



STATUTORY INSTRUMENTS.

S.I. No. 196 of 2020



CENTRAL BANK (SUPERVISION AND ENFORCEMENT) ACT 2013
(SECTION 48) (LICENSED MONEYLENDERS) REGULATIONS 2020

S.I. No. 196 of 2020

CENTRAL BANK (SUPERVISION AND ENFORCEMENT) ACT 2013
(SECTION 48) (LICENSED MONEYLENDERS) REGULATIONS 2020

CONTENTS

Regulation

PART 1

PRELIMINARY AND GENERAL

1. Citation and commencement
2. Interpretation
3. Scope and application
4. Consumer Protection Code for Licensed Moneylenders
5. Application of the European Communities (Consumer Credit Agreements) Regulations 2010 to credit below €200 provided under a moneylending agreement

PART 2

GENERAL REQUIREMENTS

6. General principles
7. Expertise for engaging in moneylending

PART 3

INFORMATION REQUIREMENTS

8. Advertising
9. Pre-contract information
10. Provision of information to consumers
11. Warning statements for guarantors
12. Warning statements
13. Disclosure requirements

14. Information notice on website and application form
15. Information notice at premises
16. Post-contract information
17. Provision of information to guarantors
18. Subsequent moneylending agreements

PART 4

CONDUCT OF BUSINESS REQUIREMENTS

19. Unsolicited credit facilities
20. Unsolicited contact
21. Communications
22. Prohibition on incentivising credit purchases
23. Knowing the consumer
24. Vulnerable consumers
25. Preservation of a consumer's rights
26. Lending policy and procedures
27. Errors
28. Handling complaints
29. Consumer records
30. Outsourced activity
31. Liaising with third parties
32. Provision of records to third parties
33. Arrears
34. Home collections
35. Debt collection

36. Compliance with these Regulations

SCHEDULE 1

Information notice

SCHEDULE 2

Information notice about credit from a licensed moneylender

S.I. No. 196 of 2020

CENTRAL BANK (SUPERVISION AND ENFORCEMENT) ACT 2013
(SECTION 48) (LICENSED MONEYLENDERS) REGULATIONS 2020

In exercise of the powers conferred on the Central Bank of Ireland (the “Bank”) by section 48 of the Central Bank (Supervision and Enforcement) Act 2013 (No. 26 of 2013) (the “Act”), the Bank, having consulted, in accordance with section 49 of the Act, with the Minister for Finance, the Minister for Business, Enterprise and Innovation and such other persons that the Bank considers appropriate to consult in the circumstances, hereby makes the following regulations:

Part 1

PRELIMINARY AND GENERAL

Citation and commencement

1. (1) These Regulations may be cited as the Central Bank (Supervision and Enforcement) Act 2013 (Section 48) (Licensed Moneylenders) Regulations 2020.

(2) Subject to paragraph (3), these Regulations come into operation on 1 January 2021.

(3) Regulations 8(4) and 12 (insofar as Regulation 12 applies to Regulation 8(4)) come into operation on 1 September 2020.

Interpretation

2. (1) In these Regulations-

“Act of 1995” means the Consumer Credit Act 1995 (No. 24 of 1995);

“advertised product or service” means the product or service that is the subject of an advertisement;

“advertisement” means any commercial communication paid for by a moneylender, which is addressed to the consumer public or a section of it, the purpose being to advertise a product, service or moneylender the subject of these Regulations, excluding name plaques, sponsorship material and a prospectus drawn up in accordance with the Prospectus Regulation, as amended or replaced;

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 5th June, 2020.*

“arrears” in relation to a moneylending agreement means where a consumer has not made a repayment, or only makes a partial repayment, as set out in the original moneylending agreement, by the scheduled due date;

“associate” in relation to a person means -

- (a) an undertaking in the same group as that person,
- (b) any other person whose business, private or familial relationship (other than as arises solely because that person is a client of the firm) with the first person or its associate might reasonably be expected to give rise to a common interest between them which may involve a conflict of interest in dealings with third parties, or
- (c) any other person whose business, private or familial relationship (other than as arises solely because that person is a client of the firm) with the first person is such that he or she has influence over that person’s judgment as to how to invest his or her property or exercise any rights attaching to his or her investments;

“Bank” means the Central Bank of Ireland;

“certified person” has the same meaning as it has in section 55 of the Investment Intermediaries Act, 1995 (No.11 of 1995);

“charge” means any cost or fee which a consumer must pay in connection with a product or service provided by a moneylender;

“complaint” refers to an expression of grievance or dissatisfaction by a consumer, either orally or in writing, in connection with -

- (a) the provision or the offer of the provision of a product or service to a consumer by a moneylender, or
- (b) the failure or refusal of a moneylender to provide a product or service to a consumer;

