



**An Bille um Chosaint Tomhaltóirí (Gnólachtaí Creidmheasa Miondíola agus
Gnólachtaí Seirbhísithe Creidmheasa a Rialáil), 2021**
**Consumer Protection (Regulation of Retail Credit and Credit Servicing Firms)
Bill 2021**

Mar a tionscnaíodh

As initiated



**AN BILLE UM CHOSAINN TOMHALTÓIRÍ (GNÓLACHTAÍ CREIDMHEASA
MIONDÍOLA AGUS GNÓLACHTAÍ SEIRBHÍSITHE CREIDMHEASA A RIALÁIL),
2021
CONSUMER PROTECTION (REGULATION OF RETAIL CREDIT AND CREDIT
SERVICING FIRMS) BILL 2021**

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ACTS REFERRED TO

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

Central Bank Act 1997 (No. 8)

Consumer Credit Act 1995 (No. 24)

Financial Services and Pensions Ombudsman Act 2017 (No. 22)

National Asset Management Agency Act 2009 (No. 34)



**AN BILLE UM CHOSAINT TOMHALTÓIRÍ (GNÓLACHTAÍ CREIDMHEASA
MIONDÍOLA AGUS GNÓLACHTAÍ SEIRBHÍSITHE CREIDMHEASA A RIALÁIL),
2021
CONSUMER PROTECTION (REGULATION OF RETAIL CREDIT AND CREDIT
SERVICING FIRMS) BILL 2021**

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Bill

entitled

An Act to provide for the extension of authorisation requirements to persons carrying on hire-purchase or consumer-hire business or providing credit indirectly and persons carrying on business relating to hire-purchase or consumer-hire agreements or the indirect provision of credit; to provide for the collection and publication of information on credit agreements, hire-purchase agreements and consumer-hire agreements; for those and other purposes to amend the Central Bank Act 1997; to provide for a limit on the interest rate that consumers may be charged under credit agreements and hire-purchase agreements; to provide for a requirement to include the annual percentage rate in a hire-purchase agreement; for those and other purposes to amend the Consumer Credit Act 1995 and to provide for related matters.

Be it enacted by the Oireachtas as follows:

Definitions

1. In this Act—
- “Act of 1995” means the Consumer Credit Act 1995;
- “Act of 1997” means the Central Bank Act 1997.

Amendment of section 28 of Act of 1997

2. Section 28 of the Act of 1997 is amended—
- (a) in subsection (1)—
- (i) by the insertion of the following definitions:
- “ ‘Act of 1995’ means the Consumer Credit Act 1995;
- ‘consumer-hire agreement’ means an agreement of more than three months duration for the bailment of goods to a hirer under which the property in the goods remains with the owner;

‘financial accommodation’ has the same meaning as it has in the Act of 1995;

‘hirer’ means a relevant person who takes, intends to take or has taken goods from an owner under a hire-purchase agreement or a consumer-hire agreement in return for periodical payments; 5

‘hire-purchase agreement’ means an agreement for the bailment of goods under which the hirer may buy the goods or under which the property in the goods will, if the terms of the agreement are complied with, pass to the hirer in return for periodical payments; and where by virtue of two or more agreements, none of which by itself constitutes a hire-purchase agreement, there is a bailment of goods and either the hirer may buy the goods, or the property therein will, if the terms of the agreements are complied with, pass to the hirer, the agreements shall be treated for the purpose of this Act as a single agreement made at the time when the last agreement was made; 10 15

‘local authority’ has the same meaning as it has in the Act of 1995;

‘owner’ means the person who lets or has let goods to a hirer under a hire-purchase agreement or a consumer-hire agreement;

‘regulated credit entity’ means—

- (a) a person who is authorised, or, by virtue of subsection (4) or (5), taken to be authorised, to carry on the business of a credit servicing firm, or 20
- (b) a regulated financial services provider authorised, by the Bank or an authority that performs functions in an EEA country that are comparable to the functions performed by the Bank, to carry on a relevant activity in the State; 25

‘relevant activity’ means—

- (a) directly or indirectly providing credit to, or
 - (b) entering into a consumer-hire agreement or hire-purchase agreement with, 30
- a relevant person;”

