the court only.

(8) If an application for an order under subsection (7) is dismissed (except on technical grounds only) section 106 (ineffective securities) shall apply to the security.

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(9) Regulations under section 60(1) shall include provision requiring documents embodying regulated agreements also to embody any security provided in relation to a regulated agreement by the debtor or hirer.

106 Ineffective securities.

Where, under any provision of this Act, this section is applied to any security provided in relation to a regulated agreement, then, subject to section 177 (saving for registered charges)—

(a) the security, so far as it is so provided, shall be treated as never having effect;

(b) any property lodged with the creditor or owner solely for the purposes of the security as so provided shall be returned by him forthwith;

(c) the creditor or owner shall take any necessary action to remove or cancel an entry in any register, so far as the entry relates to the security as so provided; and

(d) any amount received by the creditor or owner on realisation of the security shall, so far as it is referable to the agreement, be repaid to the surety.

107 Duty to give information to surety under fixed-sum credit agreement.

(1) The creditor under a regulated agreement for fixed-sum credit in relation to which security is provided, within the prescribed period after receiving a request in writing to that effect from the surety and payment of a fee of **[**F79**]**50p**]**, shall give to the surety (if a different person from the debtor)—

(a) a copy of the executed agreement (if any) and of any other document referred to in it;

(b) a copy of the security instrument (if any); and

(c) a statement signed by or on behalf of the creditor showing, according to the information to which it is practicable for him to refer,—

(i) the total sum paid under the agreement by the debtor,

(ii) the total sum which has become payable under the agreement by the debtor but remains unpaid, and the various amounts comprised in that total sum, with the date when each became due, and

(iii) the total sum which is to become payable under the agreement by the debtor, and the various amounts comprised in that total sum, with the date, or mode of determining the date, when each becomes due.

(2) If the creditor possesses insufficient information to enable him to ascertain the amounts and dates mentioned in subsection (1)(c)(iii), he shall be taken to comply with that sub-paragraph if his statement under subsection (1)(c) gives the basis on which, under the regulated agreement, they would fall to be ascertained.

(3) Subsection (1) does not apply to—

(a) an agreement under which no sum is, or will or may become, payable by the debtor, or

(b) a request made less than one month after a previous request under that subsection relating to the same agreement was complied with.

(4) If the creditor under an agreement fails to comply with subsection (1)—

(a) he is not entitled, while the default continues, to enforce the security, so far as provided in relation to the agreement; and

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(b) if the default continues for one month he commits an offence.

(5) This section does not apply to a non-commercial agreement.

Textual Amendments

F79 Amount "50p " substituted for "15p " by S.I. 1983/1571, art. 4, **Sch. Pt. II** (which S.I. was revoked (1.5.1998) by S.I. 1998/997, **art. 2**)

108 Duty to give information to surety under running-account credit agreement.

(1) The creditor under a regulated agreement for running-account credit in relation to which security is provided, within the prescribed period after receiving a request in writing to that effect from the surety and payment of a fee of **[**F80**]**50p**]**, shall give to the surety (if a different person from the debtor)—

(a) a copy of the executed agreement (if any) and of any other document referred to in it;

(b) a copy of the security instrument (if any); and

(c) a statement signed by or on behalf of the creditor showing, according to the information to which it is practicable for him to refer,—

(i) the state of the account, and

(ii) the amount, if any, currently payable under the agreement by the debtor to the creditor, and

(iii) the amounts and due dates of any payments which, if the debtor does not draw further on the account, will later become payable under the agreement by the debtor to the creditor.

(2) If the creditor possesses insufficient information to enable him to ascertain the amounts and dates mentioned in subsection (1)(c)(iii), he shall be taken to comply with that sub-paragraph if his statement under subsection (1)(c) gives the basis on which, under the regulated agreement, they would fall to be ascertained.

(3) Subsection (1) does not apply to—

(a) an agreement under which no sum is, or will or may become, payable by the debtor, or

(b) a request made less than one month after a previous request under that subsection relating to the same agreement was complied with.

(4) If the creditor under an agreement fails to comply with subsection (1)—

(a) he is not entitled, while the default continues, to enforce the security, so far as provided in relation to the agreement; and

(b) if the default continues for one month he commits an offence.

(5) This section does not apply to a non-commercial agreement.

Textual Amendments

F80 Amount "50p " substituted for "15p " by S.I. 1983/1571, art. 4, **Sch. Pt. II** (which S.I. was revoked (1.5.1998) by S.I. 1998/997, **art. 2**)

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109 Duty to give information to surety under consumer hire agreement.

(1) The owner under a regulated consumer hire agreement in relation to which security is provided, within the prescribed period after receiving a request in writing to that effect from the surety and payment of a fee of **[**F81 50p**]**, shall give to the surety (if a different person from the hirer)—

(a) a copy of the executed agreement and of any other document referred to in it;

(b) a copy of the security instrument (if any); and

(c) a statement signed by or on behalf of the owner showing, according to the information to which it is practicable for him to refer, the total sum which has become payable under the agreement by the hirer but remains unpaid and the various amounts comprised in that total sum, with the date when each became due.

(2) Subsection (1) does not apply to—

(a) an agreement under which no sum is, or will or may become, payable by the hirer, or

(b) a request made less than one month after a previous request under that subsection relating to the same agreement was complied with.

(3) If the owner under an agreement fails to comply with subsection (1)—

(a) he is not entitled, while the default continues, to enforce the security, so far as provided in relation to the agreement; and

(b) if the default continues for one month he commits an offence.

(4) This section does not apply to a non-commercial agreement.

Textual Amendments

F81 Amount "50p " substituted for "15p " by S.I. 1983/1571, art. 4, **Sch. Pt. II** (which S.I. was revoked (1.5.1998) by S.I. 1998/997, **art. 2**)

110 Duty to give information to debtor or hirer.

(1) The creditor or owner under a regulated agreement, within the prescribed period after receiving a request in writing to that effect from the debtor or hirer and payment of a fee of **[**F82 50p**]**, shall give the debtor or hirer a copy of any security instrument executed in relation to the agreement after the making of the agreement.

(2) Subsection (1) does not apply to—

(a) a non-commercial agreement, or

(b) an agreement under which no sum is, or will or may become, payable by the debtor or hirer, or

(c) a request made less than one month after a previous request under subsection (1) relating to the same agreement was complied with.

(3) If the creditor or owner under an agreement fails to comply with subsection (1)—

(a) he is not entitled, while the default continues, to enforce the security (so far as provided in relation to the agreement); and

(b) if the default continues for one month he commits an offence.

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Textual Amendments

F82 Amount "50p " substituted by S.I. 1983/1571, art. 3, **Sch.** (which S.I. was revoked (1.5.1998) by S.I. 1998/997, **art. 2**)

111 Duty to give surety copy of default etc. notice.

(1) When a default notice or a notice under section 76(1) or 98(1) is served on a debtor or hirer, a copy of the notice shall be served by the creditor or owner on any surety (if a different person from the debtor or hirer).

(2) If the creditor or owner fails to comply with subsection (1) in the case of any surety, the security is enforceable against the surety (in respect of the breach or other matter to which the notice relates) on an order of the court only.

112 Realisation of securities.

Subject to section 121, regulations may provide for any matters relating to the sale or other realisation, by the creditor or owner, of property over which any right has been provided by way of security in relation to an actual or prospective regulated agreement, other than a non-commercial agreement.

113 Act not to be evaded by use of security.

(1) Where a security is provided in relation to an actual or prospective regulated agreement, the security shall not be enforced so as to benefit the creditor or owner, directly or indirectly, to an extent greater (whether as respects the amount of any payment or the time or manner of its being made) than would be the case if the security were not provided and any obligations of the debtor or hirer, or his relative, under or in relation to the agreement were carried out to the extent (if any) to which they would be enforced under this Act.

(2) In accordance with subsection (1), where a regulated agreement is enforceable on an order of the court or the Director only, any security provided in relation to the agreement is enforceable (so far as provided in relation to the agreement) where such an order has been made in relation to the agreement, but not otherwise.

(3) Where—

(a) a regulated agreement is cancelled under section 69(1) or becomes subject to section 69(2), or

(b) a regulated agreement is terminated under section 91, or

(c) in relation to any agreement an application for an order under section 40(2), 65(1), 124(1) or 149(2) is dismissed (except on technical grounds only), or

(d) a declaration is made by the court under section 142(1) (refusal of enforcement order) as respects any regulated agreement,

section 106 shall apply to any security provided in relation to the agreement.

(4) Where subsection (3)(d) applies and the declaration relates to a part only of the regulated agreement, section 106 shall apply to the security only so far as it concerns that part.

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(5) In the case of a cancelled agreement, the duty imposed on the debtor or hirer by section 71 or 72 shall not be enforceable before the creditor or owner has discharged any duty imposed on him by section 106 (as applied by subsection (3)(a)).

(6) If the security is provided in relation to a prospective agreement or transaction, the security shall be enforceable in relation to the agreement or transaction only after the time (if any) when the agreement is made; and until that time the person providing the security shall be entitled, by notice to the creditor or owner, to require that section 106 shall thereupon apply to the security.

(7) Where an indemnity **[**F83or guarantee**]** is given in a case where the debtor or hirer is a minor, or **[**F84an indemnity is given in a case where he**]** is otherwise not of full capacity, the reference in subsection (1) to the extent to which his obligations would be enforced shall be read in relation to the indemnity **[**F83or guarantee**]** as a reference to the extent to which **[**F85they**][**F85those obligations**]** would be enforced if he were of full capacity.

(8) Subsections (1) to (3) also apply where a security is provided in relation to an actual or prospective linked transaction, and in that case—

(a) references to the agreement shall be read as references to the linked transaction, and

(b) references to the creditor or owner shall be read as references to any person (other than the debtor or hirer, or his relative) who is a party, or prospective party, to the linked transaction.

Textual Amendments

F83 Words inserted (E.W.N.I.) by virtue of (E.W.) Minors' Contracts Act 1987 (c. 13, SIF 30), **s. 4(1)(a)** and (N.I.) S.I. 1988/930 (N.I. 9), **art. 6(1)(a)**

F84 Words inserted (E.W.N.I.) by virtue of (E.W.) Minors' Contracts Act 1987 (c. 13, SIF 30), **s. 4(1)(b)** and (N.I.) S.I. 1988/930 (N.I. 9), **art. 6(1)(b)**

F85 Words "those obligations " substituted (E.W.N.I.) for "they " by virtue of (E.W.) Minors' Contracts Act 1987 (c. 13, SIF 30), **s. 4(1)(c)** and (N.I.) S.I. 1988/930 (N.I. 9), **art. 6(1)(c)**

Pledges

114 Pawn-receipts.

(1) At the time he receives the article, a person who takes any article in pawn under a regulated agreement shall give to the person from whom he receives it a receipt in the prescribed form (a "pawn-receipt ").

(2) A person who takes any article in pawn from an individual whom he knows to be, or who appears to be and is, a minor commits an offence.

(3) This section and sections 115 to 122 do not apply to—

(a) a pledge of documents of title **[**F86or of bearer bonds**]**, or

(b) a non-commercial agreement.

Textual Amendments

F86 Words inserted by Banking Act 1979 (c. 37, SIF 10), **s. 38(2)**

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Modifications etc. (not altering text)
C29 S. 114 excluded by Banking Act 1979 (c. 37, SIF 10), **s. 38(2)**

115 Penalty for failure to supply copies of pledge agreement, etc.

If the creditor under a regulated agreement to take any article in pawn fails to observe the requirements of sections 62 to 64 or 114(1) in relation to the agreement he commits an offence.

Modifications etc. (not altering text)
C30 Ss. 115–117 excluded by Banking Act 1979 (c. 37, SIF 10), **s. 38(2)**

116 Redemption period.

(1) A pawn is redeemable at any time within six months after it was taken.

(2) Subject to subsection (1), the period within which a pawn is redeemable shall be the same as the period fixed by the parties for the duration of the credit secured by the pledge, or such longer period as they may agree.

(3) If the pawn is not redeemed by the end of the period laid down by subsections (1) and (2) (the "redemption period "), it nevertheless remains redeemable until it is realised by the pawnee under section 121 except where under section 120(1)(a) the property in it passes to the pawnee.

(4) No special charge shall be made for redemption of a pawn after the end of the redemption period, and charges in respect of the safe keeping of the pawn shall not be at a higher rate after the end of the redemption period than before.

Modifications etc. (not altering text)
C31 Ss. 115–117 excluded by Banking Act 1979 (c. 37, SIF 10), **s. 38(2)**

117 Redemption procedure.

(1) On surrender of the pawn-receipt, and payment of the amount owing, at any time when the pawn is redeemable, the pawnee shall deliver the pawn to the bearer of the pawn-receipt.

(2) Subsection (1) does not apply if the pawnee knows or has reasonable cause to suspect that the bearer of the pawn-receipt is neither the owner of the pawn nor authorised by the owner to redeem it.

(3) The pawnee is not liable to any person in tort or delict for delivering the pawn where subsection (1) applies, or refusing to deliver it where the person demanding delivery does not comply with subsection (1) or, by reason of subsection (2), subsection (1) does not apply.

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Modifications etc. (not altering text)
C32 Ss. 115–117 excluded by Banking Act 1979 (c. 37, SIF 10), **s. 38(2)**

118 Loss etc. of pawn-receipt.

(1) A person (the "claimant ") who is not in possession of the pawn-receipt but claims to be the owner of the pawn, or to be otherwise entitled or authorised to redeem it, may do so at any time when it is redeemable by tendering to the pawnee in place of the pawn-receipt—

(a) a statutory declaration made by the claimant in the pre-scribed form, and with the prescribed contents, or

(b) where the pawn is security for fixed-sum credit not exceeding **[**F87£25**]** or running-account credit on which the credit limit does not exceed **[**F87£25**]**, and the pawnee agrees, a statement in writing in the prescribed form, and with the prescribed contents, signed by the claimant.

(2) On compliance by the claimant with subsection (1), section 117 shall apply as if the declaration or statement were the pawn-receipt, and the pawn-receipt itself shall become inoperative for the purposes of section 117.

Textual Amendments
F87 Amount "£25" substituted by S.I. 1983/1571, art. 4, **Sch. Pt. II** (which S.I. was revoked (1.5.1998) by S.I. 1998/997, **art. 2**)

Modifications etc. (not altering text)
C33 S. 118 excluded by Banking Act 1979 (c. 37, SIF 10), **s. 38(2)**

119 Unreasonable refusal to deliver pawn.

(1) If a person who has taken a pawn under a regulated agreement refuses without reasonable cause to allow the pawn to be redeemed, he commits an offence.

(2) On the conviction in England or Wales of a pawnee under subsection (1) where the offence does not amount to theft, section 28 (orders for restitution) of the **M5**Theft Act 1968, and any provision of the **M6**Theft Act 1968 relating to that section, shall apply as if the pawnee had been convicted of stealing the pawn.

(3) On the conviction in Northern Ireland of a pawnee under subsection (1) where the offence does not amount to theft, section 27 (orders for restitution) of the **M7**Theft Act (Northern Ireland) 1969, and any provision of the Theft Act (Northern Ireland) 1969 relating to that section, shall apply as if the pawnee had been convicted of stealing the pawn.

Modifications etc. (not altering text)
C34 S. 119 excluded by Banking Act 1979 (c. 37, SIF 10), **s. 38(2)**

Marginal Citations
M5 1968 c. 60.

Status: *Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.*
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M6 1968 c. 60.
M7 1969 c. 16 (N.I.)

120 Consequence of failure to redeem.

(1) If at the end of the redemption period the pawn has not been redeemed—

(a) notwithstanding anything in section 113, the property in the pawn passes to the pawnee where the redemption period is six months and the pawn is security for fixed-sum credit not exceeding **[**F88£25**]**or running-account credit on which the credit limit does not exceed **[**F88£25**]**; or

(b) in any other case the pawn becomes realisable by the pawnee.

(2) Where the debtor or hirer is entitled to apply to the court for a time order under section 129, subsection (1) shall apply with the substitution, for "at the end of the redemption period " of "after the expiry of five days following the end of the redemption period ".

Textual Amendments

F88 Amount "Â£25 " substituted by S.I. 1983/1571, art. 4, **Sch. Pt. II** (which S.I. was revoked (1.5.1998) by S.I. 1998/997, **art. 2**)

Modifications etc. (not altering text)

C35 S. 120 excluded by Banking Act 1979 (c. 37, SIF 10), **s. 38(2)**

121 Realisation of pawn.

(1) When a pawn has become realisable by him, the pawnee may sell it, after giving to the pawnor (except in such cases as may be prescribed) not less than the prescribed period of notice of the intention to sell, indicating in the notice the asking price and such other particulars as may be prescribed.

(2) Within the prescribed period after the sale takes place, the pawnee shall give the pawnor the prescribed information in writing as to the sale, its proceeds and expenses.

(3) Where the net proceeds of sale are not less than the sum which, if the pawn had been redeemed on the date of the sale, would have been payable for its redemption, the debt secured by the pawn is discharged and any surplus shall be paid by the pawnee to the pawnor.

(4) Where subsection (3) does not apply, the debt shall be treated as from the date of sale as equal to the amount by which the net proceeds of sale fall short of the sum which would have been payable for the redemption of the pawn on that date.

(5) In this section the "net proceeds of sale " is the amount realised (the "gross amount ") less the expenses (if any) of the sale.

(6) If the pawnor alleges that the gross amount is less than the true market value of the pawn on the date of sale, it is for the pawnee to prove that he and any agents employed by him in the sale used reasonable care to ensure that the true market value was obtained, and if he fails to do so subsections (3) and (4) shall have effect as if the reference in subsection (5) to the gross amount were a reference to the true market value.

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(7) If the pawnor alleges that the expenses of the sale were unreasonably high, it is for the pawnee to prove that they were reasonable, and if he fails to do so subsections (3) and (4) shall have effect as if the reference in subsection (5) to expenses were a reference to reasonable expenses.

Modifications etc. (not altering text)
C36 Ss. 121, 122 excluded by Banking Act 1979 (c. 37, SIF 10), **s. 38(2)**

122 Order in Scotland to deliver pawn.

(1) As respects Scotland where—

(a) a pawn is either—

(i) an article which has been stolen, or

(ii) an article which has been obtained by fraud, and a person is convicted of any offence in relation to the theft or, as the case may be, the fraud; or

(b) a person is convicted of an offence under section 119(1),

the court by which that person is so convicted may order delivery of the pawn to the owner or the person otherwise entitled thereto.

(2) A court making an order under subsection (1)(a) for delivery of a pawn may make the order subject to such conditions as to payment of the debt secured by the pawn as it thinks fit.

Modifications etc. (not altering text)
C37 Ss. 121, 122 excluded by Banking Act 1979 (c. 37, SIF 10), **s. 38(2)**

Negotiable instruments

123 Restrictions on taking and negotiating instruments.

(1) A creditor or owner shall not take a negotiable instrument, other than a bank note or cheque, in discharge of any sum payable—

(a) by the debtor or hirer under a regulated agreement, or

(b) by any person as surety in relation to the agreement.

(2) The creditor or owner shall not negotiate a cheque taken by him in discharge of a sum payable as mentioned in subsection (1) except to a banker (within the meaning of the [M8]Bills of Exchange Act 1882).

(3) The creditor or owner shall not take a negotiable instrument as security for the discharge of any sum payable as mentioned in subsection (1).

(4) A person takes a negotiable instrument as security for the discharge of a sum if the sum is intended to be paid in some other way, and the negotiable instrument is to be presented for payment only if the sum is not paid in that way.

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(5) This section does not apply where the regulated agreement is a non-commercial agreement.

(6) The Secretary of State may by order provide that this section shall not apply where the regulated agreement has a connection with a country outside the United Kingdom.

Marginal Citations
M8 1882 c. 61.

124 Consequences of breach of s. 123.

(1) After any contravention of section 123 has occurred in relation to a sum payable as mentioned in section 123(1)(a), the agreement under which the sum is payable is enforceable against the debtor or hirer on an order of the court only.

(2) After any contravention of section 123 has occurred in relation to a sum payable by any surety, the security is enforceable on an order of the court only.

(3) Where an application for an order under subsection (2) is dismissed (except on technical grounds only) section 106 shall apply to the security.

125 Holders in due course.

(1) A person who takes a negotiable instrument in contravention of section 123(1) or (3) is not a holder in due course, and is not entitled to enforce the instrument.

(2) Where a person negotiates a cheque in contravention of section 123(2), his doing so constitutes a defect in his title within the meaning of the [M9]Bills of Exchange Act 1882.

(3) If a person mentioned in section 123(1)(a) or (b) ("the protected person ") becomes liable to a holder in due course of an instrument taken from the protected person in contravention of section 123(1) or (3), or taken from the protected person and negotiated in contravention of section 123(2), the creditor or owner shall indemnify the protected person in respect of that liability.

(4) Nothing in this Act affects the rights of the holder in due course of any negotiable instrument.

Marginal Citations
M9 1882 c. 61.

Land mortgages

126 Enforcement of land mortgages.

A land mortgage securing a regulated agreement is enforceable (so far as provided in relation to the agreement) on an order of the court only.

Status: *Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.*
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PART IX

JUDICIAL CONTROL

Enforcement of certain regulated agreements and securities

127 Enforcement orders in cases of infringement.

(1) In the case of an application for an enforcement order under—

(a) section 65(1) (improperly executed agreements), or

(b) section 105(7)(a) or (b) (improperly executed security instruments), or

(c) section 111(2) (failure to serve copy of notice on surety), or

(d) section 124(1) or (2) (taking of negotiable instrument in contravention of section 123),

the court shall dismiss the application if, but (subject to subsections (3) and (4)) only if, it considers it just to do so having regard to—

(i) prejudice caused to any person by the contravention in question, and the degree of culpability for it; and

(ii) the powers conferred on the court by subsection (2) and sections 135 and 136.

(2) If it appears to the court just to do so, it may in an enforcement order reduce or discharge any sum payable by the debtor or hirer, or any surety, so as to compensate him for prejudice suffered as a result of the contravention in question.

(3) The court shall not make an enforcement order under section 65(1) if section 61(1)(a) (signing of agreements) was not complied with unless a document (whether or not in the prescribed form and complying with regulations under section 60(1)) itself containing all the prescribed terms of the agreement was signed by the debtor or hirer (whether or not in the prescribed manner).

(4) The court shall not make an enforcement order under section 65(1) in the case of a cancellable agreement if—

(a) a provision of section 62 or 63 was not complied with, and the creditor or owner did not give a copy of the executed agreement, and of any other document referred to in it, to the debtor or hirer before the commencement of the proceedings in which the order is sought, or

(b) section 64(1) was not complied with.

(5) Where an enforcement order is made in a case to which subsection (3) applies, the order may direct that the regulated agreement is to have effect as if it did not include a term omitted from the document signed by the debtor or hirer.

128 Enforcement orders on death of debtor or hirer.

The court shall make an order under section 86(2) if, but only if, the creditor or owner proves that he has been unable to satisfy himself that the present and future obligations of the debtor or hirer under the agreement are likely to be discharged.

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Extension of time

129 Time orders.

(1) **[**[F89]Subject to subsection (3) below,**]** if it appears to the court just to do so—

(a) on an application for an enforcement order; or

(b) on an application made by a debtor or hirer under this paragraph after service on him of—

(i) a default notice, or

(ii) a notice under section 76(1) or 98(1); or

(c) in an action brought by a creditor or owner to enforce a regulated agreement or any security, or recover possession of any goods or land to which a regulated agreement relates,

the court may make an order under this section (a "time order ").

(2) A time order shall provide for one or both of the following, as the court considers just—

(a) the payment by the debtor or hirer or any surety of any sum owed under a regulated agreement or a security by such instalments, payable at such times, as the court, having regard to the means of the debtor or hirer and any surety, considers reasonable;

(b) the remedying by the debtor or hirer of any breach of a regulated agreement (other than non-payment of money) within such period as the court may specify.

[[F90](3) Where in Scotland a time to pay direction or a time to pay order has been made in relation to a debt, it shall not thereafter be competent to make a time order in relation to the same debt.**]**

Textual Amendments

F89 Words added (S.) by Debtors (Scotland) Act 1987 (c. 18, SIF 45:2), **ss. 108(1)** (2), 109(3), Sch. 6 para. 17(a), Sch. 7 para. 5

F90 S. 129(3) added (S.) by Debtors (Scotland) Act 1987 (c. 18, SIF 45:2), **ss. 108(1)** (2), 109(3), Sch. 6 para. 17(b), Sch. 7 para. 5

Modifications etc. (not altering text)

C38 S. 129 excluded (1.4.1999) by S.I. 1997/687, **art. 9(1)(a)(iv)** (as inserted (1.4.1999) by S.I. 1999/754, **art. 2(2)**)

VALID FROM 01/10/2008

[[F91]129A Debtor or hirer to give notice of intent etc. to creditor or owner

(1) A debtor or hirer may make an application under section 129(1)(ba) in relation to a regulated agreement only if—

(a) following his being given the notice under section 86B or 86C, he gave a notice within subsection (2) to the creditor or owner; and

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(b) a period of at least 14 days has elapsed after the day on which he gave that notice to the creditor or owner.

(2) A notice is within this subsection if it—

(a) indicates that the debtor or hirer intends to make the application;

(b) indicates that he wants to make a proposal to the creditor or owner in relation to his making of payments under the agreement; and

(c) gives details of that proposal.**]**

Textual Amendments

F91 S. 129A inserted (1.10.2008) by Consumer Credit Act 2006 (c. 14), ss. {16(2)}, 71(2); S.I. 2007/3300, **art. 3(3)**, Sch. 3

130 Supplemental provisions about time orders.

(1) Where in accordance with rules of court an offer to pay any sum by instalments is made by the debtor or hirer and accepted by the creditor or owner, the court may in accordance with rules of court make a time order under section 129(2)(a) giving effect to the offer without hearing evidence of means.

(2) In the case of a hire-purchase or conditional sale agreement only, a time order under section 129(2)(a) may deal with sums which, although not payable by the debtor at the time the order is made, would if the agreement continued in force become payable under it subsequently.

(3) A time order under section 129(2)(a) shall not be made where the regulated agreement is secured by a pledge if, by virtue of regulations made under section 76(5), 87(4) or 98(5), service of a notice is not necessary for enforcement of the pledge.

(4) Where, following the making of a time order in relation to a regulated hire-purchase or conditional sale agreement or a regulated consumer hire agreement, the debtor or hirer is in possession of the goods, he shall be treated (except in the case of a debtor to whom the creditor's title has passed) as a bailee or (in Scotland) a custodier of the goods under the terms of the agreement, notwithstanding that the agreement has been terminated.

(5) Without prejudice to anything done by the creditor or owner before the commencement of the period specified in a time order made under section 129(2)(b) ("the relevant period "),—

(a) he shall not while the relevant period subsists take in relation to the agreement any action such as is mentioned in section 87(1);

(b) where—

(i) a provision of the agreement ("the secondary provision ") becomes operative only on breach of another provision of the agreement ("the primary provision "), and

(ii) the time order provides for the remedying of such a breach of the primary provision within the relevant period,

he shall not treat the secondary provision as operative before the end of that period;

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(c) if while the relevant period subsists the breach to which the order relates is remedied it shall be treated as not having occurred.

(6) On the application of any person affected by a time order, the court may vary or revoke the order.

VALID FROM 16/06/2006

I[F92]*Interest*

Textual Amendments

F92 S. 130A and preceding cross-heading inserted (16.6.2006 for certain purposes and otherwise 1.10.2008) by Consumer Credit Act 2006 (c. 14), ss. {17}, 71(2) (with Sch. 3 para. 13); S.I. 2006/1508, **art. 3(1)**, Sch. 1; S.I. 2007/3300, **art. 3(3)**, Sch. 3

130A Interest payable on judgment debts etc.

(1) If the creditor or owner under a regulated agreement wants to be able to recover from the debtor or hirer post-judgment interest in connection with a sum that is required to be paid under a judgment given in relation to the agreement (the 'judgment sum'), he—

(a) after the giving of that judgment, shall give the debtor or hirer a notice under this section (the 'first required notice'); and

(b) after the giving of the first required notice, shall give the debtor or hirer further notices under this section at intervals of not more than six months.

(2) The debtor or hirer shall have no liability to pay post-judgment interest in connection with the judgment sum to the extent that the interest is calculated by reference to a period occurring before the day on which he is given the first required notice.

(3) If the creditor or owner fails to give the debtor or hirer a notice under this section within the period of six months beginning with the day after the day on which such a notice was last given to the debtor or hirer, the debtor or hirer shall have no liability to pay post-judgment interest in connection with the judgment sum to the extent that the interest is calculated by reference to the whole or to a part of the period which—

(a) begins immediately after the end of that period of six months; and

(b) ends at the end of the day on which the notice is given to the debtor or hirer.

(4) The debtor or hirer shall have no liability to pay any sum in connection with the preparation or the giving to him of a notice under this section.

(5) A notice under this section may be incorporated in a statement or other notice which the creditor or owner gives the debtor or hirer in relation to the agreement by virtue of another provision of this Act.

(6) Regulations may make provision about the form and content of notices under this section.

(7) This section does not apply in relation to post-judgment interest which is required to be paid by virtue of any of the following—

(a) section 4 of the Administration of Justice (Scotland) Act 1972;

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(b) Article 127 of the Judgments Enforcement (Northern Ireland) Order 1981;
(c) section 74 of the County Courts Act 1984.

(8) This section does not apply in relation to a non-commercial agreement or to a small agreement.

(9) In this section 'post-judgment interest' means interest to the extent calculated by reference to a period occurring after the giving of the judgment under which the judgment sum is required to be paid.**]**

Protection of property pending proceedings

131 Protection orders.

The court, on the application of the creditor or owner under a regulated agreement, may make such orders as it thinks just for protecting any property of the creditor or owner, or property subject to any security, from damage or depreciation pending the determination of any proceedings under this Act, including orders restricting or prohibiting use of the property or giving directions as to its custody.

Hire and hire-purchase etc. agreements

132 Financial relief for hirer.

(1) Where the owner under a regulated consumer hire agreement recovers possession of goods to which the agreement relates otherwise than by action, the hirer may apply to the court for an order that—
(a) the whole or part of any sum paid by the hirer to the owner in respect of the goods shall be repaid, and
(b) the obligation to pay the whole or part of any sum owed by the hirer to the owner in respect of the goods shall cease,
and if it appears to the court just to do so, having regard to the extent of the enjoyment of the goods by the hirer, the court shall grant the application in full or in part.

(2) Where in proceedings relating to a regulated consumer hire agreement the court makes an order for the delivery to the owner of goods to which the agreement relates the court may include in the order the like provision as may be made in an order under subsection (1).

