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## STATUTORY INSTRUMENTS

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# 2004 No. 2095

## The Financial Services (Distance Marketing) Regulations 2004

### Enforcement authorities

17.—(1) For the purposes of regulations 18 to 21—

- (a) in relation to any alleged breach concerning a specified contract<sup>[F1]</sup>—
  - (i) the Authority, and
  - (ii) where the contract is a consumer credit contract—
    - (aa) in Great Britain, every local weights and measures authority, and
    - (bb) in Northern Ireland, the Department of Enterprise, Trade and Investment, is an enforcement authority];
- (b) in relation to any alleged breach concerning a contract under which the supplier is a local authority, but which is not a specified contract, the<sup>[F2]</sup>CMA] is the enforcement authority;
- (c) in relation to any other alleged breach—
  - (i) the <sup>[F3]</sup>CMA], and
  - (ii) in Great Britain every local weights and measures authority, and in Northern Ireland the Department of Enterprise, Trade and Investment, is an enforcement authority.

(2) For the purposes of paragraph (1) and regulation 22(6), each of the following is a specified contract—

- (a) a contract the making or performance of which constitutes or is part of a regulated activity carried on by the supplier <sup>[F4]</sup>or an activity which would constitute a regulated activity carried on by the supplier but for any of articles 60C to 60H of the Regulated Activities Order];
- (b) a contract for the provision of a debit card;
- (c) a contract relating to the issuing of electronic money by <sup>[F5]</sup>an electronic money institution within the meaning of the Electronic Money Regulations 2011<sup>[F6]</sup>... ;
- (d) a contract the effecting or carrying out of which is excluded from article 10(1) or (2) of the Regulated Activities Order (effecting and carrying out contracts of insurance) by article 12 of that order (breakdown insurance), where the supplier is a person who does not otherwise carry on an activity of the kind specified by article 10 of that order;
- (e) a contract under which a supplier provides credit to a consumer and the obligation of the consumer to repay is secured by a first legal mortgage on land;
- (f) a contract, made before 14th January 2005, for insurance mediation activity other than in respect of a contract of long-term care insurance.

<sup>[F7]</sup>(2A) For the purposes of paragraph (1) and regulation 22(6), a “consumer credit contract” means a contract the making or performance of which constitutes or is part of a regulated activity of

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the kind specified by a provision of the Regulated Activities Order listed in paragraph (2B) carried on by the supplier.

(2B) The provisions are—

- (a) article 36A (credit broking);
- (b) article 36H (operating an electronic system in relation to lending);
- (c) article 39D (debt adjusting);
- (d) article 39E (debt-counselling);
- (e) article 39F (debt-collecting);
- (f) article 39G (debt administration);
- (g) article 60B (regulated credit agreements);
- (h) article 60N (regulated consumer hire agreements);
- (i) article 89A (providing credit information services);
- (j) article 89B (providing credit references);
- (k) article 64 (agreeing to carry on specified kinds of activity) in so far as it relates to an activity of the kind specified by a provision listed in sub-paragraphs (a) to (j).]

(3) For the purposes of the application of this regulation and regulations 18 to 22 in relation to breaches of, and offences under, regulation 15, “contract”—

- (a) wherever it appears in this regulation other than in the expression “contract of long-term care insurance”, and
- (b) in regulation 22(6),

is to be taken to mean “supply of financial services”.

(4) For the purposes of this regulation—

<sup>M1</sup>“contract of long-term care insurance” has the same meaning as in the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No. 2) Order 2003 ;

<sup>M2</sup>“insurance mediation activity” means any activity which is not a regulated activity at the time the contract is made but will be a regulated activity of the kind specified by article 21, 25(1) or (2), 39A or 53 of the Regulated Activities Order when the amendments to that order made by the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No. 2) Order 2003 come into force ;

“local authority” means—

- (a) <sup>M3</sup>in England and Wales, a local authority within the meaning of the Local Government Act 1972 , the Greater London Authority, the Common Council of the City of London or the Council of the Isles of Scilly,
- (b) <sup>M4</sup>in Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 , and
- (c) <sup>M5</sup>in Northern Ireland, a district council within the meaning of the Local Government Act (Northern Ireland) 1972 .

#### Textual Amendments

- F1** Words in reg. 17(1)(a) 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 \(S.I. 2014/208\)](#), arts. 1(3)(4), **3(3)(a)(i)**

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- F2** Word in reg. 17(1)(b) 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 \(S.I. 2014/208\)](#), arts. 1(3)(4), **3(3)(a)(ii)**
- F3** Word in reg. 17(1)(c)(i) 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 \(S.I. 2014/208\)](#), arts. 1(3)(4), **3(3)(a)(iii)**
- F4** Words in reg. 17(2)(a) 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 \(S.I. 2014/208\)](#), arts. 1(3)(4), **3(3)(b)(i)**
- F5** Words in reg. 17(2)(c) inserted (9.2.2011 for specified purposes, 30.4.2011 in so far as not already in force) by [The Electronic Money Regulations 2011 \(S.I. 2011/99\)](#), reg. 1(2), **Sch. 4 para. 15** (with reg. 3)
- F6** Words in reg. 17(2)(c) omitted (26.2.2014 for specified purposes, 1.4.2014 in so far as not already in force) by virtue of [The Financial Services and Markets Act 2000 \(Consumer Credit\) \(Miscellaneous Provisions\) Order 2014 \(S.I. 2014/208\)](#), arts. 1(3)(4), **3(3)(b)(ii)**
- F7** Reg. 17(2A)(2B) 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 \(S.I. 2014/208\)](#), arts. 1(3)(4), **3(3)(c)**

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#### Marginal Citations

- M1** [S.I. 2003/1476](#), as amended by [S.I. 2004/1610](#).
- M2** Articles 4(1), 5(1), 7 and 9(1) of [S.I. 2003/1476](#) amend articles 21 and 25(1), insert article 39A, and amend article 53 of the Regulated Activities Order with effect from 31st October 2004 for certain purposes and from 14th January 2005 for other purposes: see [article 1\(3\)](#).
- M3** [1972 c. 70](#); the definition of “local authority” in section 270 has been repealed in part by section 102(2) of and Schedule 17 to the [Local Government Act 1985 \(c. 51\)](#) and amended by section 1(5) of the [Local Government \(Wales\) Act 1994 \(c. 19\)](#).
- M4** [1994 c. 39](#).
- M5** [1972 c. 9 \(N.I.\)](#).

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**Changes and effects yet to be applied to :**

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