



Consumer Credit Act 1974

1974 CHAPTER 39

PART X

ANCILLARY CREDIT BUSINESSES

Licensing

147 Application of Part III.

- (1) The provisions of Part III (except section 40) apply to an ancillary credit business as they apply to a consumer credit business.
- (2) Without prejudice to the generality of section 26, regulations under that section (as applied by subsection (1)) may include provisions regulating the collection and dissemination of information by credit reference agencies.

Modifications etc. (not altering text)

- C1** S. 147(1) restricted (1.1.1993) by S.I. 1992/3218, **reg. 5(1)(c)**
S. 147(1) excluded (1.1.1996) by S.I. 1995/3275, **reg. 5(1)(b)**
S. 147(1) excluded (1.12.2001) by 2000 c. 8, ss. 31(1)(b), 37, **Sch. 3 Pt. II para. 15(3)**; S.I. 2001/3538, **art. 2(1)**

148 Agreement for services of unlicensed trader.

- (1) An agreement for the services of a person carrying on an ancillary credit business (the “trader”), if made when the trader was unlicensed, is enforceable against the other party (the “customer”) only where the [F¹OFT] has made an order under subsection (2) which applies to the agreement.
- (2) The trader or his successor in title may apply to the [F¹OFT] for an order that agreements within subsection (1) are to be treated as if made when the trader was licensed.

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- (3) Unless the [F¹OFT] determines to make an order under subsection (2) in accordance with the application, [F²it] shall, before determining the application, by notice—
- (a) inform the trader, giving [F³its] reasons, that, as the case may be, [F²it] is minded to refuse the application, or to grant it in terms different from those applied for, describing them, and
 - (b) invite the trader to submit to the [F¹OFT] representations in support of his application in accordance with section 34.
- (4) In determining whether or not to make an order under subsection (2) in respect of any period the [F¹OFT] shall consider, in addition to any other relevant factors,—
- (a) how far, if at all, customers, under agreements made by the trader during that period were prejudiced by the trader's conduct,
 - (b) whether or not the [F¹OFT] would have been likely to grant a licence covering that period on an application by the trader, and
 - (c) the degree of culpability for the failure to obtain a licence.
- (5) If the [F¹OFT] thinks fit, [F⁴it] may in an order under subsection (2)—
- (a) limit the order to specified agreements, or agreements of a specified description or made at a specified time;
 - (b) make the order conditional on the doing of specified acts by the trader.
- [F⁵(6) This section does not apply to an agreement made by a consumer credit EEA firm unless at the time it was made that firm was precluded from entering into it as a result of—
- (a) a consumer credit prohibition imposed under section 203 of the Financial Services and Markets Act 2000; or
 - (b) a restriction imposed on the firm under section 204 of that Act.]

Textual Amendments

- F1** Words in s. 148 substituted (1.4.2003) by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 6(28)(a)**; S.I. 2003/766, **art. 2**, Sch. (with art. 3)
- F2** Words in s. 148(3) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 6(28)(b)(i)**; S.I. 2003/766, **art. 2**, Sch. (with art. 3)
- F3** Word in s. 148(3)(a) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 6(28)(b)(ii)**; S.I. 2003/766, **art. 2**, Sch. (with art. 3)
- F4** Word in s. 148(5) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 6(28)(c)**; S.I. 2003/766, **art. 2**, Sch. (with art. 3)
- F5** S. 148(6) inserted (1.12.2001) by S.I. 2001/3649, **art. 173**

Modifications etc. (not altering text)

- C2** S. 148 restricted (1.1.1998) by S.I. 1992/3218, **reg. 61(2)**
S. 148 modified (1.1.1996) by S.I. 1995/3275, **reg. 38(2)**

149 Regulated agreements made on introductions by unlicensed credit-broker.

- (1) A regulated agreement made by a debtor or hirer who, for the purpose of making that agreement, was introduced to the creditor or owner by an unlicensed credit-broker is enforceable against the debtor or hirer only where—

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- (a) on the application of the credit-broker, the [F6OFT] has made an order under section 148(2) in respect of a period including the time when the introduction was made, and the order does not (whether in general terms or specifically) exclude the application of this paragraph to the regulated agreement, or
 - (b) the [F6OFT] has made an order under subsection (2) which applies to the agreement.
- (2) Where during any period individuals were introduced to a person carrying on a consumer credit business or consumer hire business by an unlicensed credit-broker for the purpose of making regulated agreements with the person carrying on that business, that person or his successor in title may apply to the [F6OFT] for an order that regulated agreements so made are to be treated as if the credit-broker had been licensed at the time of the introduction.
- (3) Unless the [F6OFT] determines to make an order under subsection (2) in accordance with the application, [F7it] shall, before determining the application, by notice—
 - (a) inform the applicant, giving [F8its] reasons, that, as the case may be, [F7it] is minded to refuse the application, or to grant it in terms different from those applied for, describing them, and
 - (b) invite the applicant to submit to the [F6OFT] representations in support of his application in accordance with section 34.
- (4) In determining whether or not to make an order under subsection (2) the [F6OFT] shall consider, in addition to any other relevant factors—
 - (a) how far, if at all, debtors or hirers under regulated agreements to which the application relates were prejudiced by the credit-broker's conduct, and
 - (b) the degree of culpability of the applicant in facilitating the carrying on by the credit-broker of his business when unlicensed.
- (5) If the [F6OFT] thinks fit, [F9it] may in an order under subsection (2)—
 - (a) limit the order to specified agreements, or agreements of a specified description or made at a specified time;
 - (b) make the order conditional on the doing of specified acts by the applicant.
- [F10(6) For the purposes of this section, “unlicensed credit-broker ” does not include a consumer credit EEA firm unless at the time the introduction was made that firm was precluded from making it as a result of—
 - (a) a consumer credit prohibition imposed under section 203 of the Financial Services and Markets Act 2000; or
 - (b) a restriction imposed on the firm under section 204 of that Act.]

Textual Amendments

- F6** Words in s. 149 substituted (1.4.2003) by Enterprise Act 2002 (c. 40), ss. 278, 279, Sch. 25 para. 6(29)(a); S.I. 2003/766, art. 2, Sch. (with art. 3)
- F7** Words in s. 149(3) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), ss. 278, 279, Sch. 25 para. 6(29)(b)(i); S.I. 2003/766, art. 2, Sch. (with art. 3)
- F8** Word in s. 149(3)(a) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), ss. 278, 279, Sch. 25 para. 6(29)(b)(ii); S.I. 2003/766, art. 2, Sch. (with art. 3)
- F9** Word in s. 149(5) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), ss. 278, 279, Sch. 25 para. 6(29)(c); S.I. 2003/766, art. 2, Sch. (with art. 3)
- F10** S. 149(6) inserted (1.12.2001) by S.I. 2001/3649, art. 174

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Modifications etc. (not altering text)

- C3** S. 149 restricted (1.1.1993) by S.I. 1992/3218, **reg. 61(3)**
S. 149 modified (1.1.1996) by S.I. 1995/3275, **reg. 38(3)**

150 Appeals to Secretary of State against licensing decisions.

Section 41 (as applied by section 147(1)) shall have effect as if the following entry were included in the table set out at the end—

Determination	Appellant
Refusal to make order under section 148(2) or 149(2) in accordance with terms of application.	The applicant.

Status:

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Changes to legislation:

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