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## STATUTORY INSTRUMENTS

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# 2001 No. 544

## The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001

### PART II

#### SPECIFIED ACTIVITIES

#### [<sup>F1</sup>CHAPTER 14B

#### REGULATED CONSUMER HIRE AGREEMENTS

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#### Textual Amendments

- F1** Pt. II Ch. 14A, 14B inserted (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2013 \(S.I. 2013/1881\)](#), art. 1(2)(6), 6

#### *The activities*

#### **Regulated consumer hire agreements**

**60N.**—(1) Entering into a regulated consumer hire agreement as owner is a specified kind of activity.

(2) It is a specified kind of activity for the owner or another person to exercise, or to have the right to exercise, the owner's rights and duties under a regulated consumer hire agreement.

(3) In this Chapter—

“consumer hire agreement” means an agreement between a person (“the owner”) and an individual or relevant recipient of credit (“the hirer”) for the bailment or, in Scotland, the hiring, of goods to the hirer which—

- (a) is not a hire-purchase agreement, and
- (b) is capable of subsisting for more than three months;

“exempt agreement” means a consumer hire agreement which is an exempt agreement under articles 60O to 60Q;

“owner” means—

- (a) the person who bails or, in Scotland, hires, goods under a <sup>F2</sup>... consumer hire agreement, or
- (b) a person who exercises or has the right to exercise the rights and duties of a person who bailed or, in Scotland, hired, goods under such an agreement;

[<sup>F3</sup>“regulated consumer hire agreement” means—

**Changes to legislation:** The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001, Chapter 14B is up to date with all changes known to be in force on or before 22 April 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

- (a) in the case of an agreement entered into on or after 1st April 2014, any consumer hire agreement which is not an exempt agreement; or
- (b) in the case of an agreement entered into before 1st April 2014, a consumer hire agreement which—
  - (i) was a regulated agreement within the meaning of section 189(1) of the Consumer Credit Act 1974 when the agreement was entered into; or
  - (ii) became such a regulated agreement after being varied or supplemented by another agreement before 1st April 2014.]

#### Textual Amendments

- F2** Word in art. 60N(3) omitted (14.2.2014 for specified purposes, 1.4.2014 in so far as not already in force) by virtue of [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2014 \(S.I. 2014/366\)](#), art. 1(3)(4), **2(34)**
- F3** Words in art. 60N(3) substituted (17.3.2016 for specified purposes, 20.3.2016 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2016 \(S.I. 2016/392\)](#), art. 1(2)(3)(b), **2(17)** (with Pt. 5)

#### Exempt agreements: exemptions relating to nature of agreement

**60O.**—(1) An agreement is an exempt agreement for the purposes of this Chapter if—

- (a) the hirer is required by the agreement to make payments exceeding £25,000, and
  - (b) the agreement is entered into by the hirer wholly or predominantly for the purposes of a business carried on, or intended to be carried on, by the hirer.
- (2) For the purposes of paragraph (1), if an agreement includes a declaration which—
- (a) is made by the hirer,
  - (b) provides that the agreement is entered into by the hirer wholly or predominantly for the purposes of a business carried on, or intended to be carried on, by the hirer, and
  - (c) complies with rules made by the FCA for the purposes of this article,

the agreement is to be presumed to have been entered into by the hirer wholly or predominantly for the purpose in sub-paragraph (b) unless paragraph (3) applies.

(3) This paragraph applies if, when the agreement is entered into—

- (a) the owner (or, if there is more than one owner, any of the owners), or
- (b) any person who has acted on behalf of the owner (or, if there is more than one owner, any of the owners), in connection with the entering into of the agreement,

knows or has reasonable cause to suspect that the agreement is not entered into by the hirer wholly or predominantly for the purposes of a business carried on, or intended to be carried on, by the hirer.

(4) For the purposes of this article, where credit is provided otherwise than in sterling, it is to be treated as provided in sterling of an equivalent amount.

#### Exempt agreements: exemptions relating to supply of essential services

**60P.** An agreement is an exempt agreement for the purposes of this Chapter if—

- (a) the owner is a body corporate which is authorised by or under an enactment to supply gas, electricity or water, and

- (b) the subject of the agreement is a meter or metering equipment which is used (or is to be used) in connection with the supply of gas, electricity or water.

### Exempt agreements: exemptions relating to the nature of the hirer

**60Q.** An agreement is an exempt agreement for the purposes of this Chapter if—

- (a) the hirer is an individual,
- (b) the agreement includes a declaration made by the hirer which provides that the hirer agrees to forgo the protection and remedies that would be available to the hirer if the agreement were a regulated consumer hire agreement and which complies with rules made by the FCA for the purposes of this paragraph,
- (c) a statement has been made in relation to the income or assets of the hirer which complies with rules made by the FCA for the purposes of this paragraph,
- (d) the connection between the statement and the agreement complies with any rules made by the FCA for the purposes of this paragraph (including as to the period of time between the making of the statement and the agreement being entered into), and
- (e) a copy of the statement was provided to the owner before the agreement was entered into.

### Exclusion

### [<sup>F4</sup>Other exclusions]

**60R.** Article 60N is subject to <sup>F5</sup>...[<sup>F6</sup> the exclusion in article 72G (local authorities)].

#### Textual Amendments

- F4** Art. 60R heading substituted (14.2.2014 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2014 \(S.I. 2014/366\)](#), art. 1(3)(4), **2(35)**
- F5** Words in art. 60R omitted (31.12.2020) by virtue of [The Electronic Commerce and Solvency 2 \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/1361\)](#), regs. 1(2), **5(3)(g)** (as amended by [S.I. 2019/1390](#), regs. 1(2), 6); 2020 c. 1, Sch. 5 para. 1(1)
- F6** Words in art. 60R inserted (14.2.2014 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2014 \(S.I. 2014/366\)](#), art. 1(3)(4), **2(36)**

### [<sup>F7</sup>Supplemental

#### Textual Amendments

- F7** Art. 60S and cross-heading inserted (14.2.2014 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2014 \(S.I. 2014/366\)](#), art. 1(3)(4), **2(37)**

### Meaning of consumer etc.

**60S.**—(1) For the purposes of sections 1G, 404E and 425A of the Act (meaning of “consumer”), in so far as those provisions relate to a person (“A”) carrying on a regulated activity of the kind specified by—

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- (a) article 60N (regulated consumer hire agreements), or
- (b) article 64 (agreeing to carry on specified kinds of activity) in so far as that article relates to article 60N,

a person who is treated by A as a person who is or has been the hirer under a regulated consumer hire agreement is to be treated as a “consumer”.

(2) For the purposes of section 328(8) of the Act (meaning of “clients”) in so far as that provision relates to a person (“A”) carrying on a regulated activity of the kind specified by—

- (a) article 60N (regulated consumer hire agreements), or
- (b) article 64 (agreeing to carry on specified kinds of activity) in so far as that article relates to article 60N,

a person who is treated by A as a person who is or has been the hirer under a regulated consumer hire agreement is to be treated as a “client”.

(3) In this article, “hirer” includes (in addition to those persons defined as “the hirer” in the definition of “consumer hire agreement” in article 60N(3))—

- (a) any person providing a guarantee or indemnity under a consumer hire agreement, and
- (b) a person to whom the rights and duties of a person falling within sub-paragraph (a) have passed by assignment or operation of law.]]

**Changes to legislation:**

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

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- Sch. 3 Pt. 1 para. 2(c) words substituted by [S.I. 2023/548 art. 2\(5\)](#)