133 Hire-purchase etc. agreements: special powers of court.

(1) If, in relation to a regulated hire-purchase or conditional sale agreement, it appears to the court just to do so—
(a) on an application for an enforcement order or time order; or
(b) in an action brought by the creditor to recover possession of goods to which the agreement relates,
the court may—
(i) make an order (a "return order ") for the return to the creditor of goods to which the agreement relates;

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(ii) make an order (a "transfer order ") for the transfer to the debtor of the creditor's title to certain goods to which the agreement relates ("the transferred goods "), and the return to the creditor of the remainder of the goods.

(2) In determining for the purposes of this section how much of the total price has been paid ("the paid-up sum "), the court may—

(a) treat any sum paid by the debtor, or owed by the creditor, in relation to the goods as part of the paid-up sum;

(b) deduct any sum owed by the debtor in relation to the goods (otherwise than as part of the total price) from the paid-up sum,

and make corresponding reductions in amounts so owed.

(3) Where a transfer order is made, the transferred goods shall be such of the goods to which the agreement relates as the court thinks just; but a transfer order shall be made only where the paid-up sum exceeds the part of the total price referable to the transferred goods by an amount equal to at least one-third of the unpaid balance of the total price.

(4) Notwithstanding the making of a return order or transfer order, the debtor may at any time before the goods enter the possession of the creditor, on payment of the balance of the total price and the fulfilment of any other necessary conditions, claim the goods ordered to be returned to the creditor.

(5) When, in pursuance of a time order or under this section, the total price of goods under a regulated hire-purchase agreement or regulated conditional sale agreement is paid and any other necessary conditions are fulfilled, the creditor's title to the goods vests in the debtor.

(6) If, in contravention of a return order or transfer order, any goods to which the order relates are not returned to the creditor, the court, on the application of the creditor, may—

(a) revoke so much of the order as relates to those goods, and

(b) order the debtor to pay the creditor the unpaid portion of so much of the total price as is referable to those goods.

(7) For the purposes of this section, the part of the total price referable to any goods is the part assigned to those goods by the agreement or (if no such assignment is made) the part determined by the court to be reasonable.

134 Evidence of adverse detention in hire-purchase etc. cases.

(1) Where goods are comprised in a regulated hire-purchase agreement, regulated conditional sale agreement or regulated consumer hire agreement, and the creditor or owner—

(a) brings an action or makes an application to enforce a right to recover possession of the goods from the debtor or hirer, and

(b) proves that a demand for the delivery of the goods was included in the default notice under section 88(5), or that, after the right to recover possession of the goods accrued but before the action was begun or the application was made, he made a request in writing to the debtor or hirer to surrender the goods,

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then, for the purposes of the claim of the creditor or owner to recover possession of the goods, the possession of them by the debtor or hirer shall be deemed to be adverse to the creditor or owner.

(2) In subsection (1) "the debtor or hirer " includes a person in possession of the goods at any time between the debtor's or hirer's death and the grant of probate or administration, or (in Scotland) confirmation.

(3) Nothing in this section affects a claim for damages for conversion or (in Scotland) for delict.

Supplemental provisions as to orders

135 Power to impose conditions, or suspend operation of order.

(1) If it considers it just to do so, the court may in an order made by it in relation to a regulated agreement include provisions—

(a) making the operation of any term of the order conditional on the doing of specified acts by any party to the proceedings;

(b) suspending the operation of any term of the order either—

(i) until such time as the court subsequently directs, or

(ii) until the occurrence of a specified act or omission.

(2) The court shall not suspend the operation of a term requiring the delivery up of goods by any person unless satisfied that the goods are in his possession or control.

(3) In the case of a consumer hire agreement, the court shall not so use its powers under subsection (1)(b) as to extend the period for which, under the terms of the agreement, the hirer is entitled to possession of the goods to which the agreement relates.

(4) On the application of any person affected by a provision included under subsection (1), the court may vary the provision.

136 Power to vary agreements and securities.

The court may in an order made by it under this Act include such provision as it considers just for amending any agreement or security in consequence of a term of the order.

Extortionate credit bargains

137 Extortionate credit bargains.

(1) If the court finds a credit bargain extortionate it may reopen the credit agreement so as to do justice between the parties.

(2) In this section and sections 138 to 140,—

(a) "credit agreement " means any agreement between an individual (the "debtor ") and any other person (the "creditor ") by which the creditor provides the debtor with credit of any amount, and

(b) "credit bargain "—

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(i) where no transaction other than the credit agreement is to be taken into account in computing the total charge for credit, means the credit agreement, or

(ii) where one or more other transactions are to be so taken into account, means the credit agreement and those other transactions, taken together.

138 When bargains are extortionate.

(1) A credit bargain is extortionate if it—

(a) requires the debtor or a relative of his to make payments (whether unconditionally, or on certain contingencies) which are grossly exorbitant, or

(b) otherwise grossly contravenes ordinary principles of fair dealing.

(2) In determining whether a credit bargain is extortionate, regard shall be had to such evidence as is adduced concerning—

(a) interest rates prevailing at the time it was made,

(b) the factors mentioned in subsection (3) to (5), and

(c) any other relevant considerations.

(3) Factors applicable under subsection (2) in relation to the debtor include—

(a) his age, experience, business capacity and state of health; and

(b) the degree to which, at the time of making the credit bargain, he was under financial pressure, and the nature of that pressure.

(4) Factors applicable under subsection (2) in relation to the creditor include—

(a) the degree of risk accepted by him, having regard to the value of any security provided;

(b) his relationship to the debtor; and

(c) whether or not a colourable cash price was quoted for any goods or services included in the credit bargain.

(5) Factors applicable under subsection (2) in relation to a linked transaction include the question how far the transaction was reason-ably required for the protection of debtor or creditor, or was in the interest of the debtor.

139 Reopening of extortionate agreements.

(1) A credit agreement may, if the court thinks just, be reopened on the ground that the credit bargain is extortionate—

(a) on an application for the purpose made by the debtor or any surety to the High Court, county court or sheriff court; or

(b) at the instance of the debtor or a surety in any proceedings to which the debtor and creditor are parties, being proceedings to enforce the credit agreement, any security relating to it, or any linked transaction; or

(c) at the instance of the debtor or a surety in other proceedings in any court where the amount paid or payable under the credit agreement is relevant.

(2) In reopening the agreement, the court may, for the purpose of relieving the debtor or a surety from payment of any sum in excess of that fairly due and reasonable, by order—

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(a) direct accounts to be taken, or (in Scotland) an accounting to be made, between any persons,

(b) set aside the whole or part of any obligation imposed on the debtor or a surety by the credit bargain or any related agreement,

(c) require the creditor to repay the whole or part of any sum paid under the credit bargain or any related agreement by the debtor or a surety, whether paid to the creditor or any other person,

(d) direct the return to the surety of any property provided for the purposes of the security, or

(e) alter the terms of the credit agreement or any security instrument.

(3) An order may be made under subsection (2) notwithstanding that its effect is to place a burden on the creditor in respect of an advantage unfairly enjoyed by another person who is a party to a linked transaction.

(4) An order under subsection (2) shall not alter the effect of any judgment.

(5) In England and Wales an application under subsection (1)(*a*) shall be brought only in the county court in the case of—

(a) a regulated agreement, or

(b) an agreement (not being a regulated agreement) under which the creditor provides the debtor with fixed-sum credit not exceeding **[**F93the county court limit**]** or running-account credit on which the credit limit does not exceed **[**F93the county court limit**]**.

[F94(5A) In the preceding subsection "the county court limit " means the county court limit for the time being specified by an Order in Council under **[**F95section 145 of the County Courts Act 1984**]**as the county court limit for the purposes of that subsection.**]**

(6) In Scotland an application under subsection (1)(a) may be brought in the sheriff court for the district in which the debtor or surety resides or carries on business.

(7) In Northern Ireland an application under subsection (1)(a) may be brought in the county court in the case of—

(a) a regulated agreement, or

(b) an agreement (not being a regulated agreement) under which the creditor provides the debtor with fixed-sum credit not exceeding **[**F96£5,000**]** or running-account credit on which the credit limit does not exceed **[**F96£5,000**]**.

Textual Amendments

F93 Words substituted by virtue of Administration of Justice Act 1982 (c. 53, SIF 34), s. 37, Sch. 3 paras. 2, **3(b)**

F94 S. 139(5A) inserted by Administration of Justice Act 1982 (c. 53, SIF 34), s. 37, **Sch. 3 para. 4(b)**

F95 Words substituted by County Courts Act 1984 (c. 28, SIF 34), s. 148(1), **Sch. 2 Pt. V para. 47**

F96 "Â£5,000 " substituted by virtue of (N.I.) S.R. 1982/122, art. 2, **Sch.**

Modifications etc. (not altering text)

C39 S. 139(1)(*a*) excluded (S.) by Bankruptcy (Scotland) Act 1985 (c. 66, SIF 66), **s. 61(6)**

C40 S. 139(1)(*a*) excluded (E.W.) by Insolvency Act 1986 (c. 45, SIF 66), **s. 343(6)**

C41 S. 139(1)(*a*) restricted (*prosp.*) by S.I. 1989/2405 (N.I. 19), **arts. 1(2)**, 317(6)

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140 Interpretation of sections 137 to 139.

Where the credit agreement is not a regulated agreement, expressions used in sections 137 to 139 which, apart from this section, apply only to regulated agreements, shall be construed as nearly as may be as if the credit agreement were a regulated agreement.

VALID FROM 06/04/2007

[F97 Unfair relationships

Textual Amendments

F97 S. 140A and preceding cross-heading inserted (6.4.2007) by Consumer Credit Act 2006 (c. 14), ss. {19}, 71(2) (with Sch. 3 para. 16); S.I. 2007/123, **art. 3(2)**, Sch. 2

140A Unfair relationships between creditors and debtors

(1) The court may make an order under section 140B in connection with a credit agreement if it determines that the relationship between the creditor and the debtor arising out of the agreement (or the agreement taken with any related agreement) is unfair to the debtor because of one or more of the following—

(a) any of the terms of the agreement or of any related agreement;

(b) the way in which the creditor has exercised or enforced any of his rights under the agreement or any related agreement;

(c) any other thing done (or not done) by, or on behalf of, the creditor (either before or after the making of the agreement or any related agreement).

(2) In deciding whether to make a determination under this section the court shall have regard to all matters it thinks relevant (including matters relating to the creditor and matters relating to the debtor).

(3) For the purposes of this section the court shall (except to the extent that it is not appropriate to do so) treat anything done (or not done) by, or on behalf of, or in relation to, an associate or a former associate of the creditor as if done (or not done) by, or on behalf of, or in relation to, the creditor.

(4) A determination may be made under this section in relation to a relationship notwithstanding that the relationship may have ended.

(5) An order under section 140B shall not be made in connection with a credit agreement which is an exempt agreement by virtue of section 16(6C).

[F98 140B Powers of court in relation to unfair relationships

(1) An order under this section in connection with a credit agreement may do one or more of the following—

(a) require the creditor, or any associate or former associate of his, to repay (in whole or in part) any sum paid by the debtor or by a surety by virtue of the agreement or any related agreement (whether paid to the creditor, the associate or the former associate or to any other person);

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(b) require the creditor, or any associate or former associate of his, to do or not to do (or to cease doing) anything specified in the order in connection with the agreement or any related agreement;

(c) reduce or discharge any sum payable by the debtor or by a surety by virtue of the agreement or any related agreement;

(d) direct the return to a surety of any property provided by him for the purposes of a security;

(e) otherwise set aside (in whole or in part) any duty imposed on the debtor or on a surety by virtue of the agreement or any related agreement;

(f) alter the terms of the agreement or of any related agreement;

(g) direct accounts to be taken, or (in Scotland) an accounting to be made, between any persons.

(2) An order under this section may be made in connection with a credit agreement only—

(a) on an application made by the debtor or by a surety;

(b) at the instance of the debtor or a surety in any proceedings in any court to which the debtor and the creditor are parties, being proceedings to enforce the agreement or any related agreement; or

(c) at the instance of the debtor or a surety in any other proceedings in any court where the amount paid or payable under the agreement or any related agreement is relevant.

(3) An order under this section may be made notwithstanding that its effect is to place on the creditor, or any associate or former associate of his, a burden in respect of an advantage enjoyed by another person.

(4) An application under subsection (2)(a) may only be made—

(a) in England and Wales, to the county court;

(b) in Scotland, to the sheriff court;

(c) in Northern Ireland, to the High Court (subject to subsection (6)).

(5) In Scotland such an application may be made in the sheriff court for the district in which the debtor or surety resides or carries on business.

(6) In Northern Ireland such an application may be made to the county court if the credit agreement is an agreement under which the creditor provides the debtor with—

(a) fixed-sum credit not exceeding £15,000; or

(b) running-account credit on which the credit limit does not exceed £15,000.

(7) Without prejudice to any provision which may be made by rules of court made in relation to county courts in Northern Ireland, such rules may provide that an application made by virtue of subsection (6) may be made in the county court for the division in which the debtor or surety resides or carries on business.

(8) A party to any proceedings mentioned in subsection (2) shall be entitled, in accordance with rules of court, to have any person who might be the subject of an order under this section made a party to the proceedings.

(9) If, in any such proceedings, the debtor or a surety alleges that the relationship between the creditor and the debtor is unfair to the debtor, it is for the creditor to prove to the contrary.**]**

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Textual Amendments

F98 S. 140B inserted (6.4.2007) by Consumer Credit Act 2006 (c. 14), ss. {20}, 71(2) (with Sch. 3 paras. 14, 16); S.I. 2007/123, **art. 3(2)**, Sch. 2

[F99 140C Interpretation of ss. 140A and 140B

(1) In this section and in sections 140A and 140B 'credit agreement' means any agreement between an individual (the 'debtor') and any other person (the 'creditor') by which the creditor provides the debtor with credit of any amount.

(2) References in this section and in sections 140A and 140B to the creditor or to the debtor under a credit agreement include—

(a) references to the person to whom his rights and duties under the agreement have passed by assignment or operation of law;

(b) where two or more persons are the creditor or the debtor, references to any one or more of those persons.

(3) The definition of 'court' in section 189(1) does not apply for the purposes of sections 140A and 140B.

(4) References in sections 140A and 140B to an agreement related to a credit agreement (the 'main agreement') are references to—

(a) a credit agreement consolidated by the main agreement;

(b) a linked transaction in relation to the main agreement or to a credit agreement within paragraph (a);

(c) a security provided in relation to the main agreement, to a credit agreement within paragraph (a) or to a linked transaction within paragraph (b).

(5) In the case of a credit agreement which is not a regulated consumer credit agreement, for the purposes of subsection (4) a transaction shall be treated as being a linked transaction in relation to that agreement if it would have been such a transaction had that agreement been a regulated consumer credit agreement.

(6) For the purposes of this section and section 140B the definitions of 'security' and 'surety' in section 189(1) apply (with any appropriate changes) in relation to—

(a) a credit agreement which is not a consumer credit agreement as if it were a consumer credit agreement; and

(b) a transaction which is a linked transaction by virtue of subsection (5).

(7) For the purposes of this section a credit agreement (the 'earlier agreement') is consolidated by another credit agreement (the 'later agreement') if—

(a) the later agreement is entered into by the debtor (in whole or in part) for purposes connected with debts owed by virtue of the earlier agreement; and

(b) at any time prior to the later agreement being entered into the parties to the earlier agreement included—

(i) the debtor under the later agreement; and

(ii) the creditor under the later agreement or an associate or a former associate of his.

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(8) Further, if the later agreement is itself consolidated by another credit agreement (whether by virtue of this subsection or subsection (7)), then the earlier agreement is consolidated by that other agreement as well.**]**

Textual Amendments

F99 S. 140C inserted (6.4.2007) by Consumer Credit Act 2006 (c. 14), ss. {21}, 71(2) (with Sch. 3 para. 16); S.I. 2007/123, **art. 3(2)**, Sch. 2

[F100 140D Advice and information

The advice and information published by the OFT under section 229 of the Enterprise Act 2002 shall indicate how the OFT expects sections 140A to 140C of this Act to interact with Part 8 of that Act.**]]**

Textual Amendments

F100 S. 140D inserted (6.4.2007) by Consumer Credit Act 2006 (c. 14), ss. {22(1)}, 71(2); S.I. 2007/123, **art. 3(2)**, Sch. 2

Miscellaneous

141 Jurisdiction and parties.

(1) In England and Wales the county court shall have jurisdiction to hear and determine—

(a) any action by the creditor or owner to enforce a regulated agreement or any security relating to it;

(b) any action to enforce any linked transaction against the debtor or hirer or his relative,

and such an action shall not be brought in any other court.

(2) Where an action or application is brought in the High Court which, by virtue of this Act, ought to have been brought in the county court it shall not be treated as improperly brought, but shall be transferred to the county court.

[F101 (3) In Scotland the sheriff court shall have jurisdiction to hear and determine any action referred to in subsection (1) and such an action shall not be brought in any other court.

(3A) Subject to subsection (3B) an action which is brought in the sheriff court by virtue of subsection (3) shall be brought only in one of the following courts, namely—

(a) the court for the place where the debtor or hirer is domiciled (within the meaning of section 41 or 42 of the Civil Jurisdiction and Judgments Act 1982);

(b) the court for the place where the debtor or hirer carries on business; and

(c) where the purpose of the action is to assert, declare or determine proprietary or possessory rights, or rights of security, in or over moveable property, or to obtain authority to dispose of moveable property, the court for the place where the property is situated.

(3B) Subsection (3A) shall not apply—

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(a) where Rule 3 of Schedule 8 to the said Act of 1982 applies; or

(b) where the jurisdiction of another court has been prorogated by an agreement entered into after the dispute has arisen.**]**

(4) In Northern Ireland the county court shall have jurisdiction to hear and determine any action or application falling within subsection (1).

(5) Except as may be provided by rules of court, all the parties to a regulated agreement, and any surety, shall be made parties to any proceedings relating to the agreement.

Textual Amendments

F101 S. 141(3)(3A)(3B) substituted for s. 141(3) by Civil Jurisdiction and Judgments Act 1982 (c. 27, SIF 45:3), ss. 15(4), 53, Sch. 12 para. 4, **Sch. 13 Pt. I**.

142 Power to declare rights of parties.

(1) Where under any provision of this Act a thing can be done by a creditor or owner on an enforcement order only, and either—

(a) the court dismisses (except on technical grounds only) an application for an enforcement order, or

(b) where no such application has been made or such an application has been dismissed on technical grounds only, an interested party applies to the court for a declaration under this subsection,

the court may if it thinks just make a declaration that the creditor or owner is not entitled to do that thing, and thereafter no application for an enforcement order in respect of it shall be entertained.

(2) Where—

(a) a regulated agreement or linked transaction is cancelled under section 69(1), or becomes subject to section 69(2), or

(b) a regulated agreement is terminated under section 91,

and an interested party applies to the court for a declaration under this subsection, the court may make a declaration to that effect.

Northern Ireland

143 Jurisdiction of county court in Northern Ireland.

Without prejudice to any provision which may be made by rules of court made in relation to county courts in Northern Ireland such rules may provide—

(a) that any action or application such as is mentioned in section 141(4) which is brought against the debtor or hirer in the county court may be brought in the county court for the division in which the debtor or hirer resided or carried on business at the date on which he last made a payment under the regulated agreement;

(b) that an application by a debtor or hirer or any surety under section 129(1)(b), 132(1), 139(1)(a) or 142(1)(b) which is brought in the county court may be brought in the county court for the division in which the debtor, or, as the case may be, the hirer or surety resides or carries on business;

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(c) for service of process on persons outside Northern Ireland.

144 Appeal from county court in Northern Ireland.

Any person dissatisfied—

(a) with an order, whether adverse to him or in his favour, made by a county court in Northern Ireland in the exercise of any jurisdiction conferred by this Act, or

(b) with the dismissal or refusal by such a county court of any action or application instituted by him under the provisions of this Act,

shall be entitled to appeal from the order or from the dismissal or refusal as if the order, dismissal or refusal had been made in exercise of the jurisdiction conferred by Part III of the County Courts **[**[F102]Northern Ireland) Order 1980 and the appeal brought under Part VI of that Order and Articles 61 and 62 of that Order shall apply accordingly**]**.

Textual Amendments

F102 Words substituted by S.I. 1980/397 (N.I. 3), art. 68(2), **Sch. 1 Pt. II**

PART X

ANCILLARY CREDIT BUSINESSES

Definitions

145 Types of ancillary credit business.

(1) An ancillary credit business is any business so far as it comprises or relates to—

(a) credit brokerage,

(b) debt-adjusting,

(c) debt-counselling,

(d) debt-collecting, or

(e) the operation of a credit reference agency.

(2) Subject to section 146(5), credit brokerage is the effecting of introductions—

(a) of individuals desiring to obtain credit—

(i) to persons carrying on businesses to which this sub-paragraph applies, or

(ii) in the case of an individual desiring to obtain credit to finance the acquisition or provision of a dwelling occupied or to be occupied by himself or his relative, to any person carrying on a business in the course of which he provides credit secured on land, or

(b) of individuals desiring to obtain goods on hire to persons carrying on businesses to which this paragraph applies, or

(c) of individuals desiring to obtain credit, or to obtain goods on hire, to other credit-brokers.

(3) Subsection (2)(a)(i) applies to—

(a) a consumer credit business;

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(b) a business which comprises or relates to consumer credit agreements being, otherwise than by virtue of section 16(5)(a), exempt agreements;

(c) a business which comprises or relates to unregulated agreements where—

(i) the **[**F103proper law of**][**F103law applicable to**]** the agreement is the law of a country outside the United Kingdom, and

(ii) if the **[**F103proper law of**][**F103law applicable to**]** the agreement were the law of a part of the United Kingdom it would be a regulated consumer credit agreement.

(4) Subsection (2)(b) applies to—

(a) a consumer hire business;

(b) a business which comprises or relates to unregulated agreements where—

(i) the **[**F103proper law of**][**F103law applicable to**]** the agreement is the law of a country outside the United Kingdom, and

(ii) if the **[**F103proper law of**][**F103law applicable to**]** the agreement were the law of a part of the United Kingdom it would be a regulated consumer hire agreement.

(5) Subject to section 146(6), debt-adjusting is, in relation to debts due under consumer credit agreements or consumer hire agreements,—

(a) negotiating with the creditor or owner, on behalf of the debtor or hirer, terms for the discharge of a debt, or

(b) taking over, in return for payments by the debtor or hirer, his obligation to discharge a debt, or

(c) any similar activity concerned with the liquidation of a debt.

(6) Subject to section 146(6), debt-counselling is the giving of advice to debtors or hirers about the liquidation of debts due under consumer credit agreements or consumer hire agreements.

(7) Subject to section 146(6), debt-collecting is the taking of steps to procure payment of debts due under consumer credit agreements or consumer hire agreements.

(8) A credit reference agency is a person carrying on a business comprising the furnishing of persons with information relevant to the financial standing of individuals, being information collected by the agency for that purpose.

Textual Amendments

F103 Words "law applicable to " substituted (*prosp.*) for "proper law of " by Contracts (Applicable Law) Act 1990 (c. 36, SIF 30), ss. 5, 7, **Sch. 4 para. 2**

146 Exceptions from section 145.

(1) A barrister or advocate acting in that capacity is not to be treated as doing so in the course of any ancillary credit business.

(2) A solicitor engaging in contentious business (as defined in section 86(1) of the M10Solicitors Act 1957) is not to be treated as doing so in the course of any ancillary credit business.

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(3) A solicitor within the meaning of the [M11]Solicitors (Scotland) Act 1933 engaging in business done in or for the purposes of proceedings before a court or before an arbiter is not to be treated as doing so in the course of any ancillary credit business.

(4) A solicitor in Northern Ireland engaging in business done, whether as solicitor or advocate, in or for the purposes of proceedings begun before a court (including the Lands Tribunal for Northern Ireland) or before an arbitrator appointed under the [M12]Arbitration Act (Northern Ireland) 1937, not being business **[**[F104]which falls within the definition of non-contentious probate business contained in Article 2(2) of the Administration of Estates (Northern Ireland) Order 1979**]**, is not to be treated as doing so in the course of any ancillary credit business.

(5) For the purposes of section 145(2), introductions effected by an individual by canvassing off trade premises either debtor-creditor-supplier agreements falling within section 12(a) or regulated consumer hire agreements shall be disregarded if—

(a) the introductions are not effected by him in the capacity of an employee, and

(b) he does not by any other method effect introductions falling within section 145(2).

(6) It is not debt-adjusting, debt-counselling or debt-collecting for a person to do anything in relation to a debt arising under an agreement if—

(a) he is the creditor or owner under the agreement, otherwise than by virtue of an assignment, or

(b) he is the creditor or owner under the agreement by virtue of an assignment made in connection with the transfer to the assignee of any business other than a debt-collecting business, or

(c) he is the supplier in relation to the agreement, or

(d) he is a credit-broker who has acquired the business of the person who was the supplier in relation to the agreement, or

(e) he is a person prevented by subsection (5) from being treated as a credit-broker, and the agreement was made in consequence of an introduction (whether made by him or another person) which, under subsection (5), is to be disregarded.

Textual Amendments

F104 Words substituted by S.I. 1979/1576, **art. 4**

Modifications etc. (not altering text)

C42 S. 146(2)(4) amended (1.1.1992) by S.I. 1991/2684, arts. 2, 4, **Sch. 1**

Marginal Citations

M10 1957 c. 27.

M11 1933 c. 21.

M12 1937 c. 8 (N.I.)

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Licensing

147 Application of Part III.

(1) The provisions of Part III (except section 40) apply to an ancillary credit business as they apply to a consumer credit business.

(2) Without prejudice to the generality of section 26, regulations under that section (as applied by subsection (1)) may include provisions regulating the collection and dissemination of information by credit reference agencies.

Modifications etc. (not altering text)

C43 S. 147(1) restricted (1.1.1993) by S.I. 1992/3218, **reg. 5(1)(c)**
S. 147(1) excluded (1.1.1996) by S.I. 1995/3275, **reg. 5(1)(b)**
S. 147(1) excluded (1.12.2001) by 2000 c. 8, ss. 31(1)(b), 37, **Sch. 3 Pt. II para. 15(3)**; S.I. 2001/3538, **art. 2(1)**

148 Agreement for services of unlicensed trader.

(1) An agreement for the services of a person carrying on an ancillary credit business (the "trader "), if made when the trader was unlicensed, is enforceable against the other party (the "customer ") only where the Director has made an order under subsection (2) which applies to the agreement.

(2) The trader or his successor in title may apply to the Director for an order that agreements within subsection (1) are to be treated as if made when the trader was licensed.

(3) Unless the Director determines to make an order under subsection (2) in accordance with the application, he shall, before determining the application, by notice—

(a) inform the trader, giving his reasons, that, as the case may be, he is minded to refuse the application, or to grant it in terms different from those applied for, describing them, and

(b) invite the trader to submit to the Director representations in support of his application in accordance with section 34.

(4) In determining whether or not to make an order under subsection (2) in respect of any period the Director shall consider, in addition to any other relevant factors,—

(a) how far, if at all, customers, under agreements made by the trader during that period were prejudiced by the trader's conduct,

(b) whether or not the Director would have been likely to grant a licence covering that period on an application by the trader, and

(c) the degree of culpability for the failure to obtain a licence.

(5) If the Director thinks fit, he may in an order under subsection (2)—

(a) limit the order to specified agreements, or agreements of a specified description or made at a specified time;

(b) make the order conditional on the doing of specified acts by the trader.

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Modifications etc. (not altering text)
C44 S. 148 restricted (1.1.1998) by S.I. 1992/3218, **reg. 61(2)**
S. 148 modified (1.1.1996) by S.I. 1995/3275, **reg. 38(2)**

149 Regulated agreements made on introductions by unlicensed credit-broker.

(1) A regulated agreement made by a debtor or hirer who, for the purpose of making that agreement, was introduced to the creditor or owner by an unlicensed credit-broker is enforceable against the debtor or hirer only where—

(a) on the application of the credit-broker, the Director has made an order under section 148(2) in respect of a period including the time when the introduction was made, and the order does not (whether in general terms or specifically) exclude the application of this paragraph to the regulated agreement, or

(b) the Director has made an order under subsection (2) which applies to the agreement.

(2) Where during any period individuals were introduced to a person carrying on a consumer credit business or consumer hire business by an unlicensed credit-broker for the purpose of making regulated agreements with the person carrying on that business, that person or his successor in title may apply to the Director for an order that regulated agreements so made are to be treated as if the credit-broker had been licensed at the time of the introduction.

(3) Unless the Director determines to make an order under subsection (2) in accordance with the application, he shall, before determining the application, by notice—

(a) inform the applicant, giving his reasons, that, as the case may be, he is minded to refuse the application, or to grant it in terms different from those applied for, describing them, and

(b) invite the applicant to submit to the Director representations in support of his application in accordance with section 34.

(4) In determining whether or not to make an order under subsection (2) the Director shall consider, in addition to any other relevant factors—

(a) how far, if at all, debtors or hirers under regulated agreements to which the application relates were prejudiced by the credit-broker's conduct, and

(b) the degree of culpability of the applicant in facilitating the carrying on by the credit-broker of his business when unlicensed.

(5) If the Director thinks fit, he may in an order under subsection (2)—

(a) limit the order to specified agreements, or agreements of a specified description or made at a specified time;

(b) make the order conditional on the doing of specified acts by the applicant.

Modifications etc. (not altering text)
C45 S. 149 restricted (1.1.1993) by S.I. 1992/3218, **reg. 61(3)**
S. 149 modified (1.1.1996) by S.I. 1995/3275, **reg. 38(3)**

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150 Appeals to Secretary of State against licensing decisions.

Section 41 (as applied by section 147(1)) shall have effect as if the following entry were included in the table set out at the end—

Determination	Appellant
Refusal to make order under section 148(2) or 149(2) in accordance with terms of application.	The applicant.

Seeking business

151 Advertisements.

(1) Sections 44 to 47 apply to an advertisement published for the purposes of a business of credit brokerage carried on by any person, whether it advertises the services of that person or the services of persons to whom he effects introductions, as they apply to an advertisement to which Part IV applies.

(2) Sections 44, 46 and 47 apply to an advertisement, published for the purposes of a business carried on by the advertiser, indicating that he is willing to advise on debts, or engage in transactions concerned with the liquidation of debts, as they apply to an advertisement to which Part IV applies.

(3) The Secretary of State may by order provide that an advertisement published for the purposes of a business of credit brokerage, debt adjusting or debt counselling shall not fall within subsection (1) or (2) if it is of a description specified in the order.

(4) An advertisement does not fall within subsection (2) if it indicates that the advertiser is not willing to act in relation to consumer credit agreements and consumer hire agreements.

