

2014 No. 376

FINANCIAL SERVICES AND MARKETS

The Financial Services and Markets Act 2000 (Consumer Credit) (Transitional Provisions) Order 2014

<i>Made</i> - - - -	<i>19th February 2014</i>
<i>Laid before Parliament</i>	<i>24th February 2014</i>
<i>Coming into force</i> - -	<i>1st April 2014</i>

The Treasury make the following Order in exercise of the powers conferred by section 426(1) of the Financial Services and Markets Act 2000(a).

Citation and commencement

1.—(1) This Order may be cited as the Financial Services and Markets Act 2000 (Consumer Credit) (Transitional Provisions) Order 2014, and comes into force on 1st April 2014.

The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No.2) Order 2013

2. The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No.2) Order 2013(b) is amended as follows.

Meaning of “relevant person” in Chapter 2

3.—(1) Article 30 (meaning of “relevant person” in Chapter 2) is amended as follows.

(2) The existing provision becomes paragraph (1).

(3) After that paragraph, insert—

“(2) Paragraph (3) applies where, before 1st April 2014, the OFT—

- (a) had given a notice to a person (“A”) under section 32A(2)(c) of the 1974 Act (suspension of a standard licence) that it is suspending A’s licence, but
- (b) had not determined under section 34ZA of that Act (representations to OFT: suspension under section 32A) whether or not to confirm such a decision.

(3) For the purposes of article 39 (suspension of licence where determination made before 1st April 2014 but not confirmed), and of paragraph (1) in so far as it defines “relevant person” for the purposes of that article—

- (a) A is to be treated as holding a licence under the 1974 Act immediately before 1st April 2014, and

(a) 2000 c.8.

(b) S.I. 2013/1881.

(c) Sections 32A and 34ZA inserted by the Financial Services Act 2012 (c.21), section 108.

- (b) section 32A of that Act (power to suspend licence) is to be treated as if subsection (5) did not apply at that time.
- (4) Paragraph (5) applies where, before 1st April 2014—
- (a) the OFT had—
 - (i) given a notice to a person (“B”) under section 32A(2) of the 1974 Act that it is suspending B’s licence, and
 - (ii) confirmed under section 34ZA of that Act its determination under section 32A of that Act, and
 - (b) either—
 - (i) B had submitted a notice of appeal to the First-tier Tribunal under section 41(a) of the 1974 Act (appeals to First-tier Tribunal under Part 3) with respect to that suspension, and the appeal had not been determined, or
 - (ii) B had not submitted such a notice of appeal, but the specified period in respect of an appeal against the suspension had not expired.
- (5) For the purposes of article 40 (suspension of licence where determination made before 1st April 2014 and confirmed), and of paragraph (1) in so far as it defines “relevant person” for the purposes of that article—
- (a) B is to be treated as holding a licence under the 1974 Act immediately before 1st April 2014, and
 - (b) section 32A of that Act (power to suspend licence) is to be treated as if subsection (5) did not apply at that time.
- (6) In this article, “specified period” has the meaning given in section 41 of the 1974 Act.”.

Revocation etc. of licence where no determination made before 1st April 2014

4.—(1) Article 37 (revocation etc. of licence where no determination made before 1st April 2014) is amended as follows.

(2) In paragraph (2), for “and (4)” substitute “to (5) also”;

(3) In paragraph (3)(a), for “section 387 of the Act (warning notices) which does not apply” substitute “sections 387(b) (warning notices), 392(a) (application of sections 393 and 394), in so far as it applies to section 393 (third party rights), and 393 of the Act, which do not apply”.

Revocation etc. of licence where determination made before 1st April 2014

5. In article 38 (revocation etc. of licence where determination made before 1st April 2014), in paragraph (3)(a), at the end insert “(except for the purposes of sections 392(b) (application of sections 393 and 394), in so far as it applies to section 393 (third party rights), and 393 of the Act, which do not apply)”.

Suspension of licence where determination made before 1st April 2014 but not confirmed

6.—(1) Article 39 (suspension of licence where determination made before 1st April 2014 but not confirmed) is amended as follows.