“connected party” includes a partner, officer, controller, related undertaking, subsidiary, employee or person authorised to engage in the business of moneylending on behalf of a moneylender, including any associate of the person concerned;

“Consumer Protection Code for Licensed Moneylenders” means the Consumer Protection Code for Licensed Moneylenders 2009 issued by the Bank under section 117 of the Central Bank Act, 1989 (No. 16 of 1989) and section 8H(1)(f) of the Act of 1995;

“durable medium” means any instrument which enables the consumer to store information addressed to that consumer in a way accessible for future reference

and for a period of time adequate for the purpose of the information, and allows the unchanged reproduction of the information stored;

“employee” means a person employed under a contract of service or a person otherwise employed by a moneylender;

“existing consumer” means a consumer who has outstanding credit with the moneylender;

“Financial Services and Pensions Ombudsman” has the same meaning as it has in section 2(1) of the Central Bank Act 1942 (No. 22 of 1942);

“group” includes a company, any subsidiary and any related undertaking;

“income” means the income of a consumer before the deduction of tax or other deductions;

“Money Advice and Budgeting Service” means the money advice and budgeting service established by the State to provide money advice services;

“officer” means, in relation to a moneylender, a director, chief executive, manager or company secretary, by whatever name called;

“outsourced activity” means an activity where a moneylender employs another person, other than a natural person who is an employee of the moneylender under a contract of service, to carry out an activity on its behalf;

“person” means a natural person or a legal person;

“Prospectus Regulation” means Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Directive 2003/71/EC¹;

“record” means any document, file or information, whether stored electronically or otherwise, and which is capable of being reproduced in a legible form;

“related undertaking” means a related company within the meaning of Part 1 of the Companies Act 2014 (No. 38 of 2014);

“subsidiary” means a subsidiary within the meaning of Part 1 of the Companies Act 2014;

“total amount of credit” in relation to a moneylending agreement means the limit of the credit, or the total sum, made available under the moneylending agreement;

¹ OJ L 168, 30.6.2017, p. 12.

“undertaking” means an undertaking within the meaning of Part 6 of the Companies Act 2014;

“unsolicited contact” means contact with a consumer without prior agreement by way of personal visit or telephone call, but not including written contact with the consumer or returning a telephone call from a consumer;

“unsolicited offer of credit” means a direct offer to an identified consumer to apply for credit where that offer is made-

- (a) otherwise than at the request of the consumer, or
- (b) without the prior agreement of the consumer,

but excludes general advertisements for credit to the public;

“vulnerable consumer” means a natural person who -

- (a) has the capacity to make his or her own decisions but who, because of individual circumstances, may require assistance to do so, or
- (b) has limited capacity to make his or her own decisions and who requires assistance to do so;

“working day” means a day which is not a Saturday, Sunday or public holiday.

(2) In these Regulations “APR”, “consumer”, “credit”, “financial accommodation”, “moneylender”, “moneylending”, “moneylending agreement” and “running account” have the meaning given to them at section 2(1) of the Act of 1995.

(3) In these Regulations a moneylender includes a representative of a moneylender.

Scope and application

3. These Regulations apply to a moneylender licensed under the Act of 1995 when engaged in the activity of moneylending.

Consumer Protection Code for Licensed Moneylenders

4. The revocation of the Consumer Protection Code for Licensed Moneylenders, or part of the Consumer Protection Code for Licensed Moneylenders does not -

- (a) affect any direction given by the Bank, investigation undertaken, or disciplinary, sanctioning or enforcement action undertaken by the Bank or any other person, in respect of any matter in existence at, or before, the time of the revocation, or
- (b) preclude the taking of any legal proceedings, or the undertaking of any investigation, or disciplinary, sanctioning or enforcement action by the Bank or any other person, in respect of any

contravention of an enactment or requirement imposed under an enactment, or any misconduct which may have been committed before the time of the revocation.

Application of the European Communities (Consumer Credit Agreements) Regulations 2010 to credit below €200 provided under a moneylending agreement

5. With the exception of Regulations 7(3), 8(1)(p), 8(11), 11(3), 13(7), 13(9) and 20(1) of the European Communities (Consumer Credit Agreements) Regulations 2010 (S.I. No. 281 of 2010), Regulations 7, 8, 11, 13 and 20 of the European Communities (Consumer Credit Agreements) Regulations 2010 shall apply in respect of a moneylending agreement within the scope of these Regulations and involving a total amount of credit of less than €200.

