



Number 13 of 2022

Consumer Credit (Amendment) Act 2022



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CONSUMER CREDIT (AMENDMENT) ACT 2022

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[No. 13.]

Consumer Credit (Amendment) Act 2022.

[2022.]

AMENDMENT OF EUROPEAN UNION (CONSUMER MORTGAGE CREDIT AGREEMENTS) REGULATIONS 2016

[2022.]

Consumer Credit (Amendment) Act 2022.

[No. 13.]

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Central Bank (Supervision and Enforcement) Act 2013 (No. 26)

Consumer Credit Act 1995 (No. 24)

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CONSUMER CREDIT (AMENDMENT) ACT 2022

An Act to amend the law in relation to providers of high cost credit, including in relation to the licensing of such persons, and for that purpose to amend the Consumer Credit Act 1995 and to make consequential amendments to other enactments; and to provide for related matters. [29th June, 2022]

Be it enacted by the Oireachtas as follows:

Definition

1. In this Act, “Act of 1995” means the Consumer Credit Act 1995.

Amendment of section 2 of Act of 1995

2. Section 2 of the Act of 1995 is amended, in subsection (1)—
 - (a) by the deletion of the definitions of “moneylender”, “moneylender’s licence”, “moneylending” and “moneylending agreement”, and
 - (b) by the insertion of the following definitions:

“ ‘high cost credit’ means credit supplied by a high cost credit provider to a consumer on foot of a high cost credit agreement;

‘high cost credit agreement’ means a credit agreement into which a high cost credit provider enters, or offers to enter, with a consumer in which one or more of the following apply:

 - (a) the agreement was concluded away from the business premises of the high cost credit provider or the business premises of the supplier of goods or services under the agreement;
 - (b) any negotiations for, or in relation to the credit were conducted at a place other than the business premises of the high cost credit provider or the business premises of the supplier of goods or services under the agreement;
 - (c) repayments under the agreement will, or may, be paid by the consumer to the high cost credit provider or the representative of the high cost credit provider at any place other than the business premises of the high cost credit provider or the business premises of the supplier of goods or services under the agreement;

- (d) the total cost of credit to the consumer under the agreement is in excess of an APR of 23 per cent, or such other rate as may be prescribed;

‘high cost credit provider’ means a person who engages in the provision of high cost credit, or who advertises or announces themselves or holds themselves out in any way as engaging in the provision of high cost credit, but does not include—

- (a) any pawnbroker in respect of business carried on by the pawnbroker in accordance with the provisions of the Pawnbrokers Act 1964,
- (b) a society which is registered as a credit union under the Credit Union Act 1997,
- (c) a registered society within the meaning of the Friendly Societies Acts 1896 to 2021,
- (d) a credit institution,
- (e) a person who supplies money for the purchase, sale or hire of goods at an APR which is less than or equal to 23 per cent (or such other rate as may be prescribed), or
- (f) a mortgage lender;

‘high cost credit provider’s licence’ means a licence granted under section 93;”.

Amendment of section 12 of Act of 1995

3. Section 12 of the Act of 1995 is amended, in subsection (2), by the substitution of the following paragraph for paragraph (c):

“(c) in Part VIII, contravenes section 94A(1), 96, 97, 98(1) or (2), 98A(1), 100, 101, 102, 103(2), 107, 110 or 111, or”.

Amendment of section 28A of Act of 1995

4. Section 28A of the Act of 1995 is amended, in subsection (1), by the substitution of “high cost credit agreement” for “moneylending agreement”.

Amendment of section 92 of Act of 1995

5. Section 92 of the Act of 1995 is amended, in subsection (2), by the insertion of the following definitions:

“ ‘financial services legislation’ has the same meaning as it has in the Central Bank (Supervision and Enforcement) Act 2013;

‘rate of nominal monthly interest’ means the advertised or stated monthly interest rate, without taking into account any fees, but

including any compounding of interest applicable;”.

Amendment of section 93 of Act of 1995

6. Section 93 of the Act of 1995 is amended—

(a) by the substitution of the following subsection for subsection (1):

“(1) The Bank may grant to an applicant a high cost credit provider’s licence authorising the applicant to engage in the provision of high cost credit on such terms and conditions as it thinks fit, but only after considering all objections made in respect of the application under subsection (2).”.

(b) by the substitution of the following subsection for subsection (2):

“(2) A person who intends to apply for a high cost credit provider’s licence shall before making such application cause to be published, in a national newspaper published and circulating in the State, a notice of the person’s intention.”.

