



# Consumer Credit Act 2006

## 2006 CHAPTER 14

### *Ombudsman scheme*

#### **59 Financial services ombudsman scheme to apply to consumer credit licensees**

(1) After section 226 of the 2000 Act insert—

##### **“226A Consumer credit jurisdiction**

- (1) A complaint which relates to an act or omission of a person (“the respondent”) is to be dealt with under the ombudsman scheme if the conditions mentioned in subsection (2) are satisfied.
- (2) The conditions are that—
  - (a) the complainant is eligible and wishes to have the complaint dealt with under the scheme;
  - (b) the complaint falls within a description specified in consumer credit rules;
  - (c) at the time of the act or omission the respondent was the licensee under a standard licence or was authorised to carry on an activity by virtue of section 34A of the Consumer Credit Act 1974;
  - (d) the act or omission occurred in the course of a business being carried on by the respondent which was of a type mentioned in subsection (3);
  - (e) at the time of the act or omission that type of business was specified in an order made by the Secretary of State; and
  - (f) the complaint cannot be dealt with under the compulsory jurisdiction.
- (3) The types of business referred to in subsection (2)(d) are—
  - (a) a consumer credit business;
  - (b) a consumer hire business;
  - (c) a business so far as it comprises or relates to credit brokerage;
  - (d) a business so far as it comprises or relates to debt-adjusting;
  - (e) a business so far as it comprises or relates to debt-counselling;

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- (f) a business so far as it comprises or relates to debt-collecting;
  - (g) a business so far as it comprises or relates to debt administration;
  - (h) a business so far as it comprises or relates to the provision of credit information services;
  - (i) a business so far as it comprises or relates to the operation of a credit reference agency.
- (4) A complainant is eligible if—
- (a) he is—
    - (i) an individual; or
    - (ii) a surety in relation to a security provided to the respondent in connection with the business mentioned in subsection (2)(d); and
  - (b) he falls within a class of person specified in consumer credit rules.
- (5) The approval of the Treasury is required for an order under subsection (2)(e).
- (6) The jurisdiction of the scheme which results from this section is referred to in this Act as the “consumer credit jurisdiction”.
- (7) In this Act “consumer credit rules” means rules made by the scheme operator with the approval of the Authority for the purposes of the consumer credit jurisdiction.
- (8) Consumer credit rules under this section may make different provision for different cases.
- (9) Expressions used in the Consumer Credit Act 1974 have the same meaning in this section as they have in that Act.”
- (2) In Schedule 17 to that Act (the ombudsman scheme) after Part 3 insert the Part 3A set out in Schedule 2 to this Act.

## **60 Funding of ombudsman scheme**

In Part 16 of the 2000 Act after section 234 insert—

### **“234A Funding by consumer credit licensees etc.**

- (1) For the purpose of funding—
- (a) the establishment of the ombudsman scheme so far as it relates to the consumer credit jurisdiction (whenever any relevant expense is incurred), and
  - (b) its operation in relation to the consumer credit jurisdiction,
- the scheme operator may from time to time with the approval of the Authority determine a sum which is to be raised by way of contributions under this section.
- (2) A sum determined under subsection (1) may include a component to cover the costs of the collection of contributions to that sum (“collection costs”) under this section.
- (3) The scheme operator must notify the OFT of every determination under subsection (1).