(2) In paragraph (1)—

(a) at the end of sub-paragraph (b), insert “and”;

(b) omit sub-paragraph (c).

(a) Section 41 was amended by the Enterprise Act 2002 (c. 40), Schedule 25, paragraph 6(21), the Consumer Credit Act 2006 (c. 14), sections 33, 43, 53 and 56 and Schedule 4, and S.I. 2001/3649 and 2009/1835.

(b) There are amendments to sections 387, 392, 393 and 394 but none is relevant.

(3) In paragraph (2)(a)(ii), for “the purpose of section 387 which does not apply” substitute “the purposes of sections 387 (warning notices), 392(a) (application of sections 393 and 394), in so far as it applies to section 393 (third party rights), and 393 of the Act, which do not apply”.

Suspension of licence where determination made before 1st April 2014 and confirmed

7.—(1) Article 40 (suspension of licence where determination made before 1st April 2014 and confirmed) is amended as follows.

(2) In paragraph (1)—

- (a) at the end of sub-paragraph (a), insert “and”;
- (b) omit sub-paragraph (b);

(3) In paragraph (2)(a)(ii), at the end insert “(except for the purposes of sections 392(b) (application of sections 393 and 394), in so far as it applies to section 393 (third party rights), and 393 of the Act, which do not apply)”.

Civil penalties – where no determination made before 1st April 2014

8. In article 44 (civil penalties – where no determination made before 1st April 2014), in paragraph (2), for “and 387 (warning notices)” substitute “, 387 (warning notices), 392(a) (application of sections 393 and 394), in so far as it applies to section 393 (third party rights), and 393 of the Act”.

Civil penalties – where determination made but appeal period has not ended

9. In article 45 (civil penalties – where determination made but appeal period has not ended), in paragraph (2), for “section 210 which does not apply” substitute “sections 210 (statement of policy), 392(b) (application of sections 393 and 394), in so far as it applies to section 393 (third party rights), and 393 of the Act, which do not apply”.

Interim permission

10. In article 56 (interim permission), after paragraph (12), insert—

“(13) Paragraph (15) applies where, before 1st April 2014, the OFT—

- (a) had given a notice to P under section 32A(2)(a) of the 1974 Act (suspension of a standard licence) that it is suspending P’s licence, but
- (b) had not determined under section 34ZA of that Act (representations to OFT: suspension under section 32A) whether or not to confirm such a decision.

(14) Paragraph (15) also applies where, before 1st April 2014—

- (a) the OFT had—
 - (i) given a notice to P under section 32A(2) of the 1974 Act that it is suspending P’s licence, and
 - (ii) confirmed under section 34ZA of that Act its determination under section 32A of that Act, and
- (b) either—
 - (i) P had, submitted a notice of appeal to the First-tier Tribunal under section 41 of the 1974 Act (appeals to First-tier Tribunal under Part 3) with respect to that suspension and the appeal had not been determined, or
 - (ii) P had not submitted such a notice of appeal, but the specified period in respect of an appeal against the suspension had not expired.

(a) Sections 32A and 34ZA inserted by the Financial Services Act 2012 (c.21), section 108.

(15) For the purposes of this article—

- (a) P is to be treated as holding a licence under the 1974 Act immediately before 1st April 2014, and
- (b) section 32A of that Act (power to suspend licence) is to be treated as if subsection (5) did not apply at that time.

(16) In this article, “specified period” has the meaning given in section 41 of the 1974 Act.”.

*Sam Gyimah
Stephen Crabb*

19th February 2014

Two of the Lords Commissioners of Her Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes transitional provision in relation to the transfer of the regulation of consumer credit from the Office of Fair Trading to the Financial Conduct Authority.

The Order amends the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No.2) Order 2013 (S.I. 2013/1881). The amendments enable a person whose Consumer Credit Act licence is subject to a suspension immediately before 1st April 2014 to obtain interim permission under the Financial Services and Markets Act 2000 where an appeal against the suspension is successful, and make transitional provision in relation to certain disciplinary and enforcement notices served by the Office of Fair Trading.

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.gov.uk and is published alongside the Order on www.legislation.gov.uk.

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