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Consumer Credit Act 1974

1974 CHAPTER 39

PART III

LICENSING OF CREDIT AND HIRE BUSINESSES

[^{F1}Appeals^{F2}]

Textual Amendments

- F1** S. 40A and preceding cross-heading inserted (1.12.2007 for specified purposes and 6.4.2008 for further specified purposes and otherwise prosp.) by [Consumer Credit Act 2006 \(c. 14\)](#), ss. {55(1)}, 71(2) (with Sch. 3 para. 25); [S.I. 2007/3300, art. 3\(1\){\(2\)}](#), Schs. 1, 2
- F2** S. 41A inserted (1.12.2007 for specified purposes and otherwise 6.4.2008) by [Consumer Credit Act 2006 \(c. 14\)](#), ss. 57, 71(2); [S.I. 2007/3300, art. 3\(1\), 3\(2\)](#), Sch. 1, Sch. 2

[^{F1}40A The Consumer Credit Appeals Tribunal

- (1) There shall be a tribunal known as the Consumer Credit Appeals Tribunal ('the Tribunal').
- (2) The Tribunal shall have the functions conferred on it by or under this Part.
- (3) The Lord Chancellor may by rules make such provision as he thinks fit for regulating the conduct and disposal of appeals before the Tribunal.
- (4) Schedule A1 (which makes provision about the Tribunal and proceedings before it) shall have effect.
- (5) But that Schedule does not limit the Lord Chancellor's powers under subsection (3).]

Modifications etc. (not altering text)

- C1** S. 40A applied (15.12.2007) by [The Money Laundering Regulations 2007 \(S.I. 2007/2157\)](#), reg. 44(5)

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^{F3}41 Appeals to Secretary of State under Part III.

(1) If, in the case of a determination by the [^{F4}OFT] such as is mentioned in column 1 of the table set out at the end of this section, a person mentioned in relation to that determination in column 2 of the table is aggrieved by the determination he may, within the prescribed period, and in the prescribed manner, appeal to the Secretary of State. .

[^{F5}(1A) The means for making an appeal is by sending the Tribunal a notice of appeal.

(1B) The notice of appeal shall—

- (a) be in the specified form;
- (b) set out the grounds of appeal in the specified manner; and
- (c) include the specified information and documents.

(1C) An appeal to the Tribunal is to be by way of a rehearing of the determination appealed against.

(1D) In this section ‘specified’ means specified by rules under section 40A(3).]

(2) Regulations may make provision as to the persons by whom (on behalf of the Secretary of State) appeals under this section are to be heard, the manner in which they are to be conducted, and any other matter connected with such appeals.

(3) On an appeal under this section, the Secretary of State may give such directions for disposing of the appeal as he thinks just, including a direction for the payment of costs by any party to the appeal.

(4) A direction under subsection (3) for payment of costs may be made a rule of the High Court on the application of the party in whose favour it is given.

(5) In Scotland a direction under subsection (3) for payment of expenses may be enforced in like manner as recorded decree arbitral.

TABLE

Determination	Appellant
Refusal to issue, renew or vary licence in accordance with terms of application.	The applicant.
Exclusion of person from group licence.	The person excluded.
Refusal to give directions in respect of a licensee under section 29(5) or 32(5).	The licensee.
Compulsory variation, or suspension or revocation, of standard licence.	The licensee.
Compulsory variation, or suspension or revocation, of group licence.	The original applicant or any licensee.
Refusal to end suspension of licence in accordance with terms of application.	The applicant.
Refusal to make order under section 40(2) in accordance with terms of application.	The applicant.

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[^{F6} Imposition of, or refusal to withdraw, consumer credit prohibition under section 203 of the Financial Services and Markets Act 2000.	The consumer credit EEA firm concerned.
Imposition of, or refusal to withdraw, a restriction under section 204 of the Financial Services and Markets Act 2000.	The consumer credit EEA firm concerned.]

Textual Amendments

- F3** By S.I. 1992/3218, reg. 18(6), **Sch. 5 para. 5** it is provided that **section 41** shall have effect (1.1.1993) as if -(a) the following determinations were mentioned in column 1 of the table set out at the end of that section, namely -(i) imposition of a prohibition or restriction or the variation of a restriction; and(ii) refusal of an application for the revocation of a prohibition or restriction; and (b) the European institution concerned were mentioned in column 2 of that table in relation to those determinations
- F4** Words in s. 41(1) substituted (1.4.2003) by **Enterprise Act 2002 (c. 40), ss. 278, 279, Sch. 25 para. 6(21)**; S.I. 2003/766, **art. 2, Sch.** (with **art. 3**)
- F5** S. 41(1A)-(1D) inserted (1.12.2007 for specified purposes and otherwise 6.4.2008) by **Consumer Credit Act 2006 (c. 14), ss. {56(2)}, 71(2)** (with Sch. 3 para. 27(1)); S.I. 2007/3300, **arts. 3(1), 3(2), Sch. 1, Sch. 2**
- F6** Entries in s. 41 Table inserted (1.12.2001) by S.I. 2001/3649, **art. 171**

Modifications etc. (not altering text)