(ii) by the substitution of the following definition for the definition of “credit”:

“ ‘credit’ means—

- (a) a deferred payment,
- (b) a cash loan (whether or not provided on the security of a mortgage or charge over an estate or interest in land), or 35
- (c) other similar financial accommodation,

but does not include—

- (i) credit of a class specified in section 3(2) of the Act of 1995,

- (ii) credit granted or made available under an agreement of a class specified in section 3(2) of the Act of 1995,
 - (iii) credit arising under a transaction of a class specified in section 3(2) of the Act of 1995,
 - (iv) a payment of a class specified in section 3(2) of the Act of 1995, or 5
 - (v) bailment of goods to a hirer under an agreement of less than 3 months' duration under which the property in the goods remains with the owner;”,
- (iii) by the substitution of the following definition for the definition of “credit servicing”:
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- “ ‘credit servicing’ means—
- (a) in relation to a credit agreement, subject to subsection (2)(a)—
 - (i) holding the legal title to the rights of the creditor under the agreement,
 - (ii) managing or administering the agreement, including— 15
 - (I) notifying the relevant borrower of changes in interest rates or in payments due under the agreement or other matters of which the agreement requires the relevant borrower to be notified,
 - (II) taking any necessary steps for the purposes of collecting or recovering payments due under the agreement from the relevant borrower, or 20
 - (III) managing or administering any of the following:
 - (A) repayments under the agreement;
 - (B) any charges imposed on the relevant borrower under the agreement, 25
 - (C) any errors made in relation to the agreement;
 - (D) any complaints made by the relevant borrower;
 - (E) information or records relating to the relevant borrower in respect of the agreement; 30
 - (F) the process by which a relevant borrower’s financial difficulties are addressed;
 - (G) any alternative arrangements for repayment or other restructuring;
 - (H) assessment of the relevant borrower’s financial circumstances and ability to repay under the agreement; 35
 - (I) determination of the overall strategy for the management and administration of a portfolio of such agreements;

- (J) maintenance of control over key decisions relating to such a portfolio,
- or
- (iii) communicating with the relevant borrower in respect of any of the matters referred to in subparagraph (ii), 5
- and
- (b) in relation to a hire-purchase agreement or a consumer-hire agreement, subject to subsection (2)(b)—
- (i) holding the legal title to the rights of the owner under the agreement, 10
- (ii) managing or administering the agreement, including—
- (I) notifying the hirer of changes in payments due under the agreement or other matters of which the agreement requires the hirer to be notified,
- (II) taking any necessary steps for the purposes of collecting or recovering payments due under the agreement from the hirer, or 15
- (III) managing or administering any of the following:
- (A) repayments under the agreement;
- (B) any charges imposed on the hirer under the agreement; 20
- (C) any errors made in relation to the agreement;
- (D) any complaints made by the hirer;
- (E) information or records relating to the hirer in respect of the agreement;
- (F) the process by which a hirer’s financial difficulties are addressed; 25
- (G) any alternative arrangements for repayment or other restructuring;
- (H) assessment of the hirer’s financial circumstances and ability to repay under the agreement; 30
- (I) determination of the overall strategy for the management and administration of a portfolio of hire-purchase agreements, consumer-hire agreements or a mixture of hire-purchase and consumer-hire agreements;
- (J) maintenance of control over key decisions relating to such a portfolio, 35
- or

- (iii) communicating with the hirer in respect of any of the matters referred to in subparagraph (ii);”,
- (iv) in the definition of “credit servicing firm”—
 - (I) by the substitution of “subject to subsections (2A) and (2B)” for “subject to subsection (2A)”, 5
 - (II) in paragraph (a), by the substitution of “regulated credit entity” for “owner of credit”,
 - (III) in paragraph (b), by the substitution of “subsection (3) or (3A)” for “subsection (3)”, and
 - (IV) by the substitution of the following paragraph for paragraph (d): 10
 - “(d) a credit servicing firm referred to in paragraph (b) of section 34FA(1) that undertakes, on behalf of a person referred to in the said section 34FA, credit servicing within the meaning of clauses (I), (II) and (III)(A) to (H) of subparagraph (ii) and subparagraph (iii) of paragraph (a) of the definition of ‘credit servicing’;”, 15
- (v) by the deletion of the definition of “owner of credit”,
- (vi) by the substitution of the following definition for the definition of “regulated business”:
 - “ ‘regulated business’ means a bureau de change business, a money transmission business, the business of a home reversion firm, the business of a retail credit firm, the business of a debt management firm or the business of a credit servicing firm;”, 20

