



Consumer Credit Act 1974

1974 CHAPTER 39

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—
 - (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 ^[F1] or the Estate Agents Act 1979 ^[F2] or the Competition Act 1980 ^[F3] or the Telecommunications Act 1984 ^[F4] or the Gas Act 1986 ^[F5] or the Airports Act 1986 ^[F6] or the Consumer Protection Act 1987 ^[F7] or the Water Act 1989 ^[F8] the Water Industry Act 1991 or any of the other consolidation Acts (within the meaning of Section 206 of that Act of 1991) ^[F9] or the Electricity Act 1989 ^[F10] or the Electricity (Northern Ireland) Order 1992 ^[F11] or the Gas (Northern Ireland) Order 1996 ^[F12] or Part IV of the Airports (Northern Ireland) Order 1994 ^[F13] or the Consumer Protection (Northern Ireland) Order 1987 ^[F14] or the Control of Misleading Advertisements Regulations 1988 ^[F15] or the Courts and Legal Services Act 1990 ^[F16] or the Railways Act 1993 ^[F17] or the Coal Industry Act 1994; of the Secretary of State, any other Minister ^[F3] the Director General of Telecommunications, ^[F4] the Director General of Gas Supply, ^[F5] the Civil Aviation Authority, ^[F18] the Director General of Water Services, ^[F19] the Director General of Electricity Supply, ^[F11] the Director General of Electricity Supply for Northern Ireland ^[F11] or the Director General of Gas for Northern Ireland ^[F16] the Rail Regulator ^[F20] the Authorised Conveyancing Practitioners

Status: Point in time view as at 01/12/2001. This version of this part contains provisions that are not valid for this point in time.

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- Board, the Coal Authority] 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 ^{M1}Fair Trading Act 1973 [^{F21}or under the control of Misleading Advertisements Regulations 1988].
- [^{F22}(3A) Subsections (1) and (2) do not apply to any disclosure of information by the Director to the Financial Services Authority for the purpose of—
- (a) enabling or assisting the Authority to discharge any of its functions;
- (b) enabling or assisting the Director to discharge any of his functions under this Act or the Financial Services and Markets Act 2000.]
- (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

- F1** Words added by [Estate Agents Act 1979 \(c. 38, SIF 124:4\)](#), s. **10(4)(b)**
- F2** Words added by virtue of [Competition Act 1980 \(c. 21, SIF 124:1\)](#), s. **19(4)(d)**
- F3** Words inserted by [Telecommunications Act 1984 \(c. 12, SIF 96\)](#), s. 109, [Sch. 4 para. 60\(2\)](#), **Sch. 5 para. 45**
- F4** Words inserted (E.W.S) by [Gas Act 1986 \(c. 44, SIF 44:2\)](#), s. 67(1), **Sch. 7 para. 19**
- F5** Words inserted by [Airports Act 1986 \(c. 31, SIF 9\)](#), s. 83(1), **Sch. 4 para. 4**
- F6** Words inserted by [Consumer Protection Act 1987 \(c. 43, SIF 109:1\)](#), s. 48, **Sch. 4 para. 4**
- F7** 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**
- F8** Words in s. 174(3)(a) inserted (E.W.) (1.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991 \(c. 60, SIF 130\)](#), ss. 2, 4(2), **Sch. 1 para. 26**
- F9** 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)**
- F10** Words in s. 174(3)(a) inserted (N.I.) (1.4.1992) by [S.I. 1992/231 \(N.I. 1\)](#), art. 95(1), **Sch. 12 para. 14(b)**; [S.R. 1992/117](#), **art. 3(1)**.
- F11** Words in s. 174(3)(a) inserted (N.I.) (10.6.1996) by [S.I. 1996/275 \(N.I. 2\)](#), art. 71(1), **Sch. 6** (with [Sch. 7 paras. 2, 3\(2\)](#)); [S.R. 1996 No. 216](#), **art. 2**
- F12** Words inserted (N.I.) (1.9.1995) by [S.I. 1994/426 \(N.I. 1\)](#), art. 71(2), **Sch. 9 para. 4**; [SR. 1995 No. 294](#), **art. 2**, **Sch.**
- F13** 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**
- F14** Words inserted (20.6.1988) after “Consumer Protection Act 1987 ” by [S.I. 1988/915](#), **reg. 7(6)(b)(i)**
- F15** Words inserted (*prosp.*) by [Courts and Legal Services Act 1990 \(c. 41, SIF 37\)](#), ss. 124(3), 125(3), **Sch. 18 para. 6(a)**
- F16** Words in s. 174(3)(a) inserted (6.1.1994) by [1993 c. 43](#), ss. 150(1)(o), 152(1), **Sch. 12 para. 8**; [S.I. 1993/3237](#), **art. 2(2)**.
- F17** Words in s. 174(3) inserted (31.10.1994) by [1994 c. 21](#), s. 67, **Sch. 9 para. 15(a)** (with ss. 40(7) and 66); [S.I. 1994/2553](#), **art. 2**

