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STATUTORY INSTRUMENTS

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**2022 No. 726**

**The Financial Services and Markets Act 2000  
(Regulated Activities) (Amendment) (No. 2) Order 2022**

**Amendment of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001**

2.—(1) The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001<sup>(1)</sup> is amended as follows.

(2) In article 3(1) (interpretation), omit the definition of “designated guidance provider”<sup>(2)</sup>.

(3) In article 35B (providing pensions guidance under Part 20A of the Act)<sup>(3)</sup>—

(a) in the heading, omit “under Part 20A of the Act”;

(b) in paragraph (1), omit “under arrangements made with the Treasury pursuant to section 333B of the Act”;

(c) for paragraph (2) substitute—

“(2) For the purposes of paragraph (1), pensions guidance means—

(a) information or guidance provided by the Money and Pensions Service<sup>(4)</sup> in carrying out its pensions guidance function (see section 3 of the Financial Guidance and Claims Act 2018<sup>(5)</sup>);

(b) information or guidance provided by another person with whom arrangements under section 5(1), (2) or (3) of the Financial Guidance and Claims Act 2018 are made to carry out the Money and Pensions Service’s pensions guidance function.”.

(4) In article 39KA (activities carried on by reason of providing pensions guidance under Part 20A of the Act)<sup>(6)</sup>—

(a) in the heading, omit “under Part 20A of the Act”;

(b) in paragraph (1), omit “under arrangements made with the Treasury pursuant to section 333B of the Act”;

(c) for paragraph (2) substitute—

“(2) For the purposes of paragraph (1), pensions guidance means—

(a) information or guidance provided by the Money and Pensions Service in carrying out its pensions guidance function (see section 3 of the Financial Guidance and Claims Act 2018);

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(1) [S.I. 2001/544](#).

(2) This definition was inserted by [S.I. 2015/489](#); there are other amendments to article 3 which are not relevant.

(3) Article 35B was inserted by [S.I. 2015/489](#).

(4) The Money and Pensions Service was created by section 1 of the Financial Guidance and Claims Act 2018 ([c. 10](#)) and named, in accordance with paragraph (3) of that section, by regulation 2 of the Financial Guidance and Claims Act 2018 (Naming and Consequential Amendments) Regulations 2019.

(5) [2018 \(c. 10\)](#).

(6) Article 39KA was inserted by [S.I. 2015/489](#).

- (b) information or guidance provided by another person with whom arrangements under section 5(1), (2) or (3) of the Financial Guidance and Claims Act 2018 are made to carry out the Money and Pensions Service’s pensions guidance function.”.
- (5) In article 52C (providing pensions guidance under Part 20A of the Act)(7)—
- (a) in the heading, omit “under Part 20A of the Act”;
  - (b) in paragraph (1), omit “under arrangements made with the Treasury pursuant to section 333B of the Act”;
  - (c) for paragraph (2) substitute—
    - “(2) For the purposes of paragraph (1), pensions guidance means—
    - (a) information or guidance provided by the Money and Pensions Service in carrying out its pensions guidance function (see section 3 of the Financial Guidance and Claims Act 2018);
    - (b) information or guidance provided by another person with whom arrangements under section 5(1), (2) or (3) of the Financial Guidance and Claims Act 2018 are made to carry out the Money and Pensions Service’s pensions guidance function.”.
- (6) In article 54B (advice given by reason of providing pensions guidance under Part 20A of the Act)(8)—
- (a) in the heading, omit “under Part 20A of the Act”;
  - (b) in paragraph (1), omit “under arrangements made with the Treasury pursuant to section 333B of the Act”;
  - (c) for paragraph (2) substitute—
    - “(2) For the purposes of paragraph (1), pensions guidance means—
    - (a) information or guidance provided by the Money and Pensions Service in carrying out its pensions guidance function (see section 3 of the Financial Guidance and Claims Act 2018);
    - (b) information or guidance provided by another person with whom arrangements under section 5(1), (2) or (3) of the Financial Guidance and Claims Act 2018 are made to carry out the Money and Pensions Service’s pensions guidance function.”.
- (7) In article 60H (exempt agreements: exemptions relating to the nature of the borrower)(9)—
- (a) in paragraph (1), for “Subject to article 60HA, a”, substitute “A”;
  - (b) after paragraph (1), insert—
    - “(1A) Article 4(4B) does not apply to an agreement which is exempt under paragraph (1), the purpose of which is to acquire or retain property rights in land or in an existing or projected building, and—
    - (a) a declaration has been made by the borrower which either—
      - (i) provides that the borrower is UK resident, or
      - (ii) provides that the borrower is treated as present in the United Kingdom,

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(7) Article 52C was inserted by [S.I. 2015/489](#).

(8) Article 54B was inserted by [S.I. 2015/489](#).

(9) Article 60H was inserted by [S.I. 2013/1881](#) and amended by [S.I. 2015/910](#); there are other amendments to article 60H which are not relevant.

(b) a copy of that declaration was provided to the lender before the agreement was entered into, and

(c) the agreement is entered into on or after 21st July 2022.

(1B) For the purposes of paragraph (1A), a borrower is “UK resident” if—

(a) the borrower is present in the United Kingdom on at least 183 days during the continuous period of 365 days ending with the date the agreement is entered into, or

(b) the spouse or civil partner of the borrower—

(i) is living with the borrower on the date the agreement was entered into, and

(ii) is present in the United Kingdom on at least 183 days during the continuous period of 365 days ending with the date the agreement is entered into.

(1C) For the purposes of paragraph (1A), a borrower is treated as present in the United Kingdom if, on the date the agreement was entered into, the borrower—

(a) is in Crown employment, and

(b) is present in a country or territory outside the United Kingdom for the purpose of performing activities in the course of that employment, or

(c) is the spouse or civil partner of an individual who—

(i) is in Crown employment,

(ii) is present in a country or territory outside the United Kingdom for the purpose of performing activities in the course of that employment, and

(d) is living with their spouse or civil partner.

(1D) References in this article to a borrower being present in the United Kingdom on a day are to the borrower being present in the United Kingdom at the end of that day.

(1E) Individuals who are married to, or are civil partners of, each other are treated, for the purposes of this article, as living together unless—

(a) they are separated under an order of a court of competent jurisdiction,

(b) they are separated by deed of separation, or

(c) they are in fact separated in circumstances in which the separation is likely to be permanent.

(1F) For the purposes of this article, “Crown employment” means employment under or for the purposes of a government department or any officer or body exercising on behalf of the Crown functions conferred by a statutory provision. ”

(8) In the heading of article 60HA (exempt agreements: provision qualifying articles 60E, 60F and 60H)(10), for “60E, 60F and 60H” substitute “60E and 60F”.

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(10) Article 60HA was inserted by [S.I. 2015/910](#) and amended by [S.I. 2019/632](#); there are other amendments to article 60HA which are not relevant.