
STATUTORY INSTRUMENTS

2001 No. 3649

FINANCIAL SERVICES AND MARKETS

The Financial Services and Markets Act 2000
(Consequential Amendments and Repeals) Order 2001

Made - - - - 9th November 2001
Laid before Parliament 9th November 2001
Coming into force in accordance with article 1

The Treasury in exercise of their powers under sections 426 and 427 of the Financial Services and Markets Act 2000⁽¹⁾ hereby make the following Order:—

PART 1

INTRODUCTORY

Citation, commencement and transitional provisions

1. This Order may be cited as the Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001 and comes into force on 1st December 2001.

Interpretation

2. In this Order “the Act” means the Financial Services and Markets Act 2000.

The principal repeals and revocations

- 3.—(1) The following enactments are repealed—
- (a) the Policyholders Protection Act 1975⁽²⁾;
 - (b) the Insurance Companies Act 1982⁽³⁾;
 - (c) the Financial Services Act 1986⁽⁴⁾;

(1) 2000 c. 8.
(2) 1975 c. 75.
(3) 1982 c. 50.
(4) 1986 c. 60.

- (d) the Banking Act 1987⁽⁵⁾;
 - (e) the Insurance Companies (Reserves) Act 1995⁽⁶⁾; and
 - (f) the Policyholders Protection Act 1997⁽⁷⁾.
- (2) The following instruments are revoked—
- (a) the Banking Co-ordination (Second Council Directive) Regulations 1992⁽⁸⁾;
 - (b) the Insurance Companies (Third Insurance Directives) Regulations 1994⁽⁹⁾; and
 - (c) the Investment Services Regulations 1995⁽¹⁰⁾.

PART 2

AMENDMENTS TO THE COMPANIES LEGISLATION

Companies Act 1985 (c. 6)

Membership of holding company

4.—(1) Section 23 (membership of holding company) of the Companies Act 1985⁽¹¹⁾ is amended as follows.

(2) In paragraph (b) of subsection (3B), for “section 75 of the Financial Services Act 1986” substitute “section 236 of the Financial Services and Markets Act 2000”.

(3) For paragraphs (d) and (e) of that subsection substitute—

“(d) “insurance business” means business which consists of the effecting or carrying out of contracts of insurance;

(e) “securities” includes—

(i) options,

(ii) futures, and

(iii) contracts for differences,

and rights or interests in those investments;”.

(4) In paragraph (f) of that subsection, for “section 75(8) of the Financial Services Act 1986” substitute “section 237(2) of the Financial Services and Markets Act 2000”.

(5) After that subsection, insert—

“(3BA) Subsection (3B) must be read with—

(a) section 22 of the Financial Services and Markets Act 2000;

(b) any relevant order under that section; and

(c) Schedule 2 to that Act.”.

(5) 1987 c. 22.

(6) 1995 c. 29.

(7) 1997 c. 18.

(8) S.I. 1992/3218; amended by the Bank of England Act 1998 (c. 11), Schedule 5 and by S.I. 1993/3225; S.I. 1995/1217; S.I. 1995/1442; S.I. 1996/1669; S.I. 1999/2094 and S.I. 2000/2952.

(9) S.I. 1994/1696.

(10) S.I. 1995/3275; amended by the Bank of England Act 1998 (c. 11), Schedule 5 and by S.I. 1996/1669 and S.I. 2000/2952.

(11) Section 23 was substituted by the Companies Act 1989 (c. 40), section 129 and amended by S.I. 1990/1392, article 8; S.I. 1990/1707, article 8; S.I. 1997/2306, regulations 2 and 3.

Meaning of “offer to the public”

5. Sections 59 and 60 of the 1985 Act(12) (so far as those sections continue to have effect) are repealed.

Purchase by company of its own shares: definition of “off-market” and “market” purchase

6.—(1) Section 163 of the 1985 Act (meaning of “off-market” and “market” purchase)(13) is amended as follows.

(2) In subsection (2)(a) for “Part IV of the Financial Services Act 1986” substitute “Part 6 of the Financial Services and Markets Act 2000”.

(3) For subsection (4) substitute—

“(4) “Recognised investment exchange” means a recognised investment exchange other than an overseas investment exchange.

(5) Expressions used in the definition contained in subsection (4) have the same meaning as in Part 18 of the Financial Services and Markets Act 2000.”.