and
- (vii) by the substitution of the following definition for the definition of “retail credit firm”: 25
 - “ ‘retail credit firm’ means a person whose business consists wholly or partly of any relevant activity but does not include—
 - (a) a person who is a regulated financial service provider authorised, otherwise than under this Part, by— 30
 - (i) the Bank, or
 - (ii) an authority that performs functions in an EEA country that are comparable to the functions performed by the Bank, to carry out any relevant activity in the State,
 - (b) a person who is a credit intermediary authorised under the Act of 1995, 35
 - (c) in relation to—
 - (i) credit that was originally provided by another person, a person to whom all or any part of that other person’s interest in the

credit is directly or indirectly assigned or otherwise disposed of,
or

- (ii) a consumer-hire agreement or a hire-purchase agreement that was entered into by another person, a person to whom that other person's interest in the agreement concerned is directly or indirectly assigned or otherwise disposed of, 5
 - (d) a person who carries out relevant activities on a once only or occasional basis and, in so doing, does not represent or create an impression (whether in advertising, marketing or otherwise) that the person would enter into agreements with other persons on the same or substantially similar terms as the agreements under which those relevant activities are carried out, 10
 - (e) a person who is exempted, or a person who belongs to a class of persons that is exempted, for the purposes of this paragraph, under section 29A, 15
 - (f) a person whose business consists partly of a relevant activity, but only by virtue of the person providing credit in the form of trade credit, or
 - (g) a local authority.”,
- (b) by the insertion of the following subsection after subsection (1): 20
- “(1A) For the purposes of paragraph (f) of the definition of ‘retail credit firm’ in subsection (1), credit (in this subsection referred to as ‘the relevant credit’) is provided in the form of trade credit if all of the following conditions are satisfied:
- (a) in the case of both the person (in this subsection referred to as ‘the first-mentioned person’) by whom, and the person to whom, the relevant credit is provided, each is acting in the course of his or her business, trade or profession; 25
 - (b) the first-mentioned person is not a regulated financial service provider; 30
 - (c) the terms of the relevant credit provide for repayment, whether in instalments or as a single amount, of the whole of the credit by a date that is not later than 6 months after the date of its provision;
 - (d) the purpose of the relevant credit is to facilitate the purchase of goods or services from the first-mentioned person.”, 35
- (c) by the substitution of the following subsection for subsection (2):
- “(2) For the purposes of this Part—
- (a) a person who holds the legal title to the rights of the creditor under a credit agreement (in this paragraph referred to as ‘the holder’) is taken to be credit servicing even if any action referred to in subparagraph (ii) or (iii), as the case may be, of paragraph (a) of the definition of ‘credit servicing’ in subsection (1) is being undertaken 40

by a person, acting on behalf of the holder, authorised to carry on the business of a credit servicing firm, and

- (b) a person who holds the legal title to the rights of the owner under a consumer-hire agreement or a hire-purchase agreement (in this paragraph referred to as ‘the holder’) is taken to be credit servicing even if any action referred to in subparagraph (ii) or (iii), as the case may be, of paragraph (b) of the definition of ‘credit servicing’ in subsection (1) is being undertaken by a person, acting on behalf of the holder, authorised to carry on the business of a credit servicing firm.”, 5 10

(d) by the substitution of the following subsection for subsection (2A)—

“(2A) For the purposes of this Part, ‘credit servicing firm’, in relation to credit granted by, or the holding of legal title of the rights of a creditor under a credit agreement by, a regulated credit entity, does not include a securitisation special purpose entity to which any part of the interest of the regulated credit entity in the credit or rights concerned is directly or indirectly assigned or otherwise disposed of, as part of a securitisation, where— 15