(5) In subsections (1) and (3) "credit brokerage " includes the effecting of introductions of individuals desiring to obtain credit to any person carrying on a business in the course of which he provides credit secured on land.

152 Application of sections 52 to 54 to credit brokerage etc.

(1) Sections 52 to 54 apply to a business of credit brokerage, debt-adjusting or debt-counselling as they apply to a consumer credit business.

(2) In their application to a business of credit brokerage, sections 52 and 53 shall apply to the giving of quotations and information about the business of any person to whom the credit-broker effects introductions as well as to the giving of quotations and information about his own business.

153 Definition of canvassing off trade premises (agreements for ancillary credit services).

(1) An individual (the "canvasser ") canvasses off trade premises the services of a person carrying on an ancillary credit business if he solicits the entry of another individual (the "consumer ") into an agreement for the provision to the consumer of those services by making oral representations to the consumer, or any other individual, during a visit

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by the canvasser to any place (not excluded by subsection (2)) where the consumer, or that other individual as the case may be, is, being a visit—

(a) carried out for the purpose of making such oral representations to individuals who are at that place, but

(b) not carried out in response to a request made on a previous occasion.

(2) A place is excluded from subsection (1) if it is a place where (whether on a permanent or temporary basis)—

(a) the ancillary credit business is carried on, or

(b) any business is carried on by the canvasser or the person whose employee or agent the canvasser is, or by the consumer.

154 Prohibition of canvassing certain ancillary credit services off trade premises.

It is an offence to canvass off trade premises the services of a person carrying on a business of credit-brokerage, debt-adjusting or debt-counselling.

155 Right to recover brokerage fees.

(1) The excess over **[**F105£3**]** of a fee or commission for his services charged by a credit-broker to an individual to whom this subsection applies shall cease to be payable or, as the case may be, shall be recoverable by the individual if the introduction does not result in his entering into a relevant agreement within the six months following the introduction (disregarding any agreement which is cancelled under section 69(1) or becomes subject to section 69(2)).

(2) Subsection (1) applies to an individual who sought an introduction for a purpose which would have been fulfilled by his entry into—

(a) a regulated agreement, or

(b) in the case of an individual such as is referrred to in section 145(2)(a)(ii), an agreement for credit secured on land, or

(c) an agreement such as is referred to in section 145(3)(b) or (c) or (4)(b).

(3) An agreement is a relevant agreement for the purposes of subsection (1) in relation to an individual if it is an agreement such as is referred to in subsection (2) in relation to that individual.

(4) In the case of an individual desiring to obtain credit under a consumer credit agreement, any sum payable or paid by him to a credit-broker otherwise than as a fee or commission for the credit-broker's services shall for the purposes of subsection (1) be treated as such a fee or commission if it enters, or would enter, into the total charge for credit.

Textual Amendments

F105 Amount "Â£3 " substituted by S.I. 1983/1571, art. 3, **Sch. Pt. I** (which S.I. was revoked (1.5.1998) by S.I. 1998/997, **art. 2**)

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Entry into agreements

156 Entry into agreements.

Regulations may make provision, in relation to agreements entered into in the course of a business of credit brokerage, debt-adjusting or debt-counselling, corresponding, with such modifications as the Secretary of State thinks fit, to the provision which is or may be made by or under sections 55, 60, 61, 62, 63, 65, 127, 179 or 180 in relation to agreements to which those sections apply.

Credit reference agencies

157 Duty to disclose name etc. of agency.

(1) A creditor, owner or negotiator, within the prescribed period after receiving a request in writing to that effect from the debtor or hirer, shall give him notice of the name and address of any credit reference agency from which the creditor, owner or negotiator has, during the antecedent negotiations, applied for information about his financial standing.

(2) Subsection (1) does not apply to a request received more than 28 days after the termination of the antecedent negotiations, whether on the making of the regulated agreement or otherwise.

(3) If the creditor, owner or negotiator fails to comply with subsection (1) he commits an offence.

158 Duty of agency to disclose filed information.

(1) A credit reference agency, within the prescribed period after receiving,—

(a) a request in writing to that effect from any individual (the "consumer "), and

(b) such particulars as the agency may reasonably require to enable them to identify the file, and

(c) a fee of **[**F106£1**]**,

shall give the consumer a copy of the file relating to him kept by the agency.

(2) When giving a copy of the file under subsection (1), the agency shall also give the consumer a statement in the prescribed form of his rights under section 159.

(3) If the agency does not keep a file relating to the consumer it shall give him notice of that fact, but need not return any money paid.

(4) If the agency contravenes any provision of this section it commits an offence.

(5) In this Act "file ", in relation to an individual, means all the information about him kept by a credit reference agency, regardless of how the information is stored, and "copy of the file ", as respects information not in plain English, means a transcript reduced into plain English.

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Textual Amendments

F106 "£1" substituted for 25p by S.I. 1983/1571, art. 3, **Sch. Pt. I**, (which S.I. was revoked (1.5.1998) by S.I. 1998/997, **art. 2**)

159 Correction of wrong information.

(1) A consumer given information under section 158 who considers that an entry in his file is incorrect, and that if it is not corrected he is likely to be prejudiced, may give notice to the agency requiring it either to remove the entry from the file or amend it.

(2) Within 28 days after receiving a notice under subsection (1), the agency shall by notice inform the consumer that it has—

(a) removed the entry from the file, or

(b) amended the entry, or

(c) taken no action,

and if the notice states that the agency has amended the entry it shall include a copy of the file so far as it comprises the amended entry.

(3) Within 28 days after receiving a notice under subsection (2), or where no such notice was given, within 28 days after the expiry of the period mentioned in subsection (2), the consumer may, unless he has been informed by the agency that it has removed the entry from his file, serve a further notice on the agency requiring it to add to the file an accompanying notice of correction (not exceeding 200 words) drawn up by the consumer, and include a copy of it when furnishing information included in or based on that entry.

(4) Within 28 days after receiving a notice under subsection (3), the agency, unless it intends to apply to the Director under subsection (5), shall by notice inform the consumer that it has received the notice under subsection (3) and intends to comply with it.

(5) If—

(a) the consumer has not received a notice under subsection (4) within the time required, or

(b) it appears to the agency that it would be improper for it to publish a notice of correction because it is incorrect, or unjustly defames any person, or is frivolous or scandalous, or is for any other reason unsuitable,

the consumer or, as the case may be, the agency may, in the prescribed manner and on payment of the specified fee, apply to the Director, who may make such order on the application as he thinks fit.

(6) If a person to whom an order under this section is directed fails to comply with it within the period specified in the order he commits an offence.

160 Alternative procedure for business consumers.

(1) The Director, on an application made by a credit reference agency, may direct that this section shall apply to the agency if he is satisfied—

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(a) that compliance with section 158 in the case of consumers who carry on a business would adversely affect the service provided to its customers by the agency, and

(b) that, having regard to the methods employed by the agency and to any other relevant factors, it is probable that consumers carrying on a business would not be prejudiced by the making of the direction.

(2) Where an agency to which this section applies receives a request, particulars and a fee under section 158(1) from a consumer who carries on a business, and section 158(3) does not apply, the agency, instead of complying with section 158, may elect to deal with the matter under the following subsections.

(3) Instead of giving the consumer a copy of the file, the agency shall within the prescribed period give notice to the consumer that it is proceeding under this section, and by notice give the consumer such information included in or based on entries in the file as the Director may direct, together with a statement in the prescribed form of the consumer's rights under subsections (4) and (5).

(4) If within 28 days after receiving the information given him under subsection (3), or such longer period as the Director may allow, the consumer—

(a) gives notice to the Director that he is dissatisfied with the information, and

(b) satisfies the Director that he has taken such steps in relation to the agency as may be reasonable with a view to removing the cause of his dissatisfaction, and

(c) pays the Director the specified fee,

the Director may direct the agency to give the Director a copy of the file, and the Director may disclose to the consumer such of the information on the file as the Director thinks fit.

(5) Section 159 applies with any necessary modifications to information given to the consumer under this section as it applies to information given under section 158.

(6) If an agency making an election under subsection (2) fails to comply with subsection (3) or (4) it commits an offence.

VALID FROM 30/04/2010

[F107 160A Credit intermediaries

(1) In this section "credit intermediary" means a person who in the course of business—

(a) carries out any of the activities specified in subsection (2) for a consideration that is or includes a financial consideration, and

(b) does not do so as a creditor.

(2) The activities are—

(a) recommending or making available prospective regulated consumer credit agreements, other than agreements secured on land, to individuals,

(b) assisting individuals by undertaking other preparatory work in relation to such agreements, or

(c) entering into regulated consumer credit agreements, other than agreements secured on land, with individuals on behalf of creditors.

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(3) A credit intermediary must in—

(a) advertising of his relating to an activity in subsection (2) which is intended for individuals not acting the course of a business, or

(b) documentation of his relating to an activity in subsection (2) which is intended for individuals,

indicate the extent to which the intermediary is acting independently and in particular whether he works exclusively with a creditor.

(4) Where a credit intermediary carries on an activity specified in subsection (2) for a debtor, the intermediary must secure that any financial consideration payable to him by the debtor for the activity is disclosed to the debtor and then agreed in writing before the regulated consumer credit agreement is concluded.

(5) Where a credit intermediary carries on an activity specified in subsection (2) for a debtor, the intermediary must disclose to the creditor the financial consideration for the activity payable by the debtor if the annual percentage rate of the total charge for credit prescribed under section 20 is to be ascertained by the creditor.

(6) A credit intermediary who fails to comply with a requirement of this section commits an offence.

(7) An offence under this section is to be treated for the purposes of the definition of "relevant offence" in section 38(1) and (2) of the Regulatory Enforcement and Sanctions Act 2008 as an offence contained in this Act immediately before the day on which that Act was passed.**]**

Textual Amendments

F107 S. 160A inserted (30.4.2010 for certain purposes and otherwise 1.2.2011) by The Consumer Credit (EU Directive) Regulations 2010 (S.I. 2010/1010), **regs. 41**, 99(1)(2)(c) (with regs. 100, 101)

PART XI

ENFORCEMENT OF ACT

161 Enforcement authorities.

(1) The following authorities ("enforcement authorities ") have a duty to enforce this Act and regulations made under it—

(a) the Director,

(b) in Great Britain, the local weights and measures authority,

(c) in Northern Ireland, the Department of Commerce for Northern Ireland.

(2) Where a local weights and measures authority in England or Wales propose to institute proceedings for an offence under this Act (other than an offence under section 162(6), 165(1) or (2) or 174(5)) it shall, as between the authority and the Director, be the duty of the authority to give the Director notice of the intended proceedings, together with a summary of the facts on which the charges are to be founded, and postpone institution of the proceedings until either—

(a) 28 days have expired since that notice was given, or

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(b) the Director has notified them of receipt of the notice and summary.

(3) Every local weights and measures authority shall, whenever the Director requires, report to him in such form and with such particulars as he requires on the exercise of their functions under this Act.

(4) F108

Textual Amendments

F108 S. 161(4)–(6) repealed by Local Government, Planning and Land Act 1980 (c. 65, SIF 81:1, 2), s. 1(4), **Sch. 34 Pt. IV**

162 Powers of entry and inspection.

(1) A duly authorised officer of an enforcement authority, at all reasonable hours and on production, if required, of his credentials, may—

(a) in order to ascertain whether a breach of any provision of or under this Act has been committed, inspect any goods and enter any premises (other than premises used only as a dwelling);

(b) if he has reasonable cause to suspect that a breach of any provision of or under this Act has been committed, in order to ascertain whether it has been committed, require any person—

(i) carrying on, or employed in connection with, a business to produce any books or documents relating to it; or

(ii) having control of any information relating to a business recorded otherwise than in a legible form to provide a document containing a legible reproduction of the whole or any part of the information,

and take copies of, or of any entry in, the books or documents;

(c) if he has reasonable cause to believe that a breach of any provision of or under this Act has been committed, seize and detain any goods in order to ascertain (by testing or otherwise) whether such a breach has been committed;

(d) seize and detain any goods, books or documents which he has reason to believe may be required as evidence in proceedings for an offence under this Act;

(e) for the purpose of exercising his powers under this subsection to seize goods, books or documents, but only if and to the extent that it is reasonably necessary for securing that the provisions of this Act and of any regulations made under it are duly observed, require any person having authority to do so to break open any container and, if that person does not comply, break it open himself.

(2) An officer seizing goods, books or documents in exercise of his powers under this section shall not do so without informing the person he seizes them from.

(3) If a justice of the peace, on sworn information in writing, or, in Scotland, a sheriff or a magistrate or justice of the peace, on evidence on oath,—

(a) is satisfied that there is reasonable ground to believe either—

(i) that any goods, books or documents which a duly authorised officer has power to inspect under this section are on any premises and their inspection is likely to disclose evidence of a breach of any provision of or under this Act; or

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(ii) that a breach of any provision of or under this Act has been, is being or is about to be committed on any premises; and

(b) is also satisfied either—

(i) that admission to the premises has been or is likely to be refused and that notice of intention to apply for a warrant under this subsection has been given to the occupier; or

(ii) that an application for admission, or the giving of such a notice, would defeat the object of the entry or that the premises are unoccupied or that the occupier is temporarily absent and it might defeat the object of the entry to wait for his return,

the justice or, as the case may be, the sheriff or magistrate may by warrant under his hand, which shall continue in force for a period of one month, authorise an officer of an enforcement authority to enter the premises (by force if need be).

(4) An officer entering premises by virtue of this section may take such other persons and equipment with him as he thinks necessary; and on leaving premises entered by virtue of a warrant under subsection (3) shall, if they are unoccupied or the occupier is temporarily absent, leave them as effectively secured against tres-passers as he found them.

(5) Regulations may provide that, in cases described by the regulations, an officer of a local weights and measures authority is not to be taken to be duly authorised for the purposes of this section unless he is authorised by the Director.

(6) A person who is not a duly authorised officer of an enforcement authority, but purports to act as such under this section, commits an offence.

(7) Nothing in this section compels a barrister, advocate or solicitor to produce a document containing a privileged communication made by or to him in that capacity or authorises the seizing of any such document in his possession.

Modifications etc. (not altering text)

C46 S. 162(1)(c)(d): powers of seizure extended (1.4.2003) by 2001 c. 16, ss. 50, 52-54, 68, 138, Sch. 1 Pt. 1 para. 19; S.I. 2003/708, **art. 2**

163 Compensation for loss.

(1) Where, in exercising his powers under section 162, an officer of an enforcement authority seizes and detains goods and their owner suffers loss by reason of—

(a) that seizure, or

(b) the loss, damage or deterioration of the goods during detention,

then, unless the owner is convicted of an offence under this Act committed in relation to the goods, the authority shall compensate him for the loss so suffered.

(2) Any dispute as to the right to or amount of any compensation under subsection (1) shall be determined by arbitration.

Modifications etc. (not altering text)

C47 S. 163 applied (1.4.2003) by 2001 c. 16, ss. 70, 138, Sch. 2 Pt. 1 para. 7; S.I. 2003/708, **art. 2**

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164 Power to make test purchases etc.

(1) An enforcement authority may—

(a) make, or authorise any of their officers to make on their behalf, such purchases of goods; and

(b) authorise any of their officers to procure the provision of such services or facilities or to enter into such agreements or other transactions,

as may appear to them expedient for determining whether any provisions made by or under this Act are being complied with.

(2) Any act done by an officer authorised to do it under subsection (1) shall be treated for the purposes of this Act as done by him as an individual on his own behalf.

(3) Any goods seized by an officer under this Act may be tested, and in the event of such a test he shall inform the person mentioned in section 162(2) of the test results.

(4) Where any test leads to proceedings under this Act, the enforcement authority shall—

(a) if the goods were purchased, inform the person they were purchased from of the test results, and

(b) allow any person against whom the proceedings are taken to have the goods tested on his behalf if it is reasonably practicable to do so.

165 Obstruction of authorised officers.

(1) Any person who—

(a) wilfully obstructs an officer of an enforcement authority acting in pursuance of this Act; or

(b) wilfully fails to comply with any requirement properly made to him by such an officer under section 162; or

(c) without reasonable cause fails to give such an officer (so acting) other assistance or information he may reasonably require in performing his functions under this Act,

commits an offence.

(2) If any person, in giving such information as is mentioned in subsection (1)(c), makes any statement which he knows to be false, he commits an offence.

(3) Nothing in this section requires a person to answer any question or give any information if to do so might incriminate that person or (where that person is married) the husband or wife of that person.

166 Notification of convictions and judgments to Director.

Where a person is convicted of an offence or has a judgment given against him by or before any court in the United Kingdom and it appears to the court—

(a) having regard to the functions of the Director under this Act, that the conviction or judgment should be brought to the Director's attention, and

(b) that it may not be brought to his attention unless arrangements for that purpose are made by the court,

the court may make such arrangements notwithstanding that the proceedings have been finally disposed of.

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167 Penalties.

(1) An offence under a provision of this Act specified in column 1 of Schedule 1 is triable in the mode or modes indicated in column 3, and on conviction is punishable as indicated in column 4 (where a period of time indicates the maximum term of imprisonment, and a monetary amount indicates the maximum fine, for the offence in question).

(2) A person who contravenes any regulations made under section 44, 52, 53 or 112, or made under section 26 by virtue of section 54, commits an offence.

Modifications etc. (not altering text)
C48 S. 167 excluded (*temp.*) by S.I. 1989/1125, **reg. 10(1)**
C49 S. 167 restricted (31.10.2004) by The Consumer Credit (Advertisements) Regulations 2004 (S.I. 2004/1484), **reg. 12**
C50 S. 167 restricted (1.2.2011) by The Consumer Credit (Advertisements) Regulations 2010 (S.I. 2010/1970), **reg. 12** (with reg. 11)

168 Defences.

(1) In any proceedings for an offence under this Act it is a defence for the person charged to prove—

(a) that his act or omission was due to a mistake, or to reliance on information supplied to him, or to an act or omission by another person, or to an accident or some other cause beyond his control, and

(b) that he took all reasonable precautions and exercised all due diligence to avoid such an act or omission by himself or any person under his control.

(2) If in any case the defence provided by subsection (1) involves the allegation that the act or omission was due to an act or omission by another person or to reliance on information supplied by another person, the person charged shall not, without leave of the court, be entitled to rely on that defence unless, within a period ending seven clear days before the hearing, he has served on the prosecutor a notice giving such information identifying or assisting in the identification of that other person as was then in his possession.

169 Offences by bodies corporate.

Where at any time a body corporate commits an offence under this Act with the consent or connivance of, or because of neglect by, any individual, the individual commits the like offence if at that time—

(a) he is a director, manager, secretary or similar officer of the body corporate, or

(b) he is purporting to act as such an officer, or

(c) the body corporate is managed by its members of whom he is one.

170 No further sanctions for breach of Act.

(1) A breach of any requirement made (otherwise than by any court) by or under this Act shall incur no civil or criminal sanction as being such a breach, except to the extent (if any) expressly provided by or under this Act.

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(2) In exercising his functions under this Act the Director may take account of any matter appearing to him to constitute a breach of a requirement made by or under this Act, whether or not any sanction for that breach is provided by or under this Act and, if it is so provided, whether or not proceedings have been brought in respect of the breach.

(3) Subsection (1) does not prevent the grant of an injunction, or the making of an order of certiorari, mandamus or prohibition or as respects Scotland the grant of an interdict or of an order under section 91 of the [M13]Court of Session Act 1868 (order for specific performance of statutory duty).

Marginal Citations
M13 1868 c. 100.

171 Onus of proof in various proceedings.

(1) If an agreement contains a term signifying that in the opinion of the parties section 10(3)(b)(iii) does not apply to the agreement, it shall be taken not to apply unless the contrary is proved.

(2) It shall be assumed in any proceedings, unless the contrary is proved, that when a person initiated a transaction as mentioned in section 19(1)(c) he knew the principal agreement had been made, or contemplated that it might be made.

(3) Regulations under section 44 or 52 may make provision as to the onus of proof in any proceedings to enforce the regulations.

(4) In proceedings brought by the creditor under a credit-token agreement—

(a) it is for the creditor to prove that the credit-token was lawfully supplied to the debtor, and was accepted by him, and

(b) if the debtor alleges that any use made of the credit-token was not authorised by him, it is for the creditor to prove either—

(i) that the use was so authorised, or

(ii) that the use occurred before the creditor had been given notice under section 84(3).

(5) In proceedings under section 50(1) in respect of a document received by a minor at any school or other educational establishment for minors, it is for the person sending it to him at that establishment to prove that he did not know or suspect it to be such an establishment.

(6) In proceedings under section 119(1) it is for the pawnee to prove that he had reasonable cause to refuse to allow the pawn to be redeemed.

(7) If, in proceedings referred to in section 139(1), the debtor or any surety alleges that the credit bargain is extortionate it is for the creditor to prove the contrary.

172 Statements by creditor or owner to be binding.

(1) A statement by a creditor or owner is binding on him if given under—

section 77(1),

section 78(1),

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section 79(1),
section 97(1),
section 107(1)(c),
section 108(1)(c), or
section 109(1)(c),

(2) Where a trader—

(a) gives a customer a notice in compliance with section 103(1)(b), or

(b) gives a customer a notice under section 103(1) asserting that the customer is not indebted to him under an agreement,

the notice is binding on the trader.

(3) Where in proceedings before any court—

(a) it is sought to rely on a statement or notice given as mentioned in subsection (1) or (2), and

(b) the statement or notice is shown to be incorrect,

the court may direct such relief (if any) to be given to the creditor or owner from the operation of subsection (1) or (2) as appears to the court to be just.

173 Contracting-out forbidden.

(1) A term contained in a regulated agreement or linked transaction, or in any other agreement relating to an actual or prospective regulated agreement or linked transaction, is void if, and to the extent that, it is inconsistent with a provision for the protection of the debtor or hirer or his relative or any surety contained in this Act or in any regulation made under this Act.

(2) Where a provision specifies the duty or liability of the debtor or hirer or his relative or any surety in certain circumstances, a term is inconsistent with that provision if it purports to impose, directly or indirectly, an additional duty or liability on him in those circumstances.

(3) Notwithstanding subsection (1), a provision of this Act under which a thing may be done in relation to any person on an order of the court or the Director only shall not be taken to prevent its being done at any time with that person's consent given at that time, but the refusal of such consent shall not give rise to any liability.

PART XII

SUPPLEMENTAL

174 Restrictions on disclosure of information.

(1) No information obtained under or by virtue of this Act about any individual shall be disclosed without his consent.

(2) No information obtained under or by virtue of this Act about any business shall be disclosed except, so long as the business continues to be carried on, with the consent of the person for the time being carrying it on.

(3) Subsections (1) and (2) do not apply to any disclosure of information made—

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(a) for the purpose of facilitating the performance of any functions, under this Act, the Trade Descriptions Act 1968 or Part II or III or section 125 (annual and other reports of Director) of the Fair Trading Act 1973 **[**F109or the Estate Agents Act 1979**][**F110or the Competition Act 1980**][**F111or the Telecommunications Act 1984**][**F112or the Gas Act 1986**][**F113or the Airports Act 1986**][**F114or the Consumer Protection Act 1987**][**F115or the Water Act 1989**][**F116or the Electricity Act 1989**][**F117or the Consumer Protection (Northern Ireland) Order 1987**][**F118or the Control of Misleading Advertisements Regulations 1988**][**F119or the Courts and Legal Services Act 1990**]**; of the Secretary of State, any other Minister **[**F111the Director General of Telecommunications,**][**F112the Director General of Gas Supply,**][**F113the Civil Aviation Authority**]**, **[**F120the Director General of Water Services,**][**F121the Director General of Electricity Supply,**][**F122or the Authorised Conveyancing Practitioners Board**]** any enforcement authority or any Northern Ireland department, or

(b) in connection with the investigation of any criminal offence or for the purposes of any criminal proceedings, or

(c) for the purposes of any civil proceedings brought under or by virtue of this Act or under Part III of the M14Fair Trading Act 1973 **[**F123or under the control of Misleading Advertisments Regulations 1988**]**.

[F124(3A) Subsection (1) and (2) do not apply to any disclosure of information by the Director to the Bank of England for the purpose of enabling or assisting the Bank to discharge its functions under the Banking Act 1987 or the Director to discharge his functions under this Act.**]**

(4) Nothing in subsections (1) and (2) shall be construed—

(a) as limiting the particulars which may be entered in the register; or

(b) as applying to any information which has been made public as part of the register.

(5) Any person who discloses information in contravention of this section commits an offence.

Textual Amendments

F109 Words added by Estate Agents Act 1979 (c. 38, SIF 124:4), **s. 10(4)**(*b*)

F110 Words added by virtue of Competition Act 1980 (c. 21, SIF 124:1), **s. 19(4)**(*d*)

F111 Words inserted by Telecommunications Act 1984 (c. 12, SIF 96), s. 109, Sch. 4 para. 60(2), **Sch. 5 para. 45**

F112 Words inserted (E.W.S) by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1), **Sch. 7 para. 19**

F113 Words inserted by Airports Act 1986 (c. 31, SIF 9), s. 83(1), **Sch. 4 para. 4**

F114 Words inserted by Consumer Protection Act 1987 (c. 43, SIF 109:1), s. 48, **Sch. 4 para. 4**

F115 Words inserted (E.W.) by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 25 para. 47, Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**

F116 Words inserted (E.W.S.) by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1)(3), Sch. 16 para. 17(1)(2), Sch. 17 paras. 33, **35(1)**

F117 Words inserted (N.I.) (1.3.1989) after "Consumer Protection Act 1987 " by S.I. 1987/2049 (N.I. 20), art. 35(1), **Sch. 3 para. 2**

F118 Words inserted (20.6.1988) after "Consumer Protection Act 1987 " by S.I. 1988/915, **reg. 7(6)**(*b*)(i)

F119 Words inserted (*prosp.*) by Courts and Legal Services Act 1990 (c. 41, SIF 37), ss. 124(3), 125(3), **Sch. 18 para. 6(a)**

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F120 Words inserted (E.W.) by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 25 para. 47, Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**

F121 Words inserted (E.W.S.) by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1)(3), Sch. 16 para. 17(1)(2), Sch. 17 paras. 33, **35(1)**

F122 Words inserted (*prosp.*) by Courts and Legal Services Act 1990 (c. 41, SIF 37), ss. 124(3), 125(3), **Sch. 18 para. 6(b)**

F123 Words inserted by S.I. 1988/915, **reg. 7(6)**(*b*)(ii)

F124 S. 174(3A) inserted by Banking Act 1987 (c. 22, SIF 10), **s. 87(1)**

Marginal Citations

M14 1973 c. 41.

VALID FROM 06/04/2008

[F125 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

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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).**]**

Textual Amendments

F125 S. 174A inserted (6.4.2008) by Consumer Credit Act 2006 (c. 14), ss. {51(5)}, 71(2); S.I. 2007/3300, **art. 3(2)**, Sch. 2

175 Duty of persons deemed to be agents.

Where under this Act a person is deemed to receive a notice or payment as agent of the creditor or owner under a regulated agreement, he shall be deemed to be under a contractual duty to the creditor or owner to transmit the notice, or remit the payment, to him forthwith.

176 Service of documents.

(1) A document to be served under this Act by one person ("the server ") on another person ("the subject ") is to be treated as properly served on the subject if dealt with as mentioned in the following subsections.

(2) The document may be delivered or sent by post to the subject, or addressed to him by name and left at his proper address.

(3) For the purposes of this Act, a document sent by post to, or left at, the address last known to the server as the address of a person shall be treated as sent by post to, or left at, his proper address.

(4) Where the document is to be served on the subject as being the person having any interest in land, and it is not practicable after reasonable inquiry to ascertain the subject's name or address, the document may be served by—

(a) addressing it to the subject by the description of the person having that interest in the land (naming it), and

(b) delivering the document to some responsible person on the land or affixing it, or a copy of it, in a conspicuous position on the land.

(5) Where a document to be served on the subject as being a debtor, hirer or surety, or as having any other capacity relevant for the purposes of this Act, is served at any time on another person who—

(a) is the person last known to the server as having that capacity, but

(b) before that time had ceased to have it,

the document shall be treated as having been served at that time on the subject.

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(6) Anything done to a document in relation to a person who (whether to the knowledge of the server or not) has died shall be treated for the purposes of subsection (5) as service of the document on that person if it would have been so treated had he not died.

(7) Neither of the following enactments (which provide for the vesting of the estate of an intestate in the Probate Judge) shall be construed as authorising service on the Probate Judge of any document which is to be served under this Act—

section 9 of the [M15]Administration of Estates Act 1925;

section 3 of the [M16]Administration of Estates Act (Northern Ireland) 1955.

(8) References in the preceding subsections to the serving of a document on a person include the giving of the document to that person.

Marginal Citations

M15 1925 c. 23.

M16 1955 c. 24 (N.I.)

VALID FROM 31/12/2004

[F126 176A Electronic transmission of documents

(1) A document is transmitted in accordance with this subsection if–

(a) the person to whom it is transmitted agrees that it may be delivered to him by being transmitted to a particular electronic address in a particular electronic form,

(b) it is transmitted to that address in that form, and

(c) the form in which the document is transmitted is such that any information in the document which is addressed to the person to whom the document is transmitted is capable of being stored for future reference for an appropriate period in a way which allows the information to be reproduced without change.

(2) A document transmitted in accordance with subsection (1) shall, unless the contrary is proved, be treated for the purposes of this Act, except section 69, as having been delivered on the working day immediately following the day on which it is transmitted.

(3) In this section, "electronic address" includes any number or address used for the purposes of receiving electronic communications.**]**

Textual Amendments

F126 S. 176A inserted (31.12.2004) by The Consumer Credit Act 1974 (Electronic Communications) Order 2004 (S.I. 2004/3236), **art. 2(7)**

Status: *Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.*
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177 Saving for registered charges.

(1) Nothing in this Act affects the rights of a proprietor of a registered charge (within the meaning of the [M17]Land Registration Act 1925), who—

(a) became the proprietor under a transfer for valuable consideration without notice of any defect in the title arising (apart from this section) by virtue of this Act, or

(b) derives title from such a proprietor.

(2) Nothing in this Act affects the operation of section 104 of the [M18]Law of Property Act 1925 (protection of purchaser where mortgagee exercises power of sale).

(3) Subsection (1) does not apply to a proprietor carrying on a business of debt-collecting.

(4) Where, by virtue of subsection (1), a land mortgage is enforced which apart from this section would be treated as never having effect, the original creditor or owner shall be liable to indemnify the debtor or hirer against any loss thereby suffered by him.

(5) In the application of this section to Scotland for subsections (1) to (3) there shall be substituted the following subsections—

"(1) Nothing in this Act affects the rights of a creditor in a heritable security who—

(a) became the creditor under a transfer for value without notice of any defect in the title arising (apart from this section) by virtue of this Act; or

(b) derives title from such a creditor.