Duty of company as to issue of certificates

7. For subsection (4) of section 185 of the 1985 Act (duty of company to issue certificates in relation to shares allotted or transferred)(14) substitute—

“(4) Subsection (4A) applies in relation to a company—

- (a) of which shares or debentures are allotted to a financial institution,
- (b) of which debenture stock is allotted to a financial institution, or
- (c) with which a transfer for transferring shares, debentures or debenture stock to a financial institution is lodged.

(4A) The company is not required, in consequence of that allotment or transfer, to comply with subsection (1).

(4B) “Financial institution” means—

- (a) a recognised clearing house acting in relation to a recognised investment exchange; or
- (b) a nominee of—
 - (i) a recognised clearing house acting in that way; or
 - (ii) a recognised investment exchange.

(4C) No person may be a nominee for the purposes of this section unless he is a person designated for those purposes in the rules of the recognised investment exchange in question.

(4D) Expressions used in subsections (4B) and (4C) have the same meaning as in Part 18 of the Financial Services and Markets Act 2000.”.

Disclosure of interests in shares: interests to be disclosed

8.—(1) Section 199 of the 1985 Act (interests in shares required to be disclosed)(15) is amended as follows.

(12) Repealed in part by the Financial Services Act 1986 (c. 60), Schedule 17; section 60 was amended by S.I. 1991/2000, regulation 5.

(13) Amended by the Financial Services Act 1986 (c. 60), Schedule 16, paragraph 17.

(14) Amended by the Financial Services Act 1986 (c. 60), section 194.

(15) Amended by S.I. 1993/1819, regulation 4; S.I. 1996/2827, Schedule 8, paragraph 5; S.I. 2001/1228, Schedule 7, paragraph 4.

- (2) In subsection (2A), in paragraph (a) for “authorised to” substitute “who may lawfully”.
- (3) For subsections (6) and (7) substitute—
- “(6) For the purposes of subsection (2A), a person (“A”) may lawfully manage investments belonging to another if—
- (a) A can manage those investments in accordance with a permission which A has under Part 4 of the Financial Services and Markets Act 2000;
 - (b) A is an EEA firm of the kind mentioned in sub-paragraph (a) or (b) of paragraph 5 of Schedule 3 to that Act, and can manage those investments in accordance with its EEA authorisation;
 - (c) A can, in accordance with section 327 of that Act, manage those investments without contravening the prohibition contained in section 19 of that Act; or
 - (d) A can lawfully manage those investments in another Member State and would, if he were to manage those investments in the United Kingdom, require permission under Part 4 of that Act.
- (7) References in this section to the management of investments must be read with—
- (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.”.

(4) In subsection (8)—

 - (a) in paragraph (b) for the words from the beginning to “conferred” substitute “is certified by the competent authority in that member State as complying with the conditions imposed”; and
 - (b) for “subsection (8) of section 86 of the Financial Services Act 1986” substitute “subsection (5) of section 264 of the Financial Services and Markets Act 2000”.

Disclosure of interests in shares: interests to be disregarded

9. For section 209(2) of the 1985 Act (interests in shares to be disregarded for purposes of disclosure requirements)(16) substitute—

- “(2) An interest in shares is an exempt security interest for the purposes of subsection (1)
- (c) if the condition mentioned in subsection (2A) is satisfied and it is held by—
- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits;
 - (b) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act;
 - (c) a person authorised under the law of a member State other than the United Kingdom to accept deposits who—
 - (i) would not qualify for authorisation under paragraph 12 of Schedule 3 to that Act; and
 - (ii) would require permission under another provision of that Act to accept such deposits in the United Kingdom;
 - (d) an authorised insurance undertaking;
 - (e) a person authorised under the law of a member State to deal in securities or derivatives, who deals in securities or derivatives on a relevant stock exchange or a relevant investment exchange, whether as a member or otherwise;

(16) Substituted by S.I. 1993/1819, regulation 8; subsection (2) amended by S.I. 1993/2689, regulation 3.

- (f) a relevant stock exchange;
- (g) a relevant investment exchange;
- (h) a recognised clearing house;
- (i) the Bank of England; or
- (j) the central bank of a member State other than the United Kingdom.

