Consumer Credit Act 1974

1974 CHAPTER 39

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,

[[F1](da) debt administration,**]**

[[F2](db) the provision of credit information services, or**]**

(e) the operation of a credit reference agency.

(2) Subject to section 146(5) **[**[F3]and (5A)**]**, 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.

Status: *Point in time view as at 01/10/2008.*
Changes to legislation: *Consumer Credit Act 1974, Cross Heading: Definitions is up to date with all changes known to be in force on or before 18 May 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) Subsection (2)(a)(i) applies to—

(a) a consumer credit business;

(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 **[**[F4]law applicable to**]** the agreement is the law of a country outside the United Kingdom, and

(ii) if the **[**[F4]law 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;

[[F5](aa) a business which comprises or relates to consumer hire agreements being, otherwise than by virtue of section 16(6), exempt agreements;**]**

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

(i) the**[**[F4]law applicable to**]** the agreement is the law of a country outside the United Kingdom, and

(ii) if th **[**[F4]law 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 **[**[F6]section 146(5B) and (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 **[**[F7]section 146(5C) and (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.

[[F8](7A) Subject to section 146(7), debt administration is the taking of steps—

(a) to perform duties under a consumer credit agreement or a consumer hire agreement on behalf of the creditor or owner, or

(b) to exercise or to enforce rights under such an agreement on behalf of the creditor or owner,

so far as the taking of such steps is not debt-collecting.**]**

[[F9](7B) A person provides credit information services if—

(a) he takes any steps mentioned in subsection (7C) on behalf of an individual; or

(b) he gives advice to an individual in relation to the taking of any such steps.

(7C) Those steps are steps taken with a view—

(a) to ascertaining whether a credit information agency (other than that person himself if he is one) holds information relevant to the financial standing of an individual;

(b) to ascertaining the contents of such information held by such an agency;

(c) to securing the correction of, the omission of anything from, or the making of any other kind of modification of, such information so held; or

(d) to securing that such an agency which holds such information—

(i) stops holding it; or

(ii) does not provide it to another person.

(7D) In subsection (7C) 'credit information agency' means—

(a) a person carrying on a consumer credit business or a consumer hire business;

(b) a person carrying on a business so far as it comprises or relates to credit brokerage, debt-adjusting, debt-counselling, debt-collecting, debt administration or the operation of a credit reference agency;

(c) a person carrying on a business which would be a consumer credit business except that it comprises or relates to consumer credit agreements being, otherwise than by virtue of section 16(5)(a), exempt agreements; or

(d) a person carrying on a business which would be a consumer hire business except that it comprises or relates to consumer hire agreements being, otherwise than by virtue of section 16(6), exempt 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

F1 S. 145(1)(da) substituted (1.10.2008) for word by Consumer Credit Act 2006 (c. 14), ss. {24(1)}, 71(2); S.I. 2007/3300, **art. 3(3)**, Sch. 3

F2 S. 145(1)(db) inserted (1.10.2008) by Consumer Credit Act 2006 (c. 14), ss. {25(1)}, 71(2); S.I. 2007/3300, **art. 3(3)**, Sch. 3

F3 Words in s. 145(2) inserted (31.10.2004) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No. 1) Order 2003 (S.I. 2003/1475), arts. 1(3), **21(1)(a)**

F4 Words in s. 145(3)(c)(4)(b) substituted (1.4.1991) by Contracts (Applicable Law) Act 1990 (c. 36, SIF 30), s. 5, **Sch. 4 para. 2** ; S.I. 1991/707, **art. 2**

F5 S. 145(4)(aa) inserted (6.4.2008) by Consumer Credit Act 2006 (c. 14), ss. {5(4)}, 71(2); S.I. 2007/3300, **art. 3(2)**, Sch. 2

F6 Words in s. 145(5) substituted (31.10.2004) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No. 1) Order 2003 (S.I. 2003/1475), arts. 1(3), **21(1)(b)**

F7 Words in s. 145(6) substituted (31.10.2004) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No. 1) Order 2003 (S.I. 2003/1475), arts. 1(3), **21(1)(c)**

F8 S. 145(7A) inserted (16.6.2006) by Consumer Credit Act 2006 (c. 14), ss. {24(2)}, 71(2); S.I. 2006/1508, **art. 3(1)**, Sch. 1

F9 S. 145(7B)-(7D) inserted (16.6.2006) by Consumer Credit Act 2006 (c. 14), ss. {25(2)}, 71(2); S.I. 2006/1508, **art. 3(1)**, Sch. 1

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 **[**[F10]section 87(1) of the Solicitors Act 1974**]**) 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 [M1]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 **[**[F11]contentious business (as defined in Article 3(2) of the Solicitors (Northern Ireland) Order 1976.**]**, 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).

