

## 1977 No. 2163 (C. 73)

## CONSUMER CREDIT

**The Consumer Credit Act 1974 (Commencement No. 4)  
Order 1977**

Made - - - - 20th December 1977

The Secretary of State, in exercise of powers conferred on him by sections 182(2) and (4) and 192(2) of the Consumer Credit Act 1974(a) and of all other powers enabling him in that behalf, hereby makes the following Order:—

*Citation and interpretation*

1.—(1) This Order may be cited as the Consumer Credit Act 1974 (Commencement No. 4) Order 1977.

(2) In this Order, “the Act” means the Consumer Credit Act 1974.

(3) The Interpretation Act 1889(b) shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

*Appointment of day for licensing of credit brokerage businesses*

2. For the purposes of paragraphs 44 to 46 of Schedule 3 to the Act (which provide respectively for the application of section 21(1) of the Act to ancillary credit businesses, of section 148(1) to agreements made in the course of such businesses and of section 149 to regulated agreements made on introductions in the course of credit brokerage businesses), the appointed day shall be 1st July 1978 in the case of any ancillary credit business 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) of the Act 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) of the Act 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) of the Act, and

(iii) the amount of credit or, in the case of an agreement for running-account credit, the credit limit does not exceed £30.

(a) 1974 c. 39.

(b) 1889 c. 63.

*Amendment of Schedule 3 to the Act*

3. The Schedule to this Order shall have effect for the purposes of amending Schedule 3 to the Act so as to insert express references to the day appointed by article 2 above and accordingly article 3(2) of and paragraph 4 of Schedule 1 to the Consumer Credit Act 1974 (Commencement No. 2) Order 1977(a) (which set out paragraphs 44 and 45 of the said Schedule 3 as amended by that Order) shall cease to have effect.

*John Fraser,*

Minister of State,

Department of Prices and Consumer Protection.

20th December 1977.

## SCHEDULE

(Article 3)

## AMENDMENTS TO SCHEDULE 3 TO THE ACT

Paragraphs 44 and 45, as amended by the Consumer Credit Act 1974 (Commencement No. 2) Order 1977, and paragraph 46 are amended so as to have effect as follows (the amendments made by this Order being, for convenience, shown in bold type):

*Licensing*

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**

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(a) S.I. 1977/325(1977 I, p. 921).

(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 subparagraph (1) above applies;
- (b) 1st July 1978 in the case of an ancillary credit business of a description to which subparagraph (1A) above applies; or
- (c) the day appointed for the purposes of this paragraph in the case of an ancillary credit business to which subparagraph (1B) above applies,

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.

*Enforcement of agreements made by unlicensed trader*

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 subparagraph (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 subparagraph (1B) of that paragraph applies.**

*Introductions by unlicensed credit-broker*

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 subparagraph (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 subparagraph (1B) of that paragraph applies.

## EXPLANATORY NOTE

*(This Note is not part of the Order.)*

This Order appoints 1st July 1978 for the purposes of paragraphs 44 to 46 of Schedule 3 to the Consumer Credit Act 1974 (which contains transitional and commencement provisions) in relation to certain credit brokerage businesses. Those paragraphs provide that certain provisions of the Act are not to have effect before the appointed day. The provisions in question are as follows:—

<i>Paragraph of Schedule 3 to the Act</i>	<i>Subject matter</i>
44	Section 21 (which requires businesses to be licensed) not to apply by virtue of section 147(1) to any description of ancillary credit business before the day appointed in relation to that description of business.
45	Section 148(1) (which renders unenforceable an agreement for the services of a person carrying on an ancillary credit business while unlicensed) not to apply to agreements made before the day appointed for the purposes of paragraph 44 in relation to such businesses.
46	Section 149 (which renders unenforceable regulated agreements made on introductions by unlicensed credit-brokers) not to apply to agreements made on introductions effected before the day appointed for the purposes of paragraph 44 in relation to credit brokerage businesses.

The credit brokerage businesses in relation to which 1st July 1978 is the day appointed by article 2 are credit brokerage businesses except those which are carried on by individuals and which only do business resulting in the making of certain regulated consumer credit agreements for credit not exceeding £30. Accordingly, with the exception mentioned, all credit brokerage businesses will require to be licensed by the Director General of Fair Trading on and after that date. Article 3 introduces consequential amendments to Schedule 3.

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