Draft Order laid before Parliament under section 14(1) of the Legislative and Regulatory Reform Act 2006 for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2008 No.

REGULATORY REFORM

Legislative Reform (Consumer Credit) Order 2008

Made - - - -	*2008*
Coming into force - -	*2008*

The Secretary of State for Business, Enterprise & Regulatory Reform makes the following Order, in exercise of the powers conferred by section 1 of the Legislative and Regulatory Reform Act 2006(**1**).

For the purposes of section 3(1) of that Act, he considers, where relevant, that the conditions under section 3(2) are satisfied.

He has consulted in accordance with section 13(1) of that Act.

He has laid a draft Order and an explanatory document before Parliament in accordance with section 14(1) of that Act.

Pursuant to section 15 of that Act, the affirmative resolution procedure (within the meaning of Part 1 of that Act) applies in relation to the making of the Order.

In accordance with section 17(2) of that Act, the draft has been approved by resolution of each House of Parliament after the expiry of the 40 day period referred to in that provision.

Citation and commencement

1. This Order may be cited as the Legislative Reform (Consumer Credit) Order 2008 and shall come into force on the day after the day on which it is made.

Interpretation

2. In this Order "the 1974 Act" means the Consumer Credit Act 1974(**2**).

Exemption relating to investment properties

3.—(1) After section 16B of the 1974 Act insert—

(**1**) 2006 c.51; see section 32 for the definition of "Minister of the Crown".
(**2**) 1974 c.39. Relevant amendments were made to the 1974 Act by the Consumer Credit Act 2006 c.14. Sections 77A, 86B and 86C of the 1974 Act were inserted by sections 6, 9 and 10 respectively of the Consumer Credit Act 2006.

"**Exemption relating to investment properties**

16C.

(1) This Act does not regulate a consumer credit agreement if, at the time the agreement is entered into, any sums due under it are secured by a land mortgage on land where the condition in subsection (2) is satisfied.

(2) The condition is that less than 40% of the land is used, or is intended to be used, as or in connection with a dwelling—

(a) by the debtor or a person connected with the debtor, or

(b) in the case of credit provided to trustees, by an individual who is the beneficiary of the trust or a person connected with such an individual.

(3) For the purposes of subsection (2) the area of any land which comprises a building or other structure containing two or more storeys is to be taken to be the aggregate of the floor areas of each of those storeys.

(4) For the purposes of subsection (2) a person is "connected with" the debtor or an individual who is the beneficiary of a trust if he is—

(a) that person's spouse or civil partner;

(b) a person (whether or not of the opposite sex) whose relationship with that person has the characteristics of the relationship between husband and wife; or

(c) that person's parent, brother, sister, child, grandparent or grandchild.

(5) Section 126 (enforcement of land mortgages) applies to an agreement which would but for this section be a regulated agreement.

(6) Nothing in this section affects the application of sections 140A to 140C.".

(2) In section 8(3) of the 1974 Act (definition of consumer credit agreement) for "or 16B" substitute ", 16B or 16C".

(3) In section 82 of the 1974 Act (variation of agreements) in subsections (2A), (3)(b) and (5A) after "section 16(6C)" insert "or 16C".

(4) In section 189(1) of the 1974 Act (definitions) in the definition of "exempt agreement" for "or 16B" substitute ", 16B or 16C".

Statements to be provided in relation to fixed-sum credit agreements

4. In section 77A of the 1974 Act (statements to be provided in relation to fixed-sum credit agreements)—

(a) for subsection (1) substitute—

"(1) The creditor under a regulated agreement for fixed-sum credit must give the debtor statements under this section.

(1A) The statements must relate to consecutive periods.

(1B) The first such period must begin with either—

(a) the day on which the agreement is made, or

(b) the day the first movement occurs on the debtor's account with the creditor relating to the agreement.

(1C) No such period may exceed a year.

(1D) For the purposes of subsection (1C), a period of a year which expires on a non-working day may be regarded as expiring on the next working day.

(1E) Each statement under this section must be given to the debtor before the end of the period of thirty days beginning with the day after the end of the period to which the statement relates.".

(b) in subsection (5)—

(i) for "(1)(a)" substitute "(1E)"; and

(ii) paragraph (b) and the "or" immediately preceding it shall cease to have effect; and

(c) in subsection (7) omit the words "paragraph (a) or (as the case may be) paragraph (b) of".

5.—(1) Section 77A of the 1974 Act, as amended by this Order, applies to agreements whenever made.

(2) Section 77A of the 1974 Act, as amended by this Order, shall have effect in relation to agreements made before the commencement of section 6 of the Consumer Credit Act 2006(**3**) as if—

(a) the period mentioned in subsection (1B) were a period beginning no later than the day of the commencement of section 6 and ending no later than the day before the first anniversary of that day; and

(b) subsection (1C) did not apply.

6. Paragraph 2 of Schedule 3 to the Consumer Credit Act 2006 is repealed.

7. Regulation 11 of the Consumer Credit (Information Requirements and Duration of Licences and Charges) Regulations 2007(**4**) is revoked.

Interpretation of s.86B of the 1974 Act

8. In section 86B of the 1974 Act (notice of sums in arrears under fixed-sum credit agreements etc.)—

(a) in subsection (5)(a) for "sum" substitute "payments", for "pay" substitute "make" and for "is" substitute "are"; and

(b) after subsection (12) insert—

"(13) In this section—

(a) "payments" in relation to an applicable agreement which is a regulated agreement for fixed-sum credit means payments to be made at predetermined intervals provided for under the terms of the agreement; and

(b) "payments" in relation to an applicable agreement which is a regulated consumer hire agreement means any payments to be made by the hirer in relation to any period in consideration of the bailment or hiring to him of goods under the agreement.".

Interpretation of s.86C of the 1974 Act

9. In section 86C of the 1974 Act (notice of sums in arrears under running-account credit agreements) after subsection (7) insert—

"(8) In this section "payments" means payments to be made at predetermined intervals provided for under the terms of the agreement.".

(**3**) 2006 c.14.
(**4**) S.I. 2007/1167.