Part 2

GENERAL REQUIREMENTS

General principles

6. In all its dealings with consumers and within the context of its licence, a moneylender shall -

- (a) act honestly, fairly and professionally in the best interests of its consumers and the integrity of the market,
- (b) act with due skill, care and diligence in the best interests of its consumers,
- (c) not recklessly, negligently or deliberately mislead a consumer as to the real or perceived advantages or disadvantages of any product or service,
- (d) have and employ effectively the resources, policies and procedures, systems and control checks, including compliance checks, and staff training that are necessary for compliance with relevant financial services legislation,
- (e) seek to avoid conflicts of interest,
- (f) correct errors and handle complaints speedily, efficiently and fairly,
- (g) not exert undue pressure or undue influence on a consumer,
- (h) ensure that any outsourced activity complies with the requirements of these Regulations, and
- (i) without prejudice to the pursuit of its legitimate commercial aims, not, through its policies, procedures, or working practices, prevent access to basic financial services.

Expertise for engaging in moneylending

7. A moneylender shall provide appropriate training on an on-going basis to employees and agents concerned with moneylending activities and this shall include, at a minimum, training with respect to the policies and procedures the moneylender has in place to comply with Regulation 26.

Part 3

INFORMATION REQUIREMENTS

Advertising

8. (1) A moneylender shall ensure that all its advertisements are fair and do not mislead consumers.

(2) A moneylender shall ensure that an advertisement does not influence a consumer's attitude to the advertised product or service of the moneylender either by inaccuracy, ambiguity, exaggeration or omission.

(3) A moneylender shall ensure that its advertisements comply with the following requirements:

- (a) the name of the moneylender shall be clearly shown;
- (b) the nature or type of the advertised product or service shall be clear and not disguised in any way;
- (c) the advertisement shall be designed and presented so that any reasonable consumer knows immediately that it is an advertisement;
- (d) the design and presentation of the advertisement shall allow it to be clearly understood;
- (e) where small print or footnotes are used, such print or footnotes should be of sufficient size and prominence to be clearly legible;
- (f) small print or footnotes shall, where appropriate, be linked to the relevant part of the main text of the advertisement;
- (g) warnings and product specific information shall be clear and shall not be obscured or disguised in any way by the content, design or format of the advertisement;
- (h) any statement shall be true and not misleading at the time it is made and any assumptions on which it is based shall be reasonable and stated clearly;
- (i) any recommendations or commendations quoted shall be complete, fair, accurate and not misleading at the time of issue, and relevant to the advertised product or service;
- (j) a recommendation or commendation may not be used without the consent of the author and, if the author is an employee of the moneylender or a connected party of the moneylender, or has

received any payment from the moneylender or a connected party of the moneylender for the recommendation or commendation, the advertisement shall state that fact;

- (k) comparisons or contrasts shall be based either on facts verified by the moneylender or on reasonable assumptions stated within the advertisement and shall be presented in a fair and balanced way and not omit anything material to the comparison or contrast;
- (l) any material differences identified between products shall be set out clearly.

(4) If a moneylender enters, or offers to enter, into a moneylending agreement with an APR in excess of 23 per cent, a moneylender shall ensure that all advertisements relating to such moneylending agreement contain the following warning statement:

“Warning: This is high-cost credit. Consider alternative options before applying for this credit, including alternatives from other lenders regulated by the Central Bank of Ireland.”.

- (5) A moneylender shall ensure that its marketing strategy—
 - (a) is fair and reasonable taking into account the particular circumstances of consumers, and
 - (b) is approved by the board of directors of the moneylender or the entity or persons controlling the moneylender.

(6) The approval of a moneylender’s marketing strategy by the board of directors of the moneylender, or the entity or persons controlling the moneylender, shall constitute an affirmation on the part of the board of directors of the moneylender, or the entity or persons controlling the moneylender, that the moneylender’s marketing strategy complies with these Regulations and any other legal and regulatory requirements with which the moneylender must comply.

(7) A moneylender shall carry out an annual review to ensure that it is acting in compliance with its marketing strategy referred to in paragraph (5) and the moneylender shall report the results of the annual review to the board of directors of the moneylender or the entity or persons controlling the moneylender.

Pre-contract information

9. A moneylender shall, prior to entering into a moneylending agreement with a consumer where the APR is in excess of 23 per cent, indicate, in a prominent manner, the high-cost nature of the credit on all documentation in the following form:

“Warning: This is high-cost credit. Consider alternative options before applying for this credit, including alternatives from other lenders regulated by the Central Bank of Ireland.”.

Provision of information to consumers

10. A moneylender shall -

- (a) include the following statement, in bold type, at, or near, the beginning of any application form or process relating to a moneylending agreement, regardless of whether the means of application or process is paper based or otherwise:

“If you require this credit to pay for accommodation, food, electricity, heating, medication or other similar costs, please read the below information carefully”,
- (b) immediately following the statement referred to in paragraph (a), provide the consumer with the information set out in Schedule 1 in the form prescribed in Schedule 1,
- (c) ensure that the statement set out in paragraph (a) is—
 - (i) presented in a prominent manner,
 - (ii) in a box,
 - (iii) in bold type, and
 - (iv) of a font size that is at least equal to the predominant font size used throughout the document, and
- (d) ensure that the information set out in Schedule 1 is presented in a font size that is at least equal to the predominant font size used throughout the document.

