
STATUTORY INSTRUMENTS

2001 No. 544

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

PART II

SPECIFIED ACTIVITIES

CHAPTER XV

REGULATED MORTGAGE CONTRACTS

The activities

Regulated mortgage contracts

61.—(1) Entering into a regulated mortgage contract as lender is a specified kind of activity.

(2) Administering a regulated mortgage contract is also a specified kind of activity, where the contract was entered into [^{F1}by way of business] after the coming into force of this article.

(3) In this Chapter—

[^{F2}(a) a contract is a “regulated mortgage contract” if, at the time it is entered into, the following conditions are met—

- (i) the contract is one under which a person (“the lender”) provides credit to an individual or to trustees (“the borrower”);
- (ii) the contract provides for the obligation of the borrower to repay to be secured by a first legal mortgage on land (other than timeshare accommodation) in the United Kingdom;
- (iii) at least 40% of that land is used, or is intended to be used, as or in connection with a dwelling by the borrower or (in the case of credit provided to trustees) by an individual who is a beneficiary of the trust, or by a related person;

[^{F3}but such a contract is not a regulated mortgage contract if it is a regulated home purchase plan;]]

(b) “administering” a regulated mortgage contract means either or both of—

- (i) notifying the borrower of changes in interest rates or payments due under the contract, or of other matters of which the contract requires him to be notified; and
- (ii) taking any necessary steps for the purposes of collecting or recovering payments due under the contract from the borrower;

but a person is not to be treated as administering a regulated mortgage contract merely because he has, or exercises, a right to take action for the purposes of enforcing the contract (or to require that such action is or is not taken);

(c) “credit” includes a cash loan, and any other form of financial accommodation.

Status: Point in time view as at 06/11/2006. This version of this provision has been superseded.

Changes to legislation: The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001, Section 61 is up to date with all changes known to be in force on or before 24 June 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)

- (4) For the purposes of [^{F4}paragraph 3(a)]—
- (a) a “first legal mortgage” means a legal mortgage ranking in priority ahead of all other mortgages (if any) affecting the land in question, where “mortgage” includes charge and (in Scotland) a heritable security;
 - (b) the area of any land which comprises a building or other structure containing two or more storeys is to be taken to be the aggregate of the floor areas of each of those storeys;
 - (c) “related person”, in relation to the borrower or (in the case of credit provided to trustees) a beneficiary of the trust, means—
 - (i) that person’s spouse [^{F5}or civil partner];
 - (ii) a person (whether or not of the opposite sex) whose relationship with that person has the characteristics of the relationship between husband and wife; or
 - (iii) that person’s parent, brother, sister, child, grandparent or grandchild; and
 - (d) “timeshare accommodation” has the meaning given by section 1 of the Timeshare Act 1992 ^{M1}.

Textual Amendments

- F1** Words in art. 61(2) inserted (31.10.2004) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2001 \(S.I. 2001/3544\)](#), arts. 1(1)(b), **8(a)**
- F2** Art. 61(3)(a) substituted (31.10.2004) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2001 \(S.I. 2001/3544\)](#), arts. 1(1)(b), **8(b)**
- F3** Words in art. 61(3)(a) inserted (6.11.2006 for specified purposes) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2006 \(S.I. 2006/2383\)](#), arts. 1(2), **17**
- F4** Words in art. 61(4) substituted (31.10.2004) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2001 \(S.I. 2001/3544\)](#), arts. 1(1)(b), **8(c)**
- F5** Words in art. 61(4)(c)(i) inserted (5.12.2005) by [The Civil Partnership Act 2004 \(Amendments to Subordinate Legislation\) Order 2005 \(S.I. 2005/2114\)](#), reg. 1, **Sch. 16 para. 1(3)**

Commencement Information

- I1** Art. 61 in force at 31.10.2004, see art. 1(2)(b) (as read with Treasury notice dated 9.7.2003)

Marginal Citations

- M1** [1992 c. 35](#). The definition of “timeshare accommodation” in section 1 was amended by [S.I. 1997/1081](#), **reg. 2**.

Status:

Point in time view as at 06/11/2006. This version of this provision has been superseded.

Changes to legislation:

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