

**2005 No. 2967**

**FINANCIAL SERVICES AND MARKETS**

**The Financial Services and Markets Act 2000 (Consequential  
Amendments) Order 2005**

<i>Made</i> - - - -	<i>24th October 2005</i>
<i>Laid before Parliament</i>	<i>25th October 2005</i>
<i>Coming into force</i> - -	<i>16th November 2005</i>

The Treasury, in exercise of the powers conferred upon them by sections 426 and 428(3) of the Financial Services and Markets Act 2000(a) make the following Order:

**Citation and commencement**

1. This Order may be cited as the Financial Services and Markets Act 2000 (Consequential Amendments) Order 2005 and comes into force on 16th November 2005.

**Variation of consumer credit regulated agreements**

2.—(1) Section 82 of the Consumer Credit Act 1974(b) (variation of agreements) is amended as follows.

(2) After subsection (2) insert—

“(2A) Subsection (2) does not apply if the modifying agreement is an exempt agreement as a result of section 16(6C).”.

(3) In subsection (3) for the words from “unless” to “regulated agreement” substitute—

“unless the modifying agreement is—

(a) for running account credit; or

(b) an exempt agreement as a result of section 16(6C),

it shall be treated as a regulated agreement.”.

(4) After subsection (5) insert—

“(5A) Subsection (5) does not apply where the modifying agreement is an exempt agreement as a result of section 16(6C).”.

### **Exception from ancillary credit business**

3. In subsection (5D) of section 146 of the Consumer Credit Act 1974(a) (exceptions from section 145), in the definition of “relevant agreement” for “a consumer credit” substitute “an”.

*Tom Watson*

*Joan Ryan*

Two of the Lords Commissioners of Her Majesty’s Treasury

24th October 2005

### **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order amends two sections of the Consumer Credit Act 1974 (c. 39). The first section that it amends, section 82, deals with variation of agreements. The amendments exclude a certain type of modifying agreement from the provisions of subsections (2), (3) and (5) of section 82. The type of modifying agreement excluded is an agreement which is not regulated under the Act because it is secured by a land mortgage and entering into that agreement as lender is regulated under the Financial Services and Markets Act 2000 (“the 2000 Act”). Mortgage agreements regulated under the 2000 Act are therefore not regulated under the Consumer Credit Act 1974 where they otherwise would be by virtue of modifying an agreement that is regulated under that Act.

It also amends section 146, which sets out certain activities that are excluded from being ancillary credit business, as defined in section 145. By changing the definition of “relevant agreement” in subsection (5D), all credit-brokerage, debt-adjusting and debt-counselling which relates to agreements regulated under the 2000 Act is exempted from being ancillary credit business.

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(a) Subsection (5D) was inserted by S.I. 2003/1475, article 21(2).

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