(2) Nothing in this Act affects the operation of section 41 of the Conveyancing (Scotland) Act 1924 (protection of purchasers), or of that section as applied to standard securities by section 32 of the Conveyancing and Feudal Reform (Scotland) Act 1970.

(3) Subsection (1) does not apply to a creditor carrying on a business of debt-collecting.".

(6) In the application of this section to Northern Ireland—

(a) any reference to the proprietor of a registered charge (within the meaning of the [M19]Land Registration Act 1925) shall be construed as a reference to the registered owner of a charge under the [M20]Local Registration of Title (Ireland) Act 1891 or Part IV of the [M21]Land Registration Act (Northern Ireland) 1970, and

(b) for the reference to section 104 of the [M22]Law of Property Act 1925 there shall be substituted a reference to section 21 of the [M23]Conveyancing and Law of Property Act 1881 and section 5 of the [M24]Conveyancing Act 1911.

Marginal Citations

M17 1925 c. 21.
M18 1925 c. 20.
M19 1925 c. 21.
M20 1891 c. 66.
M21 1970 c. 18 (N.I.)
M22 1925 c. 20.
M23 1881 c. 41.

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M24 1911 c. 37.

178 Local Acts.

The Secretary of State or the Department of Commerce for Northern Ireland may by order make such amendments or repeals of any provision of any local Act as appears to the Secretary of State or, as the case may be, the Department, necessary or expedient in consequence of the replacement by this Act of the enactments relating to pawnbrokers and moneylenders.

Regulations, orders, etc.

179 Power to prescribe form etc. of secondary documents.

(1) Regulations may be made as to the form and content of credit-cards, trading-checks, receipts, vouchers and other documents or things issued by creditors, owners or suppliers under or in connection with regulated agreements or by other persons in connection with linked transactions, and may in particular—

(a) require specified information to be included in the pre-scribed manner in documents, and other specified material to be excluded;

(b) contain requirements to ensure that specified information is clearly brought to the attention of the debtor or hirer, or his relative, and that one part of a document is not given insufficient or excessive prominence compared with another.

(2) If a person issues any document or thing in contravention of regulations under subsection (1) then, as from the time of the contravention but without prejudice to anything done before it, this Act shall apply as if the regulated agreement had been improperly executed by reason of a contravention of regulations under section 60(1).

180 Power to prescribe form etc. of copies.

(1) Regulations may be made as to the form and content of documents to be issued as copies of any executed agreement, security instrument or other document referred to in this Act, and may in particular—

(a) require specified information to be included in the prescribed manner in any copy, and contain requirements to ensure that such information is clearly brought to the attention of a reader of the copy;

(b) authorise the omission from a copy of certain material contained in the original, or the inclusion of such material in condensed form.

(2) A duty imposed by any provision of this Act (except section 35) to supply a copy of any document—

(a) is not satisfied unless the copy supplied is in the prescribed form and conforms to the prescribed requirements;

(b) is not infringed by the omission of any material, or its inclusion in condensed form, if that is authorised by regulations;

and references in this Act to copies shall be construed accordingly.

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(3) Regulations may provide that a duty imposed by this Act to supply a copy of a document referred to in an unexecuted agreement or an executed agreement shall not apply to documents of a kind specified in the regulations.

181 Power to alter monetary limits etc.

(1) The Secretary of State may by order made by statutory instrument amend, or further amend, any of the following provisions of this Act so as to reduce or increase a sum mentioned in that provision, namely, sections 8(2), 15(1)(c), 17(1), 43(3)(a), 70(6), 75(3)(b), 77(1), 78(1), 79(1), 84(1), 101(7)(a), 107(1), 108(1), 109(1), 110(1), 118(1)(b), 120(1)(a), 139(5) and (7), 155(1) and 158(1).

(2) An order under subsection (1) amending section 8(2), 15(1)(c), 17(1), 43(3)(a), 75(3)(b) or 139(5) or (7) shall be of no effect unless a draft of the order has been laid before and approved by each House of Parliament.

182 Regulations and orders.

(1) Any power of the Secretary of State to make regulations or orders under this Act, except the power conferred by sections 2(1)(a), 181 and 192 shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

(2) Where a power to make regulations or orders is exercisable by the Secretary of State by virtue of this Act, regulations or orders made in the exercise of that power may—

(a) make different provision in relation to different cases or classes of case, and

(b) exclude certain cases or classes of case, and

(c) contain such transitional provisions as the Secretary of State thinks fit.

(3) Regulations may provide that specified expressions, when used as described by the regulations, are to be given the prescribed meaning, notwithstanding that another meaning is intended by the person using them.

(4) Any power conferred on the Secretary of State by this Act to make orders includes power to vary or revoke an order so made.

183 Determinations etc. by Director.

The Director may vary or revoke any determination or direction made or given by him under this Act (other than Part III, or Part III as applied by section 147).

Interpretation

184 Associates.

(1) A person is an associate of an individual if that person is the individual's husband or wife, or is a relative, or the husband or wife of a relative, of the individual or of the individual's husband or wife.

(2) A person is an associate of any person with whom he is in partnership, and of the husband or wife or a relative of any individual with whom he is in partnership.

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(3) A body corporate is an associate of another body corporate—

(a) if the same person is a controller of both, or a person is a controller of one and persons who are his associates, or he and persons who are his associates, are controllers of the other; or

(b) if a group of two or more persons is a controller of each company, and the groups either consist of the same persons or could be regarded as consisting of the same persons by treating (in one or more cases) a member of either group as replaced by a person of whom he is an associate.

(4) A body corporate is an associate of another person if that person is a controller of it or if that person and persons who are his associates together are controllers of it.

(5) In this section "relative " means brother, sister, uncle, aunt, nephew, niece, lineal ancestor or lineal descendant, and references to a husband or wife include a former husband or wife and a reputed husband or wife; and for the purposes of this subsection a relationship shall be established as if any illegitimate child, step-child or adopted child of a person had been a child born to him in wedlock.

185 Agreement with more than one debtor or hirer.

(1) Where an actual or prospective regulated agreement has two or more debtors or hirers (not being a partnership or an unincorporated body of persons)—

(a) anything required by or under this Act to be done to or in relation to the debtor or hirer shall be done to or in relation to each of them; and

(b) anything done under this Act by or on behalf of one of them shall have effect as if done by or on behalf of all of them.

(2) Notwithstanding subsection (1)(a), where running-account credit is provided to two or more debtors jointly, any of them may by a notice signed by him (a "dispensing notice ") authorise the creditor not to comply in his case with section 78(4) (giving of periodical statement of account); and the dispensing notice shall have effect accordingly until revoked by a further notice given by the debtor to the creditor:

Provided that:

(a) a dispensing notice shall not take effect if previous dispensing notices are operative in the case of the other debtor, or each of the other debtors, as the case may be;

(b) any dispensing notices operative in relation to an agreement shall cease to have effect if any of the debtors dies.

[F127(c) a dispensing notice which is operative in relation to an agreement shall be operative also in relation to any subsequent agreement which, in relation to the earlier agreement, is a modifying agreement**]**

(3) Subsection (1)(b) does not apply for the purposes of section 61(1)(a) or 127(3).

(4) Where a regulated agreement has two or more debtors or hirers (not being a partnership or an unincorporated body of persons), section 86 applies to the death of any of them.

(5) An agreement for the provision of credit, or the bailment or (in Scotland) the hiring of goods, to two or more persons jointly where—

(a) one or more of those persons is an individual, and

(b) one or more of them is a body corporate,

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is a consumer credit agreement or consumer hire agreement if it would have been one had they all been individuals; and the body corporate or bodies corporate shall accordingly be included among the debtors or hirers under the agreement.

(6) Where subsection (5) applies, references in this Act to the signing of any document by the debtor or hirer shall be construed in relation to a body corporate as referring to a signing on behalf of the body corporate.

Textual Amendments

F127 S. 185(2)(*c*) added by Banking Act 1979 (c. 37, SIF 10), **s. 38(3)**

186 Agreement with more than one creditor or owner.

Where an actual or prospective regulated agreement has two or more creditors or owners, anything required by or under this Act to be done to, or in relation to, or by, the creditor or owner shall be effective if done to, or in relation to, or by, any one of them.

187 Arrangements between creditor and supplier.

(1) A consumer credit agreement shall be treated as entered into under pre-existing arrangements between a creditor and a supplier if it is entered into in accordance with, or in furtherance of, arrangements previously made between persons mentioned in subsection (4)(a), (b) or (c).

(2) A consumer credit agreement shall be treated as entered into in contemplation of future arrangements between a creditor and a supplier if it is entered into in the expectation that arrangements will subsequently be made between persons mentioned in subsection (4)(a), (b) or (c) for the supply of cash, goods and services (or any of them) to be financed by the consumer credit agreement.

(3) Arrangements shall be disregarded for the purposes of subsection (1) or (2) if—

(a) they are arrangements for the making, in specified circumstances, of payments to the supplier by the creditor, and

(b) the creditor holds himself out as willing to make, in such circumstances, payments of the kind to suppliers generally.

[[F128](3A) Arrangements shall also be disregarded for the purposes of subsections (1) and (2) if they are arrangements for the electronic transfer of funds from a current account at a bank within the meaning of the Bankers' Books Evidence Act 1879.**]**

(4) The persons referred to in subsections (1) and (2) are—

(a) the creditor and the supplier;

(b) one of them and an associate of the other's;

(c) an associate of one and an associate of the other's.

(5) Where the creditor is an associate of the supplier's, the consumer credit agreement shall be treated, unless the contrary is proved, as entered into under pre-existing arrangements between the creditor and the supplier.

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Textual Amendments

F128 S. 187(3A) inserted by Banking Act 1987 (c. 22, SIF 10), **s. 89**

VALID FROM 16/06/2006

[F129 187A Definition of 'default sum'

(1) In this Act 'default sum' means, in relation to the debtor or hirer under a regulated agreement, a sum (other than a sum of interest) which is payable by him under the agreement in connection with a breach of the agreement by him.

(2) But a sum is not a default sum in relation to the debtor or hirer simply because, as a consequence of his breach of the agreement, he is required to pay it earlier than he would otherwise have had to.**]**

Textual Amendments

F129 S. 187A inserted (16.6.2006) by Consumer Credit Act 2006 (c. 14), ss. {18(1)}, 71(2); S.I. 2006/1508, **art. 3(1)**, Sch. 1

188 Examples of use of new terminology.

(1) Schedule 2 shall have effect for illustrating the use of terminology employed in this Act.

(2) The examples given in Schedule 2 are not exhaustive.

(3) In the case of conflict between Schedule 2 and any other provision of this Act, that other provision shall prevail.

(4) The Secretary of State may by order amend Schedule 2 by adding further examples or in any other way.

189 Definitions.

(1) In this Act, unless the context otherwise requires—

"advertisement " includes every form of advertising, whether in a publication, by television or radio, by display of notices, signs, labels, showcards or goods, by distribution of samples, circulars, catalogues, price lists or other material, by exhibition of pictures, models or films, or in any other way, and references to the publishing of advertisements shall be construed accordingly;

"advertiser " in relation to an advertisement, means any person indicated by the advertisement as willing to enter into tran-sactions to which the advertisement relates;

"ancillary credit business " has the meaning given by section 145(1);

"antecedent negotiations " has the meaning given by section 56;

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"appeal period " means the period beginning on the first day on which an appeal to the Secretary of State may be brought and ending on the last day on which it may be brought or, if it is brought, ending on its final determination, or abandonment;

"assignment ", in relation to Scotland, means assignation;

"associate " shall be construed in accordance with section 184;

[[F130] "authorised institution " means an institution authorised under the Banking Act 1987;**]**

"bill of sale " has the meaning given by section 4 of the [M25]Bills of Sale Act 1878 or, for Northern Ireland, by section 4 of the [M26]Bills of Sale (Ireland) Act 1879;

[[F131] "building society " means a building society within the meaning of the Building Societies Act 1986;**]**

"business " includes profession or trade, and references to a business apply subject to subsection (2);

"cancellable agreement " means a regulated agreement which, by virtue of section 67, may be cancelled by the debtor or hirer;

"canvass " shall be construed in accordance with sections 48 and 153;

"cash " includes money in any form;

"charity " means as respects England and Wales a charity registered under the [M27]Charities Act 1960 or an exempt charity (within the meaning of that Act), and as respects Scotland and Northern Ireland an institution or other organisation established for charitable purposes only ("organisation " including any persons administering a trust and "charitable " being construed in the same way as if it were contained in the Income Tax Acts);

"conditional sale agreement " means an agreement for the sale of goods or land under which the purchase price or part of it is payable by instalments, and the property in the goods or land is to remain in the seller (notwithstanding that the buyer is to be in possession of the goods or land) until such conditions as to the payment of instalments or otherwise as may be specified in the agreement are fulfilled;

"consumer credit agreement " has the meaning given by section 8, and includes a consumer credit agreement which is cancelled under section 69(1), or becomes subject to section 69(2), so far as the agreement remains in force;

"consumer credit business " means any business so far as it comprises or relates to the provision of credit under regulated consumer credit agreements;

"consumer hire agreement " has the meaning given by section 15;

"consumer hire business " means any business so far as it comprises or relates to the bailment or (in Scotland) the hiring of goods under regulated consumer hire agreements;

"controller ", in relation to a body corporate, means a person—

(a) in accordance with whose directions or instructions the directors of the body corporate or of another body corporate which is its controller (or any of them) are accustomed to act, or

(b) who, either alone or with any associate or associates, is entitled to exercise, or control the exercise of, one third or more of the voting power at any general meeting of the body corporate or of another body corporate which is its controller;

"copy " shall be construed in accordance with section 180;

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"costs ", in relation to Scotland, means expenses;

"court " means in relation to England and Wales the county court, in relation to Scotland the sheriff court and in relation to Northern Ireland the High Court or the county court;

"credit " shall be construed in accordance with section 9;

"credit-broker " means a person carrying on a business of credit brokerage;

"credit brokerage " has the meaning given by section 145(2);

"credit limit " has the meaning given by section 10(2);

"creditor " means the person providing credit under a consumer credit agreement or the person to whom his rights and duties under the agreement have passed by assignment or operation of law, and in relation to a prospective consumer credit agreement, includes the prospective creditor;

"credit reference agency " has the meaning given by section 145(8);

"credit-sale agreement " means an agreement for the sale of goods, under which the purchase price or part of it is payable by instalments, but which is not a conditional sale agreement;

"credit-token " has the meaning given by section 14(1);

"credit-token agreement " means a regulated agreement for the provision of credit in connection with the use of a credit-token;

"debt-adjusting " has the meaning given by section 145(5);

"debt-collecting " has the meaning given by section 145(7);

"debt-counselling " has the meaning given by section 145(6);

"debtor " means the individual receiving credit under a consumer credit agreement or the person to whom his rights and duties under the agreement have passed by assignment or operation of law, and in relation to a prospective consumer credit agreement includes the prospective debtor;

"debtor-creditor agreement " has the meaning given by section 13;

"debtor-creditor-supplier agreement " has the meaning given by section 12;

"default notice " has the meaning given by section 87(1);

"deposit " means any sum payable by a debtor or hirer by way of deposit or down-payment, or credited or to be credited to him on account of any deposit or down-payment, whether the sum is to be or has been paid to the creditor or owner or any other person, or is to be or has been discharged by a payment of money or a transfer or delivery of goods or by any other means;

"Director " means the Director General of Fair Trading;

"electric line " has the meaning given by **[**F132the Electricity Act 1989**]** or, for Northern Ireland, the M28Electricity Supply (Northern Ireland) Order 1972;

"embodies " and related words shall be construed in accordance with subsection (4);

"enforcement authority " has the meaning given by section 161(1);

"enforcement order " means an order under section 65(1), 105(7)(a) or (b), 111(2) or 124(1) or (2);

"executed agreement " means a document, signed by or on behalf of the parties, embodying the terms of a regulated agreement, or such of them as have been reduced to writing;

"exempt agreement " means an agreement specified in or under section 16;

"finance " means to finance wholly or partly, and "financed " and "refinanced " shall be construed accordingly;

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"file " and "copy of the file " have the meanings given by section 158(5);

"fixed-sum credit " has the meaning given by section 10(1)(b);

"friendly society " means a society registered under the Friendly Societies Acts 1896 to 1971 or a society within the meaning of the [M29]Friendly Societies Act (Northern Ireland) 1970;

"future arrangements " shall be construed in accordance with section 187;

"general notice " means a notice published by the Director at a time and in a manner appearing to him suitable for securing that the notice is seen within a reasonable time by persons likely to be affected by it;

"give " means deliver or send by post to;

"goods " [M30] has the meaning given by **[**[F133]section 61(1) of the Sale of Goods Act 1979**]**;

"group licence " has the meaning given by section 22(1)(b);

"High Court " means Her Majesty's High Court of Justice, or the Court of Session in Scotland or the High Court of Justice in Northern Ireland;

"hire-purchase agreement " means an agreement, other than a conditional sale agreement, under which—

(a) goods are bailed or (in Scotland) hired in return for periodical payments by the person to whom they are bailed or hired, and

(b) the property in the goods will pass to that person if the terms of the agreement are complied with and one or more of the following occurs—

(i) the exercise of an option to purchase by that person,

(ii) the doing of any other specified act by any party to the agreement,

(iii) the happening of any other specified event;

"hirer " means the individual to whom goods are bailed or (in Scotland) hired under a consumer hire agreement, or the person to whom his rights and duties under the agreement have passed by assignment or operation of law, and in relation to a prospective consumer hire agreement includes the prospective hirer;

"individual " includes a partnership or other unincorporated body of persons not consisting entirely of bodies corporate;

"installation " means—

(a) the installing of any electric line or any gas or water pipe,

(b) the fixing of goods to the premises where they are to be used, and the alteration of premises to enable goods to be used on them,

(c) where it is reasonably necessary that goods should be constructed or erected on the premises where they are to be used, any work carried out for the purpose of constructing or erecting them on those premises;

"insurance company " has the meaning given by **[**[F134]section 96(1) of the Insurance Companies Act 1982**]**, but does not include a friendly society or an organisation of workers or organisation of employers;

"judgment " includes an order or decree made by any court;

"land ", includes an interest in land, and in relation to Scotland includes heritable subjects of whatever description;

"land improvement company " means an improvement company as defined by section 7 of the [M31]Improvement of Land Act 1899;

"land mortgage " includes any security charged on land;

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"licence " means a licence under Part III (including that Part as applied to ancillary credit businesses by section 147);

"licensed ", in relation to any act, means authorised by a licence to do the act or cause or permit another person to do it;

"licensee ", in the case of a group licence, includes any person covered by the licence;

"linked transaction " has the meaning given by section 19(1);

"local authority ", in relation to England and Wales, means . . . [F135], a county council, a London borough council, a district council, the Common Council of the City of London, or the Council of the Isles of Scilly, and in relation to Scotland, means a regional, islands or district council, and, in relation to Northern Ireland, means a district council;

"minor ", in relation to Scotland, includes pupil;

"modifying agreement " has the meaning given by section 82(2);

"mortgage ", in relation to Scotland, includes any heritable security;

"multiple agreement " has the meaning given by section 18(1);

"negotiator " has the meaning given by section 56(1);

"non-commercial agreement " means a consumer credit agreement or a consumer hire agreement not made by the creditor or owner in the course of a business carried on by him;

"notice " means notice in writing;

"notice of cancellation " has the meaning given by section 69(1);

"owner " means a person who bails or (in Scotland) hires out goods under a consumer hire agreement or the person to whom his rights and duties under the agreement have passed by assignment or operation of law, and in relation to a prospective consumer hire agreement, includes the prospective bailor or person from whom the goods are to be hired;

"pawn " means any article subject to a pledge;

"pawn-receipt " has the meaning given by section 114;

"pawnee " and "pawnor " include any person to whom the rights and duties of the original pawnee or the original pawnor, as the case may be, have passed by assignment or operation of law;

"payment " includes tender;

"personal credit agreement " has the meaning given by section 8(1);

"pledge " means the pawnee's rights over an article taken in pawn;

"prescribed " means prescribed by regulations made by the Secretary of State;

"pre-existing arrangements " shall be construed in accordance with section 187;

"principal agreement " has the meaning given by section 19(1);

"protected goods " has the meaning given by section 90(7);

"quotation " has the meaning given by section 52(1)(a) ;

"redemption period " has the meaning given by section 116(3);

"register " means the register kept by the Director under section 35;

"regulated agreement " means a consumer credit agreement, or consumer hire agreement, other than an exempt agreement, and "regulated " and "unregulated " shall be construed accordingly;

"regulations " means regulations made by the Secretary of State;

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"relative ", except in section 184, means a person who is an associate by virtue of section 184(1);

"representation " includes any condition or warranty, and any other statement or undertaking, whether oral or in writing;

"restricted-use credit agreement " and "restricted-use credit " have the meanings given by section 11(1);

"rules of court ", in relation to Northern Ireland means, in relation to the High Court, rules made under section 7 of the [M32]Northern Ireland Act 1962, and, in relation to any other court, rules made by the authority having for the time being power to make rules regulating the practice and procedure in that court;

"running-account credit " shall be construed in accordance with section 10;

"security ", in relation to an actual or prospective consumer credit agreement or consumer hire agreement, or any linked transaction, means a mortgage, charge, pledge, bond, debenture, indemnity, guarantee, bill, note or other right provided by the debtor or hirer, or at his request (express or implied), to secure the carrying out of the obligations of the debtor or hirer under the agreement;

"security instrument " has the meaning given by section 105(2);

"serve on " means deliver or send by post to;

"signed " shall be construed in accordance with subsection (3);

"small agreement " has the meaning given by section 17(1), and "small " in relation to an agreement within any category shall be construed accordingly;

"specified fee " shall be construed in accordance with section 2(4) and (5);

"standard licence " has the meaning given by section 22(1)(a);

"supplier " has the meaning given by section 11(1)(b) or 12(c) or 13(c) or, in relation to an agreement falling within section 11(1)(a), means the creditor, and includes a person to whom the rights and duties of a supplier (as so defined) have passed by assignment or operation of law, or (in relation to a prospective agreement) the prospective supplier;

"surety " means the person by whom any security is provided, or the person to whom his rights and duties in relation to the security have passed by assignment or operation of law;

"technical grounds " shall be construed in accordance with subsection (5);

"time order " has the meaning given by section 129(1);

"total charge for credit " means a sum calculated in accordance with regulations under section 20(1);

"total price " means the total sum payable by the debtor under a hire-purchase agreement or a conditional sale agreement, including any sum payable on the exercise of an option to purchase, but excluding any sum payable as a penalty or as compensation or damages for a breach of the agreement;

"unexecuted agreement " means a document embodying the terms of a prospective regulated agreement, or such of them as it is intended to reduce to writing;

"unlicensed " means without a licence, but applies only in relation to acts for which a licence is required;

"unrestricted-use credit agreement " and "unresticted-use credit " have the meanings given by section 11(2);

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"working day " means any day other than—

(a) Saturday or Sunday,

(b) Christmas Day or Good Friday,

(c) a bank holiday within the meaning given by section 1 of the [M33]Banking and Financial Dealings Act 1971.

(2) A person is not to be treated as carrying on a particular type of business merely because occasionally he enters into transactions belonging to a business of that type.

(3) Any provision of this Act requiring a document to be signed is complied with by a body corporate if the document is sealed by that body.

This subsection does not apply to Scotland.

(4) A document embodies a provision if the provision is set out either in the document itself or in another document referred to in it.

(5) An application dismissed by the court or the Director shall, if the court or the Director (as the case may be) so certifies, be taken to be dismissed on technical grounds only.

(6) Except in so far as the context otherwise requires, any reference in this Act to an enactment shall be construed as a reference to that enactment as amended by or under any other enactment, including this Act.

(7) In this Act, except where otherwise indicated—

(a) a reference to a numbered Part, section or Schedule is a reference to the Part or section of, or the Schedule to, this Act so numbered, and

(b) a reference in a section to a numbered subsection is a reference to the subsection of that section so numbered, and

(c) a reference in a section, subsection or Schedule to a numbered paragraph is a reference to the paragraph of that section, subsection or Schedule so numbered.

Textual Amendments

F130 Definition of "authorised institution " expressed to be inserted after the definition of "association " by Banking Act 1987 (c. 22, SIF 10), **s. 88(4)**

F131 Definition of "building society " substituted by Building Societies Act 1986 (c. 53, SIF 16), s. 120, **Sch. 18 para. 10(4)**

F132 Words "the Electricity Act 1989 " substituted (E.W.S.) for "the Electric Lighting Act 1882 " by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1)(3), Sch. 16 para. 17(1)(3), Sch. 17 paras. 33, **35(1)**

F133 Words substituted by Sale of Goods Act 1979 (c. 54, SIF 109:1), s. 63, **Sch. 2 para. 18**

F134 Words substituted by Insurance Companies Act 1982 (c. 50, SIF 67), s. 99(2), **Sch. 5 para. 14**

F135 Words repealed by Local Government Act 1985 (c. 51, SIF 81:1), s. 102, **Sch. 17**

Marginal Citations

M25 1878 c. 31.

M26 1879 c. 50.

M27 1960 c. 58.

M28 S.I. 1972/1072 (N.I.9.)

M29 1970 c. 31. (N.I.)

M30 1894 c. 71 (56 & 57 Vict.).

M31 1899 c. 46.

M32 1962 c. 30.

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M33 1971 c. 80.

VALID FROM 01/12/2001

[F136189A Meaning of "consumer credit EEA firm "

In this Act "consumer credit EEA firm " means an EEA firm falling within sub-paragraph (a), (b) or (c) of paragraph 5 of Schedule 3 to the Financial Services and Markets Act 2000 carrying on, or seeking to carry on, consumer credit business, consumer hire business or ancillary credit business for which a licence would be required under this Act but for paragraph 15(3) of Schedule 3 to the Financial Services and Markets Act 2000.**]**

Textual Amendments

F136 S. 189A inserted (1.12.2001) by S.I. 2001/3649, **art. 177**

190 Financial provisions.

(1) There shall be defrayed out of money provided by Parliament—

(a) all expenses incurred by the Secretary of State in consequence of the provisions of this Act;

(b) any expenses incurred in consequence of those provisions by any other Minister of the Crown or Government department;

(c) any increase attributable to this Act in the sums payable out of money so provided under the M34Superannuation Act 1972 or the M35Fair Trading Act 1973.

(2) Any fees received by the Director under this Act shall be paid into the Consolidated Fund.

Marginal Citations

M34 1972 c. 11.

M35 1973 c. 41.

191 Special provisions as to Northern Ireland.

(1) The Director may make arrangements with the Department of Commerce for Northern Ireland for the Department, on his behalf,—

(a) to receive applications, notices and fees;

(b) to maintain, and make available for inspection and copying, copies of entries in the register; and

(c) to provide certified copies of entries in the register,

to the extent that seems to him desirable for the convenience of persons in Northern Ireland.

(2) The Director shall give general notice of any arrangements made under subsection (1).

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(3) Nothing in this Act shall authorise any Northern Ireland department to incur any expenses attributable to the provisions of this Act until provision has been made for those expenses to be defrayed out of money appropriated for the purpose.

(4) The power of the Department of Commerce for Northern Ireland to make an order under section 178 shall be exercisable by statutory rule for the purposes of the **[**F137Statutory Rules (Northern Ireland) Order 1979**]**, and any such order shall be subject to negative resolution within the meaning of the M36Interpretation Act (Northern Ireland) 1954 as if it were a statutory instrument within the meaning of that Act.

(5) In this Act "enactment " includes an enactment of the Parliament of Northern Ireland or the Northern Ireland Assembly, and "Act " shall be construed in a corresponding manner; and (without prejudice to section 189(6)) any reference in this Act to such an enactment shall include a reference to any enactment re-enacting it with or without modifications.

(6) Section 38 of the M37Interpretation Act 1889 (effect of repeals) shall have the same operation in relation to any repeal by this Act of an enactment of the Parliament of Northern Ireland as it has in relation to the repeal of an Act of the Parliament of the United Kingdom, references in that section of the Act of 1889 to Acts and enactments being construed accordingly.

Textual Amendments

F137 Words substituted by S.I. 1979/1573, art. 11(1), **Sch. 4 para. 15**

Marginal Citations

M36 1954 c. 33. (N.I.)

M37 1889 c. 63.

192 Transitional and commencement provisions, amendments and repeals.

(1) The provisions of Schedule 3 shall have effect for the purposes of this Act.

(2) The appointment of a day for the purposes of any provision of Schedule 3 shall be effected by an order of the Secretary of State made by statutory instrument; and any such order shall include a provision amending Schedule 3 so as to insert an express reference to the day appointed.

X4(3) Subject to subsection (4)—

(a) the enactments specified in Schedule 4 shall have effect subject to the amendments specified in that Schedule (being minor amendments or amendments consequential on the preceding provisions of this Act), and

(b) the enactments specified in Schedule 5 are hereby repealed to the extent shown in column 3 of that Schedule.

(4) The Secretary of State shall by order made by statutory instrument provide for the coming into operation of the amendments contained in Schedule 4 and the repeals contained in Schedule 5, and those amendments and repeals shall have effect only as provided by an order so made.

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Subordinate Legislation Made

P1 Power of appointment conferred by s. 192(2) fully exercised: S.I. 1975/2123, 1977/325, 802, 2163, 1980/50, 1983/1551, 1984/436 and 1989/1128

P2 Power of appointment conferred by s. 192(4) exercised: S.I. 1977/325, 802, 1979/1685, 1980/50, 1981/280, 1983/1551

Editorial Information

X4 The text of ss. 3(a)(b)(c), 5, 42(1)(2)(3), 192(3)(a)(b), Sch. 4 Pt. I paras. 1, 2, 5, 7 - 9, 11 - 17, 19, 22 - 28, 30 - 32, 34 - 37, Sch. 4 Pt. II paras. 39, 40, 43 -45, 49 - 51 and Sch. 5 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

193 Short title and extent.

(1) This Act may be cited as the Consumer Credit Act 1974.

(2) This Act extends to Northern Ireland.

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SCHEDULES

VALID FROM 01/12/2007

SCHEDULE A1

THE CONSUMER CREDIT APPEALS TRIBUNAL

. . . . . .

SCHEDULE 1

Section 167.

PROSECUTION AND PUNISHMENT OF OFFENCES

1 **Section**	2 **Offence**	3 **Mode of prosecution**	4 **Imprisonment or fine**
7	Knowingly or recklessly giving false information to Director.	(a) Summarily.	£400.
		(b) On indictment.	2 years or a fine or both.
39(1)	Engaging in activities requiring a licence when not a licensee.	(a) Summarily.	£400.
		(b) On indictment.	2 years or a fine or both.
39(2)	Carrying on a business under a name not specified in licence.	(a) Summarily.	£400.
		(b) On indictment.	2 years or a fine or both.
39(3)	Failure to notify changes in registered particulars.	(a) Summarily.	£400.
		(b) On indictment.	2 years or a fine or both.

