



Consumer Credit Act 2006

2006 CHAPTER 14

Businesses requiring a licence and consequences of not being licensed

23 Definitions of “consumer credit business” and “consumer hire business”

In section 189(1) of the 1974 Act (definitions)—

(a) for the definition of “consumer credit business” substitute—

“consumer credit business’ means any business being carried on by a person so far as it comprises or relates to—

- (a) the provision of credit by him, or
- (b) otherwise his being a creditor,

under regulated consumer credit agreements;”

(b) for the definition of “consumer hire business” substitute—

“consumer hire business’ means any business being carried on by a person so far as it comprises or relates to—

- (a) the bailment or (in Scotland) the hiring of goods by him, or
- (b) otherwise his being an owner,

under regulated consumer hire agreements;”.

24 Debt administration etc.

(1) In subsection (1) of section 145 of the 1974 Act (types of ancillary credit business) for the “or” after paragraph (d) substitute—

“(da) debt administration.”.

(2) After subsection (7) of that section insert—

“(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.”

- (3) In subsection (6) of section 146 of that Act (persons who are to be treated as not carrying on types of ancillary credit businesses)—
- (a) after “an agreement if” insert “any of the following conditions is satisfied”;
 - (b) for paragraphs (a) and (b) substitute—
 - “(aa) that he is the creditor or owner under the agreement, or”;
 - (c) at the beginning of each of paragraphs (c) to (e) insert “that”.
- (4) After that subsection insert—
- “(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.”
- (5) In subsection (3) of section 177 of that Act (saving for registered charges) and in the subsection (3) applied by virtue of subsection (5) of that section for “a business of debt-collecting” substitute “a consumer credit business, a consumer hire business or a business of debt-collecting or debt administration”.
- (6) In section 189(1) of that Act (definitions) after the definition of “debt-adjusting” insert—
- “‘debt administration’ has the meaning given by section 145(7A);”.

25 Credit information services

- (1) In subsection (1) of section 145 of the 1974 Act (types of ancillary credit business) before paragraph (e) insert—
- “(db) the provision of credit information services, or”.
- (2) Before subsection (8) of that section insert—
- “(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.”
- (3) In section 151 of that Act (advertisements relating to ancillary credit businesses)—
- (a) in subsection (2) for “or” substitute “to” and after “liquidation of debts” insert “or to provide credit information services”;
 - (b) in subsection (3) for “or debt-counselling” substitute “, debt-counselling or the provision of credit information services”;
 - (c) in subsection (4) after “advertisement” insert “(other than one for credit information services)”.
- (4) In each of the following provisions of that Act for “or debt-counselling” substitute “, debt-counselling or the provision of credit information services”—
- (a) section 152(1) (application of sections 52 to 54 to ancillary credit businesses);
 - (b) section 154 (prohibition of canvassing ancillary credit business off trade premises);
 - (c) section 156 (regulations about agreements entered into for ancillary credit businesses).
- (5) In section 189(1) of that Act (definitions) after the definition of “credit brokerage” insert—
- “‘credit information services’ has the meaning given by section 145(7B).”

26 Enforcement of agreements by unlicensed trader etc.

- (1) In section 40 of the 1974 Act (enforcement of regulated agreements made by unlicensed trader) for subsections (1) and (2) substitute—
- “(1) A regulated agreement is not enforceable against the debtor or hirer by a person acting in the course of a consumer credit business or a consumer hire business (as the case may be) if that person is not licensed to carry on a consumer credit business or a consumer hire business (as the case may be) of a description which covers the enforcement of the agreement.
- (1A) Unless the OFT has made an order under subsection (2) which applies to the agreement, a regulated agreement is not enforceable against the debtor or hirer if—
- (a) it was made by the creditor or owner in the course of a consumer credit business or a consumer hire business (as the case may be); and

Status: This is the original version (as it was originally enacted).

- (b) at the time the agreement was made he was not licensed to carry on a consumer credit business or a consumer hire business (as the case may be) of a description which covered the making of the agreement.

(2) Where—

- (a) during any period a person (the ‘trader’ has made regulated agreements in the course of a consumer credit business or a consumer hire business (as the case may be), and
- (b) during that period he was not licensed to carry on a consumer credit business or a consumer hire business (as the case may be) of a description which covered the making of those agreements,

he or his successor in title may apply to the OFT for an order that the agreements are to be treated for the purposes of subsection (1A) as if he had been licensed as required.”

(2) In subsection (4) of that section—

- (a) in paragraph (a) for “regulated agreements made by the trader during that period” substitute “the regulated agreements in question”;
- (b) in paragraph (b) after “covering” insert “the making of those agreements during”;
- (c) in paragraph (c) for “obtain a licence” substitute “be licensed as required”.

(3) In subsection (6) of that section after “This section” insert “(apart from subsection (1))”.

(4) After that subsection insert—

- “(7) Subsection (1) does not apply to the enforcement of a regulated agreement by a consumer credit EEA firm unless that firm is precluded from enforcing it as a result of a prohibition or restriction mentioned in subsection (6)(a) or (b).
- (8) This section (apart from subsection (1)) does not apply to a regulated agreement made by a person if by virtue of section 21(2) or (3) he was not required to be licensed to make the agreement.
- (9) Subsection (1) does not apply to the enforcement of a regulated agreement by a person if by virtue of section 21(2) or (3) he is not required to be licensed to enforce the agreement.”