
STATUTORY INSTRUMENTS

2013 No. 1881

The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No.2) Order 2013

PART 8

Transitional provisions

CHAPTER 2

Licensing etc.

Enforcement of agreements made by unlicensed trader

48.—(1) This article applies to a regulated agreement entered into before 1st April 2014 (“a relevant agreement”).

(2) A relevant agreement is not enforceable against the debtor or hirer by a person carrying on a regulated activity of the kind specified by article 60B(2) or 60N(2) of the Regulated Activities Order (as the case may be) if that person does not have permission to carry on that activity.

(3) Section 40(1A) and (2) of the 1974 [F¹Act] continue to apply to a relevant agreement with the following modifications—

- (a) after “Unless the OFT has” insert “ before 1st April 2014 ”;
- (b) after “applies to the agreement” insert “ or the FCA has given a notice under section 28A of the Financial Services and Markets Act 2000 by virtue of subsection (1B) ”;
- (c) after subsection (1A) there is inserted—

“(1B) Sections 28A and 28B of the Financial Services and Markets Act 2000 ^{M1} apply to a regulated agreement which is not enforceable by virtue of subsection (1A) with the following modifications—

- (a) [F²subsections (1) and (2)] and paragraph (b) of subsection (3) of section 28A do not apply;
- (b) for subsections (4) to (6) of section 28A substitute—

“(4) In considering whether to allow the agreement to be enforced the FCA must have regard to whether the relevant firm reasonably believed that a licence under the Consumer Credit Act 1974 was not required by the creditor or owner (as the case may be) to enter into the agreement.”;
- (c) for subsection (8) of section 28A substitute—

“(8) “The relevant firm” means the person who (disregarding the effect of [F³section 40(1A) of the Consumer Credit Act 1974]), would be entitled to enforce the agreement.””

Changes to legislation: *The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No.2) Order 2013, Section 48 is up to date with all changes known to be in force on or before 22 January 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- F1** Word in art. 48(3) inserted (26.2.2014 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Consumer Credit\) \(Miscellaneous Provisions\) Order 2014 \(S.I. 2014/208\)](#), art. 1(3)(4), **7(2)(a)**
- F2** Words in art. 48(3)(c) substituted (26.2.2014 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Consumer Credit\) \(Miscellaneous Provisions\) Order 2014 \(S.I. 2014/208\)](#), art. 1(3)(4), **7(2)(b)(i)**
- F3** Words in art. 48(3)(c) substituted (26.2.2014 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Consumer Credit\) \(Miscellaneous Provisions\) Order 2014 \(S.I. 2014/208\)](#), art. 1(3)(4), **7(2)(b)(ii)**

Marginal Citations

- M1** Sections 28A and 28B were inserted by the Financial Services Act 2012, Schedule 9, paragraphs 1 and 8.

Changes to legislation:

The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No.2) Order 2013, Section 48 is up to date with all changes known to be in force on or before 22 January 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

- Order revoked by [2023 c. 29 Sch. 1 Pt. 2](#)