Warning statements for guarantors

11. If credit is being offered to a consumer by a moneylender subject to a guarantee, the moneylender shall ensure that the guarantee documentation –

- (a) clearly outlines the obligations of the guarantor, and
- (b) contains the following warning statement:

“Warning: As a guarantor of this credit, you will have to pay off the credit, the interest and all associated charges up to the level of your guarantee if the borrower does not. Before you sign this guarantee, you should get independent legal advice.”.

Warning statements

12. A moneylender shall ensure that a warning statement required under Regulations 8(4), 9 or 11 is -

- (a) presented in a prominent manner,

- (b) in a box,
- (c) in bold type, and
- (d) of a font size that is at least equal to the predominant font size used throughout the document or advertisement.

Disclosure requirements

13. (1) A moneylender shall only use a regulatory disclosure statement as set out in paragraph (3), in the following circumstances –

- (a) in connection with moneylending activities or other activities for which the moneylender is regulated by the Bank, and
- (b) in the following documentation, communications and sections of the moneylender’s website:
 - (i) on the moneylender’s business stationery, moneylending agreements, repayment books and authorisation cards;
 - (ii) on the section of the moneylender’s website that relates to moneylending or other activities for which the moneylender is regulated by the Bank;
 - (iii) in the moneylender’s advertisements, catalogues and brochures;
 - (iv) in the moneylender’s electronic communications with consumers, excluding text messages.

(2) A moneylender shall only use the regulatory disclosure statement in a communication with a consumer where such communication relates solely to moneylending activities or other activities in respect of which the moneylender is regulated by the Bank.

(3) A moneylender shall ensure that a regulatory disclosure statement used by it is in the following format:

“[Full legal name of moneylender (insert all trading name(s) used by the moneylender)] is regulated by the Central Bank of Ireland”

(4) A moneylender shall not insert additional text into the wording of the regulatory disclosure statement as set out in paragraph (3).

(5) A moneylender shall ensure that its regulatory disclosure statement is not presented in such a way as to appear to be an endorsement by the Bank of the moneylender or its products or services.

Information notice on website and application form

14. (1) If a moneylender enters, or offers to enter, into a moneylending agreement with an APR in excess of 23 per cent, a moneylender shall display the information set out in Schedule 2 in the form prescribed in Schedule 2 in the following places -

- (a) where it operates a website, on the section of the moneylender's website that relates to moneylending or other activities for which the moneylender is regulated by the Bank, and
- (b) at, or near, the beginning of any application form or process relating to a moneylending agreement, regardless of whether the means of application or process is paper based or otherwise.

(2) For the purpose of paragraph (1) it shall not be sufficient for the moneylender to provide the information through a link to that information.

Information notice at premises

15. (1) If a moneylender enters, or offers to enter, into a moneylending agreement with an APR in excess of 23 per cent, a moneylender shall display the information set out in Schedule 2 in every premises from which it engages with consumers in respect of moneylending activities and such information shall be -

- (a) as set out in Schedule 2,
- (b) in poster form,
- (c) at least A4 in size,
- (d) in typeface that is at least 18 points in size, and
- (e) in bold font.

(2) The information provided by a moneylender in accordance with paragraph (1) shall be displayed -

- (a) in an area inside the premises from which the moneylender engages in moneylending activities, and
- (b) where it is clearly visible from the location at which consumers would ordinarily deal with the moneylender or an employee or agent of the moneylender.

(3) For the purpose of paragraph (2), where the premises from which the moneylender engages in moneylending activities -

- (a) are not enclosed, or
- (b) are of a kind where a consumer can approach the moneylender, or an employee or agent of the moneylender, without going through a door,

the information shall be displayed so that it is clearly visible on a counter, desk, table or other item of furniture at which the moneylender, or an employee or agent of the moneylender would deal with the consumer.

Post-contract information

16. Except in the case of a moneylending agreement under which repayments are collected from the consumer at an agreed location in

accordance with the Act of 1995 and Regulation 34, a moneylender shall issue statements -

- (a) at least monthly to consumers who pay weekly, and
- (b) at least quarterly to consumers who pay monthly.

Provision of information to guarantors

17. If a moneylender has advanced credit to a consumer subject to a guarantee, the moneylender shall notify the guarantor, on paper or on another durable medium, if -

- (a) the terms of the moneylending agreement change, or
- (b) the amount guaranteed by the guarantor is to be increased.