(2A) The condition is that the interest in the shares must be held by way of security only for the purposes of a transaction entered into in the ordinary course of his or its business as a person or other body falling within any of paragraphs (a) to (j) of subsection (2).

(2B) Paragraphs (a) to (c) of subsection (2) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.

(2C) But paragraph (a) of subsection (2) does not include—

- (a) a building society incorporated, or deemed to be incorporated, under the Building Societies Act 1986; or
- (b) a credit union, within the meaning of the Credit Unions Act 1979 of the Credit Unions (Northern Ireland) Order 1985.”.

Disclosure of interests in shares: interpretation

10.—(1) Subsection (1) of section 220 of the 1985 Act (interpretation of Part 6)(17) is amended in accordance with paragraphs (2) to (8).

(2) The definitions of “authorised credit institution” and “designated agency” are repealed.

(3) In the definition of “authorised unit trust scheme” for “Chapter VIII of Part I of the Financial Services Act 1986” substitute “Part 17 of the Financial Services and Markets Act 2000”.

(4) For the definition of “derivatives” substitute—

““derivatives” means options and futures in relation to shares;”.

(5) After the definition of “derivatives” insert—

““EEA authorisation” has the same meaning as in paragraph 6 of Schedule 3 to the Financial Services and Markets Act 2000;”.

(6) In the definition of “operator” for “section 75(8) of the Financial Services Act 1986” substitute “section 237(2) of the Financial Services and Markets Act 2000”.

(7) For the definition which begins ““recognised clearing house;” substitute—

““recognised clearing house” has the same meaning as in the Financial Services and Markets Act 2000;

“recognised scheme” has the same meaning as in Part 17 of the Financial Services and Markets Act 2000;”.

(8) In the definition of “units” for “section 75 of the Financial Services Act 1986” substitute “section 237(2) of the Financial Services and Markets Act 2000”.

(9) After section 220(1) of the 1985 Act insert—

“(1A) References in subsection (1) to contracts of insurance (of any description), options and futures must be read with—

(17) Subsection (1) was substituted by [S.I. 1993/1819](#), regulation 9; relevant amendments were made by [S.I. 2000/2952](#), regulation 2.

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

Limitations on exemptions for small and medium-sized companies in relation to accounts etc.

11.—(1) Section 247A of the 1985 Act (limitations on exemptions for small and medium-sized companies in relation to accounts etc.)(**18**) is amended as follows.

(2) In subsection (1), for paragraph (a) substitute—

“(a) the company is, or was at any time within the financial year to which the accounts relate—

- (i) a public company,
- (ii) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to carry on one or more regulated activities, or
- (iii) a person who carries on insurance market activity;”.

(3) In subsection (2), for paragraphs (b) to (d) substitute—

- “(b) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to carry on a regulated activity, or
- (c) a person who carries on an insurance market activity.”.

Limitations on exemptions for small and medium-sized groups

12. In subsection (2) of section 248 of the Act (exemption for small and medium-sized groups), for paragraphs (b) to (d) substitute—

- “(b) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to carry on a regulated activity, or
- (c) a person who carries on an insurance market activity.”.

Limitations on exemptions for dormant companies

13 In subsection (3) of section 249AA of the Act (dormant companies)(**19**), for paragraphs (a) and (b) substitute—

- “(a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to carry on one or more regulated activities; or
- (b) a person who carries on insurance market activity”.

Cases where exemptions not available

14.—(1) Subsection (1) of section 249B of the Act (cases where exemptions not available) is amended as follows.

(2) For paragraph (b) substitute—

“(b) it was a person who had permission under Part 4 of the Financial Services and Markets Act 2000 to carry on a regulated activity;”.

(3) After paragraph (b) insert—

(18) Section 247A was inserted by [S.I. 1997/220](#), regulation 4.

(19) Section 249AA was inserted by [S.I. 2000/1430](#), regulation 3.

- “(bb) it carried on an insurance market activity.”.
- (4) For paragraph (d) substitute—
- “(d) it was an appointed representative, within the meaning of section 39 of the Financial Services and Markets Act 2000.”.

Summary financial statements by listed public companies

15. In section 251(1) of the 1985 Act (summary financial statements by listed public companies)(**20**), for the definition of “listed”, and the word “and” preceding it, substitute—

- ““listed” means included in the official list by the competent authority for the purposes of Part 6 of the Financial Services and Markets Act 2000 (official listing); and
- “the official list” has the meaning given in section 103(1) of that Act.”.

