

CONSUMER CREDIT ACT 2006

EXPLANATORY NOTES

APPLICATIONS FOR LICENCES AND FITNESS TO HOLD A LICENCE ETC.

Section 27: Charge on applicants for licences etc.

58. *Section 27* inserts a new section 6A after section 6 of the 1974 Act. Section 6A requires applicants for licences (or for licence renewal) to pay to OFT such charge as OFT specifies by general notice towards OFT's costs of carrying out its functions under the 1974 Act. OFT may specify different charges for different classes of persons, including no charges. OFT must obtain the approval of the Secretary of State and HM Treasury before specifying a charge. The section also amends section 189 of the 1974 Act (definitions) to clarify that the definition of "costs" means "expenses" in Scotland (which is the name given to the costs involved in legal proceedings in that jurisdiction).

Section 28: Applications for standard licences

59. *Section 28* inserts a new section 24A after section 24 of the 1974 Act. Section 24A deals with applications for standard licences. The purpose of the new section 24A is to give OFT power to manage the application process in a more efficient way by requiring people to specify in applications for licences what businesses they want the licence to cover. An applicant must specify whether he wants a licence covering one or more of consumer credit business, consumer hire business and ancillary credit business generally or a licence which only covers one or more descriptions of business within any of these broad types of business. It is OFT which will specify the descriptions of business within the types of business specified in subsection (4) that applicants may use in their applications. Under section 25(1) to (1AD) of the 1974 Act, as amended by section 29, if an applicant satisfies OFT that he is fit to do everything he has applied for, he is entitled to a licence to do that. If not, there is power for OFT to issue him with a more limited licence.

Section 29: Issue of standard licences

60. *Section 29(2)* amends section 25 of the 1974 Act specifically to require OFT in determining fitness to have regard to the skills, knowledge and experience (in relation to consumer credit, consumer hire or ancillary credit business) of the applicant and anyone who will work for him under that licence, and the practices and procedures that will be implemented in connection with the business, in addition to other matters that are currently set out in the section. Those matters include evidence that the applicant or an associate:
- has committed an offence involving fraud, other dishonesty or violence;
 - has contravened provisions of the 1974 Act, Part 16 of FSMA (so far as it relates to the new consumer credit jurisdiction of FOS) and any other laws relating to consumer credit (or the equivalent in another EEA state);
 - has practised discrimination; or

*These notes refer to the Consumer Credit Act 2006
(c.14) which received Royal Assent on 30 March 2006*

- has engaged in business practices, which appear to OFT to be deceitful, oppressive, unfair or improper (whether unlawful or not).

[Section 29\(2\)](#) also inserts a new subsection 25(2B) which makes it clear that the business practices which the OFT may consider to be deceitful, oppressive, unfair or improper include practices which appear to the OFT to involve irresponsible lending.

Section 30: Guidance on fitness test

61. [Section 30](#) inserts a new section 25A after section 25 of the 1974 Act. Section 25A requires OFT to prepare and publish guidance as to the way it determines the fitness of a person to hold a licence. OFT may revise any guidance on fitness. OFT must consult such persons as it thinks fit in preparing the guidance and publish it in a way that brings it to the attention of those likely to be affected by it. OFT must have regard to the latest published guidance in carrying out its licensing functions.

Section 31: Variation of licences etc.

62. Sections 30 and 31 of the 1974 Act give OFT the power to vary licences on application or compulsorily. Section 32 of the 1974 Act gives OFT the power to suspend or revoke licences. [Section 31](#) of the 2006 Act makes consequential amendments to these sections of the 1974 Act arising from the new section 24A inserted by section 28 of the 2006 Act.

Section 32: Winding up of standard licensee's business

63. [Section 32](#) inserts a new section 34A after section 34 of the 1974 Act. If OFT determines to renew a licence on different terms to the application, to vary it compulsorily, or to revoke or suspend a licence OFT may as part of that determination authorise the licensee to carry on specified activities (for a specified period) which it would otherwise no longer be licensed to carry on for the purpose of winding up or transferring its business. OFT may specify requirements which the licensee must comply with during the period of the authorisation failing which OFT may terminate the authorisation by notice to the licensee. [Subsection \(5\)](#) ensures (inter alia) that a licensee so authorised will not incur criminal liability for carrying on such activities without a licence.

Section 33: Consequential amendments relating to sections 27 to 32

64. [Section 33](#) makes amendments to other provisions of the 1974 Act and to provisions of FSMA consequential on the introduction of the new provisions in relation to the issue of licences by OFT.