Subsequent moneylending agreements

18. (1) A moneylender, who has entered into a moneylending agreement with a consumer which has not been repaid in full, shall before entry into a second or subsequent moneylending agreement with a consumer provide the consumer with the following information, in a durable medium, aggregated to include the second or subsequent moneylending agreement in question:

- (a) the total number of moneylending agreements in force between the moneylender and the consumer;
- (b) the total balance of credit outstanding between the consumer and the moneylender;
- (c) the date for final repayment by the consumer on the moneylending agreement with the longest remaining term;
- (d) the aggregated repayment amount due from the consumer on the first repayment date subsequent to the new moneylending agreement.

(2) A moneylender shall make it clear that the information provided in accordance with paragraph (1) relates solely to moneylending agreements, including the second or subsequent moneylending agreement in question, between that moneylender and the consumer and that it does not relate to any agreements for the provision of credit from other moneylenders or other providers of credit.

(3) Pursuant to a request by a consumer, a moneylender shall provide the information outlined in paragraph (1) free of charge to the following:

- (a) the consumer;
- (b) with the consumer's consent, a third party acting on the consumer's behalf.

(4) Paragraph (3) does not apply to a request made by a consumer less than 4 weeks after a previous request by that consumer which was complied with by the moneylender.

Part 4

CONDUCT OF BUSINESS REQUIREMENTS

Unsolicited credit facilities

19 (1) A moneylender shall not approve the provision of credit to a consumer in advance of an application by the consumer for the credit.

(2) A moneylender may only increase the limit on a consumer's running account following an application from the consumer for an increase to the limit on the consumer's running account.

(3) A moneylender shall not make an unsolicited offer of credit to an existing consumer of that moneylender in circumstances where -

- (a) the consumer made full repayment within the preceding month of a moneylending agreement with that moneylender, or
- (b) the consumer is party to a moneylending agreement with the moneylender and the final repayment date of such moneylending agreement is within the next month.

Unsolicited contact

20. (1) When contacting a consumer, other than an existing consumer, a moneylender may make an unsolicited contact, only if-

- (a) the consumer has signed a statement, within the previous 12 months, giving the moneylender permission to make unsolicited contact, or
- (b) the consumer is the subject of a referral received by the moneylender from one of the following:
 - (i) a person authorised by the Bank to provide financial services in the State;
 - (ii) a person within the same group as the moneylender;
 - (iii) a solicitor;
 - (iv) a certified person.

(2) When a moneylender contacts a consumer following a referral referred to in paragraph (1)(b), the moneylender shall inform the consumer that such a referral has been made and ask the consumer for consent to proceed with an unsolicited contact.

(3) A moneylender shall ensure that, when it makes an unsolicited contact on foot of a referral, referred to in paragraph (1)(b), it retains a record of the referral.

(4) An unsolicited contact by a moneylender to a consumer, other than an existing consumer, may only be made between 9.00 a.m. and 9.00 p.m., from Monday to Saturday, excluding public holidays, unless otherwise requested by the consumer.

(5) When making an unsolicited contact in accordance with these Regulations, a moneylender shall immediately carry out the following actions in the following order:

- (a) identify himself or herself by name and identify the name of the moneylender on whose behalf the person is contacting the consumer and the commercial purpose of the contact;
- (b) inform the consumer that the telephone contact is being recorded, if that is the case;
- (c) where relevant, disclose to the consumer, the source of the business lead or referral supporting the personal visit or telephone contact;
- (d) confirm that the consumer wishes the personal visit or telephone contact to proceed and if not, end the telephone contact or personal visit immediately.

(6) A moneylender shall adhere to a request from a consumer not to make an unsolicited contact to him or her and this request shall be recorded by the moneylender.

(7) A moneylender shall not reach a binding agreement with a consumer on the basis of unsolicited contact alone.

(8) When contacting an existing consumer for the purposes of sales and marketing, a moneylender may make an unsolicited contact, only if -

- (a) the consumer has given specific confirmation, by a statement or by a clear affirmative action, that the consumer agrees to be the recipient of such contact, and
- (b) the consumer's consent remains valid.

Communications

21. (1) A moneylender shall ensure that the level of contact and communications from the moneylender to a consumer is proportionate and not excessive.

(2) A moneylender shall ensure that, where it intends to record a telephone conversation with a consumer, the moneylender informs the consumer, at the outset of the conversation, that the telephone conversation is being recorded.

(3) Where a moneylender communicates with a consumer using electronic media, the moneylender shall have in place appropriate arrangements to ensure the security of information received from the consumer and the secure transmission of information to the consumer.

(4) A moneylender shall ensure that all printed information it provides to consumers is of a print size that is clearly legible.

Prohibition on incentivising credit purchases

22. A moneylender providing goods or services to a consumer, in connection with a moneylending agreement, shall not offer any discount to a consumer to purchase goods or services on credit, where the discount is only available if the goods or services are purchased by the consumer on credit.

