
STATUTORY INSTRUMENTS

2006 No. 2383

The Financial Services and Markets Act 2000
(Regulated Activities) (Amendment) (No.2) Order 2006

PART 2

AMENDMENTS OF THE REGULATED ACTIVITIES ORDER

Entering into and administering regulated home reversion plans and regulated home purchase plans

18. After article 63A (other exclusions) insert—

“CHAPTER 15A

REGULATED HOME REVERSION PLANS

The activities

Entering into and administering regulated home reversion plans

63B.—(1) Entering into a regulated home reversion plan as plan provider is a specified kind of activity.

(2) Administering a regulated home reversion plan is also a specified kind of activity where the plan was entered into on or after 6th April 2007.

(3) In this Chapter—

(a) a “regulated home reversion plan” is an arrangement comprised in one or more instruments or agreements, in relation to which the following conditions are met at the time it is entered into—

(i) the arrangement is one under which a person (the “plan provider”) buys all or part of a qualifying interest in land (other than timeshare accommodation) in the United Kingdom from an individual or trustees (the “reversion seller”);

(ii) the reversion seller (if he is an individual) or an individual who is a beneficiary of the trust (if the reversion seller is a trustee), or a related person, is entitled under the arrangement to occupy at least 40% of the land in question as or in connection with a dwelling, and intends to do so; and

(iii) the arrangement specifies one or more qualifying termination events, on the occurrence of which that entitlement will end;

(b) “administering” a regulated home reversion plan means any of—

(i) notifying the reversion seller of changes in payments due under the plan, or of other matters of which the plan requires him to be notified;

- (ii) taking any necessary steps for the purposes of making payments to the reversion seller under the plan; and
 - (iii) taking any necessary steps for the purposes of collecting or recovering payments due under the plan from the reversion seller,
- but a person is not to be treated as administering a regulated home reversion plan merely because he has, or exercises, a right to take action for the purposes of enforcing the plan (or to require that such action is or is not taken).
- (4) For the purposes of paragraph (3)—
- (a) the reference to a “qualifying interest” in land—
 - (i) in relation to land in England or Wales, is to an estate in fee simple absolute or a term of years absolute, whether subsisting at law or in equity;
 - (ii) in relation to land in Scotland, is to the interest of an owner in land or the tenant’s right over or interest in a property subject to a lease;
 - (iii) in relation to land in Northern Ireland, is to any freehold estate or any leasehold estate, whether subsisting at law or in equity;
 - (b) “timeshare accommodation” has the meaning given by section 1 of the Timeshare Act 1992⁽¹⁾;
 - (c) “related person” in relation to the reversion seller or, where the reversion seller is a trustee, a beneficiary of the trust, means—
 - (i) that person’s spouse 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) “qualifying termination event”, in relation to a person’s entitlement to occupy land, means—
 - (i) the person becomes a resident of a care home;
 - (ii) the person dies;
 - (iii) the end of a specified period of at least twenty years beginning with the day on which the reversion seller entered into the arrangement.
- (5) For the purposes of paragraph (3)(a)(ii), 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.
- (6) For the purposes of the definition of “qualifying termination event” in paragraph (4), “care home”—
- (a) in relation to England and Wales, has the meaning given by section 3 of the Care Standards Act 2000⁽²⁾;
 - (b) in relation to Scotland, means accommodation provided by a “care home” within the meaning of section 2(3) of the Regulation of Care (Scotland) Act 2001⁽³⁾;
 - (c) in relation to Northern Ireland, means—

(1) 1992 c. 35.
 (2) 2000 c.14.
 (3) 2001 asp 8.

