

## SCHEDULES

### SCHEDULE 3

Section 69

#### TRANSITIONAL PROVISION AND SAVINGS

##### *Interpretation*

- 1 (1) Expressions used in the 1974 Act have the same meaning in this Schedule (apart from paragraphs 14 to 16 and 26) as they have in that Act.
- (2) For the purposes of this Schedule an agreement becomes a completed agreement once—
  - (a) there is no sum payable under the agreement; and
  - (b) there is no sum which will or may become so payable.

##### *Statements to be provided in relation to regulated agreements*

- 2 (1) Section 77A of the 1974 Act applies in relation to agreements whenever made.
- (2) Section 77A shall have effect in relation to agreements made before the commencement of section 6 of this Act as if the period mentioned in subsection (1) (a) were the period of one year beginning with the day of the commencement of section 6.
- 3 Regulations made under section 78(4A) of the 1974 Act may apply in relation to agreements regardless of when they were made.
- 4 (1) Section 7(3) of this Act shall have effect in relation to agreements whenever made.
- (2) A dispensing notice given under section 185(2) of the 1974 Act which is operative immediately before the commencement of section 7(3)—
  - (a) shall, on the commencement of section 7(3), be treated as having been given under section 185(2) as substituted by section 7(3); and
  - (b) shall continue to be operative accordingly.

##### *Default under regulated agreements*

- 5 The OFT shall prepare, and give general notice of, the arrears information sheet and the default information sheet required under section 86A of the 1974 Act as soon as practicable after the commencement of section 8 of this Act.
- 6 (1) Section 86B of the 1974 Act applies in relation to agreements whenever made.
- (2) In the application of section 86B in relation to an agreement made before the commencement of section 9 of this Act, the conditions under subsection (1) can be satisfied only if the two payments mentioned in paragraph (c) were not required to have been made before the commencement of section 9.

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- (3) In the case of an agreement within subsection (9) of section 86B, sub-paragraph (2) has effect as if for “two” there were substituted “four”.
- 7 (1) Section 86C of the 1974 Act applies in relation to agreements whenever made.
- (2) In the application of section 86C in relation to an agreement made before the commencement of section 10 of this Act, the conditions mentioned in subsection (1) can be satisfied only if the two payments mentioned in paragraph (b) were not required to have been made before the commencement of section 10.
- 8 Section 86E of the 1974 Act applies in relation to agreements whenever made but only as regards default sums which become payable after the commencement of section 12 of this Act.
- 9 (1) Section 86F of the 1974 Act applies in relation to agreements whenever made but only as regards default sums which become payable after the commencement of section 13 of this Act.
- (2) Where section 86F applies in relation to an agreement made before the commencement of section 13, the agreement shall have effect as if any right of the creditor or owner to recover compound interest in connection with the default sum in question at a particular rate were a right to recover simple interest in that connection at that rate.
- 10 Section 14 of this Act shall have effect in relation to any default notice served after the commencement of that section, regardless of—
- (a) when the breach of the agreement in question occurred; or
- (b) when that agreement was made.
- 11 The repeal by this Act of—
- (a) the words “(subject to subsections (3) and (4))” in subsection (1) of section 127 of the 1974 Act,
- (b) subsections (3) to (5) of that section, and
- (c) the words “or 127(3)” in subsection (3) of section 185 of that Act,
- has no effect in relation to improperly-executed agreements made before the commencement of section 15 of this Act.
- 12 A debtor or hirer under an agreement may make an application under section 129(1) (ba) of the 1974 Act regardless of when that agreement was made.
- 13 Section 130A of the 1974 Act applies in relation to agreements whenever made but only as regards sums that are required to be paid under judgments given after the commencement of section 17 of this Act.

#### *Unfair relationships*

- 14 (1) The court may make an order under section 140B of the 1974 Act in connection with a credit agreement made before the commencement of section 20 of this Act but only—
- (a) on an application of the kind mentioned in paragraph (a) of subsection (2) of section 140B made at a time after the end of the transitional period; or
- (b) at the instance of the debtor or a surety in any proceedings of the kind mentioned in paragraph (b) or (c) of that subsection which were commenced at such a time.