- (4) The OFT must give general notice of every determination so notified.
- (5) The OFT may by general notice impose requirements on—
  - (a) licensees to whom this section applies, or
  - (b) persons who make applications to which this section applies,to pay contributions to the OFT for the purpose of raising sums determined under subsection (1).
- (6) The amount of the contribution payable by a person under such a requirement—
  - (a) shall be the amount specified in or determined under the general notice; and
  - (b) shall be paid before the end of the period or at the time so specified or determined.
- (7) A general notice under subsection (5) may—
  - (a) impose requirements only on descriptions of licensees or applicants specified in the notice;
  - (b) provide for exceptions from any requirement imposed on a description of licensees or applicants;
  - (c) impose different requirements on different descriptions of licensees or applicants;
  - (d) make provision for refunds in specified circumstances.
- (8) Contributions received by the OFT must be paid to the scheme operator.
- (9) As soon as practicable after the end of—
  - (a) each financial year of the scheme operator, or
  - (b) if the OFT and the scheme operator agree that this paragraph is to apply instead of paragraph (a) for the time being, each period agreed by them,the scheme operator must pay to the OFT an amount representing the extent to which collection costs are covered in accordance with subsection (2) by the total amount of the contributions paid by the OFT to it during the year or (as the case may be) the agreed period.
- (10) Amounts received by the OFT from the scheme operator are to be retained by it for the purpose of meeting its costs.
- (11) The Secretary of State may by order provide that the functions of the OFT under this section are for the time being to be carried out by the scheme operator.
- (12) An order under subsection (11) may provide that while the order is in force this section shall have effect subject to such modifications as may be set out in the order.
- (13) The licensees to whom this section applies are licensees under standard licences which cover to any extent the carrying on of a type of business specified in an order under section 226A(2)(e).
- (14) The applications to which this section applies are applications for—
  - (a) standard licences covering to any extent the carrying on of a business of such a type;
  - (b) the renewal of standard licences on terms covering to any extent the carrying on of a business of such a type.

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(15) Expressions used in the Consumer Credit Act 1974 have the same meaning in this section as they have in that Act.”

## **61 Consequential amendments relating to ombudsman scheme**

- (1) In section 4 of the 1974 Act (OFT to disseminate information and advice) after “the operation of this Act,” insert “the consumer credit jurisdiction under Part 16 of the Financial Services and Markets Act 2000.”
- (2) In section 227(2)(e) of the 2000 Act (conditions for exercise of voluntary jurisdiction) after “jurisdiction” insert “or the consumer credit jurisdiction”.
- (3) In sections 228(1) and 229(1) of that Act (determinations and awards by ombudsman) after “jurisdiction” insert “and to the consumer credit jurisdiction”.
- (4) In subsection (4) of section 229 of that Act (awards by ombudsman) after “specify” insert “for the purposes of the compulsory jurisdiction”.
- (5) After that subsection insert—
 

“(4A) The scheme operator may specify for the purposes of the consumer credit jurisdiction the maximum amount which may be regarded as fair compensation for a particular kind of loss or damage specified under subsection (3)(b).”
- (6) In subsection (8)(b) of that section after “17” insert “or (as the case may be) Part 3A of that Schedule”.
- (7) For subsection (11) of that section substitute—
 

“(11) “Specified” means—

  - (a) for the purposes of the compulsory jurisdiction, specified in compulsory jurisdiction rules;
  - (b) for the purposes of the consumer credit jurisdiction, specified in consumer credit rules.

(12) Consumer credit rules under this section may make different provision for different cases.”
- (8) In section 230 of that Act (costs)—
  - (a) in subsection (1) after “jurisdiction” insert “or the consumer credit jurisdiction”;
  - (b) in subsection (7) after “17” insert “or (as the case may be) paragraph 16D of that Schedule”.
- (9) In section 353(1) of that Act (power to permit disclosure of information) after paragraph (b) insert—
 

“(c) by the scheme operator to the Office of Fair Trading for the purpose of assisting or enabling that Office to discharge prescribed functions under the Consumer Credit Act 1974.”
- (10) In Schedule 17 to that Act (the ombudsman scheme)—
  - (a) in paragraph 3(4) after “227” insert “, the function of making consumer credit rules, the function of making determinations under section 234A(1)”;

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- (b) in paragraph 7(2) after “compulsory jurisdiction” insert “, functions in relation to its consumer credit jurisdiction”;
- (c) in paragraph 9(3) after “compulsory” insert “, consumer credit”;
- (d) in paragraphs 10(1) and 11 after “jurisdiction” insert “or to the consumer credit jurisdiction”.