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45	Advertising credit where goods etc. not available for cash.	(a) Summarily.	£400.
		(b) On indictment.	2 years or a fine or both.
46(1)	False or misleading advertisements.	(a) Summarily.	£400.
		(b) On indictment.	2 years or a fine or both.
47(1)	Advertising infringements.	(a) Summarily.	£400.
		(b) On indictment.	2 years or a fine or both.
49(1)	Canvassing debtor-creditor agreements off trade premises.	(a) Summarily.	£400.
		(b) On indictment.	1 year or a fine or both.
49(2)	Soliciting debtor-creditor agreements during visits made in response to previous oral requests.	(a) Summarily.	£400.
		(b) On indictment.	1 year or a fine or both.
50(1)	Sending circulars to minors.	(a) Summarily.	£400.
		(b) On indictment.	1 year or a fine or both.
51(1)	Supplying unsolicited credit-tokens.	(a) Summarily.	£400.
		(b) On indictment.	2 years or a fine or both.
77(4)	Failure of creditor under fixed-sum credit agreement to supply copies of documents etc.	Summarily.	**[**F138level 4 on the standard scale**]**.
78(6)	Failure of creditor under running-account credit agreement to supply copies of documents etc.	Summarily.	**[**F138level 4 on the standard scale**]**.

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79(3)	Failure of owner under consumer hire agreement to supply copies of documents etc.	Summarily.	**[**F138level 4 on the standard scale**]**.
80(2)	Failure to tell creditor or owner whereabouts of goods.	Summarily.	**[**F138level 3 on the standard scale**]**.
85(2)	Failure of creditor to supply copy of credit-token agreement.	Summarily.	**[**F138level 4 on the standard scale**]**.
97(3)	Failure to supply debtor with statement of amount required to discharge agreement.	Summarily.	**[**F138level 3 on the standard scale**]**.
103(5)	Failure to deliver notice relating to discharge of agreements.	Summarily.	**[**F138level 3 on the standard scale**]**.
107(4)	Failure of creditor to give information to surety under fixed-sum credit agreement.	Summarily.	**[**F138level 4 on the standard scale**]**.
108(4)	Failure of creditor to give information to surety under running-account credit agreement.	Summarily.	**[**F138level 4 on the standard scale**]**.
109(3)	Failure of owner to give information to surety under consumer hire agreement.	Summarily.	**[**F138level 4 on the standard scale**]**.
110(3)	Failure of creditor or owner to supply a copy of any security instrument to debtor or hirer.	Summarily.	**[**F138level 4 on the standard scale**]**.
114(2)	Taking pledges from minors.	(a) Summarily.	£400.
		(b) On indictment.	1 year or a fine or both.
115	Failure to supply copies of a pledge agreement or pawn-receipt.	Summarily.	**[**F138level 4 on the standard scale**]**.

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119(1)	Unreasonable refusal to allow pawn to be redeemed.	Summarily.	**[**F138level 4 on the standard scale**]**.
154	Canvassing ancillary credit services off trade premises.	(a) Summarily.	£200.
		(b) On indictment.	1 year or a fine or both.
157(3)	Refusal to give name etc. of credit reference agency.	Summarily.	**[**F138level 4 on the standard scale**]**.
158(4)	Failure of credit reference agency to disclose filed information.	Summarily.	**[**F138level 4 on the standard scale**]**.
159(6)	Failure of credit reference agency to correct information.	Summarily.	**[**F138level 4 on the standard scale**]**.
160(6)	Failure of credit reference agency to comply with section 160(3) or (4).	Summarily.	**[**F138level 4 on the standard scale**]**.
162(6)	Impersonation of enforcement authority officers.	(a) Summarily.	£400.
		(b) On indictment.	2 years or a fine or both.
165(1)	Obstruction of enforcement authority officers.	Summarily.	**[**F138level 4 on the standard scale**]**.
165(2)	Giving false information to enforcement authority officers.	(a) Summarily.	£400.
		(b) On indictment.	2 years or a fine or both.
167(2)	Contravention of regulations under section 44, 52, 53, 54, or 112.	(a) Summarily.	£400.
		(b) On indictment.	2 years or a fine or both.
174(5)	Wrongful disclosure of information.	(a) Summarily.	£400.

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	(b) On indictment.	2 years or a fine or both.

Textual Amendments

F138 Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 38**, 46, (S.) by Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **s. 289F**, 289G and (N.I.) by S.I. 1984/703 (N.I. 3), **arts. 5**, 6

SCHEDULE 2

Section 188(1).

EXAMPLES OF USE OF NEW TERMINOLOGY

PART I

LISTS OF TERMS

Term	Defined in section	Illustrated by example(s)
Advertisement	189(1)	2
Advertiser	189(1)	2
Antecedent negotiations	56	1, 2, 3, 4
Cancellable agreement	67	4
Consumer credit agreement	8	5, 6, 7, 15, 19, 21
Consumer hire agreement	15	20, 24
Credit	9	16, 19, 21
Credit-broker	189(1)	2
Credit limit	10(2)	6, 7, 19, 22, 23
Creditor	189(1)	1, 2, 3, 4
Credit-sale agreement	189(1)	5
Credit-token	14	3, 14, 16
Credit-token agreement	14	3, 14, 16, 22
Debtor-creditor agreement	13	8, 16, 17, 18
Debtor-creditor-supplier agreement	12	8, 16
Fixed-sum credit	10	9, 10, 17, 23
Hire-purchase agreement	189(1)	10
Individual	189(1)	19, 24
Linked transaction	19	11

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Modifying agreement	82(2)	24
Multiple agreement	18	16, 18
Negotiator	56(1)	1, 2, 3, 4
Personal credit agreement	8(1)	19
Pre-existing arrangements	187	8, 21
Restricted-use credit	11	10, 12, 13, 14, 16
Running-account credit	10	15, 16, 18, 23
Small agreement	17	16, 17, 22
Supplier	189(1)	3, 14
Total charge for credit	20	5, 10
Total price	189(1)	10
Unrestricted-use credit	11	8, 12, 16, 17, 18.

PART II

EXAMPLES

Example 1

*Facts.*Correspondence passes between an employee of a moneylending company (writing on behalf of the company) and an individual about the terms on which the company would grant him a loan under a regulated agreement.

*Analysis.*The correspondence constitutes antecedent negotiations falling within section 56(1)(a), the moneylending company being both creditor and negotiator.

Example 2

*Facts.*Representations are made about goods in a poster displayed by a shopkeeper near the goods, the goods being selected by a customer who has read the poster and then sold by the shopkeeper to a finance company introduced by him (with whom he has a business relationship). The goods are disposed of by the finance company to the customer under a regulated hire-purchase agreement.

*Analysis.*The representations in the poster constitute antecedent negotiations falling within section 56(1)(b), the shopkeeper being the credit-broker and negotiator and the finance company being the creditor. The poster is an advertisement and the shopkeeper is the advertiser.

Example 3

*Facts.*Discussions take place between a shopkeeper and a customer about goods the customer wishes to buy using a credit-card issued by the D Bank under a regulated agreement.

*Analysis.*The discussions constitute antecedent negotiations falling within section 56(1)(c), the shopkeeper being the supplier and negotiator and the D Bank the creditor. The credit-card is a credit-token as defined in section 14(1), and the regulated agreement under which it was issued is a credit-token agreement as defined in section 14(2).

Example 4

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*Facts.*Discussions take place and correspondence passes between a secondhand car dealer and a customer about a car, which is then sold by the dealer to the customer under a regulated conditional sale agreement. Subsequently, on a revocation of that agreement by consent, the car is resold by the dealer to a finance company introduced by him (with whom he has a business relationship), who in turn dispose of it to the same customer under a regulated hire-purchase agreement.

*Analysis.*The discussions and correspondence constitute antecedent negotiations in relation both to the conditional sale agreement and the hire-purchase agreement. They fall under section 56(1)(a) in relation to the conditional sale agreement, the dealer being the creditor and the negotiator. In relation to the hire-purchase agreement they fall within section 56(1)(b), the dealer continuing to be treated as the negotiator but the finance company now being the creditor. Both agreements are cancellable if the discussions took place when the individual conducting the negotiations (whether the "negotiator" or his employee or agent) was in the presence of the debtor, unless the unexecuted agreement was signed by the debtor at trade premises (as defined in section 67(b)). If the discussions all took place by telephone however, or the unexecuted agreeement was signed by the debtor on trade premises (as so defined) the agreements are not cancellable.

Example 5

*Facts.*E agrees to sell to F (an individual) an item of furniture in return for 24 monthly instalments of £10 payable in arrear. The property in the goods passes to F immediately.

*Analysis.*This is a credit-sale agreement (see definition of "credit-sale agreement" in section 189(1)). The credit provided amounts to £240 less the amount which, according to regulations made under section 20(1), constitutes the total charge for credit. (This amount is required to be deducted by section 9(4)). Accordingly the agreement falls within section 8(2) and is a consumer credit agreement.

Example 6

*Facts.*The G Bank grants H (an individual) an unlimited overdraft, with an increased rate of interest on so much of any debit balance as exceeds £2,000.

*Analysis.*Although the overdraft purports to be unlimited, the stipulation for increased interest above £2,000 brings the agreement within section 10(3)(b)(ii) and it is a consumer credit agreement.

Example 7

*Facts.*J is an individual who owns a small shop which usually carries a stock worth about £1,000. K makes a stocking agreement under which he undertakes to provide on short-term credit the stock needed from time to time by J without any specified limit.

*Analysis.*Although the agreement appears to provide unlimited credit, it is probable, having regard to the stock usually carried by J, that his indebtedness to K will not at any time rise above £5,000. Accordingly the agreement falls within section 10(3)(b)(iii) and is a consumer credit agreement.

Example 8

*Facts.*U, a moneylender, lends £500 to V (an individual) knowing he intends to use it to buy office equipment from W. W introduced V to U, it being his practice to introduce customers needing finance to him. Sometimes U gives W a commission for this and sometimes not. U pays the £500 direct to V.

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*Analysis.*Although this appears to fall under section 11(1)(b), it is excluded by section 11(3) and is therefore (by section 11(2)) an unrestricted-use credit agreement. Whether it is a debtor-creditor agreement (by section 13(c)) or a debtor-creditor-supplier agreement (by section 12(c)) depends on whether the previous dealings between U and W amount to "pre-existing arrangements ", that is whether the agreement can be taken to have been entered into "in accordance with, or in furtherance of " arrangements previously made between U and W, as laid down in section 187(1).

Example 9

*Facts.*A agrees to lend B (an individual) £4,500 in nine monthly instalments of £500.

*Analysis.*This is a cash loan and is a form of credit (see section 9 and definition of "cash " in section 189(1)). Accordingly it falls within section 10(1)(b) and is fixed-sum credit amounting to £4,500.

Example 10

*Facts.*C (in England) agrees to bail goods to D (an individual) in return for periodical payments. The agreement provides for the property in the goods to pass to D on payment of a total of £7,500 and the exercise by D of an option to purchase. The sum of £7,500 includes a down-payment of £1,000. It also includes an amount which, according to regulations made under section 20(1), constitutes a total charge for credit of £1,500.

*Analysis.*This is a hire-purchase agreement with a deposit of £1,000 and a total price of £7,500 (see definitions of "hire-purchase agreement ", "deposit " and "total price " in section 189(1)). By section 9(3), it is taken to provide credit amounting to £7,500—(£1,500 + £1,000), which equals £5,000. Under section 8(2), the agreement is therefore a consumer credit agreement, and under sections 9(3) and 11(1) it is a restricted-use credit agreement for fixed-sum credit. A similar result would follow if the agreement by C had been a hiring agreement in Scotland.

Example 11

*Facts.*X (an individual) borrows £500 from Y (Finance). As a condition of the granting of the loan X is required—

(a) to execute a second mortgage on his house in favour of Y (Finance), and

(b) to take out a policy of insurance on his life with Y (Insurances).

In accordance with the loan agreement, the policy is charged to Y (Finance) as collateral security for the loan. The two companies are associates within the meaning of section 184(3).

*Analysis.*The second mortgage is a transaction for the provision of security and accordingly does not fall within section 19(1), but the taking out of the insurance policy is a linked transaction falling within section 19(1)(a). The charging of the policy is a separate transaction (made between different parties) for the provision of security and again is excluded from section 19(1). The only linked transaction is therefore the taking out of the insurance policy. If X had not been required by the loan agreement to take out the policy, but it had been done at the suggestion of Y (Finance) to induce them to enter into the loan agreement, it would have been a linked transaction under section 19(1)(c)(i) by virtue of section 19(2)(a).

Example 12

*Facts.*The N Bank agrees to lend O (an individual) £2,000 to buy a car from P. To make sure the loan is used as intended, the N Bank stipulates that the money must be paid by it direct to P.

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*Analysis.*The agreement is a consumer credit agreement by virtue of section 8(2). Since it falls within section 11(1)(b), it is a restricted-use credit agreement, P being the supplier. If the N Bank had not stipulated for direct payment to the supplier, section 11(3) would have operated and made the agreement into one for unrestricted-use credit.

Example 13

*Facts.*Q, a debt-adjuster, agrees to pay off debts owed by R (an individual) to various moneylenders. For this purpose the agreement provides for the making of a loan by Q to R in return for R's agreeing to repay the loan by instalments with interest. The loan money is not paid over to R but retained by Q and used to pay off the moneylenders.

*Analysis.*This is an agreement to refinance existing indebtedness of the debtor's, and if the loan by Q does not exceed £5,000 is a restricted-use credit agreement falling within section 11(1)(c).

Example 14

*Facts.*On payment of £1, S issues to T (an individual) a trading check under which T can spend up to £20 at any shop which has agreed, or in future agrees, to accept S's trading checks.

*Analysis*The trading check is a credit-token falling within section 14(1)(b). The credit-token agreement is a restricted-use credit agreement within section 11(1)(b), any shop in which the credit-token is used being the "supplier ". The fact that further shops may be added after the issue of the credit-token is irrelevant in view of section 11(4).

Example 15

*Facts.*A retailer L agrees with M (an individual) to open an account in M's name and, in return for M's promise to pay a specified minimum sum into the account each month and to pay a monthly charge for credit, agrees to allow to be debited to the account, in respect of purchases made by M from L, such sums as will not increase the debit balance at any time beyond the credit limit, defined in the agreement as a given multiple of the specified minimum sum.

*Analysis.*This agreement provides credit falling within the definition of running-account credit in section 10(1)(a). Provided the credit limit is not over £5,000, the agreement falls within section 8(2) and is a consumer credit agreement for running-account credit.

Example 16

*Facts.*Under an unsecured agreement, A (Credit), an associate of the A Bank, issues to B (an individual) a credit-card for use in obtaining cash on credit from A (Credit), to be paid by branches of the A Bank (acting as agent of A (Credit)), or goods or cash from suppliers or banks who have agreed to honour credit-cards issued by A (Credit). The credit limit is £30.

*Analysis.*This is a credit-token agreement falling within section 14(1)(a) and (b). It is a regulated consumer credit agreement for running-account credit. Since the credit limit does not exceed £30, the agreement is a small agreement. So far as the agreement relates to goods it is a debtor-creditor-supplier agreement within section 12(b), since it provides restricted-use credit under section 11(1)(b). So far as it relates to cash it is a debtor-creditor agreement within section 13(c) and the credit it provides is unrestricted-use credit. This is therefore a multiple agreement. In that the whole agreement falls within several of the categories of agreement mentioned in this Act, it is, by section 18(3), to be treated as an agreement in each of those categories. So far as it is a debtor-creditor-supplier agreement providing restricted-use credit it is, by section 18(2), to be treated as a separate agreement; and similarly so far as it is a debtor-creditor agreement providing unrestricted-use credit. (See also Example 22.)

Example 17

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*Facts.*The manager of the C Bank agrees orally with D (an individual) to open a current account in D's name. Nothing is said about overdraft facilities. After maintaining the account in credit for some weeks, D draws a cheque in favour of E for an amount exceeding D's credit balance by £20. E presents the cheque and the Bank pay it.

*Analysis.*In drawing the cheque D, by implication, requests the Bank to grant him an overdraft of £20 on its usual terms as to interest and other charges. In deciding to honour the cheque, the Bank by implication accept the offer. This constitutes a regulated small consumer credit agreement for unrestricted-use, fixed-sum credit. It is a debtor-creditor agreement, and falls within section 74(1)(b) if covered by a determination under section 74(3). (Compare Example 18.)

Example 18

*Facts.*F (an individual) has had a current account with the G Bank for many years. Although usually in credit, the account has been allowed by the Bank to become overdrawn from time to time. The maximum such overdraft has been is about £1,000. No explicit agreement has ever been made about overdraft facilities. Now, with a credit balance of £500, F draws a cheque for £1,300.

*Analysis.*It might well be held that the agreement with F (express or implied) under which the Bank operate his account includes an implied term giving him the right to overdraft facilities up to say £1,000. If so, the agreement is a regulated consumer credit agreement for unrestricted-use, running-account credit. It is a debtor-creditor agreement, and falls within section 74(1)(b) if covered by a direction under section 74(3). It is also a multiple agreement, part of which (i.e. the part not dealing with the overdraft), as referred to in section 18(1)(a), falls within a category of agreement not mentioned in this Act. (Compare Example 17.)

Example 19

*Facts.*H (a finance house) agrees with J (a partnership of individuals) to open an unsecured loan account in J's name on which the debit balance is not to exceed £7,000 (having regard to payments into the account made from time to time by J). Interest is to be payable in advance on this sum, with provision for yearly adjustments. H is entitled to debit the account with interest, a "setting-up " charge, and other charges. Before J has an opportunity to draw on the account it is initially debited with £2,250 for advance interest and other charges.

*Analysis.*This is a personal running-account credit agreement (see sections 8(1) and 10(1)(a), and definition of "individual " in section 189(1)). By section 10(2) the credit limit is £7,000. By section 9(4) however the initial debit of £2,250, and any other charges later debited to the account by H, are not to be treated as credit even though time is allowed for their payment. Effect is given to this by section 10(3). Although the credit limit of £7,000 exceeds the amount (£5,000) specified in section 8(2) as the maximum for a consumer credit agreement, so that the agreement is not within section 10(3)(a), it is caught by section 10(3)(b)(i). At the beginning J can effectively draw (as credit) no more than £4,750, so the agreement is a consumer credit agreement.

Example 20

*Facts.*K (in England) agrees with L (an individual) to bail goods to L for a period of three years certain at £2,000 a year, payable quarterly. The agreement contains no provision for the passing of the property in the goods to L.

*Analysis.*This is not a hire-purchase agreement (see paragraph (b) of the definition of that term in section 189(1)), and is capable of subsisting for more than three months. Paragraphs (a) and (b) of section 15(1) are therefore satisfied, but paragraph (c) is not. The payments by L must exceed

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£5,000 if he conforms to the agreement. It is true that under section 101 L has a right to terminate the agreement on giving K three months' notice expiring not earlier than eighteen months after the making of the agreement, but that section applies only where the agreement is a regulated consumer hire agreement apart from the section (see subsection (1)). So the agreement is not a consumer hire agreement, though it would be if the hire charge were say £1,500 a year, or there were a "break " clause in it operable by either party before the hire charges exceeded £5,000. A similar result would follow if the agreement by K had been a hiring agreement in Scotland.

Example 21

*Facts.*The P Bank decides to issue cheque cards to its customers under a scheme whereby the bank undertakes to honour cheques of up to £30 in every case where the payee has taken the cheque in reliance on the cheque card, whether the customer has funds in his account or not. The P Bank writes to the major retailers advising them of this scheme and also publicises it by advertising. The Bank issues a cheque card to Q (an individual), who uses it to pay by cheque for goods costing £20 bought by Q from R, a major retailer. At the time, Q has £500 in his account at the P Bank.

*Analysis.*The agreement under which the cheque card is issued to Q is a consumer credit agreement even though at all relevant times Q has more than £30 in his account. This is because Q is free to draw out his whole balance and then use the cheque card, in which case the Bank has bound itself to honour the cheque. In other words the cheque card agreement provides Q with credit, whether he avails himself of it or not. Since the amount of the credit is not subject to any express limit, the cheque card can be used any number of times. It may be presumed however that section 10(3)(b)(iii) will apply. The agreement is an unrestricted-use debtor-creditor agreement (by section 13(c)). Although the P Bank wrote to R informing R of the P Bank's willingness to honour any cheque taken by R in reliance on a cheque card, this does not constitute pre-existing arrangements as mentioned in section 13(c) because section 187(3) operates to prevent it. The agreement is not a credit-token agreement within section 14(1)(b) because payment by the P Bank to R, would be a payment of the cheque and not a payment for the goods.

Example 22

*Facts.*The facts are as in Example 16. On one occasion B uses the credit-card in a way which increases his debit balance with A (Credit) to £40. A (Credit) writes to B agreeing to allow the excess on that occasion only, but stating that it must be paid off within one month.

*Analysis.*In exceeding his credit limit B, by implication, requests A (Credit) to allow him a temporary excess (compare Example 17). A (Credit) is thus faced by B's action with the choice of treating it as a breach of contract or granting his implied request. He does the latter. If he had done the former, B would be treated as taking credit to which he was not entitled (see section 14(3)) and, subject to the terms of his contract with A (Credit), would be liable to damages for breach of contract. As it is, the agreement to allow the excess varies the original credit-token agreement by adding a new term. Under section 10(2), the new term is to be disregarded in arriving at the credit limit, so that the credit-token agreement at no time ceases to be a small agreement. By section 82(2) the later agreement is deemed to revoke the original agreement and contain provisions reproducing the combined effect of the two agreements. By section 82(4), this later agreement is exempted from Part V (except section 56).

Example 23

*Facts.*Under an oral agreement made on 10th January, X (an individual) has an overdraft on his current account at the Y bank with a credit limit of £100. On 15th February, when his overdraft stands at £90, X draws a cheque for £25. It is the first time that X has exceeded his credit limit, and on 16th February the bank honours the cheque.

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*Analysis.*The agreement of 10th January is a consumer credit agreement for running-account credit. The agreement of 15th-16th February varies the earlier agreement by adding a term allowing the credit limit to be exceeded merely temporarily. By section 82(2) the later agreement is deemed to revoke the earlier agreement and reproduce the combined effect of the two agreements. By section 82(4), Part V of this Act (except section 56) does not apply to the later agreement. By section 18(5), a term allowing a merely temporary excess over the credit limit is not to be treated as a separate agreement, or as providing fixed-sum credit. The whole of the £115 owed to the bank by X on 16th February is therefore running-account credit.

Example 24

*Facts.*On 1st March 1975 Z (in England) enters into an agreement with A (an unincorporated body of persons) to bail to A equipment consisting of two components (component P and component Q). The agreement is not a hire-purchase agreement and is for a fixed term of 3 years, so paragraphs (a) and (b) of section 15(1) are both satisfied. The rental is payable monthly at a rate of £2,400 a year, but the agreement provides that this is to be reduced to £1,200 a year for the remainder of the agreement if at any time during its currency A returns component Q to the owner Z. On 5th May 1976 A is incorporated as A Ltd., taking over A's assets and liabilities. On 1st March 1977, A Ltd. returns component Q. On 1st January 1978, Z and A Ltd. agree to extend the earlier agreement by one year, increasing the rental for the final year by £250 to £1,450.

*Analysis.*When entered into on 1st March 1975, the agreement is a consumer hire agreement. A falls within the definition of "individual " in section 189(1) and if A returns component Q before 1st May 1976 the total rental will not exceed £5,000 (see section 15(1)(c)). When this date is passed without component Q having been returned it is obvious that the total rental must now exceed £5,000. Does this mean that the agreement then ceases to be a consumer hire agreement? The answer is no, because there has been no change in the terms of the agreement, and without such a change the agreement cannot move from one category to the other. Similarly, the fact that A's rights and duties under the agreement pass to a body corporate on 5th May 1976 does not cause the agreement to cease to be a consumer hire agreement (see the definition of "hirer " in section 189(1)).

The effect of the modifying agreement of 1st January 1978 is governed by section 82(2), which requires it to be treated as containing provisions reproducing the combined effect of the two actual agreements, that is to say as providing that—

(a) obligations outstanding on 1st January 1978 are to be treated as outstanding under the modifying agreement;

(b) the modifying agreement applies at the old rate of hire for the months of January and February 1978, and

(c) for the year beginning 1st March 1978 A Ltd. will be the bailee of component P at a rental of £1,450.

The total rental under the modifying agreement is £1,850. Accordingly the modifying agreement is a regulated agreement. Even if the total rental under the modifying agreement exceeded £5,000 it would still be regulated because of the provisions of section 82(3).

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SCHEDULE 3

Section 192(1).

TRANSITIONAL AND COMMENCEMENT PROVISIONS

*Note.*Except as otherwise mentioned in this Schedule, the provisions of this Act come into operation on its passing, that is on 31st July 1974.

PART II OF ACT

CREDIT AGREEMENTS, HIRE AGREEMENTS AND LINKED TRANSACTIONS

Regulated agreements

1 (1) An agreement made before **[**F139**]**1st April 1977**]**is not a regulated agreement within the meaning of this Act.

(2) In this Act "prospective regulated agreement " does not include a prospective agreement which, if made as expected, would be made before **[**F139**]**1st April 1977**]**.

Textual Amendments

F139 Words substituted by S.I. 1977/325, **art. 2 Sch. 1 para. 1**

Linked transactions

2 A transaction may be a linked transaction in relation to a regulated agreement or prospective regulated agreement even though the transaction was entered into before the day appointed for the purposes of paragraph 1.

3 Section 19(3) applies only to transactions entered into on or after **[**F140**]**19th May 1985**]**.

Textual Amendments

F140 Words substituted by S.I. 1983/1551, **arts. 2(1)**, 3(*a*)(i)

Total charge for credit

4 Section 20 applies to consumer credit agreements whenever made.

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PART III OF ACT

LICENSING OF CREDIT AND HIRE BUSINESSES

[F141 Businesses needing a licence]

Textual Amendments

F141 Sch. 3 para. 5 substituted by virtue of S.I. 1989/1128, art. 3, **Sch.**

[F1425 (1) Section 21 does not apply to the carrying on of any description of consumer credit business or consumer hire business—

(a) before 31st July 1989 in the case of 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 1st October 1977 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 a consumer credit business or a consumer hire business applies for a licence—

(a) before 31st July 1989 in the case of a consumer credit business to which sub-paragraph (1)(a) above applies, or

(b) before 1st October 1977 in the case of any other description of consumer credit business or in the case of any consumer hire business,

he shall be deemed to have been granted on 31st July 1989 or 1st October 1977, as the case may be, 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.**]**

Textual Amendments

F142 Sch. 3 para. 5 substituted by virtue of S.I. 1989/1128, art. 3, **Sch.**

The register

6 Sections 35 and 36 come into operation on **[F143**2nd February 1976**]**.

Textual Amendments

F143 Words substituted by S.I. 1975/2123, **art. 3** (a)

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Enforcement of agreements made by unlicensed trader

[F144 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.**]**

Textual Amendments
F144 Sch. 3 para. 7 substituted by S.I. 1977/325, **Sch. 1 para. 3**

PART IV OF ACT

SEEKING BUSINESS

Advertisements

8 Part IV does not apply to any advertisement published before **[**F145 6th October 1980**]**.

Textual Amendments
F145 Words substituted by S.I. 1980/50, **art. 3**

Canvassing

9 Section 49 comes into operation on **[**F146 1st October 1977**]**.

Textual Amendments
F146 Words substituted by S.I. 1977/802, **para. 3**

Circulars to minors

10 Section 50 comes into operation on **[**F147 1st July 1977**]**.

Textual Amendments
F147 Words substituted by S.I. 1977/802, **para. 3**

Unsolicited credit-tokens

11 (1) Section 51(1) does not apply to the giving of a credit-token before **[**F148 1st July 1977**]**.

(2) In section 51(3), "agreement " means an agreement whenever made.

Textual Amendments
F148 Words substituted by S.I. 1977/802, **para. 3**

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PART V OF ACT

ENTRY INTO CREDIT OR HIRE AGREEMENTS

Antecedent negotiations

12 (1) Section 56 applies to negotiations in relation to an actual or prospective regulated agreement where the negotiations begin after **[**F149 16th May 1977**]**.

(2) In section 56(3), "agreement ", where it first occurs, means an agreement whenever made.

Textual Amendments
F149 Words substituted by S.I. 1977/325, **art. 2 Sch. 1 para. 1**

General

13 Sections 57 to 59, 61 to 65 and 67 to 73 come into operation on **[**F150 19th May 1985**]**.

Textual Amendments
F150 Words substituted by S.I. 1983/1551, **arts. 2(1)**, 3(*a*)(i)

14 Section 66 comes into operation on **[**F151 19th May 1985**]**.

Textual Amendments
F151 Words substituted by S.I. 1983/1551, **arts. 2(1)**, 3(*a*)(i)

PART VI OF ACT

MATTERS ARISING DURING CURRENCY OF CREDIT OR HIRE AGREEMENTS

Liability of creditor for breaches by supplier

15 Section 75 comes into operation on **[**F152 1st July 1977 but only in relation to regulated agreements made on or after that day**]**.

Textual Amendments
F152 Words substituted by S.I. 1977/802, **para. 3**

Duty to give notice

16 (1) Section 76 comes into operation on **[**F153 19th May 1985**]**.

(2) Section 76 applies to an agreement made before **[**F153 19th May 1985**]**where the agreement would have been a regulated agreement if made on that day.

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Textual Amendments

F153 Words substituted by S.I. 1983/1551, **arts. 2(1)**, 3(*a*)(i)

Duty to give information

17 (1) Sections 77 to 80 come into operation on **[**F154 19th May 1985**]**.

(2) Sections 77 to 79 apply to an agreement made before **[**F154 19th May 1985**]** where the agreement would have been a regulated agreement if made on that day.

Textual Amendments

F154 Words substituted by S.I. 1983/1551, **arts. 2(1)**, 3(*a*)(i)

Appropriation of payments

18 Section 81 comes into operation on **[**F155 19th May 1985**]**.

Textual Amendments

F155 Words substituted by S.I. 1983/1551, **arts. 2(1)**, 3(*a*)(i)

Variation of agreements

19 Section 82 comes into operation on **[**F156 1st April 1977**]**.

Textual Amendments

F156 Words substituted by S.I. 1977/325, **art. 2 Sch. 1 para. 1**

Misuse of credit facilities

20 (1) Sections 83 and 84 come into operation on **[**F157 19th May 1985**]**.