- (a) the securitisation special purpose entity was established by or on behalf of the regulated credit entity as part of the securitisation arranged by or on behalf of that regulated credit entity, 20
- (b) the regulated credit entity retains the legal title in respect of the interest so assigned or otherwise disposed of, and
- (c) the originator, sponsor or original lender of the securitisation is required to retain on an ongoing basis a material net economic interest in the securitisation of not less than 5 per cent;”, 25

(e) by the insertion of the following subsection after subsection (2A):

“(2B) For the purposes of this Part, ‘credit servicing firm’, in relation to the rights of an owner under a consumer-hire agreement or hire-purchase agreement held by, or the holding of legal title to such rights by, a regulated credit entity, does not include a securitisation special purpose entity to which any part of the interest of the regulated credit entity in the rights concerned is directly or indirectly assigned or otherwise disposed of, as part of a securitisation, where— 30

- (a) the securitisation special purpose entity was established by or on behalf of the regulated credit entity as part of the securitisation arranged by or on behalf of that regulated credit entity, 35
- (b) the regulated credit entity retains the legal title in respect of the interest so assigned or otherwise disposed of, and
- (c) the originator, sponsor or original lender of the securitisation is required to retain on an ongoing basis a material net economic interest in the securitisation of not less than 5 per cent;”, 40

- (f) in subsection (3), by the substitution of “the business of a credit servicing firm in so far as that business comprises the activities referred to in paragraph (a) of the definition of ‘credit servicing’ in subsection (1)”, for “the business of a credit servicing firm”,
- (g) by the insertion of the following subsection after subsection (3): 5
- “(3A) For the purposes of this Part, a person authorised by the Bank to carry on the business of a retail credit firm in respect of the activity referred to in paragraph (b) of the definition of ‘relevant activity’ in subsection (1) is taken to be authorised to carry on the business of a credit servicing firm in so far as that business comprises the activities referred to in paragraph (b) of the definition of ‘credit servicing’ in that subsection.” 10
- and
- (h) by the insertion of the following subsection after subsection (4):
- “(5) For the purposes of this Part, a person (other than a regulated financial service provider taken to be authorised to carry on the business of a credit servicing firm by virtue of subsection (3)) authorised to carry on the business of a credit servicing firm before the coming into operation of section 2(a)(iii) of the *Consumer Protection (Regulation of Retail Credit and Credit Servicing Firms) Act 2021* is taken to be authorised to carry on the business of a credit servicing firm, in so far as that business comprises the activities referred to in paragraph (a) of the definition of ‘credit servicing’ in subsection (1), after such coming into operation.” 15 20

Amendment of section 29 of Act of 1997 25

3. Section 29 of the Act of 1997 is amended by the insertion of the following subsection after subsection (4):

- “(5) For the purposes of this Act—
- (a) the National Asset Management Agency and a NAMA group entity (within the meaning of the National Asset Management Agency Act 2009) shall not be treated as carrying on a regulated business as a credit servicing firm, 30
- (b) an excepted person shall not be treated as carrying on a regulated business as a debt management firm,
- (c) a person referred to in paragraphs (a) to (g) of the definition of ‘retail credit firm’ in section 28(1) shall not be treated as carrying on a regulated business as a retail credit firm, and 35
- (d) a securitisation special purpose entity referred to in section 28(2A) or (2B) shall not be treated as carrying on a regulated business as a retail credit firm.” 40

Amendment of section 29A of Act of 1997

4. Section 29A of the Act of 1997 is amended—

(a) in subsection (1)—

(i) by the substitution of “for the purposes of paragraph (e) of the definition of ‘retail credit firm’ in section 28(1) if,” for “from being required to hold an authorisation as a retail credit firm in relation to the provision of credit if,”, 5

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

“(a) the total amount or value of the relevant activities that are to be carried out by the person is such that it is reasonable to assume that the borrower or hirer, as the case may be, will be in a position to negotiate on equal terms or to obtain appropriate legal and financial advice, or”, 10

(iii) in paragraph (c) by the substitution of “carries out relevant activities” for “provides credit”, and

(iv) by the substitution of “orderly regulation of relevant activities” for “orderly regulation of the provision of credit”, 15

