



# Consumer Credit Act 1974

## 1974 CHAPTER 39

### PART XI

#### ENFORCEMENT OF ACT

#### 161 Enforcement authorities.

(1) The following authorities ( “enforcement authorities ”) have a duty to enforce this Act and regulations made under it—

- <sup>F1</sup>(a) .....
- (b) in Great Britain, the local weights and measures authority,
- (c) in Northern Ireland, the Department of Commerce for Northern Ireland.

[<sup>F2</sup>(1A) Subsection (1) does not limit any function of the FCA in relation to the enforcement of this Act or regulations made under it.]

[<sup>F3</sup>(1B) For the investigatory powers available to a local weights and measures authority or the Department of Enterprise, Trade and Investment in Northern Ireland for the purposes of the duty in subsection (1), see Schedule 5 to the Consumer Rights Act 2015.]

(2) <sup>F4</sup> .....

(3) Every local weights and measures authority shall, whenever the [<sup>F5</sup>FCA] requires, report to [<sup>F6</sup>it] in such form and with such particulars as [<sup>F6</sup>it] requires on the exercise of their functions under this Act.

(4) ..... <sup>F7</sup>

#### Textual Amendments

- F1** S. 161(1)(a) omitted (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by virtue of [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2013 \(S.I. 2013/1881\)](#), arts. 1(2)(6), **20(48)(a)**

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- F2** S. 161(1A) inserted (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2013 \(S.I. 2013/1881\)](#), arts. 1(2)(6), **20(48)(b)**
- F3** S. 161(1B) inserted (1.10.2015) by [Consumer Rights Act 2015 \(c. 15\)](#), s. 100(5), **Sch. 6 para. 13**; [S.I. 2015/1630](#), art. 3(i)
- F4** S. 161(2) omitted (1.4.2003) by virtue of and repealed (20.6.2003) by [Enterprise Act 2002 \(c. 40\)](#), ss. 278, 279, **Sch. 25 para. 6(32)(b)**, **Sch. 26**; [S.I. 2003/766](#), **art. 2**, **Sch.** (with art. 3); [S.I. 2003/1397](#), **art. 2**, **Sch.** (with arts. 8, 10)
- F5** Word in s. 161(3) substituted (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services Act 2012 \(Consumer Credit\) Order 2013 \(S.I. 2013/1882\)](#), arts. 1(1), **7(13)**
- F6** Words in s. 161(3) substituted (1.4.2003) by [Enterprise Act 2002 \(c. 40\)](#), ss. 278, 279, **Sch. 25 para. 6(32)(c)**; [S.I. 2003/766](#), **art. 2**, **Sch.** (with art. 3)
- F7** S. 161(4)–(6) repealed by [Local Government, Planning and Land Act 1980 \(c. 65, SIF 81:1, 2\)](#), s. 1(4), **Sch. 34 Pt. IV**

**F8 162 Powers of entry and inspection.**

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**Textual Amendments**

**F8** S. 162 omitted (1.10.2015) by virtue of [Consumer Rights Act 2015 \(c. 15\)](#), s. 100(5), **Sch. 6 para. 14**; [S.I. 2015/1630](#), art. 3(i) (with art. 8)

**F9 163 Compensation for loss.**

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**Textual Amendments**

**F9** S. 163 omitted (1.10.2015) by virtue of [Consumer Rights Act 2015 \(c. 15\)](#), s. 100(5), **Sch. 6 para. 15**; [S.I. 2015/1630](#), art. 3(i) (with art. 8)

**F10 164 Power to make test purchases etc.**

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**Textual Amendments**

**F10** S. 164 omitted (1.10.2015) by virtue of [Consumer Rights Act 2015 \(c. 15\)](#), s. 100(5), **Sch. 6 para. 16**; [S.I. 2015/1630](#), art. 3(i) (with art. 8)

**F11 165 Obstruction of authorised officers.**

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#### Textual Amendments

- F11** S. 165 omitted (1.10.2015) by virtue of [Consumer Rights Act 2015 \(c. 15\)](#), s. 100(5), [Sch. 6 para. 17](#); [S.I. 2015/1630](#), art. 3(i) (with art. 8)

### <sup>F12</sup>**166 Notification of convictions and judgments to [<sup>F12</sup>FCA].**

Where a person is convicted of an offence or has a judgment given against him by or before any court in the United Kingdom and it appears to the court—

- (a) having regard to the functions of the [<sup>F13</sup>FCA under the Financial Services and Markets Act 2000 or] this Act, that the conviction or judgment should be brought to the [<sup>F14</sup>FCA's] attention, and
- (b) that it may not be brought to [<sup>F15</sup>its] attention unless arrangements for that purpose are made by the court,

the court may make such arrangements notwithstanding that the proceedings have been finally disposed of.