- C2** S. 41 extended (1.1.1996) by S.I. 1996/3275, reg. 15(6), **sch. 5 para. 5**
S. 41 applied (with modifications) (1.12.2001) by 2000 c. 8, s. 203(8), **Sch. 16 para. 5**; S.I. 2001/3538, **art. 2(1)**
- C3** S. 41: power to transfer functions conferred (19.9.2007) by **Tribunals, Courts and Enforcement Act 2007 (c. 15), ss. 30, 35, 148**; S.I. 2007/2709, **art. 2(a)**
- C4** S. 41 applied (15.12.2007) by **The Money Laundering Regulations 2007 (S.I. 2007/2157), reg. 44(5)**

VALID FROM 01/09/2009

[^{F7}41ZA Tribunal Procedure Rules: suspension of OFT determinations

In the case of appeals to the First-tier Tribunal under section 41, Tribunal Procedure Rules may make provision for the suspension of determinations of the OFT.

Textual Amendments

- F7** Ss. 41ZA, 41ZB inserted (1.9.2009) by **The Transfer of Functions of the Consumer Credit Appeals Tribunal Order 2009 (S.I. 2009/1835), arts. 1, 4(1), Sch. 1 para. 5** (with Sch. 4)

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VALID FROM 01/09/2009

41ZB Disposal of appeals

- (1) The First-tier Tribunal shall decide an appeal under section 41 by way of a rehearing of the determination appealed against.
- (2) In disposing of an appeal under section 41 the First-tier Tribunal may do one or more of the following—
 - (a) confirm the determination appealed against;
 - (b) quash that determination;
 - (c) vary that determination;
 - (d) remit the matter to the OFT for reconsideration and determination in accordance with the directions (if any) given to it by the tribunal;
 - (e) give the OFT directions for the purpose of giving effect to its decision.
- (3) In the case of an appeal under section 41 against a determination to impose a penalty, the First-tier Tribunal—
 - (a) has no power by virtue of subsection (2)(c) to increase the penalty;
 - (b) may extend the period within which the penalty is to be paid (including in cases where that period has already ended).
- (4) Subsection (3) does not affect—
 - (a) the tribunal's power to give directions to the OFT under subsection (2)(d); or
 - (b) what the OFT can do where a matter is remitted to it under subsection (2)(d).
- (5) Where the First-tier Tribunal remits a matter to the OFT, it may direct that the requirements of section 34 of this Act are not to apply, or are only to apply to a specified extent, in relation to the OFT's reconsideration of the matter.
- (6) Subject to subsections (7) and (8), where the First-tier Tribunal remits an application to the OFT, section 6(1) and (3) to (9) of this Act shall apply as if the application had not been previously determined by the OFT.
- (7) In the case of a general notice which came into effect after the determination appealed against was made but before the application was remitted, the applicant shall provide any information or document which he is required to provide under section 6(6) within—
 - (a) the period of 28 days beginning with the day on which the application was remitted; or
 - (b) such longer period as the OFT may allow.
- (8) In the case of—
 - (a) any information or document which was superseded,
 - (b) any change in circumstances which occurred, or
 - (c) any error or omission of which the applicant became aware,
 after the determination appealed against was made but before the application was remitted, any notification that is required to be given by the applicant under section 6(7) shall be given within the period of 28 days beginning with the day on which the application was remitted.]

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Textual Amendments

- F7** Ss. 41ZA, 41ZB inserted (1.9.2009) by [The Transfer of Functions of the Consumer Credit Appeals Tribunal Order 2009 \(S.I. 2009/1835\)](#), arts. 1, 4(1), **Sch. 1 para. 5** (with Sch. 4)

[^{F2}41A Appeals from the Consumer Credit Appeals Tribunal

- (1) A party to an appeal to the Tribunal may with leave appeal—
 - (a) in England and Wales and Northern Ireland, to the Court of Appeal, or
 - (b) in Scotland, to the Court of Session,on a point of law arising from a decision of the Tribunal.
- (2) For the purposes of subsection (1) leave to appeal may be given by—
 - (a) the Tribunal; or
 - (b) the Court of Appeal or the Court of Session.
- (3) An application for leave to appeal may be made to the Court of Appeal or the Court of Session only if the Tribunal has refused such leave.
- (4) If on an appeal under this section the court considers that the decision of the Tribunal was wrong in law, it may do one or more of the following—
 - (a) quash or vary that decision;
 - (b) substitute for that decision a decision of its own;
 - (c) remit the matter to the Tribunal for rehearing and determination in accordance with the directions (if any) given to it by the court.
- (5) An appeal may be brought from a decision of the Court of Appeal under this section only if leave to do so is given by the Court of Appeal or the House of Lords.
- (6) Rules under section 40A(3) may make provision for regulating or prescribing any matters incidental to or consequential on an appeal under this section.
- (7) In this section ‘party’ means, in relation to an appeal to the Tribunal, the appellant or the OFT.]

Modifications etc. (not altering text)

- C5** S. 41A applied (15.12.2007) by [The Money Laundering Regulations 2007 \(S.I. 2007/2157\)](#), **reg. 44(5)**

42^{F8}

Textual Amendments

- F8** S. 42 repealed (1.10.1992) by [Tribunals and Inquiries Act 1992 \(c. 53\)](#), ss. 18(2), 19(2), **Sch. 4 Pt. I.**

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