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- (2) But the court shall not make such an order in connection with such an agreement so made if the agreement—
  - (a) became a completed agreement before the commencement of section 20; or
  - (b) becomes a completed agreement during the transitional period.
- (3) Expressions used in sections 140A to 140C of the 1974 Act have the same meaning in this paragraph as they have in those sections.
- (4) In this paragraph “the transitional period” means the period of one year beginning with the day of the commencement of section 20.
- (5) An order under section 69 of this Act may extend, or further extend, the transitional period.
- 15 (1) The repeal by this Act of sections 137 to 140 of the 1974 Act shall not affect the court’s power to reopen an existing agreement under those sections as set out in this paragraph.
- (2) The court’s power to reopen an existing agreement which—
  - (a) became a completed agreement before the commencement of section 22(3) of this Act, or
  - (b) becomes a completed agreement during the transitional period,is not affected at all.
- (3) The court may also reopen an existing agreement—
  - (a) on an application of the kind mentioned in paragraph (a) of subsection (1) of section 139 made at a time before the end of the transitional period; or
  - (b) at the instance of the debtor or a surety in any proceedings of the kind mentioned in paragraph (b) or (c) of that subsection which were commenced at such a time.
- (4) Nothing in section 16A or 16B of the 1974 Act shall affect the application of sections 137 to 140 (whether by virtue of this paragraph or otherwise).
- (5) The repeal or revocation by this Act of the following provisions has no effect in relation to existing agreements so far as they may be reopened as set out in this paragraph—
  - (a) section 16(7) of the 1974 Act;
  - (b) in section 143(b) of that Act, the words “, 139(1)(a)”;
  - (c) section 171(7) of that Act;
  - (d) in subsection (1) of section 181 of that Act, the words “139(5) and (7),”;
  - (e) in subsection (2) of that section, the words “or 139(5) or (7)”;
  - (f) in section 61(6) of the Bankruptcy (Scotland) Act 1985 (c. 66), the words from the beginning to “but”;
  - (g) in section 343(6) of the Insolvency Act 1986 (c. 45), the words from the beginning to “But”;
  - (h) Article 316(6) of the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)).
- (6) Expressions used in sections 137 to 140 of the 1974 Act have the same meaning in this paragraph as they have in those sections.
- (7) In this paragraph—

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“existing agreement” means a credit agreement made before the commencement of section 22(3) of this Act;

“the transitional period” means the period of one year beginning with the day of the commencement of section 22(3).

- (8) An order under section 69 of this Act may extend, or further extend, the transitional period.
- 16 (1) It is immaterial for the purposes of section 140C(4)(a) to (c) of the 1974 Act when (as the case may be) a credit agreement or a linked transaction was made or a security was provided.
- (2) In relation to an order made under section 140B of the 1974 Act during the transitional period in connection with a credit agreement—
- (a) references in subsection (1) of that section to any related agreement shall not include references to a related agreement to which this sub-paragraph applies;
  - (b) the reference to a security in paragraph (d) of that subsection shall not include a reference to a security to which this sub-paragraph applies;
- and the order shall not under paragraph (g) of that subsection direct accounts to be taken, or (in Scotland) an accounting to be made, between any persons in relation to a related agreement to which this sub-paragraph applies.
- (3) Sub-paragraph (2) applies to a related agreement or a security if—
- (a) it was made or provided before the commencement of section 21 of this Act; and
  - (b) it ceased to have any operation before the order under section 140B is made.
- (4) In relation to an order made under section 140B after the end of the transitional period in connection with a credit agreement—
- (a) references in subsection (1) of that section to any related agreement shall not include references to a related agreement to which this sub-paragraph applies;
  - (b) the reference to a security in paragraph (d) of that subsection shall not include a reference to a security to which this sub-paragraph applies;
- and the order shall not under paragraph (g) of that subsection direct accounts to be taken, or (in Scotland) an accounting to be made, between any persons in relation to a related agreement to which this sub-paragraph applies.
- (5) Sub-paragraph (4) applies to a related agreement or a security if—
- (a) it was made or provided before the commencement of section 21; and
  - (b) it ceased to have any operation before the end of the transitional period.
- (6) Expressions used in sections 140A to 140C of the 1974 Act have the same meanings in this paragraph as they have in those sections.
- (7) In this paragraph “the transitional period” means the period of one year beginning with the day of the commencement of section 21.
- (8) An order under section 69 of this Act may extend, or further extend, the transitional period.
- 17 Section 1 of this Act shall have no effect for the purposes of section 140C(1) of the 1974 Act in relation to agreements made before the commencement of section 1.