#### Textual Amendments

- F12** Word in s. 166 substituted (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services Act 2012 \(Consumer Credit\) Order 2013 \(S.I. 2013/1882\)](#), arts. 1(1), [7\(14\)](#)
- F13** Words in s. 166(a) substituted (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services Act 2012 \(Consumer Credit\) Order 2013 \(S.I. 2013/1882\)](#), arts. 1(1), [7\(15\)\(a\)](#)
- F14** Word in s. 166(a) substituted (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services Act 2012 \(Consumer Credit\) Order 2013 \(S.I. 2013/1882\)](#), arts. 1(1), [7\(15\)\(b\)](#)
- F15** Word in s. 166(b) substituted (1.4.2003) by [Enterprise Act 2002 \(c. 40\)](#), ss. 278, 279, [Sch. 25 para. 6\(34\)](#); [S.I. 2003/766](#), art. 2, Sch. (with art. 3)

### **167 Penalties.**

- (1) An offence under a provision of this Act specified in column 1 of Schedule 1 is triable in the mode or modes indicated in column 3, and on conviction is punishable as indicated in column 4 (where a period of time indicates the maximum term of imprisonment, and a monetary amount indicates the maximum fine, for the offence in question).

<sup>F16</sup>(2) .....

#### Textual Amendments

- F16** S. 167(2) omitted (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by virtue of [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2013 \(S.I. 2013/1881\)](#), arts. 1(2)(6), [20\(51\)](#)

#### Modifications etc. (not altering text)

- C1** S. 167 excluded (*temp.*) by [S.I. 1989/1125](#), [reg. 10\(1\)](#)
- C2** S. 167 restricted (31.10.2004) by [The Consumer Credit \(Advertisements\) Regulations 2004 \(S.I. 2004/1484\)](#), [reg. 12](#)

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- C3** S. 167 restricted (1.2.2011) by [The Consumer Credit \(Advertisements\) Regulations 2010 \(S.I. 2010/1970\)](#), [reg. 12](#) (with [reg. 11](#))
- C4** S. 167 restricted (1.1.2013) by [The Consumer Credit \(Total Charge for Credit\) \(Amendment\) Regulations 2012 \(S.I. 2012/1745\)](#), [regs. 1\(2\), 6](#)

## 168 Defences.

- (1) In any proceedings for an offence under this Act it is a defence for the person charged to prove—
- (a) that his act or omission was due to a mistake, or to reliance on information supplied to him, or to an act or omission by another person, or to an accident or some other cause beyond his control, and
  - (b) that he took all reasonable precautions and exercised all due diligence to avoid such an act or omission by himself or any person under his control.
- (2) If in any case the defence provided by subsection (1) involves the allegation that the act or omission was due to an act or omission by another person or to reliance on information supplied by another person, the person charged shall not, without leave of the court, be entitled to rely on that defence unless, within a period ending seven clear days before the hearing, he has served on the prosecutor a notice giving such information identifying or assisting in the identification of that other person as was then in his possession.

## 169 Offences by bodies corporate.

Where at any time a body corporate commits an offence under this Act with the consent or connivance of, or because of neglect by, any individual, the individual commits the like offence if at that time—

- (a) he is a director, manager, secretary or similar officer of the body corporate, or
- (b) he is purporting to act as such an officer, or
- (c) the body corporate is managed by its members of whom he is one.

## 170 No further sanctions for breach of Act.

- (1) A breach of any requirement made (otherwise than by any court) by or under this Act shall incur no civil or criminal sanction as being such a breach, except to the extent (if any) expressly provided by or under this Act [<sup>F17</sup>or by or under the Financial Services and Markets Act 2000 by virtue of an order made under section 107 of the Financial Services Act 2012].
- (2) In exercising [<sup>F18</sup>its] functions under this Act the [<sup>F19</sup>FCA] may take account of any matter appearing to [<sup>F20</sup>it] to constitute a breach of a requirement made by or under this Act, whether or not any sanction for that breach is provided by or under this Act and, if it is so provided, whether or not proceedings have been brought in respect of the breach.
- (3) Subsection (1) does not prevent the grant of an injunction, or the making of an order of certiorari, mandamus or prohibition or as respects Scotland the grant of an interdict or of an order under section 91 of the <sup>M1</sup>Court of Session Act 1868 (order for specific performance of statutory duty).

