

SCHEDULES

SCHEDULE 9

DISCIPLINE AND ENFORCEMENT

PART 2

AUTHORISED PERSONS ACTING WITHOUT PERMISSION

5 After section 26 insert—

“26A Agreements relating to credit

- (1) An agreement that is made by an authorised person in contravention of section 20 is unenforceable against the other party if the agreement is entered into in the course of carrying on a credit-related regulated activity involving matters falling within section 23(1C)(a).
- (2) The other party is entitled to recover—
 - (a) any money or other property paid or transferred by that party under the agreement, and
 - (b) compensation for any loss sustained by that party as a result of having parted with it.
- (3) In subsections (1) and (2) “agreement” means an agreement—
 - (a) which is made after this section comes into force, and
 - (b) the making or performance of which constitutes, or is part of, the credit-related regulated activity.
- (4) If the administration of an agreement involves the carrying on of a credit-related regulated activity, the agreement may not be enforced by a person for the time being exercising the rights of the lender under the agreement unless that person has permission, given under Part 4A or resulting from any other provision of this Act, in relation to that activity.
- (5) If the taking of steps to procure payment of debts due under an agreement involves the carrying on of a credit-related regulated activity, the agreement may not be enforced by a person for the time being exercising the rights of the lender under the agreement unless the agreement is enforced in accordance with permission—
 - (a) given under Part 4A to the person enforcing the agreement, or
 - (b) resulting from any other provision of this Act.”