(c) by the deletion of subsection (4),

(d) in subsection (5)—

(i) by the substitution of the following paragraph for paragraph (e):

“(e) details of charges not included in the cost of credit;”.

and

(ii) by the deletion of paragraph (g),

(e) by the substitution of the following subsection for subsection (7):

“(7) A high cost credit provider’s licence shall be valid for 5 years from the date of the grant of the licence.”.

(f) in subsection (8)—

(i) by the deletion of paragraph (d), and

(ii) by the substitution of the following paragraph for paragraph (f):

“(f) details of charges not included therein,”.

(g) in subsection (10)—

(i) by the substitution of the following paragraph for paragraph (g):

“(g) in the Bank’s opinion, any of the terms or conditions of the applicant relating to credit are unfair,”.

(ii) by the insertion of the following paragraph after paragraph (g) (as substituted by *subparagraph (i)*):

“(ga) a proposed total cost of credit is excessive,”.

(iii) in paragraph (h), by the substitution of “previous licence,” for “previous licence.”, and

(iv) by the insertion of the following paragraphs after paragraph (h):

“(i) the applicant has failed to satisfy the Bank that the applicant is, or will be, able to comply with any requirement imposed on the holder of a licence by, or under, this Part or any other provision of financial services legislation,

(j) the applicant has failed to satisfy the Bank that the applicant conducts or will conduct the applicant’s business in such a manner as to ensure the protection of the applicant’s customers, or

(k) the applicant has failed to satisfy the Bank that the applicant complies with any other requirement, compliance with which is considered necessary by the Bank in order to ensure—

(i) the proper and orderly regulation and supervision of the provision of high cost credit, or

(ii) the protection of the applicant’s customers.”,

(h) by the substitution of the following subsection for subsection (11):

“(11) The Bank may—

(a) suspend or revoke a high cost credit provider’s licence, or

(b) vary the terms or conditions of a high cost credit provider’s licence, where the Bank is satisfied that, since becoming the holder of a high cost credit provider’s licence—

(i) the high cost credit provider, or any business with which the high cost credit provider is connected, has been convicted of an offence for contravening section 98,

(ii) the high cost credit provider has become the holder of a licence referred to in subsection (10)(c),

(iii) the high cost credit provider has failed to comply with any of the terms or conditions of the licence, or

(iv) the high cost credit provider has failed to comply with or is failing to comply with any condition or requirement imposed by, or under, this Act or any other financial services legislation.”,

and

(i) by the insertion of the following subsection after subsection (18):

“(20) For the purposes of subsection (10)(ga), a proposed total cost of credit shall be excessive where the interest rate for a loan to which the total cost of credit relates would exceed—

- (a) in the case of a loan (other than a running account)—
 - (i) the maximum rate of interest standing prescribed under section 98A(2)(a)(i), or
 - (ii) the maximum rate of interest standing prescribed under section 98A(2)(a)(ii),
 - and
 - (b) in the case of a running account, the maximum rate of interest standing prescribed under section 98A(2)(b),
- in each case, at the time the application is made.”.

Term of loan under high cost credit agreement

7. The Act of 1995 is amended by the insertion of the following section after section 94:

- “94A. (1) Subject to subsection (2), a high cost credit provider shall not grant a loan whose term exceeds 52 weeks.
- (2) Subsection (1) shall not apply to—
- (a) a loan granted under a high cost credit agreement that is entered into before the date on which the *Consumer Credit (Amendment) Act 2022* comes into operation, or
 - (b) a running account under a high cost credit agreement.”.

Amendment of section 95 of Act of 1995

8. The Act of 1995 is amended by the substitution of the following section for section 95:

- “95. A high cost credit provider shall ensure that a high cost credit agreement—
- (a) entered into after the date on which the *Consumer Credit (Amendment) Act 2022* comes into operation, and
 - (b) to which the high cost credit provider is a party,
- shall contain in a prominent position the words ‘**High cost credit agreement**’.”.

Maximum interest rates

9. The Act of 1995 is amended by the insertion of the following section after section 98:

- “98A. (1) A high cost credit provider shall not charge interest, under a high cost credit agreement, at a rate which exceeds a maximum rate of interest—
- (a) prescribed under this section, and
 - (b) applicable to the agreement.