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#### Textual Amendments

- F17** Words in s. 170(1) inserted (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services Act 2012 \(Consumer Credit\) Order 2013 \(S.I. 2013/1882\)](#), arts. 1(1), [7\(16\)\(a\)](#)
- F18** Word in s. 170(2) substituted (1.4.2003) by [Enterprise Act 2002 \(c. 40\)](#), ss. 278, 279, [Sch. 25 para. 6\(35\)](#); S.I. 2003/766, [art. 2](#), Sch. (with art. 3)
- F19** Word in s. 170(2) substituted (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services Act 2012 \(Consumer Credit\) Order 2013 \(S.I. 2013/1882\)](#), arts. 1(1), [7\(16\)\(b\)](#)
- F20** Word in s. 170(2) substituted (1.4.2003) by [Enterprise Act 2002 \(c. 40\)](#), ss. 278, 279, [Sch. 25 para. 6\(35\)](#); S.I. 2003/766, [art. 2](#), Sch. (with art. 3)

#### Marginal Citations

- M1** [1868 c. 100](#).

### 171 Onus of proof in various proceedings.

- (1) If an agreement contains a term signifying that in the opinion of the parties section 10(3)(b)(iii) does not apply to the agreement, it shall be taken not to apply unless the contrary is proved.
- (2) It shall be assumed in any proceedings, unless the contrary is proved, that when a person initiated a transaction as mentioned in section 19(1)(c) he knew the principal agreement had been made, or contemplated that it might be made.

<sup>F21</sup>(3) .....

- (4) In proceedings brought by the creditor under a credit-token agreement—
  - (a) it is for the creditor to prove that the credit-token was lawfully supplied to the debtor, and was accepted by him, and
  - (b) if the debtor alleges that any use made of the credit-token was not authorised by him, it is for the creditor to prove either—
    - (i) that the use was so authorised, or
    - (ii) that the use occurred before the creditor had been given notice under section 84(3).

(5) In proceedings under section 50(1) in respect of a document received by a minor at any school or other educational establishment for minors, it is for the person sending it to him at that establishment to prove that he did not know or suspect it to be such an establishment.

(6) In proceedings under section 119(1) it is for the pawnee to prove that he had reasonable cause to refuse to allow the pawn to be redeemed.

(7) <sup>F22</sup> .....

#### Textual Amendments

- F21** S. 171(3) omitted (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by virtue of [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2013 \(S.I. 2013/1881\)](#), arts. 1(2)(6), [20\(52\)](#)

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**F22** S. 171(7) repealed (6.4.2007) by [Consumer Credit Act 2006 \(c. 14\)](#), ss. 70, 71(2), [Sch. 4](#) (with [Sch. 3 para. 15\(5\)](#)); S.I. 2007/123, [art. 3\(2\)](#), [Sch. 2](#) (as amended by S.I. 2007/387, [art. 2\(3\)\(e\)\(ii\)](#))

## 172 Statements by creditor or owner to be binding.

- (1) A statement by a creditor or owner is binding on him if given under—
  - section 77(1),
  - section 78(1),
  - section 79(1),
  - section 97(1),
  - section 107(1)(c),
  - section 108(1)(c), or
  - section 109(1)(c),
- (2) Where a trader—
  - (a) gives a customer a notice in compliance with section 103(1)(b), or
  - (b) gives a customer a notice under section 103(1) asserting that the customer is not indebted to him under an agreement,
 the notice is binding on the trader.
- (3) Where in proceedings before any court—
  - (a) it is sought to rely on a statement or notice given as mentioned in subsection (1) or (2), and
  - (b) the statement or notice is shown to be incorrect,
 the court may direct such relief (if any) to be given to the creditor or owner from the operation of subsection (1) or (2) as appears to the court to be just.

## 173 Contracting-out forbidden.

- (1) A term contained in a regulated agreement or linked transaction, or in any other agreement relating to an actual or prospective regulated agreement or linked transaction, is void if, and to the extent that, it is inconsistent with a provision for the protection of the debtor or hirer or his relative or any surety contained in this Act or in any regulation made under this Act.
- (2) Where a provision specifies the duty or liability of the debtor or hirer or his relative or any surety in certain circumstances, a term is inconsistent with that provision if it purports to impose, directly or indirectly, an additional duty or liability on him in those circumstances.
- (3) Notwithstanding subsection (1), a provision of this Act under which a thing may be done in relation to any person on an order of the court or the [<sup>F23</sup>FCA] only shall not be taken to prevent its being done at any time with that person's consent given at that time, but the refusal of such consent shall not give rise to any liability.

### Textual Amendments

**F23** Word in s. 173(3) substituted (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2013 \(S.I. 2013/1881\)](#), arts. 1(2)(6), [20\(53\)](#)

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**Modifications etc. (not altering text)**

- C5** S. 173 excluded (E.W.S.) (15.7.2014) by The Financial Services and Markets Act 2000 (Regulated Activities) (Green Deal) (Amendment) Order 2014 (S.I. 2014/1850), arts. 1(2), **12(2)** (with art. 1(3))

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