- (i) a residential care home within the meaning of article 10 of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003(4); or
 - (ii) a nursing home within the meaning of article 11 of that Order.
- (7) In this Order—
- (a) references to entering into a regulated home reversion plan as plan provider include acquiring any obligations or rights (including his interest in land) of the plan provider, under such a plan; but
 - (b) in relation to a person who acquires any such obligations or rights, an activity is a specified kind of activity for the purposes of articles 25B(1)(b) and 53B(b)(ii) and paragraph (2) only if the plan was entered into by the plan provider (rather than the obligations or rights acquired) on or after 6th April 2007.
- (8) Accordingly, references in this Order to a plan provider, other than in paragraph (7), include a person who acquires any such obligations or rights.

Exclusions

Arranging administration by authorised person

63C. A person who is not an authorised person does not carry on an activity of the kind specified by article 63B(2) in relation to a regulated home reversion plan where he—

- (a) arranges for another person, being an authorised person with permission to carry on an activity of that kind, to administer the plan; or
- (b) administers the plan himself during a period of not more than one month beginning with the day on which any such arrangement comes to an end.

Administration pursuant to agreement with authorised person

63D. A person who is not an authorised person does not carry on an activity of the kind specified by article 63B(2) in relation to a regulated home reversion plan where he administers the plan pursuant to an agreement with an authorised person who has permission to carry on an activity of that kind.

Other exclusions

63E. Article 63B is also subject to the exclusions in articles 66 (trustees etc.), 72 (overseas persons) and 72A (information society services).

CHAPTER 15B

REGULATED HOME PURCHASE PLANS

The activities

Entering into and administering regulated home purchase plans

63F.—(1) Entering into a regulated home purchase plan as home purchase provider is a specified kind of activity.

(2) Administering a regulated home purchase plan is also a specified kind of activity where the plan was entered into by way of business on or after 6th April 2007.

(3) In this Chapter—

(a) a “regulated home purchase plan” is an arrangement comprised in one or more instruments or agreements, in relation to which the following conditions are met at the time it is entered into—

- (i) the arrangement is one under which a person (the “home purchase provider”) buys a qualifying interest or an undivided share of a qualifying interest in land (other than timeshare accommodation) in the United Kingdom;
- (ii) where an undivided share of a qualifying interest in land is bought, the interest is held on trust for the home purchase provider and the individual or trustees mentioned in paragraph (iii) as beneficial tenants in common;
- (iii) the arrangement provides for the obligation of an individual or trustees (the “home purchaser”) to buy the interest bought by the home purchase provider over the course of or at the end of a specified period; and
- (iv) the home purchaser (if he is an individual) or an individual who is a beneficiary of the trust (if the home purchaser is a trustee), or a related person, is entitled under the arrangement to occupy at least 40% of the land in question as or in connection with a dwelling during that period, and intends to do so;

(b) “administering” a regulated home purchase plan means either or both of—

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

but a person is not to be treated as administering a regulated home purchase plan merely because he has, or exercises, a right to take action for the purposes of enforcing the plan or to require that such action is or is not taken.

(4) Article 63B(4)(a) to (c) applies for the purposes of paragraph (3)(a) with references to the “reversion seller” being read as references to the “home purchaser”.

(5) Article 63B(5) applies for the purposes of paragraph (3)(a)(iv) with the reference to “paragraph (3)(a)(ii)” being read as a reference to “paragraph (3)(a)(iv)”.

Exclusions

Arranging administration by authorised person

63G. A person who is not an authorised person does not carry on an activity of the kind specified by article 63F(2) in relation to a regulated home purchase plan where he—

- (a) arranges for another person, being an authorised person with permission to carry on an activity of that kind, to administer the plan; or
- (b) administers the plan himself during a period of not more than one month beginning with the day on which any such arrangement comes to an end.

Administration pursuant to agreement with authorised person

63H. A person who is not an authorised person does not carry on an activity of the kind specified by article 63F(2) in relation to a regulated home purchase plan where he administers the plan pursuant to an agreement with an authorised person who has permission to carry on an activity of that kind.

Other exclusions

63I. Article 63F is also subject to the exclusions in articles 66 (trustees etc.), 72 (overseas persons) and 72A (information society services).”.