(2) Subject to sub-paragraph (4), section 83 applies to an agreement made before **[**F157 19th May 1985**]** where the agreement would have been a regulated consumer credit agreement if made on that day.

(3) Subject to sub-paragraph (4), section 84 applies to an agreement made before **[**F157 19th May 1985**]** where the agreement would have been a credit-token agreement if made on that day.

(4) Sections 83 and 84 do not apply to losses arising before **[**F157 19th May 1985**]**.

(5) Section 84(4) shall be taken to be satisfied in relation to an agreement made before **[**F157 19th May 1985**]** if, within 28 days after that day, the creditor gives notice to the debtor of the name, address and telephone number of a person stated in that notice to be the person to whom notice is to be given under section 84(3).

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Textual Amendments

F157 Words substituted by S.I. 1983/1551, **arts. 2(1)**, 3(*a*)(i)

Duty on issue of new credit-tokens

21 (1) Section 85 comes into operation on **[**F158 19th May 1985**]**.

(2) Section 85 applies to an agreement made before **[**F158 19th May 1985**]** where the agreement would have been a regulated agreement if made on that day.

Textual Amendments

F158 Words substituted by S.I. 1983/1551, **arts. 2(1)**, 3(*a*)(i)

Death of debtor or hirer

22 (1) Section 86 comes into operation on **[**F159 19th May 1985**]**.

(2) Section 86 applies to an agreement made before **[**F159 19th May 1985**]** where the agreement would have been a regulated agreement if made on that day.

Textual Amendments

F159 Words substituted by S.I. 1983/1551, **arts. 2(1)**, 3(*a*)(i)

PART VII OF ACT

DEFAULT AND TERMINATION

Default notices

23 Sections 87 to 89 come into operation on **[**F160 19th May 1985**]**.

Textual Amendments

F160 Words substituted by S.I. 1983/1551, **arts. 2(1)**, 3(*a*)(i)

Retaking of goods and land

24 Sections 90 and 91 come into operation on **[**F161 19th May 1985**]**.

Textual Amendments

F161 Words substituted by S.I. 1983/1551, **arts. 2(1)**, 3(*a*)(i)

25 Section 92 comes into operation on **[**F162 19th May 1985**]**.

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Textual Amendments
F162 Words substituted by S.I. 1983/1551, **arts. 2(1)**, 3(*a*)(i)

Interest on default

26 Section 93 comes into operation on **[**F163 19th May 1985**]**.

Textual Amendments
F163 Words substituted by S.I. 1983/1551, **arts. 2(1)**, 3(*a*)(i)

Early payment by debtor

27 Sections 94 to 97 come into operation on **[**F164 19th May 1985**]**.

Textual Amendments
F164 Words substituted by S.I. 1983/1551, **arts. 2(1)**, 3(*a*)(i)

Termination of agreements

28 Section 98 comes into operation on **[**F165 19th May 1985**]**.

Textual Amendments
F165 Words substituted by S.I. 1983/1551, **arts. 2(1)**, 3(*a*)(i)

29 Section 99 comes into operation on **[**F166 19th May 1985**]**.

Textual Amendments
F166 Words substituted by S.I. 1983/1551, **arts. 2(1)**, 3(*a*)(i)

30 Section 100 comes into operation on **[**F167 19th May 1985**]**.

Textual Amendments
F167 Words substituted by S.I. 1983/1551, **arts. 2(1)**, 3(*a*)(i)

31 Section 101 comes into operation on **[**F168 19th May 1985**]**.

Textual Amendments
F168 Words substituted by S.I. 1983/1551, **arts. 2(1)**, 3(*a*)(i)

32 Section 102 comes into operation on **[**F169 19th May 1985**]**.

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Textual Amendments
F169 Words substituted by S.I. 1983/1551, **arts. 2(1)**, 3(*a*)(i)

33 Section 103 comes into operation on **[**[F170]19th May 1985**]**.

Textual Amendments
F170 Words substituted by S.I. 1983/1551, **arts. 2(1)**, 3(*a*)(i)

34 Section 104 comes into operation on **[**[F171]19th May 1985**]**.

Textual Amendments
F171 Words substituted by S.I. 1983/1551, **arts. 2(1)**, 3(*a*)(i)

Old agreements

35 Part VII (except sections 90, 91, 93 and 99 to 102 and 104) applies to an agreement made before **[**[F172]19th May 1985**]** where the agreement would have been a regulated agreement if made on that day.

Textual Amendments
F172 Words substituted by S.I. 1983/1551, **arts. 2(1)**, 3(*a*)(i)

PART VIII OF ACT

SECURITY

General

36 Section 105 comes into operation on **[**[F173]19th May 1985**]**.

Textual Amendments
F173 Words substituted by S.I. 1983/1551, **arts. 2(1)**, 3(*a*)(i)

37 (1) Sections 107 to 110 come into operation on **[**[F174]19th May 1985**]**.

(2) Sections 107 to 110 apply to an agreement made before **[**[F174]19th May 1985**]** where the agreement would have been a regulated agreement if made on that day.

Textual Amendments
F174 Words substituted by S.I. 1983/1551, **arts. 2(1)**, 3(*a*)(i)

38 (1) Section 111 comes into operation on **[**[F175]19th May 1985**]**.

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(2) Section 111 applies to an agreement made before **[**F175 19th May 1985**]** where the agreement would have been a regulated agreement if made on that day.

Textual Amendments

F175 Words substituted by S.I. 1983/1551, **arts. 2(1)**, 3(*a*)(i)

Pledges

39 Sections 114 to 122 come into operation on **[**F176 19th May 1985 but only in respect of articles taken in pawn under a regulated consumer credit agreement**]**.

Textual Amendments

F176 Words substituted by S.I. 1983/1551, **arts. 2(2)**, 3(*a*)(ii)

Negotiable instruments

40 Sections 123 to 125 come into operation on **[**F177 19th May 1985**]**.

Textual Amendments

F177 Words substituted by S.I. 1984/436, **art. 3**

Land mortgages

41 Section 126 comes into operation on **[**F178 19th May 1985**]**.

Textual Amendments

F178 Words substituted by S.I. 1983/1551, **arts. 2(1)**, 3(*a*)(i)

PART IX OF ACT

JUDICIAL CONTROL

42 Sections 137 to 140 (extortionate credit bargains) come into operation on **[**F179 16th May 1977**]**, and apply to agreements and transactions whenever made.

Textual Amendments

F179 Words substituted by S.I. 1977/325, **art. 2 Sch. 1 para. 1**

43 Subject to paragraph 42, Part IX comes into operation on **[**F180 19th May 1985**]**.

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Textual Amendments

F180 Words substituted by S.I. 1983/1551, **arts. 2(1)**, 3(*a*)(i)

PART X OF ACT

ANCILLARY CREDIT BUSINESSES

Licensing

[F181 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—

(a) debt-adjusting,

(b) debt-counselling,

(c) debt-collecting, or

(d) the operation of a credit reference agency.

(1A) Section 21(1) does not apply (by virtue of section 147(1)) to the carrying on of any ancillary credit business before 1st July 1978 so far as it comprises or relates to credit brokerage, not being a business which is carried on by an individual and in the course of which introductions are effected only of individuals desiring to obtain credit—

(a) under debtor-creditor-supplier agreements which fall within section 12(a) and where, in the case of any such agreement—

(i) the person carrying on the business would be willing to sell the goods which are the subject of the agreement to the debtor under a transaction not financed by credit, and

(ii) The amount of credit does not exceed £30; and

(b) under debtor-creditor-supplier agreements which fall within section 12(b) or (c) and where, in the case of any such agreement—

(i) the person carrying on the business is the supplier,

(ii) the creditor is a person referred to in section 145(2)(a)(i), and

(iii) the amount of credit or, in the case of an agreement for running-account credit, the credit limit does not exceed £30.

(1B) Section 21(1) does not apply (by virtue of section 147(1)) to the carrying on of any ancillary credit business before the day appointed for the purposes of this paragraph in the case of any description of ancillary credit business in relation to which no day is appointed under the foregoing provisions of this paragraph.

(2) Where the person carrying on an ancillary credit business applies for a licence before—

(a) 3rd August 1976 in the case of an ancillary credit business of a description to which sub-paragraph (1) above applies;

(b) 1st July 1978 in the case of an ancillary credit business of a description to which sub-paragraph (1A) above applies; or

(c) the day appointed for the purposes of this paragraph in the case of an ancillary credit business to which sub-paragraph (1B) above applies,

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he shall be deemed to have been granted on 3rd August 1976, 1st July 1978 or the day so appointed, as the case may be, 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.**]**

Textual Amendments

F181 Sch. 3 para. 44 substituted by S.I. 1977/2163, art. 2, **Sch.**

Enforcement of agreements made by unlicensed trader

[F182 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 before 1st July 1978 in the case of an ancillary credit business of a description to which sub-paragraph (1A) of paragraph 44 applies or before the day appointed for the purposes of that paragraph in the case of an ancillary credit business to which sub-paragraph (1B) of that paragraph applies.**]**

Textual Amendments

F182 Sch. 3 para. 45 substituted by S.I. 1977/2163, art. 2, **Sch.**

Introductions by unlicensed credit-broker

[F183 46 Section 149 does not apply to a regulated agreement made on an introduction effected in the course of any business if the introduction was effected before 1st July 1978 in the case of an ancillary credit business to which sub-paragraph (1A) of paragraph 44 applies or before the day appointed for the purposes of that paragraph in the case of an ancillary credit business to which sub-paragraph (1B) of that paragraph applies.**]**

Textual Amendments

F183 Sch. 3 para. 46 substituted by S.I. 1977/2163, art. 2, **Sch.**

Advertisements

47 Subsections (1) and (2) of section 151 do not apply to any advertisement published before **[**F184 6th October 1980**]**.

Textual Amendments

F184 Words substituted by S.I. 1980/50, **art. 3**

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Credit reference agencies

48 Sections 157 and 158 do not apply to a request received before **[**F185 16th May 1977**]**.

Textual Amendments
F185 Words substituted by S.I. 1977/325, **art. 2 Sch. 1 para. 1**

PART XII OF ACT

SUPPLEMENTAL

Interpretation

49 (1) In the case of an agreement—
(a) which was made before **[**F186 19th May 1985**]**, and
(b) to which (by virtue of paragraph 17(2)) section 78(4) applies,
section 185(2) shall have effect as respects a notice given before that day in relation to the agreement (whether given before or after the passing of this Act) as it would have effect if section 78(4) had been in operation when the notice was given.

(2) Paragraph (1) applies to an agreement made on or after **[**F186 19th May 1985**]** to provide credit on a current account opened before that day as it applies to an agreement made before that day.

Textual Amendments
F186 Words substituted by S.I. 1983/1551, **art. 3**(*b*)

50 In section 189, the definition of "local authority " shall have effect in relation to matters arising before 16th May 1975 as if for the words "regional, islands or district council " there were substituted "a county council or town council ".

SCHEDULE 4.

Section 192.

MINOR AND CONSEQUENTIAL AMENDMENTS

PART I

UNITED KINGDOM

M38 Bills of Sale Act (1878) Amendment Act 1882

Marginal Citations
M38 1882 c.43.

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[X5]1 The following section shall be inserted after section 7

"**7A Default under consumer credit agreements.**

(1) Paragraph (1) of section 7 of this Act does not apply to a default relating to a bill of sale given by way of security for the payment of money under a regulated agreement to which section 87(1) of the Consumer Credit Act 1974 applies —

(a) unless the restriction imposed by section 88(2) of that Act has ceased to apply to the bill of sale ; or

(b) if, by virtue of section 89 of that Act, the default is to be treated as not having occurred.

(2) Where paragraph (1) of section 7 of this Act does apply in relation to a bill of sale such as is mentioned in subsection (1) of this section, the proviso to that section shall have effect with the substitution of "county court " for "High Court "."

Editorial Information

X5 The text of ss. 3(a)(b)(c), 5, 42(1)(2)(3), 192(3)(a)(b), Sch. 4 Pt. I paras. 1, 2, 5, 7 - 9, 11 - 17, 19, 22 - 28, 30 - 32, 34 - 37, Sch. 4 Pt. II paras. 39, 40, 43 -45, 49 - 51 and Sch. 5 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

[M39] Factors Act 1889

Marginal Citations

M39 1889 c 45.

[X6]2 At the end of section 9 insert "For the purposes of this section—

(i) the buyer under a conditional sale agreement shall be deemed not to be a person who has bought or agreed to buy goods, and

(ii) "conditional sale agreement " means an agreement for the sale of goods which is a consumer credit agreement within the meaning of the Consumer Credit Act 1974 under which the purchase price or part of it is payable by instalments, and the property in the goods is to remain in the seller (notwithstanding that the buyer is to be in possession of the goods) until such conditions as to the payment of instalments or otherwise as may be specified in the agreement are fulfilled."

Editorial Information

X6 The text of ss. 3(a)(b)(c), 5, 42(1)(2)(3), 192(3)(a)(b), Sch. 4 Pt. I paras. 1, 2, 5, 7 - 9, 11 - 17, 19, 22 - 28, 30 - 32, 34 - 37, Sch. 4 Pt. II paras. 39, 40, 43 -45, 49 - 51 and Sch. 5 is in the form in which it was

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originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

3, 4. . . . . F187

Textual Amendments

F187 Sch. 4 Pt. I paras. 3, 4 repealed by Sale of Goods Act 1979 (c. 54, SIF 109:1), s. 63, **Sch. 3**

M40 *Law of Distress Amendment Act 1908*

Marginal Citations

M40 1908 c. 53.

X7 5 The following section shall be inserted after section 4—

"**4A Hire purchase etc. agreements.**

(1) Goods—

(a) bailed under a hire-purchase agreement or a consumer hire agreement, or

(b) agreed to be sold under a conditional sale agreement,

are, where the relevant agreement has not been terminated, excluded from the application of this Act except during the period between the service of a default notice under the Consumer Credit Act 1974 in respect of the goods and the date on which the notice expires or is earlier complied with.

(2) Goods comprised in a bill of sale are excluded from the application of this Act except, during the period between service of a default notice under the Consumer Credit Act 1914 in respect of goods subject to a regulated agreement under which a bill of sale is given by way of security and the date on which the notice expires or is earlier complied with.

(3) In this section—

"conditional sale agreement " means an agreement for the sale of goods under which the purchase price or part of it is payable by instalments, and the property in the goods is to remain in the seller (notwithstanding that the buyer is to be in possession of the goods) until such conditions as to the payment of instalments or otherwise as may be specified in the agreement are fulfilled ;

"consumer hire agreement " has the meaning given by section 15 of the Consumer Credit Act 1974.

"hire-purchase agreement " means an agreement, other than a conditional sale agreement, under which—

(a) goods are bailed in return for periodical payments by the person to whom they are bailed, and

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(b) the property in the goods will pass to that person if the terms of the agreement are complied with and one or more of the following occurs—

(i) the exercise of an option to purchase by that person,

(ii) the doing of any other specified act by any party to the agreement,

(iii) the happening of any other specified event; and

"regulated agreement " has the meaning given by section 189(1) of the Consumer Credit Act 1974."

Editorial Information

X7 The text of ss. 3(a)(b)(c), 5, 42(1)(2)(3), 192(3)(a)(b), Sch. 4 Pt. I paras. 1, 2, 5, 7 - 9, 11 - 17, 19, 22 - 28, 30 - 32, 34 - 37, Sch. 4 Pt. II paras. 39, 40, 43 -45, 49 - 51 and Sch. 5 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

[M41]*Bankruptcy Act 1914*

Marginal Citations

M41 1914 c. 59.

[F188X8]6 The following section shall be inserted after section 38—

" **Hire purchase etc. agreement.**

(1) Goods—

(a) bailed under a hire-purchase agreement or a consumer hire agreement, or

(b) agreed to be sold under a conditional sale agreement, or

(c) subject to a regulated agreement under which a bill of sale is given by way of security.

shall not be treated as the property of the bankrupt during the period between the service of a default notice under the Consumer Credit Act 1974 in respect of the goods and the date on which the notice expires or is earlier complied with.

(2) In this section—

"conditional sale agreement " means an agreement for the sale of goods under which the purchase price or part of it is payable by instalments, and the property in the goods is to remain in the seller (notwithstanding that the buyer is to be in possession of the goods) until such conditions as to the payment of instalments or otherwise as may be specified in the agreement are fulfilled;

"consumer hire agreement " has the meaning given by section 15 of the Consumer Credit Act 1974;

"hire-purchase agreement " means an agreement, other than a conditional sale agreement, under which—

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(a) goods are bailed in return for periodical payments by the person to whom they are bailed, and

(b) the property in the goods will pass to that person if the terms of the agreement are complied with and one or more of the following occurs—

(i) the exercise of an option to purchase by that person,

(ii) the doing of any other specified act by any party to the agreement,

(iii) the happening of any other specified event; and "regulated agreement " has the meaning given by section 189(1) of the Consumer Credit Act 1974."**]**

Editorial Information

X8 The text of Sch. 4 Pt. I paras. 6, 18 and Sch. 4 Pt. II para. 38 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Textual Amendments

F188 Sch. 4 Pt. I para. 6 repealed (E.W.) by Insolvency Act 1985 (c. 65, SIF 66), s. 235, Sch. 9 para. 11, **Sch. 10 Pt. III**

[M42]*Compensation (Defence) Act 1939*

Marginal Citations

M42 1939 c. 75.

[X9]7 In section 13 after "hire-purchase agreement " insert "or a conditional sale agreement ".

Editorial Information

X9 The text of ss. 3(a)(b)(c), 5, 42(1)(2)(3), 192(3)(a)(b), Sch. 4 Pt. I paras. 1, 2, 5, 7 - 9, 11 - 17, 19, 22 - 28, 30 - 32, 34 - 37, Sch. 4 Pt. II paras. 39, 40, 43 -45, 49 - 51 and Sch. 5 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

[X10]8 In section 17(1)—

(1) After the definition of "aircraft " insert—

" "conditional sale agreement " means an agreement for the sale of goods which is a consumer credit agreement within the meaning of the Consumer Credit Act 1974 under which the purchase price or part of it is payable by instalments, and the property in the goods is to remain in the seller (notwithstanding that the buyer is to be in possession of the goods) until such conditions as to the payment of instalments or otherwise as may be specified in the agreement are fulfilled ;" , and

(2) for the definition of "hire-purchase agreement " substitute—

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" "hire-purchase agreement " means an agreement which is a consumer credit agreement within the meaning of the Consumer Credit Act 1974, other than a conditional sale agreement, under which—

(a) goods are bailed or (in Scotland) hired in return for periodical payments by the person to whom they are bailed or hired, and

(b) the property in the goods will pass to that person if the terms of the agreement are complied with and one or more of the following occurs—

(i) the exercise of an option to purchase by that person,

(ii) the doing of any other specified act by any party to the agreement,

(iii) the happening of any other specified event ;"

Editorial Information

X10 The text of ss. 3(a)(b)(c), 5, 42(1)(2)(3), 192(3)(a)(b), Sch. 4 Pt. I paras. 1, 2, 5, 7 - 9, 11 - 17, 19, 22 - 28, 30 - 32, 34 - 37, Sch. 4 Pt. II paras. 39, 40, 43 -45, 49 - 51 and Sch. 5 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

[M43]Liability for War Damage (Miscellaneous Provisions) Act 1939

Marginal Citations

M43 1939 c. 102.

[X11]9 In section 1(3), for paragraphs (a) and (b) substitute—

"(a) a hire-purchase agreement or a conditional sale agreement within the meaning of the Consumer Credit Act 1974 being (in either case) a consumer credit agreement as defined by that Act ; or

(b) a consumer hire agreement as defined by that Act."

Editorial Information

X11 The text of ss. 3(a)(b)(c), 5, 42(1)(2)(3), 192(3)(a)(b), Sch. 4 Pt. I paras. 1, 2, 5, 7 - 9, 11 - 17, 19, 22 - 28, 30 - 32, 34 - 37, Sch. 4 Pt. II paras. 39, 40, 43 -45, 49 - 51 and Sch. 5 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

10 . . . . . [F189]

Textual Amendments

F189 Sch. 4 Pt. I para. 10 repealed by Statute Law (Repeals) Act 1986 (c. 12), s. 1(1), **Sch. 1 Pt. II**

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[M44]*Rag Flock and Other Filing Materials Act 1951*

Marginal Citations
M44 1951 c. 63.

[X12]11 For section 10(7) substitute—

"(7) References in this section to a sale or to selling include references to a bailment or (in Scotland) hiring under a hire-purchase agreement or to an agreement to sell under a conditional sale agreement.

In this subsection—

"conditional sale agreement " means an agreement for the sale of goods under which the purchase price or part of it is payable by instalments, and the property in the goods is to remain in the seller (notwithstanding that the buyer is to be in possession of the goods) until such conditions as to the payment of instalments or other-wise as may be specified in the agreement are fulfilled; and

"hire-purchase agreement " means an agreement other than a conditional sale agreement, under which—

(a) goods are bailed or (in Scotland) hired in return for periodical payments by the person to whom they are bailed or hired, and

(b) the property in the goods will pass to that person if the terms of the agreement are complied with and one or more of the following occurs—

(i) the exercise of an option to purchase by that person,

(ii) the doing of any other specified act by any party to tine agreement,

(iii) the happening of any other specified event."

Editorial Information
X12 The text of ss. 3(a)(b)(c), 5, 42(1)(2)(3), 192(3)(a)(b), Sch. 4 Pt. I paras. 1, 2, 5, 7 - 9, 11 - 17, 19, 22 - 28, 30 - 32, 34 - 37, Sch. 4 Pt. II paras. 39, 40, 43 -45, 49 - 51 and Sch. 5 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

[M45]*Reserve and Auxiliary Forces (Protection of Civil Interest) Act 1951*

Marginal Citations
M45 1951 c. 65.

[X13]12 In section 4 for subsections (4), (5) and (6), substitute—

"(4) Where the appropriate court refuses leave under section 4(2) of this Act to take possession of goods subject to a hire-purchase agreement or a conditional sale agreement or to execute a judgment or order for delivery

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of such goods, or gives leave subject to restrictions and conditions, and the person to whom the goods are bailed, or, as the case may be, the buyer, before possession is taken or execution on the judgment or order completed, pays the total price, the creditor's title to the goods shall, notwithstanding any failure to pay the total price at the time required by the agreement, vest in that person.

(5) Where the creditor under a hire-purchase agreement or a conditional sale agreement has taken possession of the goods bailed or agreed to be sold under it, the appropriate court on an application under section 3(1)(c) of this Act, may, if it thinks fit, deal with the case as if the creditor were proceeding to take possession of the goods and, if it makes an order under that paragraph, may direct accordingly that the goods be restored to the person to whom they were bailed or, as the case may be, the buyer ; and if, after the creditor has taken possession of the goods, notice is given under that paragraph with respect to them, he shall not, so long as the notice is in force or any application in pursuance of the notice is undisposed of, deal with the goods in such a way as to prejudice the powers of the appropriate court under this subsection."

Editorial Information

X13 The text of ss. 3(a)(b)(c), 5, 42(1)(2)(3), 192(3)(a)(b), Sch. 4 Pt. I paras. 1, 2, 5, 7 - 9, 11 - 17, 19, 22 - 28, 30 - 32, 34 - 37, Sch. 4 Pt. II paras. 39, 40, 43 -45, 49 - 51 and Sch. 5 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

X1413 For section 10 substitute—

"**10 Property in goods subject to hire-purchase agreement.**

(1) Where the appropriate court refuses leave under section 8(3) of this Act to take or resume possession of goods subject to a hire-purchase agreement or a conditional sale agreement or to do diligence on any decree for the delivery of such goods, or gives leave subject to restrictions and conditions, and the person to whom they are hired, or, as the case may be, the buyer before possession is taken or resumed or diligence is done, pays the total price, the creditor's title to the goods shall, notwithstanding any failure to pay the total price at the time required by the agreement, vest in that person.

(2) Where the creditor under a hire-purchase agreement or a conditional sale agreement has taken possession of the goods hired or agreed to be sold under it, the appropriate court on an application under section 9(1)(C) of this Act may, if it thinks fit, deal with the case as if the creditor were proceeding to take possession of the goods and, if it makes an order under that paragraph, may direct accordingly that the goods be restored to the person to whom they were hired or, as the case may be, the buyer ; and if, after the creditor has taken possession of the goods, notice is given under that paragraph with respect to them, he shall not, so long as the notice is in force or any application in pursuance of the notice is undisposed of, deal with the goods in such a way as to prejudice the powers of the appropriate court under this subsection".

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Editorial Information

X14 The text of ss. 3(a)(b)(c), 5, 42(1)(2)(3), 192(3)(a)(b), Sch. 4 Pt. I paras. 1, 2, 5, 7 - 9, 11 - 17, 19, 22 - 28, 30 - 32, 34 - 37, Sch. 4 Pt. II paras. 39, 40, 43 -45, 49 - 51 and Sch. 5 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

X1514 In section 64(I)—

(1) after the definition of "compulsory national service " insert—

" "conditional sale agreement " means an agreement for the sale of goods under which the purchase price or part of it is payable by instalments, and the property in the goods is to remain in the seller (notwithstanding that the buyer is to be in possession of the goods) until such conditions as to the payment of instalments or otherwise as may be specified in the agreement are fulfilled ;

"creditor " means the person by whom goods are bailed or (in Scotland) hired under a hire-purchase agreement or, as the case may be, the seller under a conditional sale agreement, or the person to whom his rights and duties have passed by assignment or operation of the law ;

"hire-purchase agreement " means an agreement, other than a conditional sale agreement, under which—

(a) goods are bailed or (in Scotland) hired in return for periodical payments by the person to whom they are bailed or hired, and

(b) the property in the goods will pass to that person if the terms of the agreement are complied with and one or more of the following occurs—

(i) the exercise of an option to purchase by that person,

(ii) the doing of any other specified act by any party to the agreement,

(iii) the happening of any other specified event ;".

(2) After the definition of "short period of training " insert—

" "total price " means the total sum payable by the person to whom goods are bailed or hired under a hire-purchase agreement or, as the case may be, the buyer under a conditional sale agreement including any sum payable on the exercise of an option to purchase but excluding any sum payable as a penalty or as compensation or damages for a breach of the agreement".

Editorial Information

X15 The text of ss. 3(a)(b)(c), 5, 42(1)(2)(3), 192(3)(a)(b), Sch. 4 Pt. I paras. 1, 2, 5, 7 - 9, 11 - 17, 19, 22 - 28, 30 - 32, 34 - 37, Sch. 4 Pt. II paras. 39, 40, 43 -45, 49 - 51 and Sch. 5 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

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[M46]*Clean Air Act 1956*

Marginal Citations
M46 1956 c. 52.

[X16]15 In section 14 for the words "a hire-purchase agreement for the letting to him " substitute—

"either—

(i) a conditional sale agreement for the sale to him, or

(ii) a hire-purchase agreement for the bailment or (in Scotland) hiring to him,".

Editorial Information
X16 The text of ss. 3(a)(b)(c), 5, 42(1)(2)(3), 192(3)(a)(b), Sch. 4 Pt. I paras. 1, 2, 5, 7 - 9, 11 - 17, 19, 22 - 28, 30 - 32, 34 - 37, Sch. 4 Pt. II paras. 39, 40, 43 -45, 49 - 51 and Sch. 5 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

[X17]16 In section 34(1)—

(a) after the definition of "chimney " insert—

" "conditional sale agreement " means an agreement for the sale of goods under which the purchase price or part of it is payable by instalments, and the property in the goods is to remain in the seller (notwithstanding that the buyer is to be in possession of the goods) until such conditions as to the payment of instalments or otherwise as may be specified in the agreement are fulfilled ;", and

(b) for the definition of "hire-purchase agreement " substitute—

" "hire-purchase agreement " means an agreement, other than a conditional sale agreement under which—

(a) goods are bailed or (in Scotland) hired in return for periodical payments by the person to whom they are bailed or hired, and

(b) the property in the goods will pass to that person if the terms of the agreement are complied with and one or more of the following occurs—

(i) the exercise of an option to purchase by that person,

(ii) the doing of any other specified act by any party to the agreement,

(iii) the happening of any other specified event ;".

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Editorial Information

X17 The text of ss. 3(a)(b)(c), 5, 42(1)(2)(3), 192(3)(a)(b), Sch. 4 Pt. I paras. 1, 2, 5, 7 - 9, 11 - 17, 19, 22 - 28, 30 - 32, 34 - 37, Sch. 4 Pt. II paras. 39, 40, 43 -45, 49 - 51 and Sch. 5 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

[M47]*Restrictive Trade Practices Act 1956*

Marginal Citations

M47 1956 c. 68.

[X18]17 For section 26(3) substitute—

"(3) In this Part of this Act any reference to selling goods includes a reference to bailing or (in Scotland) hiring goods under a hire-purchase, agreement or to agreeing to sell the goods under a conditional sale agreement.

In this subsection—

(1) "conditional sale agreement " means an agreement for the sale of goods under which the purchase price or part of it is payable by instalments, and the property in the goods is to remain in the seller (notwithstanding that the buyer is to be in possession of the goods) until such conditions as to the payment of instalments or otherwise as may be specified in the agreement are fulfilled; and

(2) "hire-purchase agreement " means an agreement, other than a conditional sale agreement, under which—

(a) goods are bailed or (in Scotland) hired in return for periodical payments by the person to whom they are bailed or hired, and

(b) the property in the goods will pass to that person if the terms of the agreement are complied with and one or more of the following occurs—

(i) the exercise of an option to purchase by that person,

(ii) the doing of any other specified act by any party to the agreement,

(iii) the happening of any other specified event."

Editorial Information

X18 The text of ss. 3(a)(b)(c), 5, 42(1)(2)(3), 192(3)(a)(b), Sch. 4 Pt. I paras. 1, 2, 5, 7 - 9, 11 - 17, 19, 22 - 28, 30 - 32, 34 - 37, Sch. 4 Pt. II paras. 39, 40, 43 -45, 49 - 51 and Sch. 5 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

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[M48]*Housing Act 1957*

Marginal Citations
M48 1957 c. 56.

[F190X19]18 For section 94 substitute—

" **Power to provide furniture.**

A local authority may fit out, furnish and supply any house erected, converted or acquired by them under section 92 of this Act with all requisite furniture, fittings and conveniences and may sell, or supply under a hire-purchase agreement or a conditional sale agreement, furniture to the occupants of houses provided by the local authority and, for that purpose may buy furniture. In this subsection—

(1) "conditional sale agreement " means an agreement for the sale of goods under which the purchase price or part of it is payable by instalments, and the property in the goods is to remain in the seller (notwithstanding that the buyer is to be in possession of the goods) until such conditions as to the payment of instalments or otherwise as may be specified in the agreement are fulfilled; and

(2) "hire-purchase agreement " means an agreement, other than a conditional sale agreement, under which—

(a) goods are bailed in return for periodical payments by the person to whom they are bailed, and

(b) the property in the goods will pass to that person if the terms of the agreement are complied with and one or more of the following occurs—

(i) the exercise of an option to purchase by that person,

(ii) the doing of any other specified act by any party to the agreement,

(iii) the happening of any other specified event."]