[[F12](5A) It is not credit brokerage for a person to effect the introduction of an individual desiring to obtain credit if the introduction is made—

[[F13](a) to an authorised person, within the meaning of the 2000 Act, who has permission under that Act to enter into a relevant agreement as lender or home purchase provider (as the case may be); or**]**

(b) to a qualifying broker,

with a view to that individual obtaining credit under **[**[F14]the relevant agreement**]** .

(5B) It is not debt-adjusting for a person to carry on an activity mentioned in paragraph (a), (b) or (c) of section 145(5) if—

(a) the debt in question is due under a relevant agreement; and

(b) that activity is a regulated activity for the purposes of the 2000 Act.

(5C) It is not debt-counselling for a person to give advice to debtors about the liquidation of debts if—

(a) the debt in question is due under a relevant agreement; and

(b) giving that advice is a regulated activity for the purposes of the 2000 Act.

(5D) In this section—

"the 2000 Act" means the Financial Services and Markets Act 2000;

[[F15]"relevant agreement" means an agreement which—

(a) is secured by a land mortgage, or

(b) is or forms part of a regulated home purchase plan,

but only if entering into the agreement as lender or home purchase provider (as the case may be) is a regulated activity for the purposes of the 2000 Act.**]**

"qualifying broker" means a person who may effect introductions of the kind mentioned in subsection (5A) without contravening the general prohibition, within the meaning of section 19 of the 2000 Act,

and references to "regulated activities"**[**[F16], "regulated home purchase plan" and "home purchase provider"**]** and the definition of "qualifying broker" must be read with—

(a) section 22 of the 2000 Act (regulated activities: power to specify classes of activity and categories of investment);

(b) any order for the time being in force under that section; and

(c) Schedule 2 to that Act.**]**

(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 **[**[F17]any of the following conditions is satisfied**]**—

[[F18](aa) that he is the creditor or owner under the agreement, or**]**

(c) **[**[F19]that**]** he is the supplier in relation to the agreement, or

(d) **[**[F19]that**]** he is a credit-broker who has acquired the business of the person who was the supplier in relation to the agreement, or

(e) **[**[F19]that**]** 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.

[[F20](7) It is not debt administration for a person to take steps to perform duties, or to exercise or enforce rights, under an agreement on behalf of the creditor or owner if any of the conditions mentioned in subsection (6)(aa) to (e) is satisfied in relation to that person.**]**

Textual Amendments

F10 Words in s. 146(2) substituted (31.1.1997 subject to transitional provisions) by 1996 c. 23, s. 107(1), **Sch. 3 para. 28(2)** (with s. 81(2)); S.I. 1996/3146, **art. 3**

F11 Words in s. 146(4) substituted (31.1.1997 subject to transitional provisions) by 1996 c. 23, s. 107(1), **Sch. 3** para, 28(3) (with s. 81(2)); S.I. 1996/3146, **art. 3**

F12 S. 146(5A)-(5D) inserted (31.10.2004) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No. 1) Order 2003 (S.I. 2003/1475), arts. 1(3), **21(2)**

F13 S. 145(5A)(a) substituted (6.11.2006 for certain purposes and 6.4.2007 otherwise) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No.2) Order 2006 (S.I. 2006/2383), arts. 1(2), **25(4)(a)(i)**

F14 Words in s. 145(5A) substituted (6.11.2006 for certain purposes and 6.4.2007 otherwise) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No.2) Order 2006 (S.I. 2006/2383), arts. 1(2), **25(4)(a)(ii)**

F15 S. 145(5D): definition of "relevant agreement" substituted (6.11.2006 for certain purposes and 6.4.2007 otherwise) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No.2) Order 2006 (S.I. 2006/2383), arts. 1(2), **25(4)(b)(i)**

F16 Words in s. 145(5D) inserted (6.11.2006 for certain purposes and 6.4.2007 otherwise) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No.2) Order 2006 (S.I. 2006/2383), arts. 1(2), **25(4)(b)(ii)**

F17 Words in s. 146(6) inserted (1.10.2008) by Consumer Credit Act 2006 (c. 14), ss. {24(3)(a)}, 71(2); S.I. 2007/3300, **art. 3(3)**, Sch. 3

F18 S. 146(6)(aa) substituted (1.10.2008) for s. 146(6)(a)(b) by Consumer Credit Act 2006 (c. 14), ss. {24(3)(b)}, 71(2); S.I. 2007/3300, **art. 3(3)**, Sch. 3

F19 Word in s. 146(6)(c)-(e) inserted (1.10.2008) by Consumer Credit Act 2006 (c. 14), ss. {24(3)(c)}, 71(2); S.I. 2007/3300, **art. 3(3)**, Sch. 3

F20 S. 146(7) inserted (16.6.2006) by Consumer Credit Act 2006 (c. 14), ss. {24(4)}, 71(2); S.I. 2006/1508, **art. 3(1)**, Sch. 1

Modifications etc. (not altering text)

C1 S. 146(2)(4) amended (1.1.1992) by S.I. 1991/2684, arts. 2, 4, **Sch. 1**

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M1 1933 c. 21.

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