
EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision in connection with the transfer of responsibility for the regulation of consumer credit from the Office of Fair Trading to the Financial Conduct Authority (the FCA) from 1 April 2014.

Article 2 provides that references in the Financial Services and Markets Act 2000 (FSMA 2000) to the FCA's functions under FSMA 2000 are to be treated as including references to the FCA's functions under the Consumer Credit Act 1974 (the 1974 Act).

Article 3 applies certain provisions of FSMA 2000 to failure to comply with requirements of the 1974 Act. These provisions ensure that the FCA is able to use its FSMA 2000 powers to investigate and take appropriate action in relation to contraventions of the 1974 Act.

Article 4 provides for the FCA to issue a statement of policy setting out its policies in relation to the exercise of its powers under sections 66, 205, 206 and 206A of FSMA 2000 (covering disciplinary powers, public censure, financial penalties and suspending permission to carry on regulated activities) to contraventions of the 1974 Act.

Article 5 sets out the procedure relevant to FCA statements of policy prepared further to article 4.

Article 6 provides that a person may not be convicted of an offence under the 1974 Act in relation to an act or omission in cases where the FCA has already exercised its powers under section 66, 205, 206 or 206A of FSMA 2000 in relation to that act or omission.

Article 7 makes a number of amendments to the 1974 Act to reflect the fact that the FCA will be responsible for regulating consumer credit (rather than the Office of Fair Trading).

Article 8 applies certain provisions of the 1974 Act to contraventions of certain provisions of FSMA 2000. These provisions ensure that where a duly appointed officer of a local weights and measures authority (commonly known as trading standards) or the Department of Enterprise, Trade and Investment in Northern Ireland (both an "enforcement authority" under the 1974 Act) considers that a relevant offence under FSMA 2000 (as defined by section 107(4)(b) of the Financial Services Act 2012) may have been committed in relation to consumer credit, that officer may use certain 1974 Act powers to investigate.

Article 9 provides for trading standards bodies to institute proceedings in England and Wales for a relevant offence.

Article 9 also provides for the Department of Enterprise, Trade and Investment in Northern Ireland to institute proceedings in Northern Ireland for such offences.

Article 10 makes consequential amendments to other enactments.

A full impact assessment of the effect that this Order will have on the costs of business and the voluntary sector is available from Her Majesty's Treasury, 1 Horse Guards Road, London SW1A 2HQ or on www.hm-treasury.gov.uk and is published alongside the Order on www.legislation.gov.uk.