- (2) The Minister shall prescribe the following:
 - (a) in respect of a loan (other than a running account) under a high cost credit agreement—
 - (i) the maximum rate of simple interest chargeable per week (being a rate less than or equal to one per cent), and
 - (ii) the maximum rate of simple interest chargeable per year (being a rate less than or equal to 48 per cent);
 - (b) in respect of a running account under a high cost credit agreement, the maximum rate of nominal monthly interest chargeable on an outstanding balance (being a rate less than or equal to 2.83 per cent).
- (3) A maximum rate of interest prescribed under this section shall apply to a high cost credit agreement entered into—
 - (a) after the date on which the regulations, by which the rate is prescribed, come into operation, and
 - (b) on or before the date, if any, on which the regulations next made under this section come into operation.
- (4) The Minister shall consult with the Bank before making regulations under this section.
- (5) The Minister shall have regard to the following when making regulations under this section:
 - (a) the impact of the regulations on competition in the high cost credit sector;
 - (b) the impact of the regulations on the supply of credit in the high cost credit sector;
 - (c) the average rates of interest offered to customers in the high cost credit sector and any trends in such interest rates;
 - (d) where setting the proposed rate would reduce the supply of credit in the high cost credit sector, the impact of such a reduction on financial inclusion.
- (6) In subsection (5)(d), ‘financial inclusion’ means affordable, timely and adequate access to a range of regulated financial products and services by all segments of society.
- (7) The Bank shall, when consulted in accordance with subsection (4), prepare a report assessing the possible effects, on the matters referred to in subsection (5), of the rates proposed to be prescribed by the Minister.
- (8) The Bank shall, within 3 years of the coming into operation of the *Consumer Credit (Amendment) Act 2022*, prepare a report assessing

the impact of the rates of interest prescribed under this section on the matters referred to in subsection (5).”.

Amendment of section 100 of Act of 1995

10. Section 100 of the Act of 1995 is amended—

(a) by the substitution of the following subsection for subsection (1):

“(1) A high cost credit provider shall, in respect of every high cost credit agreement, supply or make available to the borrower, in accordance with subsection (3), on paper or another durable medium, a book or document (in this section referred to as a ‘repayment book’)—

(a) in which to record repayments made under the agreement,

(b) which shall be completed and maintained by the high cost credit provider in accordance with this section, and

(c) which shall be separate from the agreement.”,

(b) in subsection (2)(a)—

(i) by the substitution of the following subparagraph for subparagraph (vii):

“(vii) the rate of interest to be charged (including the APR expressed as € per €100 borrowed) on foot of the credit advanced,”

and

(ii) by the substitution of the following subparagraph for subparagraph (viii):

“(viii) the total cost of credit—

(I) in euro, and

(II) as a percentage of the amount borrowed,”

and

(c) by the insertion of the following subsections after subsection (2):

“(3) A high cost credit provider shall, for the purposes of compliance with subsection (1)—

(a) offer to supply or make available the repayment book to the borrower in a choice of paper and at least one other durable medium, and

(b) supply or make available the repayment book to the borrower in the durable medium chosen by the borrower.

(4) In this section, ‘durable medium’ means any medium that enables a person to store information in a way that renders it accessible to the borrower for future reference for a period of time adequate for the purposes of the information and allows the unchanged reproduction of the information.”.

Amendment of section 102 of Act of 1995

11. Section 102 of the Act of 1995 is amended, by the substitution of the following subsection for subsection (1):

“(1) A high cost credit provider shall not make or attempt to make an agreement with a borrower who has borrowed or intends to borrow credit from that high cost credit provider for any—

- (a) sum,
- (b) account of costs,
- (c) charges,
- (d) collection charges, or
- (e) expenses,

incidental to or relating to the negotiations for, or the granting of, the loan.”.

Repeal of section 103 of Act of 1995

12. Section 103 of the Act of 1995 is repealed.

Provision of information by Bank to Minister

13. The Act of 1995 is amended by the insertion of the following section after section 114:

“**114A.** (1) Subject to subsection (3), the Minister may, in writing, request the Bank to obtain and publish aggregate information and statistics in relation to the high cost credit sector.

(2) The Bank shall comply with a request from the Minister under subsection (1).

(3) The Minister shall not request the Bank to publish personal data (within the meaning of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016¹) under subsection (1).”.

Transitional provisions

14. The Act of 1995 is amended by the insertion of the following section after section 114A (as inserted by *section 13*):

“Transitional provisions arising from Consumer Credit (Amendment) Act 2022

114B. (1) A reference in a provision specified in subsection (2) to a high cost credit provider’s licence shall include a reference to a licence granted under section 93, as that section stood immediately before the coming into operation of the *Act of 2022*.

¹ O.J. No. L 119, 4.5.2016, p. 1.