(b) in subsection (2)—

(i) by the substitution of “for the purposes of paragraph (e) of the definition of ‘retail credit firm’ in section 28(1) if,” for “from being required to hold an authorisation as a retail credit firm in relation to the provision of credit if,”, 20

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

“(a) the total amount or value of the relevant activities that are to be carried out by those persons is such that it is reasonable to assume that the borrowers or hirers, as the case may be, will be in a position to negotiate on equal terms or to obtain appropriate legal and financial advice, or”, 25

(iii) in paragraph (c) by the substitution of “carry out relevant activities” for “provide credit”, and

(iv) by the substitution of “orderly regulation of relevant activities” for “orderly regulation of the provision of credit”, 30

(c) in subsection (3), by the substitution of “for the purposes of paragraph (e) of the definition of ‘retail credit firm’ in section 28(1)” for “from being required to hold an authorisation as a retail credit firm”,

(d) in subsection (9), by the substitution of “An exemption granted under this section shall apply to a person who, or a person belonging to a class of persons that, is exempted under this section, so long as the person” for “Section 29(1) does not apply to a person who, or a person belonging to a class of persons that, is exempted under this section so long as the person”, and 35

(e) by the insertion of the following subsection after subsection (9):

- “(10) For the purposes of subsection (1)(a) and subsection (2)(a), “the total amount or value of the relevant activities that are to be carried out” means—
- (a) in relation to the provision of credit, the total amount or value of credit that is to be provided, together with any interest payable in respect of the credit, 5
 - (b) in relation to a consumer-hire agreement, the sum of the instalments and any other amounts payable under the agreement, and
 - (c) in relation to a hire-purchase agreement, the hire-purchase price (within the meaning of section 65 of the Act of 1995).” 10

Further transitional provision for existing retail credit firms

5. The Act of 1997 is amended by the insertion of the following section after section 34E:

“Further transitional provision for existing retail credit firms

- 34EA.**(1) Notwithstanding section 29, a person carrying on the business of a retail credit firm who did not require authorisation immediately before the coming into operation of *section 2(a)(vii) of the Consumer Protection (Regulation of Retail Credit and Credit Servicing Firms) Act 2021* is taken to be authorised to carry on the business of a retail credit firm until the Bank has granted or refused authorisation to the person, provided that the person applies to the Bank under section 30 for authorisation no later than 3 months after that coming into operation. 15 20
- (2) If a person is taken to be authorised to carry on the business of a retail credit firm under subsection (1), the Bank may do either or both of the following: 25
- (a) impose on that person such conditions or requirements or both as the Bank considers appropriate relating to the proper and orderly regulation and supervision of retail credit firms;
 - (b) direct that person not to carry on the business of a retail credit firm for such period (not exceeding 3 months) as is specified in the direction. 30
- (3) A condition or requirement imposed, or a direction given, under this section is an appealable decision for the purposes of Part VIIA of the Act of 1942.”. 35

Amendment of section 34FA of Act of 1997

6. Section 34FA of the Act of 1997 is amended, in subsection (1)—
- (a) by the substitution of “credit servicing within the meaning of subparagraph (i), (ii)(III)(I) or (ii)(III)(J), as the case may be, of paragraph (a) of the definition of ‘credit servicing’ ” for “credit servicing within the meaning of paragraph (a), (b) 40

(iii)(IX) or (b)(iii)(X), as the case may be, of the definition of ‘credit servicing’”,
and

- (b) in paragraph (b), by the substitution of “within the meaning of clauses (I), (II) and (III)(A) to (H) of subparagraph (ii) and subparagraph (iii) of paragraph (a) of the definition of ‘credit servicing’ ” for “within the meaning of subparagraphs (i), (ii) and (iii)(I) to (VIII) of paragraph (b) and paragraph (c) of the definition of ‘credit servicing’ ”.

