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Consumer Credit Act 1974

1974 CHAPTER 39

PART X

ANCILLARY CREDIT BUSINESSES

Credit reference agencies

157 Duty to disclose name etc. of agency.

- (1) A creditor, owner or negotiator, within the prescribed period after receiving a request in writing to that effect from the debtor or hirer, shall give him notice of the name and address of any credit reference agency from which the creditor, owner or negotiator has, during the antecedent negotiations, applied for information about his financial standing.
- (2) Subsection (1) does not apply to a request received more than 28 days after the termination of the antecedent negotiations, whether on the making of the regulated agreement or otherwise.
- (3) If the creditor, owner or negotiator fails to comply with subsection (1) he commits an offence.

158 Duty of agency to disclose filed information.

- (1) A credit reference agency, within the prescribed period after receiving,—
 - (a) a request in writing to that effect from any individual (the “consumer”), and
 - (b) such particulars as the agency may reasonably require to enable them to identify the file, and
 - (c) a fee of [^{F1}£1],shall give the consumer a copy of the file relating to him kept by the agency.
- (2) When giving a copy of the file under subsection (1), the agency shall also give the consumer a statement in the prescribed form of his rights under section 159.

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- (3) If the agency does not keep a file relating to the consumer it shall give him notice of that fact, but need not return any money paid.
- (4) If the agency contravenes any provision of this section it commits an offence.
- (5) In this Act “file”, in relation to an individual, means all the information about him kept by a credit reference agency, regardless of how the information is stored, and “copy of the file”, as respects information not in plain English, means a transcript reduced into plain English.

Textual Amendments

- F1** “£1” substituted for 25p by **S.I. 1983/1571, art. 3, Sch. Pt. I**, (which S.I. was revoked (1.5.1998) by **S.I. 1998/997, art. 2**)

159 Correction of wrong information.

- (1) A consumer given information under section 158 who considers that an entry in his file is incorrect, and that if it is not corrected he is likely to be prejudiced, may give notice to the agency requiring it either to remove the entry from the file or amend it.
- (2) Within 28 days after receiving a notice under subsection (1), the agency shall by notice inform the consumer that it has—
 - (a) removed the entry from the file, or
 - (b) amended the entry, or
 - (c) taken no action,
 and if the notice states that the agency has amended the entry it shall include a copy of the file so far as it comprises the amended entry.
- (3) Within 28 days after receiving a notice under subsection (2), or where no such notice was given, within 28 days after the expiry of the period mentioned in subsection (2), the consumer may, unless he has been informed by the agency that it has removed the entry from his file, serve a further notice on the agency requiring it to add to the file an accompanying notice of correction (not exceeding 200 words) drawn up by the consumer, and include a copy of it when furnishing information included in or based on that entry.
- (4) Within 28 days after receiving a notice under subsection (3), the agency, unless it intends to apply to the Director under subsection (5), shall by notice inform the consumer that it has received the notice under subsection (3) and intends to comply with it.
- (5) If—
 - (a) the consumer has not received a notice under subsection (4) within the time required, or
 - (b) it appears to the agency that it would be improper for it to publish a notice of correction because it is incorrect, or unjustly defames any person, or is frivolous or scandalous, or is for any other reason unsuitable,
 the consumer or, as the case may be, the agency may, in the prescribed manner and on payment of the specified fee, apply to the Director, who may make such order on the application as he thinks fit.

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- (6) If a person to whom an order under this section is directed fails to comply with it within the period specified in the order he commits an offence.

160 Alternative procedure for business consumers.

- (1) The Director, on an application made by a credit reference agency, may direct that this section shall apply to the agency if he is satisfied—
- (a) that compliance with section 158 in the case of consumers who carry on a business would adversely affect the service provided to its customers by the agency, and
 - (b) that, having regard to the methods employed by the agency and to any other relevant factors, it is probable that consumers carrying on a business would not be prejudiced by the making of the direction.
- (2) Where an agency to which this section applies receives a request, particulars and a fee under section 158(1) from a consumer who carries on a business, and section 158(3) does not apply, the agency, instead of complying with section 158, may elect to deal with the matter under the following subsections.
- (3) Instead of giving the consumer a copy of the file, the agency shall within the prescribed period give notice to the consumer that it is proceeding under this section, and by notice give the consumer such information included in or based on entries in the file as the Director may direct, together with a statement in the prescribed form of the consumer's rights under subsections (4) and (5).
- (4) If within 28 days after receiving the information given him under subsection (3), or such longer period as the Director may allow, the consumer—
- (a) gives notice to the Director that he is dissatisfied with the information, and
 - (b) satisfies the Director that he has taken such steps in relation to the agency as may be reasonable with a view to removing the cause of his dissatisfaction, and
 - (c) pays the Director the specified fee,
- the Director may direct the agency to give the Director a copy of the file, and the Director may disclose to the consumer such of the information on the file as the Director thinks fit.
- (5) Section 159 applies with any necessary modifications to information given to the consumer under this section as it applies to information given under section 158.
- (6) If an agency making an election under subsection (2) fails to comply with subsection (3) or (4) it commits an offence.

VALID FROM 30/04/2010

[^{F2}160A Credit intermediaries

- (1) In this section “credit intermediary” means a person who in the course of business—
- (a) carries out any of the activities specified in subsection (2) for a consideration that is or includes a financial consideration, and
 - (b) does not do so as a creditor.

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- (2) The activities are—
- (a) recommending or making available prospective regulated consumer credit agreements, other than agreements secured on land, to individuals,
 - (b) assisting individuals by undertaking other preparatory work in relation to such agreements, or
 - (c) entering into regulated consumer credit agreements, other than agreements secured on land, with individuals on behalf of creditors.
- (3) A credit intermediary must in—
- (a) advertising of his relating to an activity in subsection (2) which is intended for individuals not acting the course of a business, or
 - (b) documentation of his relating to an activity in subsection (2) which is intended for individuals,
- indicate the extent to which the intermediary is acting independently and in particular whether he works exclusively with a creditor.
- (4) Where a credit intermediary carries on an activity specified in subsection (2) for a debtor, the intermediary must secure that any financial consideration payable to him by the debtor for the activity is disclosed to the debtor and then agreed in writing before the regulated consumer credit agreement is concluded.
- (5) Where a credit intermediary carries on an activity specified in subsection (2) for a debtor, the intermediary must disclose to the creditor the financial consideration for the activity payable by the debtor if the annual percentage rate of the total charge for credit prescribed under section 20 is to be ascertained by the creditor.
- (6) A credit intermediary who fails to comply with a requirement of this section commits an offence.
- (7) An offence under this section is to be treated for the purposes of the definition of “relevant offence” in section 38(1) and (2) of the Regulatory Enforcement and Sanctions Act 2008 as an offence contained in this Act immediately before the day on which that Act was passed.]

Textual Amendments

- F2** S. 160A inserted (30.4.2010 for certain purposes and otherwise 1.2.2011) by [The Consumer Credit \(EU Directive\) Regulations 2010 \(S.I. 2010/1010\)](#), [regs. 41](#), 99(1)(2)(c) (with [regs. 100](#), 101)

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