- (2) The provisions referred to in subsection (1) are—
- (a) subsections (9), (10)(e) and (h), (10A), (11), (12), (14), (16) and (17) of section 93,
 - (b) section 94,
 - (c) section 96,
 - (d) section 97,
 - (e) section 98,
 - (f) section 100,
 - (g) section 108,
 - (h) section 116,
 - (i) section 144, and
 - (j) section 151A.
- (3) An application made under section 93, as that section stood immediately before the coming into operation of the *Act of 2022*, but not determined before such coming into operation, shall be deemed to be an application for a high cost credit provider’s licence under section 93.
- (4) A licence granted under section 93, as that section stood immediately before the *Act of 2022* came into operation, shall be valid for the period of 12 months commencing on the date specified in the licence and shall expire at the end of that period.
- (5) In this section, ‘*Act of 2022*’ means the *Consumer Credit (Amendment) Act 2022*.”.

Consequential amendments

- 15.** (1) The Acts specified in *Parts 1 to 3 of Schedule 1* are amended to the extent specified in *column (3)* of each such Part.
- (2) The statutory instrument specified in *Schedule 2* is amended to the extent specified in *column (3)* of that Schedule.

Short title and commencement

- 16.** (1) This Act may be cited as the Consumer Credit (Amendment) Act 2022.
- (2) This Act shall come into operation on such day as the Minister for Finance may by order appoint.

SCHEDULE 1

Section 15(1)

AMENDMENT OF CERTAIN ENACTMENTS

PART 1

AMENDMENT OF ACT OF 1995

(1)	(2)	(3)
Item	Provision affected	Amendment
[1]	Section 2(1)	In the definition of “collecting repayments”— (a) substitute “high cost credit agreement” for “moneylending agreement”, and (b) substitute “high cost credit provider” for “moneylender”.
[2]	Section 17(1)(c)	Substitute “high cost credit agreement” for “moneylending agreement”.
[3]	Section 36	Substitute “high cost credit agreement” for “moneylending agreement”.
[4]	Section 39	Substitute “high cost credit provider” for “moneylender”.
[5]	Section 43(6)	Substitute “high cost credit agreement” for “moneylending agreement”.
[6]	Section 48(2)	(a) Substitute “high cost credit agreement” for “moneylending agreement”. (b) Substitute “high cost credit provider’s licence” for “moneylending licence”.
[7]	Section 92(1)	(a) Substitute “high cost credit agreements” for “moneylending agreements”. (b) Substitute “high cost credit” for “moneylending”.

[8]	Section 93(3)	Substitute “high cost credit provider’s licence” for “moneylender’s licence”.
[9]	Section 93(5)	Substitute “the provision of high cost credit” for “the business of moneylending” in each place where it occurs.
[10]	Section 93(6)	Substitute “high cost credit provider’s licence” for “moneylender’s licence”.
[11]	Section 93(8)	(a) Substitute “high cost credit provider’s licence” for “moneylender’s licence”. (b) Substitute “the provision of high cost credit” for “the business of moneylending”. (c) Substitute “high cost credit agreements” for “moneylending agreements”.
[12]	Section 93(9)	(a) Substitute “high cost credit provider’s licence” for “moneylender’s licence”. (b) Substitute “the provision of high cost credit” for “the business of moneylending”.
[13]	Section 93(10)	(a) Substitute “high cost credit provider’s licence” for “moneylender’s licence” in each place where it occurs. (b) Substitute “the provision of high cost credit” for “the business of moneylending” in each place where it occurs. (c) In paragraph (e), substitute “the provision of high cost credit” for “moneylending”.
[14]	Section 93(10A)(a)	Substitute “high cost credit provider’s licence” for “moneylender’s licence”.

[15]	Section 93(12)	Substitute “high cost credit provider’s licence” for “moneylender’s licence”.
[16]	Section 93(14)	Substitute “high cost credit provider’s licence” for “moneylender’s licence”.
[17]	Section 93(16)(a)	Substitute “high cost credit provider’s licence” for “moneylender’s licence”.
[18]	Section 93(17)(a)	Substitute “high cost credit provider’s licence” for “moneylender’s licence”.
[19]	Section 94	(a) Substitute “high cost credit provider’s licence” for “moneylender’s licence”. (b) Substitute “the provision of high cost credit” for “the business of moneylending”.
[20]	Section 96	Substitute “high cost credit provider’s licence” for “moneylender’s licence” in each place where it occurs.
[21]	Section 97(1)	(a) Substitute “high cost credit provider’s licence” for “moneylender’s licence”. (b) Substitute “the provision of high cost credit” for “the business of moneylending”. (c) Substitute “used for the provision of high cost credit” for “used for moneylending”.
[22]	Section 97(2)	(a) Substitute “the high cost credit provider” for “the moneylender”. (b) Substitute “high cost credit provider’s licence” for “moneylender’s licence”.
[23]	Section 97(3)	(a) Substitute “the provision of high cost credit” for “the business of moneylending”.

