

Chapter 8A

Directions and determinations
by the FCA waiving, varying or
disapplying CCA requirements



8A.2 Introduction and conditions

Directions under section 60(3) of the CCA

8A.2.1 **G** Under section 60(3) of the CCA, if, on an application made to the FCA by a *firm* carrying on a consumer credit business or a consumer hire business, it appears to the FCA impracticable for the *firm* to comply with any requirement of the Consumer Credit (Agreements) Regulations 1983 (SI 1983/1553) or the Consumer Credit (Agreements) Regulations (SI 2010/1014) in a particular case, it may direct that the requirement be waived or varied in relation to the regulated agreement and subject to such conditions (if any) as it may specify.

8A.2.2 **G** Under section 60(4) of the CCA, the FCA will make the direction only if it is satisfied that to do so would not prejudice the interests of debtors or hirers.

8A.2.3 **G** An application may be made under section 60(3) of the CCA only if it relates to:

- (1) a consumer credit agreement secured on land; or
- (2) a consumer credit agreement under which a person takes an article in pawn; or
- (3) a consumer credit agreement under which the creditor provides the debtor with a credit that exceeds £60,260; or
- (4) a consumer credit agreement entered into by the debtor wholly or predominantly for the purposes of a business carried on, or intended to be carried on, by him; or
- (5) a consumer hire agreement.

Determinations under section 64(4) of the CCA

8A.2.4 **G** The requirement under section 64(1)(b) of the CCA to send debtors or hirers a notice of their rights to cancel a cancellable agreement within the seven days following the making of that agreement does not apply in the case of the agreements described in **■ SUP 8A.2.5 G**, if:

- (1) on application by a *firm* to the FCA, the FCA has determined, having regard to:
 - (a) the manner in which antecedent negotiations for the relevant agreements with the *firm* are conducted; and

- (b) the information provided to debtors or hirers before those agreements are made;
the requirement can be dispensed with without prejudicing the interests of debtors or hirers; and
- (2) any conditions imposed by the *FCA* in making the determination are complied with.

8A.2.5 **G** A determination under 64(4) of the *CCA* may only be made in respect of agreements specified in the Consumer Credit (Notice of Cancellation Rights) (Exemptions) Regulations 1983.

Directions under section 101(8) of the CCA

8A.2.6 **G** If on an application made to the *FCA* by a *firm* carrying on a consumer hire business, it appears to the *FCA* that it would be in the interests of hirers to do so, the *FCA* may direct that subject to such conditions (if any) as it may specify, section 101 of the *CCA* shall not apply to consumer hire agreements made by that *firm*.

Transitional provision

8A.2.7 **G** Under article 53 of the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No 2) Order 2013, any of the following given or made by the Office of Fair Trading which were in effect immediately before 1 April 2014 have effect as if they had been given or made by the *FCA*:

- (1) a direction given under section 60(3) of the *CCA* (form and content of agreements);
- (2) a determination made under section 64(4) of the *CCA* (duty to give notice of cancellation rights) and the Consumer Credit (Notice of Cancellation Rights) (Exemptions) Regulations 1983;
- (3) a direction given under section 101(8) or (8A) of the *CCA* (right to terminate hire agreement).