Knowing the consumer

23. Without prejudice to a moneylender's other legal and regulatory obligations, a moneylender shall ensure that, where a consumer refuses to provide information sought by the moneylender in compliance with these Regulations, the refusal by the consumer is noted on that consumer's records.

Vulnerable consumers

24. (1) A moneylender shall, where appropriate, take reasonable steps to identify consumers that are vulnerable consumers.

(2) If a moneylender has identified that a consumer is a vulnerable consumer, the moneylender shall ensure that the vulnerable consumer is provided with such reasonable arrangements and assistance that may be necessary to facilitate the vulnerable consumer in dealing with the moneylender.

Preservation of a consumer's rights

25. A moneylender shall not, in any communication or agreement with a consumer, exclude or restrict, or seek to exclude or restrict any of the following:

- (a) any legal liability or duty of care of the moneylender to a consumer under applicable law;
- (b) any other duty to act with skill, care and diligence which is owed by the moneylender to a consumer in connection with the provision to that consumer of financial services;
- (c) any liability owed by a moneylender to a consumer for failure to exercise the degree of skill, care and diligence that may reasonably be expected of the moneylender in the provision of a financial service.

Lending policy and procedures

26. (1) A moneylender shall establish and maintain written lending policies and procedures, which shall comply with these Regulations, and these lending policies and procedures shall be approved by the board of directors of the moneylender or the entity or persons controlling the moneylender.

(2) The approval of a moneylender's lending policies and procedures by the board of directors of the moneylender, or the entity or persons controlling

the moneylender, shall constitute an affirmation on the part of the board of directors of the moneylender, or the entity or persons controlling the moneylender, that the moneylender's policies and procedures comply with these Regulations and any other legal and regulatory requirements with which the moneylender must comply.

(3) A moneylender shall at all times adhere to the lending policies and procedures referred to in paragraph (1).

(4) A moneylender shall carry out an annual review to ensure that it is acting in compliance with the lending policies and procedures referred to in paragraph (1) and the moneylender shall report the results of the annual review to the board of directors of the moneylender or the entity or persons controlling the moneylender.

(5) A moneylender's lending policies and procedures referred to in paragraph (1) shall have the core objectives of ensuring -

- (a) consistency of approach by the moneylender in its dealings with consumers, and
- (b) that all regulatory requirements as regards suitability of the moneylender's activities for its consumers and the creditworthiness of the moneylender's consumers, including the requirements to act in the best interests of consumers, are complied with by the moneylender.

(6) A moneylender's lending policies and procedures referred to in paragraph (1) shall, at a minimum, include the following information:

- (a) the lending policies and procedures that the moneylender will apply when dealing with applications for credit from consumers, including vulnerable consumers;
- (b) the information to be sought from consumers applying for credit;
- (c) the criteria which the moneylender will apply when considering an application for credit;
- (d) the following statement:
 "The core objectives of this policy is to ensure that we approach all applications for new and additional credit consistently and to ensure that we meet all of our regulatory requirements as regards suitability of the product and the creditworthiness of consumers and to act in the best interests of consumers.";
- (e) the supports available to employees and agents of the moneylender involved in the consideration of applications for credit;
- (f) the safeguards which the moneylender has in place to ensure that section 99 of the Act of 1995 is complied with;
- (g) the manner in which the moneylender will maintain a record of the steps taken to assess an application for credit;

- (h) the manner in which the moneylender will maintain a record of all lending decisions;
- (i) the safeguards which the moneylender has in place to ensure that consumers are not offered or approved unsolicited credit facilities, other than in accordance with these Regulations, by the moneylender or by an employee or agent of the moneylender, in advance of an application for credit by a consumer.

Errors

27. (1) A moneylender shall speedily, efficiently and fairly correct an error in any charge or price levied on, or quoted to, a consumer in respect of any product or service the subject of these Regulations.

(2) Where a moneylender considers that there may have been a material charging or pricing error it shall, without delay, inform the Bank of its proposals for correcting any such error in accordance with paragraph (1).

(3) Where the moneylender provides the information under paragraph (2) to the Bank verbally in the first instance, it shall provide this information to the Bank in writing on the next working day.

(4) A moneylender shall notify all affected consumers, both current and former, in a timely manner and in such form as may be agreed with the Bank, of any material charging or pricing error that impacted negatively on the cost of the service or the value of the product provided by the moneylender to the consumer.

Handling complaints

28. (1) A moneylender shall make all reasonable efforts to resolve any complaints made by a consumer.

(2) A moneylender shall establish, maintain and adhere to a written procedure for the proper handling of complaints.

(3) The procedure referred to in paragraph (2) does not apply where -

- (a) the complaint has been resolved to the complainant's satisfaction within 5 working days of the making of the complaint to the moneylender, and
- (b) a record of the outcome referred to in paragraph (3) (a) is maintained by the moneylender.

