



Consumer Credit Act 2006

2006 CHAPTER 14

Further powers of OFT to regulate conduct of licensees etc.

38 Power of OFT to impose requirements on licensees

After section 33 of the 1974 Act insert—

“Further powers of OFT to regulate conduct of licensees etc.

33A Power of OFT to impose requirements on licensees

- (1) This section applies where the OFT is dissatisfied with any matter in connection with—
 - (a) a business being carried on, or which has been carried on, by a licensee or by an associate or a former associate of a licensee;
 - (b) a proposal to carry on a business which has been made by a licensee or by an associate or a former associate of a licensee; or
 - (c) any conduct not covered by paragraph (a) or (b) of a licensee or of an associate or a former associate of a licensee.
- (2) The OFT may by notice to the licensee require him to do or not to do (or to cease doing) anything specified in the notice for purposes connected with—
 - (a) addressing the matter with which the OFT is dissatisfied; or
 - (b) securing that matters of the same or a similar kind do not arise.
- (3) A requirement imposed under this section on a licensee shall only relate to a business which the licensee is carrying on, or is proposing to carry on, under the licence under which he is a licensee.
- (4) Such a requirement may be framed by reference to a named person other than the licensee.

- (5) For the purposes of subsection (1) it is immaterial whether the matter with which the OFT is dissatisfied arose before or after the licensee became a licensee.
- (6) If—
- (a) a person makes an application for a standard licence, and
 - (b) while dealing with that application the OFT forms the opinion that, if such a licence were to be issued to that person, it would be minded to impose on him a requirement under this section,
- the OFT may, before issuing such a licence to that person, do (in whole or in part) anything that it must do under section 33D or 34(1) or (2) in relation to the imposing of the requirement.
- (7) In this section ‘associate’, in addition to the persons specified in section 184, includes a business associate.”

39 Power of OFT to impose requirements on supervisory bodies

After section 33A of the 1974 Act (inserted by section 38 of this Act) insert—

“33B Power of OFT to impose requirements on supervisory bodies

- (1) This section applies where the OFT is dissatisfied with the way in which a responsible person in relation to a group licence—
 - (a) is regulating or otherwise supervising, or has regulated or otherwise supervised, persons who are licensees under that licence; or
 - (b) is proposing to regulate or otherwise to supervise such persons.
- (2) The OFT may by notice to the responsible person require him to do or not to do (or to cease doing) anything specified in the notice for purposes connected with—
 - (a) addressing the matters giving rise to the OFT’s dissatisfaction; or
 - (b) securing that matters of the same or a similar kind do not arise.
- (3) A requirement imposed under this section on a responsible person in relation to a group licence shall only relate to practices and procedures for regulating or otherwise supervising licensees under the licence in connection with their carrying on of businesses under the licence.
- (4) For the purposes of subsection (1) it is immaterial whether the matters giving rise to the OFT’s dissatisfaction arose before or after the issue of the group licence in question.
- (5) If—
 - (a) a person makes an application for a group licence, and
 - (b) while dealing with that application the OFT forms the opinion that, if such a licence were to be issued to that person, it would be minded to impose on him a requirement under this section,

the OFT may, before issuing such a licence to that person, do (in whole or in part) anything that it must do under section 33D or 34(1) or (2) in relation to the imposing of the requirement.

- (6) For the purposes of this Part a person is a responsible person in relation to a group licence if—
- (a) he is the original applicant for it; and
 - (b) he has a responsibility (whether by virtue of an enactment, an agreement or otherwise) for regulating or otherwise supervising persons who are licensees under the licence.”

40 Supplementary provision relating to requirements

After section 33B of the 1974 Act (inserted by section 39 of this Act) insert—

“33C Supplementary provision relating to requirements

- (1) A notice imposing a requirement under section 33A or 33B may include provision about the time at or by which, or the period during which, the requirement is to be complied with.
- (2) A requirement imposed under section 33A or 33B shall not have effect after the licence by reference to which it is imposed has itself ceased to have effect.
- (3) A person shall not be required under section 33A or 33B to compensate, or otherwise to make amends to, another person.
- (4) The OFT may by notice to the person on whom a requirement has been imposed under section 33A or 33B vary or revoke the requirement (including any provision made under subsection (1) of this section in relation to it) with effect from such date as may be specified in the notice.
- (5) The OFT may exercise its power under subsection (4) in relation to a requirement either on its own motion or on the application of a person falling within subsection (6) or (7) in relation to the requirement.
- (6) A person falls within this subsection in relation to a requirement if he is the person on whom the requirement is imposed.
- (7) A person falls within this subsection in relation to a requirement if—
 - (a) the requirement is imposed under section 33A;
 - (b) he is not the person on whom the requirement is imposed;
 - (c) the requirement is framed by reference to him by name; and
 - (d) the effect of the requirement is—
 - (i) to prevent him being an employee of the person on whom the requirement is imposed;
 - (ii) to restrict the activities that he may engage in as an employee of that person; or
 - (iii) otherwise to prevent him from doing something, or to restrict his doing something, in connection with a business being carried on by that person.”

41 Procedure in relation to requirements

After section 33C of the 1974 Act (inserted by section 40 of this Act) insert—

“33D Procedure in relation to requirements

- (1) Before making a determination—
 - (a) to impose a requirement on a person under section 33A or 33B,
 - (b) to refuse an application under section 33C(5) in relation to a requirement imposed under either of those sections, or
 - (c) to vary or to revoke a requirement so imposed,
 the OFT shall proceed as follows.
- (2) The OFT shall give a notice to every person to whom subsection (3) applies in relation to the determination—
 - (a) informing him, with reasons, that it is minded to make the determination; and
 - (b) inviting him to submit to it representations as to the determination under section 34.
- (3) This subsection applies to a person in relation to the determination if he falls within, or as a consequence of the determination would fall within, section 33C(6) or (7) in relation to the requirement in question.
- (4) This section does not require the OFT to give a notice to a person if the determination in question is in the same terms as a proposal made to the OFT by that person (whether as part of an application under this Part or otherwise).”

42 Guidance on requirements

After section 33D of the 1974 Act (inserted by section 41 of this Act) insert—

“33E Guidance on requirements

- (1) The OFT shall prepare and publish guidance in relation to how it exercises, or how it proposes to exercise, its powers under sections 33A to 33C.
- (2) If the OFT revises the guidance at any time after it has been published, the OFT shall publish it as revised.
- (3) The guidance shall be published in such manner as the OFT thinks fit for the purpose of bringing it to the attention of those likely to be affected by it.
- (4) In preparing or revising the guidance the OFT shall consult such persons as it thinks fit.
- (5) In exercising its powers under sections 33A to 33C the OFT shall have regard to the guidance as most recently published.”

43 Consequential amendments relating to requirements

- (1) In section 35(1) of the 1974 Act (particulars to be kept in register maintained by OFT) after paragraph (b) insert—
 - “(ba) requirements imposed under section 33A or 33B which are in effect or which have been in effect, with details of any variation of such a requirement;”.

- (2) In the Table in section 41 of that Act (appeals) after the entry relating to “refusal to end suspension of licence in accordance with terms of application” insert the following entry—

“Determination—	A person who falls within
(a) to impose a requirement under section 33A or 33B;	section 33C(6) or (7) in relation to the requirement unless the OFT was not required to give a notice to him in relation to the determination by virtue of section 33D(4).”
(b) to refuse an application under section 33C(5) in relation to a requirement imposed under either of those sections; or	
(c) to vary or revoke a requirement so imposed.	