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- F18** 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**
- F19** 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)**
- F20** Words in s. 174(3) substituted (31.10.94) by 1994 c. 21, s. 67, **Sch. 9 para. 15(b)** (with ss. 40(7), 66); S.I. 1994/2553, **art. 2**
- F21** Words inserted by S.I. 1988/915, **reg. 7(6)(b)(ii)**
- F22** S. 174(3A) substituted (1.12.2001) by S.I. 2001/3649, **art. 175**

Modifications etc. (not altering text)

- C1** S. 174 extended (1.1.1993) by S.I. 1992/3218, **reg. 62**
s. 174 extended (1.1.1996) by S.I. 1995/3275, **art. 39**
- C2** S. 174(3): disclosure powers extended (14.12.2001) by 2001 c. 24, s. 17, **Sch. 4 Pt. 1 para. 11**

Marginal Citations

- M1** 1973 c. 41.

VALID FROM 06/04/2008

^{F23}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

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(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 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

F23 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—

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- (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.
- (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.
- [^{F24}(7) The following enactments shall not be construed as authorising service on the Public Trustee (in England and Wales) or the Probate Judge (in Northern Ireland) of any document which is to be served under this Act—
- section 9 of the Administration of Estates Act 1925;
 - section 3 of the 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.

Textual Amendments

F24 S. 176(7) substituted (1.7.1995) by 1994 c. 36, s. 21(1), Sch. 1 para. 6 (with s. 20); S.I. 1995/1317, art. 3

VALID FROM 31/12/2004

[^{F25}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.]

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Textual Amendments

F25 S. 176A inserted (31.12.2004) by [The Consumer Credit Act 1974 \(Electronic Communications\) Order 2004 \(S.I. 2004/3236\)](#), [art. 2\(7\)](#)

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 ^{M2}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 ^{M3}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 ^{M4}Land Registration Act 1925) shall be construed as a reference to the registered owner of a charge under the ^{M5}Local Registration of Title (Ireland) Act 1891 or Part IV of the ^{M6}Land Registration Act (Northern Ireland) 1970, and
 - (b) for the reference to section 104 of the ^{M7}Law of Property Act 1925 there shall be substituted a reference to section 21 of the ^{M8}Conveyancing and Law of Property Act 1881 and section 5 of the ^{M9}Conveyancing Act 1911.

Marginal Citations

M2 1925 c. 21.

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M3	1925 c. 20.
M4	1925 c. 21.
M5	1891 c. 66.
M6	1970 c. 18 (N.I.)
M7	1925 c. 20.
M8	1881 c. 41.
M9	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;

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(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.

(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.

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- (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.
- (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.
 - [^{F26}(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—

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- (a) one or more of those persons is an individual, and
- (b) one or more of them is a body corporate,

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

F26 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.

[^{F27}(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

F27 S. 187(3A) inserted by [Banking Act 1987 \(c. 22, SIF 10\)](#), s. 89

VALID FROM 16/06/2006

[^{F28}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

F28 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 transactions 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;

Status: Point in time view as at 01/12/2001. This version of this part contains provisions that are not valid for this point in time.

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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;

^{F29} . . .

“bill of sale ” has the meaning given by section 4 of the ^{M10}Bills of Sale Act 1878 or, for Northern Ireland, by section 4 of the ^{M11}Bills of Sale (Ireland) Act 1879;

[^{F30} “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 [^{F31}the Charities Act 1993] 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;

“costs ”, in relation to Scotland, means expenses;

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“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 [^{F32}(except in section 16(10) and 25(1B))]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 [^{F33}the Electricity Act 1989] or, for Northern Ireland, [^{F34}the Electricity (Northern Ireland) Order 1992]

“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 [^{F35}or treated as registered under the Friendly Societies Act 1974 or the Friendly Societies Act 1992] or a society within the meaning of the ^{M12}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 ” ^{M13} has the meaning given by [^{F36}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;

^{F29}

“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 ^{M14}Improvement of Land Act 1899;

“land mortgage ” includes any security charged on land;

“licence ” means a licence under Part III (including that Part as applied to ancillary credit businesses by section 147);

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“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 ^{F37}. . . , means . . . ^{F38}, 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 [^{F39}in relation to Wales means a county council or a county borough council,], and in relation to Scotland, means a [^{F40}council constituted under section 2 of the Local Government etc. (Scotland) Act 1994], and, in relation to Northern Ireland, means a district council;

[^{F41}. . .]

