



An Bille um Chreidmheas do Thomhaltóirí (Leasú), 2022
Consumer Credit (Amendment) Bill 2022

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Explanatory Memorandum



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CONSUMER CREDIT (AMENDMENT) BILL 2022**

EXPLANATORY MEMORANDUM

Purpose of the Bill:

The primary purpose of the Bill is to introduce a cap on the interest rate which a moneylender can charge on a moneylending loan. This is achieved by providing the Minister for Finance with the power to make regulations setting the maximum interest rate at which a moneylending loan can be provided. The power is subject to certain principles and policies which are set down in the legislation, as well as ceilings, in respect of different types of moneylending loans, above which the Minister cannot set the cap. The Minister is also required to consult the Central Bank of Ireland before making such regulations.

Additional amendments to modernise the sector are also provided for. They include the abolition of home collection charges, providing for online repayment books, and streamlining the licensing regime so that licences are in place for five years rather than one year and providers do not have to apply in each District Court area in which they wish to practice.

Provisions of the Bill:

Section 1 - Definition

This section sets out that the Consumer Credit Act 1995 is the Act which is amended by the Bill.

Section 2 - Amendment of section 2 of Act of 1995

This section amends the Interpretation section of the Act of 1995. The terms “moneylender”; “moneylending”; “moneylender’s licence” and “moneylending agreement” have been substituted by the terms “high cost credit provider”; “high cost credit”; “high cost credit provider’s licence” and “high cost credit agreement” respectively.

Section 3 - Amendment of section 12 of Act of 1995

This section adds two new offences. These apply where a moneylender grants credit which breaches one of the new sections below:

- Section 94A providing for a loan over 52 weeks
- Section 98A providing a loan with an interest rate over the set caps

Section 4 - Amendment of section 92 of Act of 1995

This section adds a definition for “nominal rate” as this is the type of interest rate cap being placed on running accounts. A running account operates similarly to a tied credit card and is a product sometimes offered by catalogue companies. “Nominal rate” means the advertised or stated

interest rate, without taking into account any fees, but including any compounding of interest applicable.

Section 5 - Amendment of section 93 of Act of 1995

This section:

- removes the requirement for providers to register in each District Court area in which they wish to operate
- extends the licence period from 12 months to five years
- updates the licensing process so that where a provider's proposed interest rates are above the rates set by the Minister at that time, the Central Bank can refuse to grant a licence.

Section 6 - Term of loan under high cost credit agreement

This section amends the Act of 1995 by the insertion of a new section 94A which requires that cash loans not be granted for a period greater than 52 weeks.

Section 7 - Amendment of section 95 of Act of 1995

This section amends section 95 of the Act of 1995 to require providers to include the words "high cost credit agreement" prominently in the agreement.

Section 8 - Maximum interest rates

This section amends the Act of 1995 to insert a new section 98A to provide for the setting of a maximum interest rate that a high cost credit provider can charge for both cash loans and running accounts.

Under section 98A, the Minister for Finance may, following consultation with the Central Bank, make regulations providing for the maximum rate of interest at which a moneylender can provide credit.

The Minister must have regard to the factors provided in subsection (5) when making such regulations.

In making the regulations, the Minister must also adhere to the following parameters:

- In relation to cash loans under a high cost credit agreement:
 - the maximum rate of simple interest chargeable per week can only be set at a rate less than or equal to one per cent, and
 - the maximum rate of simple interest chargeable per year can only be set at a rate less than or equal to 48 per cent,
- In respect of a running account under a high cost credit agreement, the maximum rate of monthly nominal interest can only be set at a rate less than or equate to 2.83 per cent.

Section 9 of the Bill - Amendment of section 100 of the Act of 1995

The requirement to maintain a repayment book has been amended to include the option of maintaining an online version of a repayment book if the borrower requests same.

The section also inserts a definition of "durable medium".

Section 10 - Amendment of section 102 of Act of 1995

This section amends section 102 of the Act of 1995 to include collection charges on the list of charges which are not allowed.

Section 11 - Repeal of section 103 of Act of 1995

This section deletes the provisions regarding collection charges which are no longer allowed.

Section 12 - Provision of information by Bank to Minister

This section amends the Act of 1995 by inserting a new section 114A which allows the Minister to require the Central Bank to collect and publish (non-personal) data on the sector. The Central Bank shall comply with a request from the Minister under subsection (1).

Section 13 - Transitional provisions

This section provides for transitional arrangements for those who have been issued with moneylenders licences under section 93 of the Act of 1995 before the passage of the Bill.

Due to the changes in terminology, from “moneylender” to “high cost credit provider” in the legislation, these transitional arrangements ensure that the appropriate provisions are applied to the holders of existing moneylending licences for the remainder of the term of validity of those licences.

Section 14 - Consequential amendments

This section provides for consequential amendments to the Act of 1995 and other enactments arising from the renaming of moneylenders as high cost credit providers and the renaming of moneylending as high cost credit.

Section 15 - Short title and commencement

This section is a standard provision. It provides for the Minister to commence different provisions of the Bill on different dates.

Schedule 1 - Amendment of certain enactments

This schedule substitutes the terms "moneylending" and "moneylender" with the terms "high cost credit" and "high cost credit provider" where they occur in the Consumer Credit Act 1995 and in other enactments.

Schedule 2 - Amendment of European Union (Consumer Mortgage Credit Agreements) Regulations 2016

This schedule substitutes the term “moneylender’s licence” with the term “high cost credit provider’s licence” where it occurs in the European Union (Consumer Mortgage Credit Agreements) Regulations 2016.

*An Roinn Airgeadais,
Márta, 2022.*