(4) When a moneylender receives an oral complaint, or a complaint by any other communication channel, it shall offer the consumer the opportunity to have the complaint handled in accordance with the moneylender's complaints handling procedure.

(5) The procedure referred to in paragraph (2) shall, at a minimum, provide that -

- (a) the moneylender shall, within 5 working days of the complaint being received –
 - (i) acknowledge, in a durable medium, the complaint, and
 - (ii) provide the complainant with the name of an individual or individuals appointed by the moneylender to be the complainant’s point of contact in relation to the complaint until the complaint is resolved or cannot be processed any further,
 - (b) the moneylender shall provide the complainant with a regular update, in a durable medium, on the progress of the investigation of the complaint at intervals of not greater than 20 working days, starting from the date on which the complaint was made,
 - (c) the moneylender shall attempt to investigate and resolve a complaint within 40 working days of having received the complaint,
 - (d) where 40 working days have elapsed and the complaint has not been resolved, the moneylender shall inform the complainant -
 - (i) of the anticipated timeframe within which the moneylender expects to resolve the complaint,
 - (ii) of the consumer’s right to refer the matter to the Financial Services and Pensions Ombudsman, and
 - (iii) of the contact details of the Financial Services and Pensions Ombudsman, and
 - (e) within 5 working days of the completion of the investigation, the moneylender shall, in a durable medium, inform the consumer –
 - (i) of the outcome of the investigation,
 - (ii) where applicable, of the terms of any offer or settlement being made to the consumer,
 - (iii) of the consumer’s right to refer the matter to the Financial Services and Pensions Ombudsman, and
 - (iv) of the contact details of the Financial Services and Pensions Ombudsman.
- (6) A moneylender shall establish and maintain an up-to-date register of all complaints received from consumers, subject to the procedure required under paragraph (2), and this register shall contain -
- (a) the details of each complaint,
 - (b) the date the complaint was received,
 - (c) a summary of the moneylender’s response, including the date of the response,
 - (d) details of any other relevant correspondence or records,
 - (e) the action taken to resolve each complaint,

- (f) the date the complaint was resolved, and
- (g) where relevant, the current status of a complaint which has been referred to the Financial Services and Pensions Ombudsman.

(7) A moneylender shall undertake an analysis of the complaints' register required to be maintained by the moneylender under paragraph (6) on a regular basis, and at least each quarter of a year, including investigating whether complaints indicate an isolated issue or a more widespread issue for consumers.

(8) The analysis referred to in paragraph (7) shall be reported to and considered by the moneylender's staff responsible for the risk or audit function and the officers of the moneylender.

Consumer records

29. (1) A moneylender shall maintain up-to-date records containing at least the following:

- (a) a copy of all documents required for consumer identification and profile;
- (b) the consumer's contact details;
- (c) all information and documents prepared in compliance with these Regulations;
- (d) details of products and services provided to the consumer;
- (e) a copy of any documents provided to the moneylender by the consumer evidencing a consumer's income and expenditure which are relied upon by the moneylender for the purpose of assessing the consumer's creditworthiness;
- (f) all correspondence with the consumer and details of any other information provided to the consumer in relation to the relevant product or service;
- (g) details of each complaint received by the moneylender from a consumer;
- (h) all documents or applications completed or signed by the consumer;
- (i) copies of all documents submitted by the consumer in support of an application for the provision of a service or product;
- (j) all other relevant information concerning the consumer.

(2) A moneylender shall retain details of individual transactions for 6 years after the date on which the particular transaction is discontinued or completed.

(3) A moneylender shall retain all other records for 6 years from the date on which the moneylender ceased to provide any product or service to the consumer concerned.

(4) A moneylender shall maintain complete and readily accessible records.

Outsourced activity

30. A moneylender shall remain fully responsible for discharging its obligations under these Regulations when it outsources any functions relating to moneylending.

Liaising with third parties

31. (1) At the consumer's request and with the consumer's written consent, a moneylender shall liaise with a third party nominated by the consumer to act on the consumer's behalf in relation to an arrears situation.

(2) Paragraph (1) shall not prevent the moneylender from contacting the consumer directly in relation to other permitted matters.

Provision of records to third parties

32. (1) Upon receipt of a written request for copies of consumer records, from a third party acting on behalf of a consumer, a moneylender shall furnish the third party with all consumer records referred to in the request within 10 working days, where the consumer has provided written consent.

(2) If any consumer record requested pursuant to paragraph (1) is not available, or has not been retained, the moneylender shall advise the third party that such record is not available, as part of its written response.

Arrears

33. (1) A moneylender shall establish, maintain and adhere to written procedures for the handling of arrears cases.

(2) A moneylender shall advise a consumer of relevant debt counselling services, and the contact details for such services including the name and address of a local Money Advice and Budgeting Service office upon the third default or missed payment under a moneylending agreement, whether consecutive or otherwise, during the currency of a moneylending agreement.