“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 ^{M15}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 “unrestricted-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 ^{M16}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

- F29** S. 189(1): definitions repealed (1.12.2001) by [S.I. 2001/3649](#), **art. 176(a)**
- F30** Definition of “building society ” substituted by [Building Societies Act 1986 \(c. 53, SIF 16\)](#), s. 120, **Sch. 18 para. 10(4)**
- F31** S. 189(1): words in definition of “charity ” substituted (1.8.1993) by [1993 c. 10, ss. 98\(1\), 99\(1\)](#), **Sch. 6 para. 30.**
- F32** S. 189(1): words in definition of “deposit ” inserted (1.12.2001) by [S.I. 2001/3649](#), **art. 176(b)**
- F33** 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)**
- F34** S. 189(1): words in definition of "electric line" substituted (N.I.) (1.4.1992) by [S.I. 1992/231 \(N.I. 1\)](#), **art. 95(1)**, **Sch. 12 para. 15**; [S.R. 1992/117](#), **art. 3.**
- F35** S. 189(1): words in definition of “friendly society ” substituted (1.12.2001) by [S.I. 2001/3649](#), **art. 176(c)**
- F36** Words substituted by [Sale of Goods Act 1979 \(c. 54, SIF 109:1\)](#), s. 63, **Sch. 2 para. 18**
- F37** Words in s. 189(1) repealed (E.W) (1.4.1996) by [1994 c. 19, s. 66\(6\)\(8\)](#), **Sch. 16 para. 45**, **Sch. 18** (with [ss. 54\(5\)\(7\), 55\(5\)](#)); [S.I. 1996/396](#), **art. 4**, **Sch. 2**
- F38** Words repealed by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 102, **Sch. 17**
- F39** Words in s. 189(1) inserted (E.W) (1.4.1996) by [1994 c. 19, s.66\(6\)\(8\)](#), **Sch. 16 para. 45** (with [ss. 54\(5\)\(7\), 55\(5\)](#)); [S.I. 1996/396](#), **art. 4**, **Sch. 2**

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F40 Words in s. 189(1) substituted (S.) (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 94**; S.I. 1996/323, **art. 4(1)**

F41 Definition of “minor” in relation to Scotland repealed (S.) (25.9.1991) by **Age of Legal Capacity (Scotland) Act 1991 (c. 50, SIF 60)**, ss. 10, 11(2), **Sch. 2** (with s. 1(3)).

Marginal Citations

M10 1878 c. 31.

M11 1879 c. 50.

M12 1970 c. 31. (N.I.)

M13 1894 c. 71 (56 & 57 Vict.).

M14 1899 c. 46.

M15 1962 c. 30.

M16 1971 c. 80.

[^{F42}189A Meaning of “consumer credit EEA firm ”

In this Act “consumer credit EEA firm ” means an EEA firm falling within subparagraph (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

F42 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 ^{M17}Superannuation Act 1972 or the ^{M18}Fair Trading Act 1973.
- (2) Any fees received by the Director under this Act shall be paid into the Consolidated Fund.

Marginal Citations

M17 1972 c. 11.

M18 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,—

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- (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).
 - (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 [^{F43}Statutory Rules (Northern Ireland) Order 1979], and any such order shall be subject to negative resolution within the meaning of the ^{M19}Interpretation 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 ^{M20}Interpretation 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

F43 Words substituted by [S.I. 1979/1573, art. 11\(1\)](#), [Sch. 4 para. 15](#)

Marginal Citations

M19 1954 c. 33. (N.I.)

M20 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.
- ^{X1}(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

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- (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.

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

- 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.

193 Short title and extent.

- (1) This Act may be cited as the Consumer Credit Act 1974.
- (2) This Act extends to Northern Ireland.

Status:

Point in time view as at 01/12/2001. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation:

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