Further transitional provision for existing credit servicing firms

7. The Act of 1997 is amended by the insertion of the following section after section 34FA:

“Transitional provision for existing credit servicing firms: further supplementary provision

34FB.(1) Notwithstanding section 29, where a person (other than a person taken to be authorised to carry on the business of a credit servicing firm by virtue of section 28(3), (3A), (4) or (5)) carrying on the business of a credit servicing firm, in so far as that business relates to—

- (a) specified credit matters, or
- (b) specified hire matters,

immediately before the coming into operation of *section 2(a)(iii) of the Consumer Protection (Regulation of Retail Credit and Credit Servicing Firms) Act 2021*, applies to the Bank under section 30 for authorisation no later than 3 months after that coming into operation, that person is taken to be authorised to carry on the business of a credit servicing firm, in so far as that business relates to specified credit matters or specified hire matters, as the case may be, after such coming into operation until the Bank has granted or refused authorisation to the person.

- (2) If a person is taken to be authorised to carry on the business of a credit servicing firm under subsection (1), the Bank may do either or both of the following:
 - (a) impose on that person such conditions or requirements or both as the Bank considers appropriate relating to the proper and orderly regulation and supervision of credit servicing firms;
 - (b) direct that person not to carry on the business of a credit servicing firm for such period (not exceeding 3 months) as is specified in the direction.
- (3) A condition or requirement imposed, or a direction given, under this section is an appealable decision for the purposes of Part VIIA of the Act of 1942.
- (4) In this section—

‘specified credit matters’ means credit servicing within the meaning of paragraph (a) of the definition of ‘credit servicing’ in subsection (1) of

section 28 relating to classes of credit included within the definition of ‘credit’ in that subsection which were not included in that definition immediately before the coming into operation of *section 2(a)(ii)* of the *Consumer Protection (Regulation of Retail Credit and Credit Servicing Firms) Act 2021*;

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‘specified hire matters’ means credit servicing within the meaning of paragraph (b) of the definition of ‘credit servicing’ in section 28(1).”.

Amendment of section 34G of Act of 1997

8. Section 34G of the Act of 1997 is amended—

- (a) in subsection (1), by the substitution of “who holds the legal title to the rights of the creditor under a credit agreement or the legal title to the rights of the owner under a consumer-hire agreement or a hire-purchase agreement” for “who holds the legal title to credit granted under a credit agreement”, and 10
- (b) in subsection (2), by the substitution of “who holds the legal title to the rights of the creditor under a credit agreement or the legal title to the rights of the owner under a consumer-hire agreement or a hire-purchase agreement” for “who holds the legal title to credit granted under a credit agreement”. 15

Collection and publication of information on relevant agreements

9. The Act of 1997 is amended by the insertion of the following section after section 36E:

“Collection and publication of information on relevant agreements 20

36EA.(1)The Minister may request the Bank, in writing, to collect and publish information which the Bank may collect and publish pursuant to section 5A(1)(g) of the Act of 1942 relating to—

- (a) credit agreements,
- (b) consumer-hire agreements, and 25
- (c) hire-purchase agreements.

(2) The Minister may request the Bank to—

- (a) obtain, in accordance with section 65 of the Act of 1942, information relating to hire-purchase agreements, and
- (b) subject to subsection (6), publish that information. 30

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

(4) A request under subsection (1) or (2) shall specify—

- (a) the information which is required to be collected, obtained or published, as the case may be, and 35
- (b) the manner in which the information is to be published.

(5) A request under subsection (1) or (2) may be for the collecting, obtaining or publication of information on—

- (a) a once-off basis, or
 - (b) on an ongoing basis, at a frequency specified in the request.
- (6) The Minister shall not request the publication of personal data under subsection (2)(b).
- (7) In this section, ‘personal data’ has the same meaning as it has in Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016¹.”

Amendment of section 2 of Act of 1995

10. Section 2 of the Act of 1995 is amended, in subsection (1)—

- (a) by the insertion of the following definitions: 10
 - “ ‘Act of 1997’ means the Central Bank Act 1997;
 - ‘relevant date’ means the date on which *section 13* of the *Consumer Protection (Regulation of Retail Credit and Credit Servicing Firms) Act 2021* comes into operation;
 - ‘retail credit firm’ has the same meaning as it has in Part V of the Act of 1997;” 15
- (b) by the substitution of the following definition for the definition of “APR”:
 - “ ‘APR’ means the annual percentage rate of charge (being, in the case of a credit agreement, the total cost of credit to the consumer, expressed as an annual percentage of the amount of credit granted), calculated in accordance with section 9;” 20
- and
- (c) by the substitution of the following paragraph for paragraph (e) of the definition of “credit institution”:
 - “(e) a retail credit firm authorised under the Act of 1997;” 25