(3) Paragraph (2) shall not apply to circumstances where -

- (a) a consumer is unable to make one or more repayments, in accordance with a moneylending agreement under which repayments are paid by the consumer to the moneylender or his or her representative at any place other than the business premises of the moneylender or the business premises of the supplier of goods or services under the agreement, due to the consumer being unavailable to make the repayment at the usual time and location, where the consumer has contacted the moneylender to re-arrange the repayment,
- (b) the moneylender has agreed to the variation of the repayment schedule with the consumer in advance of the repayment falling due, or

- (c) the consumer has already paid, by way of pre-payment or previous over-payment, the amount due on the missed payment date.

(4) A moneylender shall maintain a record of such agreement to vary a repayment schedule as referred to in paragraph (3)(b).

Home collections

34. (1) A moneylender shall ensure that -

- (a) any removal of a repayment book from a consumer is properly recorded and that a receipt in a durable medium is issued to the consumer, and
- (b) a consumer's personal details contained in repayment books are regularly confirmed and updated.

(2) If a moneylender provides a collection service, in respect of repayments due under a moneylending agreement, the moneylender shall, before making any collection of repayments, agree with the consumer the location for such collection, which shall be appropriate and secure.

Debt collection

35. If a moneylender engages the services of a third party to collect debts on its behalf, the moneylender shall have in place a written contractual arrangement with that third party which ensures that its consumers are treated in accordance with the provisions of these Regulations and the relevant provisions of the Act of 1995.

Compliance with these Regulations

36. A moneylender shall ensure that in all its dealings with consumers it maintains and employs effectively the resources, systems and control checks that are necessary for compliance with these Regulations.

SCHEDULE 1

Information notice

- ✓ If you require this credit to pay for accommodation, food, electricity, heating, medication or other similar costs, availing of credit from a moneylender may not be in your best interests. You can find more information on the Money Advice and Budgeting Service website at www.mabs.ie, including in relation to the debt counselling services of the Money Advice and Budgeting Service. [Insert the contact details for the Money Advice and Budgeting Service and information on any relevant charities which have notified the moneylender that they may be able to assist consumers through the provision of emergency funds or items to meet their immediate basic needs.]

- ✓ If you would like to take time to consider your options prior to completing a credit application further, please do so. However, you can proceed with your credit application if you wish. If you choose not to proceed with your credit application today, you can contact us again should you wish to discuss future credit.

SCHEDULE 2

Information notice about credit from a licensed moneylender

Warning: This is high-cost credit.

[Name of moneylender] is the provider of high-cost credit.

Consider alternative options before applying for this credit, including alternatives from other lenders regulated by the Central Bank of Ireland.

For example:

- ✓ Shop around in order to know whether you can obtain credit on terms better suited to you.
- ✓ If you are struggling to manage your finances, talk to your creditors to agree a payment plan and ask the Money Advice and Budgeting Service for help. You can find more information on the MABS website at www.mabs.ie.
- ✓ If you are in receipt of social welfare payments, you may qualify for additional financial support which may address your immediate financial needs. Contact your local citizens information office for more information.

[Our moneylending agreements have an APR of [insert interest rate as APR] with a cost of credit of [insert cost of credit in euro] per €100 borrowed.

or

Our moneylending agreements range from having an APR of [insert lowest interest rate product provided as APR] with a cost of credit of [insert lowest cost of credit in euro] per €100 borrowed, to an APR of [insert highest interest rate product provided as APR] with a cost of credit of [insert highest cost of credit in euro] per €100 borrowed.

or in relation to running accounts

Our moneylending agreements have a maximum APR of [insert interest rate as APR].]

Licensed moneylenders must assess your creditworthiness in accordance with regulatory requirements. Before providing credit, we will seek such information from you.

[Payments collected in person include a home collection charge. There are alternative collection methods that do not incur a charge, these are: [include details] [delete if not applicable]].

Signed for and on behalf of the CENTRAL BANK OF IRELAND,
29 May 2020

DERVILLE ROWLAND,
Director General Financial Conduct.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

These Regulations set out certain requirements for moneylenders licensed by the Central Bank of Ireland, under the Consumer Credit Act 1995, when engaged in the activity of moneylending.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ó
FOILSEACHÁIN RIALTAIS,
52 FAICHE STIABHNA, BAILE ÁTHA CLIATH 2,
D02 DR67.

Teil: 076 110 6834
r-post: publications@opw.ie

DUBLIN
PUBLISHED BY THE STATIONERY OFFICE
To be purchased from
GOVERNMENT PUBLICATIONS,
52 ST. STEPHEN'S GREEN, DUBLIN 2,
D02 DR67.

Tel: 076 110 6834
E-mail: publications@opw.ie

€ 6.50