*Applications for licences and fitness to hold a licence etc.*

- 18 (1) Section 6A of the 1974 Act shall not apply in relation to applications made before the commencement of section 27 of this Act.
- (2) Section 6(2A) of the 1974 Act shall not apply in relation to applications so made.
- (3) The repeal by this Act of the words “and must be accompanied by the specified fee” in section 6(2) of the 1974 Act has no effect in relation to applications so made.
- 19 (1) The OFT shall prepare and publish the guidance required by section 25A of the 1974 Act as soon as practicable after the commencement of section 30 of this Act.
- (2) The requirements of subsection (4) of section 25A may be satisfied in relation to the preparation of that guidance by steps taken wholly or partly before the commencement of section 30.

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

- 20 The cases in which the OFT may impose requirements under section 33A of the 1974 Act include cases where the matter with which the OFT is dissatisfied arose before the commencement of section 38 of this Act.
- 21 The cases in which the OFT may impose requirements under section 33B of the 1974 Act include cases where the matters giving rise to the OFT’s dissatisfaction arose before the commencement of section 39 of this Act.
- 22 (1) The OFT shall prepare and publish the guidance required by section 33E of the 1974 Act as soon as practicable after the commencement of section 42 of this Act.
- (2) The requirements of subsection (4) of section 33E may be satisfied in relation to the preparation of that guidance by steps taken wholly or partly before the commencement of section 42.

*Powers and duties in relation to information*

- 23 (1) Section 44 of this Act has no effect in relation to applications made before the commencement of that section.
- (2) Paragraph 12(6) of Schedule A1 to the 1974 Act does not apply in relation to applications so made.
- 24 A person is not required by section 36A of the 1974 Act to do anything in relation to an application made by him before the commencement of section 45 of this Act.

*Civil penalties*

- 25 (1) The OFT shall prepare and publish the statement of policy required by section 39C of the 1974 Act as soon as practicable after the commencement of section 54 of this Act.
- (2) The requirements of subsection (5) of section 39C may be satisfied in relation to the preparation of that statement of policy by steps taken wholly or partly before the commencement of section 54.

*Appeals*

- 26 (1) A person who—

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- (a) immediately before the commencement of section 55 of this Act is a member of a panel established under regulation 24 of the appeals regulations, and
- (b) at the time of his appointment to that panel fell within paragraph (2)(a) of that regulation,

shall be treated as having been appointed to the panel of chairmen on the day of the commencement of section 55.

(2) A person who—

- (a) immediately before the commencement of section 55 is a member of a panel established under regulation 24 of the appeals regulations, and
- (b) is not to be treated as having been appointed to the panel of chairmen in accordance with sub-paragraph (1),

shall be treated as having been appointed to the lay panel on the day of the commencement of section 55.

(3) A person who is to be treated as having been appointed to the panel of chairmen or to the lay panel in accordance with this paragraph shall, subject to paragraph 4(2) and (3) of Schedule A1 to the 1974 Act, hold office as a member of the panel in question—

- (a) for the remainder of the period for which he was appointed under regulation 24 of the appeals regulations; and
- (b) on the terms on which he was so appointed (except as to the renewal of his appointment).

(4) In this paragraph—

“appeals regulations” means the Consumer Credit Licensing (Appeals) Regulations 1998 (S.I. 1998/1203);

“lay panel” and “panel of chairmen” have the same meanings as in Schedule A1 to the 1974 Act.

27 (1) Neither—

- (a) subsections (1) and (2) of section 56 of this Act, nor
  - (b) the repeal by this Act of subsections (2) to (5) of section 41 of the 1974 Act,
- has effect in relation to determinations of the OFT made before the commencement of section 56.

(2) This Act, so far as it repeals section 11 of the Tribunals and Inquiries Act 1992 (c. 53), has no effect in relation to such determinations so made.

(3) The repeal by this Act of paragraph 27(2) of Schedule 25 to the Enterprise Act 2002 (c. 40) has no effect in relation to such determinations so made.

28 Neither subsection (1) nor (4)(a) of section 58 of this Act has effect in relation to determinations of the OFT made before the commencement of that section.

#### *Ombudsman scheme*

29 Section 1 of this Act shall have no effect for the purposes of section 226A(4)(a) of the 2000 Act in relation to a complaint which relates to an act or omission occurring before the commencement of section 1.