Amendment of section 9 of Act of 1995

11. Section 9 of the Act of 1995 is amended—

- (a) in subsection (1), by the substitution of “agreed, in the case of a credit agreement, by the creditor and the consumer and, in the case of a hire-purchase agreement, by the owner and the hirer,” for “agreed by the creditor and the consumer,” and 30
- (b) in subsection (2), by the substitution of “or in relation to any form of credit covered in this Act or in relation to hire-purchase agreements” for “or in relation to any form of credit covered in this Act”.

1 OJ No. L. 119, 4.5.2016, p.1.

Amendment of section 12 of Act of 1995

12. Section 12(1) of the Act of 1995 is amended by the insertion of the following paragraph after paragraph (c):

“(ca) in Part IIA, contravenes section 28A(2) or 28B(2), or”.

Insertion of Part IIA in Act of 1995

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13. The Act of 1995 is amended by the insertion of the following Part after Part II:

“Part IIA

ANNUAL PERCENTAGE RATE

Maximum APR: credit agreements

28A. (1) The APR in respect of a credit agreement, other than a moneylending agreement, shall not be greater than 23 per cent. 10

(2) A credit institution that is a party to a credit agreement shall ensure that the agreement complies with subsection (1).

(3) A creditor shall not be entitled to enforce a credit agreement or any contract of guarantee relating thereto, and no security given by the consumer in respect of money payable under the credit agreement or given by a guarantor in respect of money payable under such contract of guarantee as aforesaid shall be enforceable against the consumer or guarantor by any holder thereof, unless the requirement specified in subsection (2) has been complied with in respect of the credit agreement: 15 20

Provided that if a court is satisfied in any action that a failure to comply with the aforesaid requirement was not deliberate and has not prejudiced the consumer, and that it would be just and equitable to dispense with the requirement, the court may, subject to any conditions that it sees fit to impose, decide that the agreement shall be enforceable. 25

(4) This section shall apply to a credit agreement entered into after the relevant date.

Maximum APR: hire-purchase agreements

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28B. (1) The APR in respect of a hire-purchase agreement shall not be greater than 23 per cent.

(2) An owner who is a party to a hire-purchase agreement shall ensure that the agreement complies with subsection (1).

(3) An owner shall not be entitled to enforce a hire-purchase agreement or any contract of guarantee relating thereto or any right to recover the goods from the hirer, and no security given by the hirer in respect of money payable under the hire-purchase agreement or given by a guarantor in respect of money payable under such contract of 35

guarantee as aforesaid shall be enforceable against the hirer or guarantor by any holder thereof, unless the requirement specified in subsection (2) has been complied with in respect of the hire-purchase agreement:

Provided that if a court is satisfied in any action that a failure to comply with the aforesaid requirement was not deliberate and has not prejudiced the hirer, and that it would be just and equitable to dispense with the requirement, the court may, subject to any conditions that it sees fit to impose, decide that the agreement shall be enforceable. 5

- (4) This section shall apply to a hire-purchase agreement entered into after the relevant date.”. 10

Amendment of section 58 of Act of 1995

14. Section 58 of the Act of 1995 is amended, in subsection (2), by the insertion of the following paragraph after paragraph (c):

“(ca) where the agreement is made after the date on which *section 14* of the *Consumer Protection (Regulation of Retail Credit and Credit Servicing Firms) Act 2021* comes into operation, the APR in respect of the agreement.”. 15

Amendment of Central Bank (Supervision and Enforcement) Act 2013

15. The Central Bank (Supervision and Enforcement) Act 2013 is amended, in section 3— 20

(a) in subsection (1), in the definition of “customer”—

(i) in paragraph (b), by the substitution of “financial service provider,” for “financial service provider, or”,

(ii) in paragraph (c), by the substitution of “credit agreement concerned, or” for “credit agreement concerned,”, and 25