		(b) Substitute “high cost credit provider’s licence” for “moneylender’s licence”.
[24]	Section 97(5)	(a) Substitute “in the provision of high cost credit” for “in moneylending”. (b) Substitute “high cost credit provider” for “moneylender”.
[25]	Section 98	(a) Substitute “the provision of high cost credit” for “the business of moneylending” in each place where it occurs. (b) Substitute “high cost credit provider’s licence” for “moneylender’s licence” in each place where it occurs. (c) Substitute “on behalf of a high cost credit provider” for “on behalf of a moneylender”. (d) Substitute “for the purpose of the provision of high cost credit” for “for the purpose of moneylending”.
[26]	Section 99	(a) Substitute “high cost credit agreement” for “moneylending agreement”. (b) Substitute “high cost credit provider” for “moneylender” in each place where it occurs.
[27]	Section 100(2)	(a) Substitute “high cost credit provider” for “moneylender” in each place where it occurs. (b) Substitute “high cost credit agreement” for “moneylending agreement”. (c) Substitute “high cost credit provider’s licence” for “moneylender’s licence”.
[28]	Section 101	(a) Substitute “high cost credit provider” for “moneylender” in each place where it occurs.

		(b) Substitute “high cost credit agreement” for “moneylending agreement”. (c) Substitute “high cost credit provider’s” for “moneylender’s”.
[29]	Section 102(2)	Substitute “high cost credit provider” for “moneylender”.
[30]	Section 104	(a) Substitute “the purpose of the provision of high cost credit” for “the purpose of moneylending”. (b) Substitute “the provision of high cost credit” for “the business of moneylending”.
[31]	Section 105(1)	Substitute “the provision of high cost credit” for “moneylending”.
[32]	Section 106(1)	Substitute “the provision of high cost credit” for “moneylending”.
[33]	Section 107(1)	Substitute “the provision of high cost credit” for “moneylending”.
[34]	Section 108(1)	(a) Substitute “the provision of high cost credit” for “the business of money-lending”. (b) Substitute “high cost credit provider’s licence” for “moneylender’s licence”.
[35]	Section 110	Substitute “high cost credit provider” for “moneylender” in each place where it occurs.
[36]	Section 111	Substitute “high cost credit agreement” for “money lending agreement”.
[37]	Section 112	Substitute “high cost credit agreement” for “moneylending agreement”.

[38]	Section 114	Substitute “the provision of high cost credit” for “the business of moneylending”.
[39]	Section 116	Substitute “high cost credit provider’s licence” for “moneylender’s licence” in each place where it occurs.
[40]	Section 144(9)(c)(v)	Substitute “high cost credit provider’s licence” for “moneylender’s licence”.
[41]	Section 151A	(a) Substitute “high cost credit providers” for “moneylenders” in each place where it occurs. (b) Substitute “high cost credit provider’s licence” for “moneylender’s licence”.
[42]	Third Schedule	Substitute “€” for “£” in each place where it occurs.
[43]	Sixth Schedule	(a) Substitute “€” for “£”. (b) Substitute “high cost credit agreement” for “moneylending agreement”.
[44]	Seventh Schedule	In footnote 2, substitute “high cost credit provider” for “moneylender”.

PART 2

AMENDMENT OF BETTING ACT 1931

(1)	(2)	(3)
Item	Provision affected	Amendment
[1]	Section 6(1)(n)	Substitute “a registered high cost credit provider (within the meaning of the Consumer Credit Act 1995)” for “a registered moneylender”.

[2]	Section 11(1)(n)	Substitute “a registered high cost credit provider (within the meaning of the Consumer Credit Act 1995)” for “a registered moneylender”.
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PART 3

AMENDMENT OF TAXES CONSOLIDATION ACT 1997

(1)	(2)	(3)
Item	Provision affected	Amendment
[1]	Schedule 19, Part 2, Item 10(1)(b)	Substitute “the provision of high cost credit (within the meaning of the Consumer Credit Act 1995)” for “money-lending”.

SCHEDULE 2

Section 15(2)

AMENDMENT OF EUROPEAN UNION (CONSUMER MORTGAGE CREDIT AGREEMENTS) REGULATIONS 2016

(1)	(2)	(3)
Item	Provision affected	Amendment
[1]	Regulation 31(5)(c)(v)	Substitute “high cost credit provider’s licence” for “moneylender’s licence”.