Editorial Information
X19 The text of Sch. 4 Pt. I paras. 6, 18 and Sch. 4 Pt. II para. 38 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Textual Amendments
F190 Sch. 4 Pt. I para. 18 repealed (E.W.) by Housing (Consequential Provisions) Act 1985 (c. 71, SIF 61), s. 3, **Sch. 1 Pt. I**

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[M49]County Courts Act 1959

Marginal Citations
M49 1959 c. 22.

[X20]19 At the end of section 192(2)(C) insert—

"(d) section 139(5)(b) of the Consumer Credit Act 1974."

Editorial Information
X20 The text of ss. 3(a)(b)(c), 5, 42(1)(2)(3), 192(3)(a)(b), Sch. 4 Pt. I paras. 1, 2, 5, 7 - 9, 11 - 17, 19, 22 - 28, 30 - 32, 34 - 37, Sch. 4 Pt. II paras. 39, 40, 43 -45, 49 - 51 and Sch. 5 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

20, 21. . . . . [F191]

Textual Amendments
F191 Sch. 4 Pt. I paras. 20, 21 repealed by Consumer Safety Act 1978 (c. 38, SIF 109:1), s. 12(2), **Sch. 3**

Hire Purchase Act 1964

[X21]22 For Part III substitute the following (which reproduces the existing provisions of that Part subject only to changes in terminology)—

"**PART III**

TITLE TO MOTOR VEHICLES ON HIRE-PURCHASE OR CONDITIONAL SALE

Protection of purchasers of motor vehicles.

27 (1) This section applies where a motor vehicle has been bailed or (in Scotland) hired under a hire-purchase agreement, or has been agreed to be sold under a conditional sale agreement, and, before the property in the vehicle has become vested in the debtor, he disposes of the vehicle to another person.

(2) Where the disposition referred to in subsection (1) above is to a private purchaser, and he is a purchaser of the motor vehicle in good faith without notice of the hire-purchase or conditional sale agreement (the "relevant agreement ") that disposition shall have effect as if the creditor's title to the vehicle has been vested in the debtor immediately before that disposition.

(3) Where the person to whom the disposition referred to in subsection (1) above is made (the "original purchaser ") is a trade or finance purchaser, then if the person who is the first private purchaser of the motor vehicle after that disposition (the "first private purchaser ") is a purchaser of the vehicle in

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good faith without notice of the relevant agreement, the disposition of the vehicle to the first private purchaser shall have effect as if the title of the creditor to the vehicle had been vested in the debtor immediately before he disposed of it to the original purchaser.

(4) Where, in a case within subsection (3) above—

(a) the disposition by which the first private purchaser becomes a purchaser of the motor vehicle in good faith without notice of the relevant agreement is itself a bailment or hiring under a hire-purchase agreement, and

(b) the person who is the creditor in relation to that agreement disposes of the vehicle to the first private purchaser, or a person claiming under him, by transferring to him the property in the vehicle in pursuance of a provision in the agreement in that behalf,

the disposition referred to in paragraph (b) above (whether or not the person to whom it is made is a purchaser in good faith without notice of the relevant agreement) shall as well as the disposition referred to in paragraph (a) above, have effect as mentioned in subsection (3) above.

(5) The preceding provisions of this section apply—

(a) notwithstanding anything in section 21 of the Sale of Goods Act 1893 (sale of goods by a person not the owner), but

(b) without prejudice to the provisions of the Factors Acts (as defined by section 62(1) of the said Act of 1893) or of any other enactment enabling the apparent owner of goods to dispose of them as if he were the true owner.

(6) Nothing in this section shall exonerate the debtor from any liability (whether criminal or civil) to which he would be subject apart from this section ; and, in a case where the debtor disposes of the motor vehicle to a trade or finance purchaser, nothing in this section shall exonerate—

(a) that trade or finance purchaser, or

(b) any other trade or finance purchaser who becomes a purchaser of the vehicle and is not a person claiming under the first private purchaser,

from any liability (whether criminal or civil) to which he would be subject apart from this section.

Presumptions relating to dealing with motor vehicles.

28 (1) Where in any proceedings (whether criminal or civil) relating to a motor vehicle it is proved—

(a) that the vehicle was bailed or (in Scotland) hired under a hire-purchase agreement, or was agreed to be sold under a conditional sale agreement and

(b) that a person (whether a party to the proceedings or not) became a private purchaser of the vehicle in good faith without notice of the hire-purchase or conditional sale agreement (the "relevant agreement "),

this section shall have effect for the purposes of the operation of section 27 of this Act in relation to those proceedings.

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(2) lt shall be presumed for those purposes, unless the contrary is proved, that the disposition of the vehicle to the person referred to in subsection (1)(b) above (the "relevant purchaser ") was made by the debtor.

(3) If it is proved that that disposition was not made by the debtor, then it shall be presumed for those purposes, unless the contrary is proved—

(a) that the debtor disposed of the vehicle to a private purchaser purchasing in good faith without notice of the relevant agreement, and

(b) that the relevant purchaser is or was a person claiming under the person to whom the debtor so disposed of the vehicle.

(4) If it is proved that the disposition of the vehicle to the relevant purchaser was not made by the debtor, and that the person to whom the debtor disposed of the vehicle (the "original purchaser ") was a trade or finance purchaser, then it shall be presumed for those purposes, unless the contrary is proved,

(a) that the person who, after the disposition of the vehicle to the original purchaser, first became a private purchaser of the vehicle was a purchaser in good faith without notice of the relevant agreement, and

(b) that the relevant purchaser is or was a person claiming under the original purchaser.

(5) Without prejudice to any other method of proof, where in any proceedings a party thereto admits a fact, that fact shall, for the purposes of this section, be taken as against him to be proved in relation to those proceedings.

29 (1) In this Part of this Act—

"conditional sale agreement " means an agreement for the sale of goods under which the purchase price or part of it is payable by instalments, and the property in the goods is to remain in the seller (notwithstanding that the buyer is to be in possession of the goods) until such conditions as to the payment of instalments or otherwise as may be specified in the agreement are fulfilled ;

"creditor " means the person by whom goods are bailed or (in Scotland) hired under a hire-purchase agreement or as the case may be, the seller under a conditional sale agreement, or the person to whom his rights and duties have passed by assignment or operation of law ;

"disposition " means any sale or contract of sale (including a conditional sale agreement), any bailment or (in Scotland) hiring under a hire-purchase agreement and any transfer of the property in goods in pursuance of a provision, in that behalf contained in a hire-purchase agreement, and includes any transaction purporting to be a disposition (as so defined), and "dispose of " shall be construed accordingly;

"hire-purchase agreement " means an agreement, other than a conditional sale agreement, under which—

(a) goods are bailed or (in Scotland) hired in return for periodical payments by the person to whom they are bailed or hired, and

(b) the property in the goods will pass to that person if the terms of the agreement are complied with and one or more of the following occurs—

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(i) the exercise of an option to purchase by that person,

(ii) the doing of any other specified act by any party to the agreement,

(iii) the happening of any other specified events ; and

"motor vehicle " means a mechanically propelled vehicle intended or adapted for use on roads to which the public has access.

(2) In this Part of this Act "trade or finance purchaser " means a purchaser who, at the time of the disposition made to him, carries on a business which consists, wholly or partly,—

(a) of purchasing motor vehicles for the purpose of offering or exposing them for sale, or

(b) of providing finance by purchasing motor vehicles for the purpose of bailing or (in Scotland) hiring them under hire-purchase agreements or agreeing to sell them under conditional sale agreements,

and "private purchaser " means a purchaser who, at the time of the disposition made to him, does not carry on any such business.

(3) For the purposes of this Part of this Act a person becomes a purchaser of a motor vehicle if, and at the time when, a disposition of the vehicle is made to him; and a person shall be taken to be a purchaser of a motor vehicle without notice of a hire-purchase agreement or conditional sale agreement if, at the time of the disposition made to him , he has no actual notice that the vehicle is or was the subject of any such agreement.

(4) In this Part of this Act the "debtor " in relation to a motor vehicle which has been bailed or hired under a hire-purchase agreement, or, as the case may be, agreed to be sold under a conditional sale agreement, means the person who at the material time (whether the agreement has before that time been terminated or not) either—

(a) is the person to whom the vehicle is bailed or hired under that agreement, or

(b) is, in relation to the agreement, the buyer,

including a person who at that time is, by virtue of section 130(4) of the Consumer Credit Act 1974 treated as a bailee or (in Scotland) a custodier of the vehicle.

(5) In this Part of this Act any reference to the title of the creditor to a motor vehicle which has been bailed or (in Scotland) hired under a hire-purchase agreement, or agreed to be sold under a conditional sale agreement, and is disposed of by the debtor, is a reference to such title (if any) to the vehicle as, immediately before that disposition, was vested in the person who then was the creditor in relation to the agreement,".

Editorial Information

X21 The text of ss. 3(a)(b)(c), 5, 42(1)(2)(3), 192(3)(a)(b), Sch. 4 Pt. I paras. 1, 2, 5, 7 - 9, 11 - 17, 19, 22 - 28, 30 - 32, 34 - 37, Sch. 4 Pt. II paras. 39, 40, 43 -45, 49 - 51 and Sch. 5 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

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[M50]*Emergency Laws (Re-enactment and Repeals) Act 1964*

Marginal Citations
M50 1964 c. 60

[X22]23 In section 1—

(1) In subsection (1) for "or credit-sale agreements, or under agreements for letting on hire " substitute "conditional sale agreements, credit-sale agreements or hire agreements "

(2) For subsection (2) substitute—

"(2) In this section —

"conditional sale agreement " means an agreement for the sale of any article under which the purchase price, or part of it is payable by instalments, and the property in the article is to remain in the seller (notwithstanding that the buyer is to be in possession of the article) until such conditions as to the payment of instalments or otherwise as may be specified in the agreement are fulfilled ;

"credit-sale agreement " means an agreement for the sale of any article, under which the purchase price or part of it is payable by instalments, but which is not a conditional sale agreement ;

"hire-purchase agreement " means an agreement, other than a conditional sale agreement under which—

(a) an article is bailed or (in Scotland) hired in return for periodical payments by the person to whom it is bailed or hired, and

(b) the property in the article will pass to that person if the terms of the agreement are complied with and one or more of the following occurs—

(i) the exercise of an option by that person

(ii) the doing of any other specified act by any party to the agreement ;

(iii) the happening of any other specified event; and

"hire agreement " means an agreement for the bailment or (in Scotland) the hiring of an article which is not a hire-purchase agreement."

Editorial Information
X22 The text of ss. 3(a)(b)(c), 5, 42(1)(2)(3), 192(3)(a)(b), Sch. 4 Pt. I paras. 1, 2, 5, 7 - 9, 11 - 17, 19, 22 - 28, 30 - 32, 34 - 37, Sch. 4 Pt. II paras. 39, 40, 43 -45, 49 - 51 and Sch. 5 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

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[M51]*Trading Stamps Act 1964*

Marginal Citations
M51 1964 c. 71.

[X23]24 In section 2, for subsection (1) substitute—

(No person shall after the coming into force of this section issue any trading stamp, or cause any trading stamp to be issued, or deliver any trading stamp to any person in connection with the sale of any goods, the bailment or (in Scotland) the hiring of any goods under a hire-purchase agreement or the performance of any services, unless such trading stamp bears on its face in clear and legible characters a value expressed in or by reference to current coin of the realm.”

Editorial Information
X23 The text of ss. 3(a)(b)(c), 5, 42(1)(2)(3), 192(3)(a)(b), Sch. 4 Pt. I paras. 1, 2, 5, 7 - 9, 11 - 17, 19, 22 - 28, 30 - 32, 34 - 37, Sch. 4 Pt. II paras. 39, 40, 43 -45, 49 - 51 and Sch. 5 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

[X24]25 In section 3, for subsection (4) substitute—

“(4) In this section “redeemable trading stamps ” means trading stamps delivered after the coming into force of this section in accordance with a trading stamp scheme on or in connection with either—

(a) the purchase of any goods,
(b) the bailment or (in Scotland) the hiring of any goods under a hire-purchase, agreement, or
(c) the obtaining of any services for money,

and “the holder ”, in relation to such a trading stamp, means the person to whom it was so delivered or any person who holds it without notice of any defect in title.”

Editorial Information
X24 The text of ss. 3(a)(b)(c), 5, 42(1)(2)(3), 192(3)(a)(b), Sch. 4 Pt. I paras. 1, 2, 5, 7 - 9, 11 - 17, 19, 22 - 28, 30 - 32, 34 - 37, Sch. 4 Pt. II paras. 39, 40, 43 -45, 49 - 51 and Sch. 5 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

[X25]26 In section 10(1)—

(1) after the definition of “cash value ” insert—

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" "conditional sale agreement " means an agreement for the sale of goods under which the purchase price or part of it is payable by instalments, and the property in the goods is to remain in the seller (notwithstanding that the buyer is to be in possession of the goods) until such conditions as to the payment of instalments or otherwise as may be specified in the agreement are fulfilled;", and

(2) after the definition of "goods " insert—

" "hire-purchase agreement " means an agreement, other than a conditional sale agreement, under which—

(a) goods are bailed or (in Scotland) hired in return for periodical payments by the person to whom they are bailed or hired, and

(b) the property in the goods will pass to that person if the terms of the agreement are complied with and one or more of the following occurs—

(i) the exercise of an option to purchase by that person,

(ii) the doing of any other specified act by any party to the agreement,

(iii) the happening of any other specified event;",

(3) For the definition of "trading stamp " substitute—

" "trading stamp " means a stamp which is, or is intended to be, delivered to any person on or in connection with either—

(i) the purchase of any goods, or

(ii) the bailment or (in Scotland) the hiring of any goods under a hire-purchase agreement,

(other than the purchase of a newspaper or other periodical of which the stamp forms part or in which it is contained) and is, or is intended to be, redeemable (whether singly or together with other such stamps) by that or some other person:

Provided that a stamp shall not be deemed to be a trading stamp if—

(a) it is delivered or is intended to be delivered to a person (in this definition called "the purchaser ") on or in connection with the purchase of any goods by the purchaser, or the bailment or (in Scotland) the hiring to him of any goods, and

(b) it is intended to be, and is not, redeemable from any person other than—

(i) the person (in this definition called "the seller ") from whom the purchaser purchased those goods, or who bailed or hired those goods to him, or

(ii) any person from whom the seller (whether directly or indirectly) acquired those goods, and

(c) in the case where a business is carried on by six or more retail establishments, the stamp is one of a kind obtainable at no more than six of those retail establishments, and not obtainable by the Public elsewhere, and the arrangements under which it is redeemable are entirely separate from arrangements under which any other stamps, whether trading stamps or not, are redeemable,

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and references in this definition to the purchase of goods include references to the obtaining of services for money;".

Editorial Information

X25 The text of ss. 3(a)(b)(c), 5, 42(1)(2)(3), 192(3)(a)(b), Sch. 4 Pt. I paras. 1, 2, 5, 7 - 9, 11 - 17, 19, 22 - 28, 30 - 32, 34 - 37, Sch. 4 Pt. II paras. 39, 40, 43 -45, 49 - 51 and Sch. 5 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

[M52]Housing (Scotland) Act 1966

Marginal Citations

M52 1966 c. 49.

[X26]27 In section 140(2), for the words from "as defined " onwards substitute "within the meaning of the Consumer Credit Act 1974 ".

Editorial Information

X26 The text of ss. 3(a)(b)(c), 5, 42(1)(2)(3), 192(3)(a)(b), Sch. 4 Pt. I paras. 1, 2, 5, 7 - 9, 11 - 17, 19, 22 - 28, 30 - 32, 34 - 37, Sch. 4 Pt. II paras. 39, 40, 43 -45, 49 - 51 and Sch. 5 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

[M53]Trade Descriptions Act 1968

Marginal Citations

M53 1968 c. 29.

[X27]28 In section 28, insert the following new subsection after subsection (5)—

"(5A) Subsection (5) of this section does not apply to disclosue for a purpose specified in section 174(3) of the Consumer "Credit Act 1974. ""

Editorial Information

X27 The text of ss. 3(a)(b)(c), 5, 42(1)(2)(3), 192(3)(a)(b), Sch. 4 Pt. I paras. 1, 2, 5, 7 - 9, 11 - 17, 19, 22 - 28, 30 - 32, 34 - 37, Sch. 4 Pt. II paras. 39, 40, 43 -45, 49 - 51 and Sch. 5 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

29 [F192] . . . . . .

Status: *Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.*
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Textual Amendments

F192 Sch. 4 Pt. I para. 29 repealed by Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), s. 844, **Sch. 31**

[M54] *Administration of Justice Act 1970*

Marginal Citations

M54 1970 c. 31.

[X28]30 After section 38 insert the following new section—

"**38A** This Part of this Act shall not apply to a mortgage securing an agreement which is a regulated agreement within the meaning of the Consumer Credit Act 1974."

Editorial Information

X28 The text of ss. 3(a)(b)(c), 5, 42(1)(2)(3), 192(3)(a)(b), Sch. 4 Pt. I paras. 1, 2, 5, 7 - 9, 11 - 17, 19, 22 - 28, 30 - 32, 34 - 37, Sch. 4 Pt. II paras. 39, 40, 43 -45, 49 - 51 and Sch. 5 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

[X29]31 In section 54(6)(c) after "36 " insert "38A ".

Editorial Information

X29 The text of ss. 3(a)(b)(c), 5, 42(1)(2)(3), 192(3)(a)(b), Sch. 4 Pt. I paras. 1, 2, 5, 7 - 9, 11 - 17, 19, 22 - 28, 30 - 32, 34 - 37, Sch. 4 Pt. II paras. 39, 40, 43 -45, 49 - 51 and Sch. 5 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

[M55] *Vehicles (Excise) Act 1971*

Marginal Citations

M55 1971 c. 10.

[X30]32 In section 38(1)—

(1) before the definition of "gas " insert—

" "conditional sale agreement " means an agreement for the sale of a vehicle under which the purchase price or part of it is payable by instalments, and the property in the vehicle is to remain in the seller (notwithstanding that the buyer is to be in possession of the vehicle) until such conditions as to the payment of instalments or otherwise as may be specified in the agreement are fulfilled;

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(2) for the definition of "hackney carriage " substitute—

"hackney carriage " means a mechanically propelled vehicle standing or plying for hire and includes any mechanically propelled vehicle bailed or (in Scotland) hired under a hire agreement by a person whose trade it is to sell such vehicles or bail or hire them under hire agreements;

(3) after the definition of "hackney carriage " insert—

"hire agreement " means an agreement for the bailment or (in Scotland) the hiring of a vehicle which is not a hire-purchase agreement ;

"hire-purchase agreement " means an agreement, other than a conditional sale agreement, under which—

(a) a vehicle is bailed or (in Scotland) hired in return for periodical payments by the person to whom it is bailed or hired, and

(b) the property in the vehicle will pass to that person if the terms of the agreement are complied with and one or more of the following occurs—

(i) the exercise of an option to purchase by that person,

(ii) the doing of any other specified act by any party to the agreement,

(iii) the happening ofany other specified event;".

Editorial Information

X30 The text of ss. 3(a)(b)(c), 5, 42(1)(2)(3), 192(3)(a)(b), Sch. 4 Pt. I paras. 1, 2, 5, 7 - 9, 11 - 17, 19, 22 - 28, 30 - 32, 34 - 37, Sch. 4 Pt. II paras. 39, 40, 43 -45, 49 - 51 and Sch. 5 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

33 . . . . . **F193**

Textual Amendments

F193 Sch. 4 Pt. I para. 33 repealed by Industrial Development Act 1982 (c. 52, SIF 64), s. 19, **Sch. 3**

[M56]*Counter-Inflation Act 1973*

Marginal Citations

M56 1973 c. 9.

[X31]34 In section 21(5)—

(a) for "total purchase price or hire-purchase price " substitute "total price "; and

(b) for the words from "This subsection " onwards substitute—

"In this subsection—

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"conditional sale agreement " means an agreement for the sale of goods under which the purchase price or part of it is payable by instalments, and the property in the goods is to remain in the seller (notwithstanding that the buyer is to be in possession of the goods) until such conditions as to the payment of instalments or otherwise as may be specified in the agreement are fulfilled, and

"hire-purchase agreement " means an agreement, other than a conditional sale agreement, under which—

(a) goods are bailed or (in Scotland) hired in return for periodical payments by the person to whom they are bailed or hired, and

(b) the property in the goods will pass to that person if the terms of the agreement are complied with and one or more of the following occurs—

(i) the exercise of an option to purchase by that person,

(ii) the doing of any other specified act by any party to the agreement,

(iii) the happening of any other specified event ; and "total price " means the total sum payable by the person to whom goods are bailed or hired under a hire-purchase agreement or, as the case may be, the buyer under a conditional sale agreement including any sum payable on the exercise of an option to purchase but excluding any sum payable as a penalty or as compensation or damages for a breach of the agreement."

Editorial Information

X31 The text of ss. 3(a)(b)(c), 5, 42(1)(2)(3), 192(3)(a)(b), Sch. 4 Pt. I paras. 1, 2, 5, 7 - 9, 11 - 17, 19, 22 - 28, 30 - 32, 34 - 37, Sch. 4 Pt. II paras. 39, 40, 43 -45, 49 - 51 and Sch. 5 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

[M57]Supply of Goods (Implied Terms) Act 1973

Marginal Citations

M57 1973 c. 13.

[X32]35 For sections 8 to 12 substitute the following sections (which reproduce the existing provisions of those sections subject only to changes in terminology)—

"**8 Implied terms as to title.**

(1) In every hire-purchase agreement, other than one to which subsection (2) below applies, there is—

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(a) an implied condition on the part of the creditor that he will have a right to sell the goods at the time when the property is to pass ; and

(b) an implied warranty that—

(i) the goods are free, and will remain free until the time when the property is to pass, from any charge or encumbrance not disclosed or known to the person to whom the goods are bailed or (in Scotland) hired before the agreement is made, and

(ii) that person will enjoy quiet possession of the goods except so far as it may be disturbed by any person entitled to the benefit of any charge or encumbrance so disclosed or known.

(2) In a hire-purchase agreement, in the case of which there appears from the agreement or is to be inferred from the circumstances of the agreement an intention that the creditor should transfer only such title as he or a third person may have, there is—

(a) an implied warranty that all charges or encumbrances known to the creditor and not known to the person to whom the goods are bailed or hired have been disclosed to that person before the agreement is made ; and

(b) an implied warranty that neither—

(i) the creditor; nor

(ii) in a case where the parties to the agreement intend that any title which may be transferred shall be only such title as a third person may have, that person ; nor

(iii) anyone claiming through or under the creditor or that third person otherwise than under a charge or encumbrance disclosed or known to the person to whom the goods are bailed or hired, before the agreement is made ;

will disturb, the quiet possession of the person to whom the goods are bailed or hired.

9 Bailing or hiring by description.

(1) Where under a hire-purchase agreement goods are bailed or (in Scotland) hired by description, there is an implied condition that the goods will correspond with the description, and if under the agreement the goods are bailed or hired by reference to a sample as well as a description, it is not sufficient that the bulk of the goods corresponds with the sample if the goods do not also correspond with the description.

(2) Goods shall not be prevented from being bailed of hired by description by reason only that, being exposed for sale, bailment or hire, they are selected by the person to whom they are bailed or hired.

10 Implied undertakings as to quality or fitness.

(1) Except as provided by this section and section 11 below and subject to the provisions of any other enactment, including any enactment of the Parliament of Northern Ireland or the Northern Ireland Assembly, there

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is no implied condition or warranty as to the quality or fitness for any particular purpose of goods bailed or (in Scotland) hired under a hire-purchase agreement.

(2) Where the creditor bails or hires goods under a hire-purchase agreement in the course of a business, there is an implied condition that the goods are of merchantable quality, except that there is no such condition—

(a) as regards defects specifically drawn to the attention of the person to whom the goods are bailed or hired before the agreement is made; or

(b) if that person examines the goods before the agreement is made, as regards defects which that examination ought to reveal.

(3) Where the creditor bails or hires goods under a hire-purchase agreement in the course of a business and the person to whom the goods are bailed or hired, expressly or by implication, makes known—

(a) to the creditor in the course of negotiations conducted by the creditor in relation to the making of the hire-purchase agreement, or

(b) to a credit-broker in the course of negotiations conducted by that broker in relation to goods sold by him to the creditor before forming the subject matter of the hire-purchase agreement,

any particular purpose for which the goods are being bailed or hired, there is an implied condition that the goods supplied under the agreement are reasonably fit for that purpose, whether or not that is a purpose for which such goods are commonly supplied, except where the circumstances show that the person to whom the goods are bailed or hired does not rely, or that it is unreasonable for him to rely, on the skill or judgement of the creditor or credit-broker.

(4) An implied condition or warranty as to quality or fitness for a particular purpose may be annexed to a hire-purchase agreement by usage.

(5) The preceding provisions of this section apply to a hire-purchase agreement made by a person who in the course of a business is acting as agent for the creditor as they apply to an agreement made by the creditor in the course of a business, except where the creditor is not bailing or hiring in the course of a business and either the person to whom the goods are bailed or hired knows that fact or reasonable steps are taken to bring it to the notice of that person before the agreement is made.

(6) In subsection (3) above and this subsection—

(a) "credit-broker " means a person acting in the course of a business of credit brokerage ;

(b) "credit brokerage " means the effecting of introductions of individuals desiring to obtain credit—

(i) to persons carrying on any business so far as it relates to the provision of credit, or

(ii) to other persons engaged in credit brokerage.

11 Samples.

Where under a hire-purchase agreement goods are bailed or (in Scotland) hired by reference to a sample, there is an implied condition—

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(a) that the bulk will correspond with the sample in quality ; and

(b) that the person to whom the goods are bailed or hired will have a reasonable opportunity of comparing the bulk with the sample; and

(c) that the goods will be free from any defect, rendering them numerchantable, which would not be apparent on reasonable examination of the sample.

12 Exclusion of implied terms and conditions.

(1) An express condition or warranty does not negative a condition or warranty implied by this Act this unless inconsistent with it.

(2) A term of a hire-purchase agreement or any other agreement exempting from all or any of the provisions of section 8 above shall be void.

(3) A term of a hire-purchase agreement or any other agreement exempting from all or any of the provisions of sections 9, 10 or 11 above shall be void in the case of a consumer agreement and shall, in any other case, not be enforceable to the extent that it is shown that it would not be fair or reasonable to allow reliance on the term.

(4) In determining for the purpose of subsection (3) above whether or not reliance on any such term would be fair or reasonable regard shall be had to all the circumstances of the case and in particular to the following matters—

(a) the strength of the bargaining positions of the creditor and the person to whom the goods are bailed or hired relative to each other, taking into account, among other things, the availability of suitable alternative products and sources of supply;

(b) whether that person received an inducement to agree to the term or in accepting it had an opportunity of acquiring the goods or suitable alternatives without it from any source of supply;

(c) whether that person knew or ought reasonably to have known of the existence and extent of the term (having regard, among other things, to any custom of the trade and any previous course of dealing between the parties);

(d) where the term exempts from all or any of the provisions of sections 9, 10 or 11 above if some condition is not complied with , whether it was reasonable at the time of the agreement to expect that compliance with that condition would be practicable ;

(e) whether the goods were manufactured, processed or adapted to the special order of that person.

(5) Subsection (4) above shall not prevent the court from holding, in accordance with any rule of law, that a term which purports to exclude any or restrict any of the provisions of sections 9, 10 and 11 above is not a term of the hire-purchase agreement.

(6) In this section “consumer agreement ” means a hire-purchase agreement where the creditor makes the agreement in the course of a business and the goods to which the agreement relates—

(a) are of a type ordinarily supllied for private use or consumption ; and

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(b) are bailed or (in Scotland) hired to a person who does not bail or hire them or hold himself out as bailing or hiring them in the course of a business.

(7) The onus of proving that a hire-purchase agreement is to be treated for the purposes of this section as not being a consumer agreement shall lie on the party so contending.

(8) Any reference in this section to a term exempting from all or any of the provisions of any section of this Act is a reference to a term which purports to exclude or restrict, or has the effect of excluding or restricting, the operation of all or any of the provisions of that section, or the exercise of a right conferredby any provision of that section, or any liability of the owner for breach of a condition or warranty implied by any provision of that section.

(9) It is hereby declared that any reference in this section to a term of an agreement includes a reference to a term which although not contained in an agreement is incorporated in the agreement another term of the agreement."

Editorial Information

X32 The text of ss. 3(a)(b)(c), 5, 42(1)(2)(3), 192(3)(a)(b), Sch. 4 Pt. I paras. 1, 2, 5, 7 - 9, 11 - 17, 19, 22 - 28, 30 - 32, 34 - 37, Sch. 4 Pt. II paras. 39, 40, 43 -45, 49 - 51 and Sch. 5 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

[X33]36 For sections 14 and 15 substitute the following sections (which reproduce the existing provisions of those sections subject only to changes in terminology)—

"**14 Special provisions as to conditional sale agreements.**

(1) Section 11(1)(c) of the principal Act (whereby provisions in certain circumstances a breach of a condition in a contract of sale is treated only as a breach of warranty shall not apply to conditional sale agreements which are agreements for consumer sales.

(2) In England and Wales and Northern Ireland a breach of a condition (whether express or implied) to be fulfilled by the seller under any such agreement shall be treated as a breach of warranty, and not as grounds for rejecting the goods and treating the agreement as repudiated, if (but only if) it would have fallen to be so treated had the condition been contained or implied in a corresponding hire-purchase agreement as a condition to be fulfilled by the creditor.

15 Supplementary.

(1) In sections 8 to 14 above and this section—

"business " includes a profession and the activities of any government department (including a Northern Ireland department), local authority or statutory undertaker;

"buyer " and "seller " includes a person to whom rights and duties under a conditional sale agreement have passed by assignment or operation of law ;

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"condition " and "warranty ", in relation to Scotland, mean stipulation, and any stipulation referred to in sections 8(1)(a), 9, 10 and 11 above shall be deemed to be material to the agreement.