(iii) by the insertion of the following paragraph after paragraph (c):

“(d) a hirer in a case where the regulated financial service provider undertakes credit servicing in respect of the consumer-hire agreement or hire-purchase agreement concerned,”,

and 30

(b) by the substitution of the following subsection for subsection (1A):

“(1A) For the purposes of the definition of ‘customer’ in subsection (1) ‘relevant borrower’, ‘credit servicing’, ‘credit agreement’, ‘consumer-hire agreement’, ‘hire-purchase agreement’ and ‘hirer’ have the same meaning as in Part V of the Central Bank Act 1997.”. 35

Amendment of Financial Services and Pensions Ombudsman Act 2017

16. The Financial Services and Pensions Ombudsman Act 2017 is amended, in section 2(1)—

(a) by the substitution of the following paragraph for paragraph (b) of the definition of “consumer” (relating to a financial service):

“(b) a consumer who was, in relation to a credit agreement, a consumer-hire agreement or a hire-purchase agreement, a customer of the financial service provider in a case where a credit servicing firm undertakes credit servicing in respect of the agreement concerned,” 5

and

(b) by the insertion of the following definitions:

“ ‘consumer-hire agreement’ has the meaning given to it in section 28 of the Central Bank Act 1997; 10

‘hire-purchase agreement’ has the meaning given to it in section 28 of the Central Bank Act 1997;”.

Short title and commencement

17. (1) This Act may be cited as the Consumer Protection (Regulation of Retail Credit and Credit Servicing Firms) Act 2021. 15

(2) This Act shall come into operation on such day or days as the Minister for Finance may by order or orders appoint either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.

An Bille um Chosaint Tomhaltóirí
(Gnólachtaí Creidmheasa Miondíola agus
Gnólachtaí Seirbhísithe Creidmheasa a
Rialáil), 2021

BILLE

(mar a tionscnaíodh)

dá ngairtear

Acht do dhéanamh socrú maidir le ceanglais údaraithe a leathnú chuig daoine a sheolann gnó fruilcheannaigh nó fruilithe tomhaltóra nó a sholáthraíonn creidmheas go hindíreach agus chuig daoine a sheolann gnó a bhaineann le comhaontuithe fruilcheannaigh nó fruilithe tomhaltóra nó le creidmheas a sholáthar go hindíreach; do dhéanamh socrú maidir le faisnéis ar chomhaontuithe creidmheasa, comhaontuithe fruilcheannaigh agus comhaontuithe fruilithe tomhaltóra a bhailiú agus a fhoilsiú; chun na gcríoch sin agus chun críoch eile, do leasú Acht an Bhainc Ceannais, 1997; do dhéanamh socrú maidir le teorainn ar an ráta úis a fhéadfar a mhuirearú i leith tomhaltóirí faoi chomhaontuithe creidmheasa agus faoi chomhaontuithe fruilcheannaigh; do dhéanamh socrú maidir le ceanglas go ndéanfar an ráta céatadán bliantúil a áireamh i gcomhaontú fruilcheannaigh; chun na gcríoch sin agus chun críoch eile, do leasú an Achta um Chreidmheas do Thomhaltóirí, 1995 agus do dhéanamh socrú i dtaobh nithe gaolmhara.

An tAire Airgeadais a thiolaic,

23 Meitheamh, 2021

Consumer Protection (Regulation of Retail
Credit and Credit Servicing Firms) Bill 2021

BILL

(as initiated)

entitled

An Act to provide for the extension of authorisation requirements to persons carrying on hire-purchase or consumer-hire business or providing credit indirectly and persons carrying on business relating to hire-purchase or consumer-hire agreements or the indirect provision of credit; to provide for the collection and publication of information on credit agreements, hire-purchase agreements and consumer-hire agreements; for those and other purposes to amend the Central Bank Act 1997; to provide for a limit on the interest rate that consumers may be charged under credit agreements and hire-purchase agreements; to provide for a requirement to include the annual percentage rate in a hire-purchase agreement; for those and other purposes to amend the Consumer Credit Act 1995 and to provide for related matters.

Presented by the Minister for Finance,

23rd June, 2021

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR

Le ceannach díreach ó

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