

SCHEDULES

SCHEDULE 9

DISCIPLINE AND ENFORCEMENT

PART 2

AUTHORISED PERSONS ACTING WITHOUT PERMISSION

- 3 (1) Section 23 (contravention of the general prohibition) is amended as follows.
- (2) After subsection (1) insert—
- “(1A) An authorised person (“A”) is guilty of an offence if A carries on a credit-related regulated activity in the United Kingdom, or purports to do so, otherwise than in accordance with permission—
- (a) given to that person under Part 4A, or
 - (b) resulting from any other provision of this Act.
- (1B) In this Act “credit-related regulated activity” means a regulated activity of a kind designated by the Treasury by order.
- (1C) The Treasury may designate a regulated activity under subsection (1B) only if the activity involves a person—
- (a) entering into or administering an agreement under which the person provides another person with credit,
 - (b) exercising or being able to exercise the rights of the lender under an agreement under which another person provides a third party with credit, or
 - (c) taking steps to procure payment of debts due under an agreement under which another person is provided with credit.
- (1D) But a regulated activity may not be designated under subsection (1B) if the agreement in question is one under which the obligation of the borrower is secured on land.
- (1E) “Credit” includes any cash loan or other financial accommodation.
- (1F) A person guilty of an offence under subsection (1A) is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding the applicable maximum term or a fine not exceeding the statutory maximum, or both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years, or a fine, or both.
- (1G) The “applicable maximum term” is—

Status: This is the original version (as it was originally enacted).

- (a) in England and Wales, 12 months (or 6 months, if the offence was committed before the commencement of section 154(1) of the Criminal Justice Act 2003);
- (b) in Scotland, 12 months;
- (c) in Northern Ireland, 6 months.”

(3) After subsection (3) insert—

“(4) Subsection (1A) is subject to section 39(1D).

(5) No proceedings may be brought against a person in respect of an offence under subsection (1A) in a case where either regulator has taken action under section 205, 206 or 206A in relation to the alleged contravention within section 20(1) or (1A).”

(4) In the heading to the section, at the end insert “or section 20(1) or (1A)”.