"conditional sale agreement " means an agreement for the sale of goods under which the purchase price or part of it is payable by instalments, and the property in the goods is to remain in the seller (notwithstanding that the buyer is to be in possession of the goods) until such conditions as to the payment of instalments or otherwise as may be specified in the agreement are fulfilled;

"consumer sale " has the same meaning as in section 55 of the principal Act, as amended by section 4 above ;

"creditor " means the person by whom the goods are bailed or (in Scotland) hired under a hire-purchase agreement or the person to whom his rights and duties under the agreement have passed by assignment or operation of law ; and

"hire-purchase agreement " means an agreement, other than conditional sale agreement, under which—

(a) goods are bailed or (in Scotland) hired in return for periodical payments by the person to whom they are bailed or hired, and

(b) the property in the goods will pass to that person if the terms of the agreement are complied with and one or more of the following occurs—

(i) the exercise of an option to purchase by that person,

(ii) the doing of any other specified act by any party to the agreement,

(iii) the happening of any other specified event.

(2) Goods of any kind are of merchantable quality within the meaning of section 10(2) above if they are as fit for the purpose or purposes for which goods of that kind are commonly bought as it is reasonable to expect having regard to any description applied to them, the price (if relevant) and all the other relevant circumstances ; and in section 11 above "unmerchantable " shall be construed accordingly.

(3) In section 14(2) above "corresponding hire-purchase agreement " means, in relation to a conditional sale agreement, a hire-purchase agreement relating to the same goods as the conditional sale agreement and made between the same parties and at the same time and in the same circumstances and, as nearly as may be, in the same terms as the conditional sale agreement.

(4) Nothing in sections 8 to 13 above shall prejudice the operation of any other enactment including any enactment of the Parliament of Northern Ireland or the Northern Ireland Assembly or any rule of law whereby any condition or warranty, other than one relating to quality or fitness, is to be implied in any hire-purchase agreement."

Editorial Information

X33 The text of ss. 3(a)(b)(c), 5, 42(1)(2)(3), 192(3)(a)(b), Sch. 4 Pt. I paras. 1, 2, 5, 7 - 9, 11 - 17, 19, 22 - 28, 30 - 32, 34 - 37, Sch. 4 Pt. II paras. 39, 40, 43 -45, 49 - 51 and Sch. 5 is in the form in which it was

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originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

[M58]Fair Trading Act 1973

Marginal Citations
M58 1973 c. 41.

[X34]37 For section 138(5) substitute—

"(5) In subsection (4) of this section, the following expressions have the meanings given by, or referred to in, section 189 of the Consumer Credit Act 1974—

antecedent negotiations,
conditional sale agreement,
credit-sale agreement,
hire-purchase agreement."

Editorial Information
X34 The text of ss. 3(a)(b)(c), 5, 42(1)(2)(3), 192(3)(a)(b), Sch. 4 Pt. I paras. 1, 2, 5, 7 - 9, 11 - 17, 19, 22 - 28, 30 - 32, 34 - 37, Sch. 4 Pt. II paras. 39, 40, 43 -45, 49 - 51 and Sch. 5 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

PART II

NORTHERN IRELAND

[M59]Irish Bankrupt and Insolvent Act 1857

Marginal Citations
M59 1857 c. 60.

[X35]38 The following section shall be inserted after section 313—

"**313A Hire-purchase etc. agreements.**

(1) Goods—

(a) bailed under a hire-purchase agreement or a consumer hire agreement, or
(b) agreed to be sold under a conditional sale agreement, or
(c) subject to a regulated agreement under which a bill of sale is given by way of security,

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shall not during the period between—

(i) the service of a default notice under the Consumer Credit Act 1974 in respect of the goods, and

(ii) the date on which the notice expires or is earlier complied with,

be treated for the purposes of section 313 of this Act as goods which are by the consent and permission of the creditor, or (in the case of goods which are the subject of a consumer hir agreement) of the owner, in the possession, order or disposition of the person to whom they are bailed or agreed to be sold or who is the grantor of the bill of sale.

(2) In this section—

"conditional sale agreement " means an agreement for the sale of goods under which the purchase price or part of it is payable by instalments, and the property in the goods is to remain in the seller (notwithstanding that the buyer is to be in possession of the goods) until such conditions as to the payment of instalments or other-wise as may be specified in the agreement are fulfilled ;

"consumer hire agreement " has the meaning given by section 15 of the Consumer Credit Act 1974 ;

"creditor " means the person bailing goods under a hire-purchase agreement or, as the case may be, the seller under a conditional sale agreement or the person providing credit under a regulated agreement, and includes the person to whom his rights and duties under the agreement have passed by assignment or operation of law ;

"owner " means a person who bails out goods under a consumer hire agreement or the person to whom his rights and duties under the agreement have been passed by assignment or operation of law ; and

"regulated agreement " has the meaning given by section 189 of the Consumer Credit Act 1974.;

"hire-purchase agreement " means an agreement, other than a conditional sale agreement, under which—

(a) goods are bailed or (in Scotland) hired in return for periodical payments by the person to whom they are bailed or hired, and

(b) the property in the goods will pass to that person if the terms of the agreement are complied with and one or more of the following occurs—

(i) the exercise of an option to purchase by that person,

(ii) the doing of any other specified act by any party to the agreement,

(iii) the happening of any other specified event."

Editorial Information

X35 The text of Sch. 4 Pt. I paras. 6, 18 and Sch. 4 Pt. II para. 38 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

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[M60] *Bills of Sale (Ireland) Act (1879) Amendment Act 1883*

Marginal Citations
M60 1883 c. 7.

[X36]39 The following section shall be inserted after section 7:—

"**7A Defaults under consumer credit agreements.**

(1) Paragraph (1) of section 7 of this Act does not apply to a default relating to a bill of sale given by way of security for the payment of money under a regulated agreement to which section 87(1) of the Consumer Credit Act 1974 applies:—

(a) unless the restriction imposed by section 88(2) of that Act has ceased to apply to the bill of sale; or

(b) if, by virtue of section 89 of that Act, the default is to be treated as not having occurred.

(2) Where paragraph (1) of section 7 of this Act does apply in relation to a bill of sale such as is mentioned in subsection (1) of this section, the proviso to that section shall have effect with the insertion after "High Court " of the words "or county court "."

Editorial Information
X36 The text of ss. 3(a)(b)(c), 5, 42(1)(2)(3), 192(3)(a)(b), Sch. 4 Pt. I paras. 1, 2, 5, 7 - 9, 11 - 17, 19, 22 - 28, 30 - 32, 34 - 37, Sch. 4 Pt. II paras. 39, 40, 43 -45, 49 - 51 and Sch. 5 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

[M61] *Liability for War Damage (Miscellaneous Provisions) Act (Northern Ireland) 1939*

Marginal Citations
M61 1939 c. 36 (N.I.)

[X37]40 In section 1(3), for paragraph (a) and (b) substitute—

"(a) a hire-purchase agreement or a conditional sale agreement within the meaning of the Consumer Credit Act 1974 being a consumer credit agreement as defined by that Act ; or

(b) a consumer hire agreement within the meaning of that Act."

Editorial Information
X37 The text of ss. 3(a)(b)(c), 5, 42(1)(2)(3), 192(3)(a)(b), Sch. 4 Pt. I paras. 1, 2, 5, 7 - 9, 11 - 17, 19, 22 - 28, 30 - 32, 34 - 37, Sch. 4 Pt. II paras. 39, 40, 43 -45, 49 - 51 and Sch. 5 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

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41, 42. . . . . F194

Textual Amendments

F194 Sch. 4 Pt. II paras. 41, 42 repealed by S.I. 1981/158 (N.I. 14), art. 44(3), **Sch. 5**

M62Trading Stamps Act (Northern Ireland) 1965

Marginal Citations

M62 1965 c. 6 (N.I.).

X38 43 In section 2, for subsection (1) substitute—

"(1) No person shall after the coming into force of this section issue any trading stamp, or cause any trading stamp to be issued, or deliver any trading stamp to any person in connection with the sale of any goods, the bailment of any goods under a hire-purchase agreement or the performance of any services, unless such trading stamp bears on its face in clear and legible characters a value expressed in or by reference to current coin of the realm".

Editorial Information

X38 The text of ss. 3(a)(b)(c), 5, 42(1)(2)(3), 192(3)(a)(b), Sch. 4 Pt. I paras. 1, 2, 5, 7 - 9, 11 - 17, 19, 22 - 28, 30 - 32, 34 - 37, Sch. 4 Pt. II paras. 39, 40, 43 -45, 49 - 51 and Sch. 5 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

X39 44 In section 3, for subsection (4) substitute—

"(4) In this section "redeemable trading stamps " means trading stamps delivered after the coming into force of this section in accordance with a trading stamp scheme on or in connection with either—

(a) the purchase of any goods,

(b) the bailment of any goods under a hire-purchase agreement, or

(c) the obtaining of any services for money,

and "the holder " in relation to such a trading stamp, means the person to whom it was so delivered or any person who holds it without notice of any defect in title."

Editorial Information

X39 The text of ss. 3(a)(b)(c), 5, 42(1)(2)(3), 192(3)(a)(b), Sch. 4 Pt. I paras. 1, 2, 5, 7 - 9, 11 - 17, 19, 22 - 28, 30 - 32, 34 - 37, Sch. 4 Pt. II paras. 39, 40, 43 -45, 49 - 51 and Sch. 5 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

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[X40]45 In section 9—

(1) after the definition of "cash value " insert—

" "conditional sale agreement " means an agreement for the sale of goods under which the purchase price or part of it is payable by instalments, and the property in the goods is to remain in the seller (notwithstanding that the buyer is to be in possession of the goods) until such conditions as to the payment of instalments or otherwise as may be specified in the agreement are fulfilled ;", and

(2) after the definition of "goods " insert—

" "hire-purchase agreement " means an agreement, other than a conditional sale agreement, under which—

(a) goods are bailed in retum for periodical payments by the person to whom they are bailed, and

(b) the property in the goods will pass to that person if the terms of the agreement are complied with and one or more of the following occurs—

(i) the exercise of an option to purchase by that person,

(ii) the doing of any other specified act by any party to the agreement,

(iii) the happening of any other specified event:"

(3) For the definition of "trading stamp " substitute—

" "trading stamp " means a stamp which is, or is intended to be, delivered to any person on or in connection with either—

(i) the purchase of any goods, or

(ii) the bailment of any goods under a hire-purchase agreement,

(other than the purchase of a newspaper or other periodical of which the stamp forms part or in which it is contained) and is, or is intended to be, redeemable (whether singly or together with other such stamps) by that or some other person:

Provided that a stamp shall not be deemed to be a trading stamp if—

(a) it is delivered or is intended to be delivered to a person (in this definition called "the purchaser ") on or in connection with the purchase of any goods by the purchaser, or the bailment to him of any goods, and

(b) it is intended to be, and is not, redeemable from any person other than—

(i) the person (in this definition called "the selle ") from whom the purchaser purchased those goods or who bailed those goods to him, or

(ii) any person from whom the seller (whether directly or indirectly) acquired those goods, and

(c) in the case where a business is carried on by six or more retail establishments, the stamp is one of a kind obtainable at no more than six of those retail establishments, and not obtainable by the public elsewhere, and the arrangements under which it is redeemable are

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entirely separate from arrangements under which any other stamps, whether trading stamps or not, are redeemable, and references in this definition to the purchase of goods include references to the obtaining of services for money.".

Editorial Information

X40 The text of ss. 3(a)(b)(c), 5, 42(1)(2)(3), 192(3)(a)(b), Sch. 4 Pt. I paras. 1, 2, 5, 7 - 9, 11 - 17, 19, 22 - 28, 30 - 32, 34 - 37, Sch. 4 Pt. II paras. 39, 40, 43 -45, 49 - 51 and Sch. 5 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

46, 47. . . . . F195

Textual Amendments

F195 Sch. 4 Pt. II paras. 46, 47 repealed by Consumer Safety Act 1978 (c. 38), s. 12(1), **Sch. 3**

48 . . . . . F196

Textual Amendments

F196 Sch. 4 Pt. II para. 48 repealed by S.I. 1982/1083 (N.I. 15), art. 35(3), **Sch. 5 Pt. I**

M63 Hire-Purchase Act (Northern Ireland) 1966

Marginal Citations

M63 1966 c. 42(N.I.)

X41 49 For Part VI substitute the following (which reproduces the existing provisions of that Part subject only to changes in terminology)—

"**PART VI**

TITLE TO MOTOR VEHICLES ON HIRE-PURCHASE OR CONDITIONAL SALE

Protection of purchasers of motor vehicles.

62 (1) This section applies where a motor vehicle has, been bailed under a hire-purchase agreement, or has been agreed to be sold under a conditional sale agreement, and, before the property in the vehicle has become vested in the debtor, he disposes of the vehicle to another person.

(2) Where the disposition referred to in subsection (1) is to a private purchaser, and he is a purchaser of the motor vehicle in good faith without notice of the hire-purchase or conditional sale agreement (the "relevant agreement ") that

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disposition shall have effect as if the creditor's title to the vehicle had been vested in the debtor immediately before that disposition.

(3) Where the person to whom the disposition referred to in subsection (1) is made (the "original purchaser ") is a trade or finance purchaser, then if the person who is the first private purchaser of the motor vehicle after that disposition ("the first private purchaser ") is a purchaser of the vehicle in good faith without notice of the relevant agreement, the disposition of the vehicle to the first private purchaser shall have effect as if the title of the creditor to the vehicle had been vested in the debtor immeffiatily before he disposed of it to the original purchaser.

(4) Where, in a case within subsection (3)—

(a) the disposition by which the first private purchaser becomes a purchaser of the motor vehicle in good faith without notice of the relevant agreement is itself a bailment under a hire-purchase agreement, and

(b) the person who is the creditor in relation to that agreement disposes of the vehicle to the first private purchaser, or a person claiming under him, by transferring to him the property in the vehicle in pursuance of a provision in the agreement in that behalf,

the, disposition referred to in paragraph (b) (whether or not the person to whom it is made is a purchaser in good faith without notice of the relevant agreement) shall, as well as the disposition referred to in paragraph (a), have effect as mentioned in subsection (3).

(5) The preceding provisions of this section apply—

(a) notwithstanding anything in section 21 of the Sale of Goods Act 1893 (sale of goods by a person not the owner), but

(b) without prejudice to the provisions of the Factors Act (as defined by section 62(1) of the said Act of 1893) or of any other enactment enabling the apparent owner of goods to dispose of them as if he were the true owner.

(6) Nothing in this section shall exonerate the debtor from any liability (whether criminal or civil) to which he would be subject apart from this section ; and, in a case where the debtor disposes of the motor vehicle to a trade or finance purchaser, nothing in this section shall exonerate—

(a) that trade or finance purchaser, or

(b) any other trade or finance purchaser who becomes a purchaser of the vehicle and is not a person claiming under the first private purchaser,

from any liability (whether criminal or civil) to which he would be subject apart from this section.

Presumptions relating to dealings with motor vehicles.

63 (1) Where in any proceedings (whether criminal or civil) relating to a motor vehicle it is proved—

(a) that the vehicle was bailed under a hire-purchase agreement, or was agreed to be sold under a conditional sale agreement, and

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(b) that a person (whether a party to the proceedings or not) became a private purchaser of the vehicle in good faith without notice of the hire-purchase or conditional sale agreement (the "relevant agreement "),

this section shall have effect for the purpose of the operation of section 62 of this Act in relation to those proceedings.

(2) It shall be presumed for those purposes, unless the contrary is proved, that the disposition of the vehicle to the person referred to in subsection (1)(b) (the "relevant purchaser ") was made by the debtor.

(3) If it is proved that that disposition was not made by the debtor, then it shall be presumed for those purposes, unless the contrary is proved—

(a) that the debtor disposed of the vehicle to a private purchaser purchasing in good faith without notice of the relevant agreement and

(b) that the relevant purchaser is or was a person claiming under the person to whom the debtor so disposed of the vehicle.

(4) If it is proved that the disposition of the vehicle to the relevant purchaser was not made by the debtor, and that the person to whom the debtor disposed of the vehicle (the "original purchaser ") was a trade or finance purchaser, then it shall be presumed for those purposes, unless the contrary is proved,—

(a) that the person who, after the disposition of the vehicle to the original purchaser, first became a private purchaser of the vehicle was a purchaser in good faith without notice of the relevant agreement, and

(b) that the relevant purchaser is or was a person claiming under the original purchaser.

(5) Without prejudice to any other method of proof, where in any proceedings a party thereto admits a fact, that fact shall, for the purposes of this section, be taken as against him to be proved in relation to those proceedings.

Interpretation of Part VI and application to the Crown.

64 (1) In this Part—

"conditional sale agreement " means an agreement for the sale of goods under which the purchase price or part of it is payable by instalments, and the property in the goods is to remain in the seller (notwithstanding that the buyer is to be in possession of the goods) until such conditions as to the payment of instalments or otherwise as may be specified in the agreement are fulfilled ;

"creditor " means the person by whom goods are bailed under a hire-purchase agreement or, as the case may be, the seller under a conditional sale agreement, or the person to whom his rights and duties have passed by assignment or operation of law ;

"disposition " means any sale or contract of sale (including a conditional sale agreement), any bailment under a hire-purchase agreement and any transfer of the property in goods in pursuance of a provision in that behalf contained in a hire-purchase agreement, and includes any transaction purporting to be a disposition (as so defined), and "dispose of " shall be construed accordingly;

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"hire-purchase agreement " means an agreement, other than a conditional sale agreement, under which—

(a) goods are bailed in return for periodical payments by the person to whom they are bailed, and

(b) the property in the goods will pass to that person if the terms of the agreement are complied with and one or more of the following occurs—

(i) the exercise of an option to purchase by that person,

(ii) the doing of any other specified act by any party to the agreement,

(iii) the happening of any other specified event, and "motor vehicle " means a mechanically propelled vehicle intended or adapted for use on roads to which the public has access.

(2) In this Part "trade or finance purchaser " means a purchaser who, at the time of the disposition made to him, carries on a business which consists, wholly or partly,—

(a) of purchasing motor vehicles for the purpose of offering or exposing them for sale, or

(b) of providing finance by purchasing motor vehicles for the purpose of bailing them under hire-purchase agreements or agreeing to sell them under conditional sale agreements,

and "private purchaser " means a purchaser who, at the time of the disposition made to him, does not carry on any such business.

(3) For the purposes of this Part a person becomes a purchaser of a motor vehicle if, and at the time when, a disposition of the vehicle is made to him ; and a person shall be taken to be a purchaser of a motor vehicle without notice of a hire-purchase agreement or conditional sale agreement if, at the time of the disposition made to him, he has no actual notice that the vehicle is or was the subject of any such agreement.

(4) In this Part the "debtor ", in relation to a motor vehicle which has been bailed under a hire-purchase agreement or, as the case may be, agreed to be sold under a conditional sale agreement, means the person who at the material time (whether the agreement has before that time been terminated or not) either—

(a) is the person to whom the vehicle is bailed under that agreement or

(b) is, in relation to the agreement, the buyer, including a person who at that time is, by virtue of section 130(4) of the Consumer Credit Act 1974 treated as a bailee of the vehicle.

(5) In this Part any reference to the title of the creditor to a motor vehicle which has been bailed under a hire-purchase agreement, or agreed to be sold under a conditional sale agreement, and is disposed of by the debtor, is a reference to such title (if any) to the vehicle as, immediately before that disposition, was vested in the person who then was the creditor in relation to the agreement.

(6) This Part binds the Crown to the full extent authorised or permitted by the constitutional laws of Northern Ireland.".

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Editorial Information

X41 The text of ss. 3(a)(b)(c), 5, 42(1)(2)(3), 192(3)(a)(b), Sch. 4 Pt. I paras. 1, 2, 5, 7 - 9, 11 - 17, 19, 22 - 28, 30 - 32, 34 - 37, Sch. 4 Pt. II paras. 39, 40, 43 -45, 49 - 51 and Sch. 5 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

[M64]*Vehicles (Excise) Act (Northern Ireland) 1972*

Marginal Citations

M64 1972 c. 10 (N.I.).

[X42]50 In section 35(1)—

(a) before the definition of "gas " insert —

" "conditional sale agreement " means an agreement for the sale of a vehicle under which the purchase price or part of it is payable by instalments, and the property, in the vehicle is to remain in the seller (notwithstanding, that the buyer is to be in possession of the vehicle) until such conditions as to the payment of instalments or otherwise as may be specified in the agreement are fulfilled ;".

(b) for the definition of "hackney carriage " substitute—

" "hackney carriage " means a mechanically propelled vehicle standing or plying for hire and includes any mechanically propelled vehicle bailed under a hire agreement by a person whose trade it is to sell such vehicles or bail them under hire agreements ;".

(c) After the definition of "hackney carriage " insert—

" "hire agreement " means an agreement for the bailment of a vehicle which is not a hire-purchase agreement ;

"hire-purchase agreement " means an agreement, other than a conditional sale agreement, under which—

(a) a vehicle is bailed in return for periodical payments by the person to whom it is bailed, and

(b) the property in the vehicle will pass to that person if the terms of the agreement are complied with and one or more of the following occurs—

(i) the exercise of an option to purchase by that person,

(ii) the doing of any other specified act by any party to the agreement,

(iii) the happening of any other specified event;".

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Editorial Information

X42 The text of ss. 3(a)(b)(c), 5, 42(1)(2)(3), 192(3)(a)(b), Sch. 4 Pt. I paras. 1, 2, 5, 7 - 9, 11 - 17, 19, 22 - 28, 30 - 32, 34 - 37, Sch. 4 Pt. II paras. 39, 40, 43 -45, 49 - 51 and Sch. 5 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

[M65]Miscellaneous Transferred Excise Duties Act (Northern Ireland) 1972

Marginal Citations

M65 1972 c. II (N.I.).

[X43]51 In section 1(2) for "VII " where first occurring substitute "V " and for "to VIII " where secondly occurring substitute "and V ".

Editorial Information

X43 The text of ss. 3(a)(b)(c), 5, 42(1)(2)(3), 192(3)(a)(b), Sch. 4 Pt. I paras. 1, 2, 5, 7 - 9, 11 - 17, 19, 22 - 28, 30 - 32, 34 - 37, Sch. 4 Pt. II paras. 39, 40, 43 -45, 49 - 51 and Sch. 5 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

[X44]SCHEDULE 5

Section 192 (3)(b).

REPEALS

Editorial Information

X44 The text of ss. 3(a)(b)(c), 5, 42(1)(2)(3), 192(3)(a)(b), Sch. 4 Pt. I paras. 1, 2, 5, 7 - 9, 11 - 17, 19, 22 - 28, 30 - 32, 34 - 37, Sch. 4 Pt. II paras. 39, 40, 43 -45, 49 - 51 and Sch. 5 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

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SCHEDULE 5

REPEALS

PART I

UNITED KINGDOM

Chapter	Short Title	Extent of Repeal
1835 (5 & 6 Will. 4.) c. 62.	Statutory Declarations Act 1835.	Section 12.
1839 (2 & 3 Vict.) c. 47.	Metropolitan Police Act 1839.	Section 50.
1839 (2 & 3 Vict.) c. 71.	Police Courts (Metropolis) Act 1839.	In section 27 the words "pawned, pledged" and the words "or of any person who shall have advanced money upon the credit of such goods". In section 28 the words "pawned, pledged or" (in each place).
1872 (35 & 36 Vict.) c. 93.	Pawnbrokers Act 1872.	The whole Act.
1875 (38 & 39 Vict.) c. 25.	Public Stores Act 1875.	In section 9 the words "or a pawnbroker" and "or to pawnbrokers".
1891 (54 & 55 Vict.) c. 50.	Commissioners for Oaths Act 1891.	In section 1, the words "or the Pawnbrokers Act 1872".
1892 (55 & 56 Vict.) c. 4.	Betting and Loans (Infants) Act 1892.	Sections 2 to 4. Section 6, except as far as it extends to Northern Ireland. In section 7, the definitions of "indictment" and "summary conviction".
1892 (55 & 56 Vict.) c. 55.	Burgh Police (Scotland) Act 1892.	In section 453, the words "and all offences committed against the provisions of the Pawnbrokers Act 1872,".
1894 (56 & 57 Vict.) c. 71.	Sale of Goods Act 1893.	Section 14(6).
1894 (56 & 57 Vict.) c. 73.	Local Government Act 1894.	Section 27(1)(*b*).
1897 (60 & 61 Vict.) c. 30.	Police (Property) Act 1897.	In section 1(1), the words "or section thirty-four of the Pawnbrokers Act 1872".
1900 (63 & 64 Vict.) c. 51.	Moneylenders Act 1900.	The whole Act.
1908 (8 Edw. 7.) c. 53.	Law of Distress Amendment Act 1908.	In section 4(1) the words "bill of sale, hire purchase agreement or".
1927 (17 & 18 Geo. 5.) c. 21.	Moneylenders Act 1927.	The whole Act.
1933 (23 & 24 Geo. 5.) c. 12.	Children and Young Persons Act 1933.	Section 8.

Chapter	Short Title	Extent of Repeal
1937 (1 Edw. 8 & 1 Geo. 6.) c. 37.	Children and Young Persons (Scotland) Act 1937.	Section 19.
1939 (2 & 3 Geo. 6.) c. 75.	Compensation (Defence) Act 1939.	In section 18(1) the words from "the expression 'hire purchase agreement'" to "omitted".
1939 (2 & 3 Geo. 6.) c. 102.	Liability for War Damage (Miscellaneous Provisions) Act 1939.	Sections 4 and 6(*b*).
1940 (3 & 4 Geo. 6.) c. 42.	Law Reform (Miscellaneous Provisions) (Scotland) Act 1940.	In section 4(2), paragraphs (*b*) and (*c*).
1945 (8 & 9 Geo. 6.) c. 16.	Limitation (Enemies and War Prisoners) Act 1945.	In section 2, the words "subsection (1) of section thirteen of the Moneylenders Act 1927". In section 4, the words "subsection (1) of section thirteen of the Moneylenders Act1927".
1948 (11 & 12 Geo. 6.) c. 38.	Companies Act 1948.	Section 201(2)(*c*).
1949 (12 & 13 Geo. 6.) c. 47.	Finance Act 1949.	In section 15, subsections (1) to (3) and (6) to (8A).
1952 (15 & 16 Geo. 6 & 1 Eliz. 2.) c. 44.	Customs and Excise Act 1952.	In section 313(1) the words "or section fifteen of the Finance Act 1949".
1956 (4 & 5 Eliz. 2.) c. 68.	Restrictive Trade Practices Act 1956.	Section 26(4) from "and for the reference to a hire-purchase agreement' 'onwards. Section 26(5).
1960 (8 & 9 Eliz. 2.) c. 24.	Pawnbrokers Act 1960.	The whole Act.
1961 (9 & 10 Eliz. 2.) c. 36.	Finance Act 1961.	Section 11(1) from "or section 15 of the Finance Act 1949" onwards.
1964 c. 42.	Administration of Justice Act 1964.	Section 9(3)(*b*).
1964 c. 53.	Hire-Purchase Act 1964.	The whole Act, except Part III and section 37.
1964 c. 60.	Emergency Laws (Re-enactment and Repeals) Act 1964.	Section 1(4).
1964 c. 71.	Trading Stamps Act 1964.	In section 10(1) the definition of "purchase".
1965 c. 66.	Hire-Purchase Act 1965.	The whole Act.
1965 c. 67.	Hire-Purchase (Scotland) Act 1965.	The whole Act.
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 the Moneylenders Act 1927.

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Chapter	Short Title	Extent of Repeal
1966 c. 51.	Local Government (Scotland) Act 1966.	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.
1967 c. 42.	Advertisements (Hire-Purchase) Act 1967.	The whole Act.
1967 c. 81.	Companies Act 1967.	Sections 123 to 125.
1968 c. 60.	Theft Act 1968.	In Schedule 2, Part III, the entry relating to the Pawnbrokers Act 1872.
1969 c. 19.	Decimal Currency Act 1969.	In Schedule 2, paragraph 2.
1969 c. 48.	Post Office Act 1969.	In Schedule 4, paragraph 31.
1971 c. 23.	Courts Act 1971.	In Schedule 9, Part I, the entries relating to the Pawnbrokers Act 1872 and the Moneylenders Act 1927.
1972 c. 70.	Local Government Act 1972.	Section 213(1)(*a*) and (*b*) and (3).
1973 c. 65.	Local Government (Scotland) Act 1973.	In Schedule 27, paragraph 96.
		In Schedule 29, the entry relating to the Finance Act 1949.

PART II
NORTHERN IRELAND

Chapter	Short Title	Extent of Repeal
1842 (5 & 6 Vict.) c. 75.	Charitable Pawn Offices (Ireland) Act 1842.	The whole Act.
1933 c. 23 (N.I.).	Money lenders Act (Northern Ireland) 1933.	The whole Act.
1939 c. 36 (N.I.).	Liability for War Damage (Miscellaneous Provisions) Act (Northern Ireland) 1939.	In section 5(1) the definition of " hire-purchase agreement ".
1949 c. 2 (N.I.).	Agriculture Act (Northern Ireland) 1949.	Section 7(2).
1954 c. 30 (N.I.).	Pawnbrokers Act (Northern Ireland) 1954.	The whole Act.
1957 c. 19 (N.I.).	Betting and Lotteries Act (Northern Ireland) 1957	Section 3(1)(*j*).
1960 c. 22 (N.I.).	Companies Act (Northern Ireland) 1960.	Section 192(3)(*c*).
1965 c. 6 (N.I.).	Trading Stamps Act (Northern Ireland) 1965.	In section 9 the definition of " purchase ".
1966 c. 42 (N.I.).	Hire-Purchase Act (Northern Ireland) 1966.	The whole Act except Part VI and section 68.
1967 c. 29 (N.I.).	Increase of Fines Act (Northern Ireland) 1967.	In Part I of the Schedule the entries relating to the Moneylenders Act (Northern Ireland) 1933.

Chapter	Short Title	Extent of Repeal
1968 c. 28 (N.I.).	Criminal Justice (Miscellaneous Provisions) Act (Northern Ireland) 1968.	In Schedule 2 the entry relating to the Moneylenders Act (Northern Ireland) 1933.
1969 c. 16 (N.I.).	Theft Act (Northern Ireland) 1969.	In Schedule 2 the entry relating to the Pawnbrokers Act (Northern Ireland) 1954.
1969 c. 24 (N.I.).	Industrial and Provident Societies Act (Northern Ireland) 1969.	Section 96.
1969 c. 27 (N.I.).	Moneylenders (Amendment) Act (Northern Ireland) 1969.	The whole Act.
1969 c. 30 (N.I.).	Judgments (Enforcement) Act (Northern Ireland) 1969.	In Schedule 4 the amendments of the Hire-Purchase Act (Northern Ireland) 1966.
1971 c. 13 (N.I.).	Licensing Act (Northern Ireland) 1971.	Section 2(5)(*b*).
1972 c. 11 (N.I.).	Miscellaneous Transferred Excise Duties Act (Northern Ireland) 1972.	Parts VI and VII.
		In Schedule 4 the entry relating to the Pawnbrokers Act (Northern Ireland) 1954.

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