Meaning of “banking partnership”

16.—(1) For subsection (2) of section 255D of the 1985 Act (power to apply provisions to banking)(**21**) substitute—

“(2) A “banking partnership” means a partnership which has permission under Part 4 of the Financial Services and Markets Act 2000.

(2A) But a partnership is not a banking partnership if it has permission to accept deposits only for the purpose of carrying on another regulated activity in accordance with that permission.”.

(2) After subsection (4) of that section insert—

- “(5) Subsections (2) and (2A) must be read with—
- (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.”.

Other distributions by investment companies

17.—(1) Section 265 of the 1985 Act (other distributions by investment companies)(**22**) is amended as follows.

(2) In subsection (4)(a) the words “within the meaning of the Financial Services Act 1986” are repealed.

(3) After subsection (4) insert—

“(4A) In subsection (4)(a) “recognised investment exchange” and “overseas investment exchange” have the same meaning as in Part 18 of the Financial Services and Markets Act 2000.”.

Realised profits of an insurance company with long term business

18.—(1) Section 268 of the 1985 Act (realised profits of insurance company with long term business) is amended as follows.

(2) In subsection (1)—

(20) Substituted for certain purposes by the Companies Act 1989 (c. 40) s.1-23; subsection (1) amended by S.I. 1992/3003, regulation 3.

(21) Inserted by the Companies Act 1989 (c. 40), section 18(2).

(22) Amended by the Financial Services Act 1986 (c. 60), Schedule 16, paragraph 19.

- (a) for “an insurance company to which Part II of the Insurance Companies Act 1982 applies” substitute “an authorised insurance company”; and
 - (b) in paragraph (a), for “in accordance with section 30(1) of that Act or carried forward unappropriated as mentioned in section 30(7) of that Act” substitute “or, as the case may be, carried forward unappropriated, in accordance with asset identification rules made under section 142(2) of the Financial Services and Markets Act 2000”.
- (3) In subsection (3)—
- (a) for paragraph (a) substitute—
 - “(a) “actuarial investigation” means—
 - (i) an investigation made into the financial condition of an authorised insurance company in respect of its long term business, carried out once in every period of twelve months in accordance with rules made under Part 10 of the Financial Services and Markets Act 2000 by an actuary appointed as actuary to that company; or
 - (ii) an investigation made into the financial condition of an authorised insurance company in respect of its long term business carried out in accordance with a requirement imposed under section 166 of that Act by an actuary appointed as actuary to that company;”;
 - (b) for paragraph (b) substitute—
 - “(b) “long term business” means business which consists of effecting or carrying out contracts of long term insurance.”.
- (4) After subsection (3) insert—
- “(4) The definition of “long term business” in subsection (3) must be read with—
 - (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.”.

Exceptions to rules relating to substantial property transactions involving directors

19. In section 321(4) of the 1985 Act (exceptions to rules in section 320: transactions through independent broker on recognised investment exchange)(**23**), for “Financial Services Act 1986” substitute “Financial Services and Markets Act 2000”.

Duty of company to notify recognised investment exchange of certain matters concerning directors notified to the company

20.—(1) Section 329 of the 1985 Act (duty of company to notify recognised investment exchange of matters notified to it under sections 324 or 328)(**24**) is amended as follows.

(2) In subsection (1) the words “within the meaning of the Financial Services Act 1986” are repealed.

(3) After subsection (3) insert—

“(4) In subsection (1) “recognised investment exchange” and “overseas investment exchange” have the same meaning as in Part 18 of the Financial Services and Markets Act 2000.”.

(23) Subsection (4) inserted by the Companies Act 1989 (c. 40), Schedule 19, paragraph 8.

(24) Amended by the Financial Services Act 1986 (c. 60), Schedule 16, paragraph 20.

Investigation of share dealing

21. In section 446 of the 1985 Act (investigation of share dealing)(**25**), for subsection (4) substitute—

“(4) Sections 434 to 436 apply for the purposes of an investigation under this section to the following persons as they apply to officers of the company or of the other body corporate—

- (a) an authorised person;
- (b) a relevant professional;
- (c) a person not falling within paragraph (a) or (b) who may carry on a regulated activity without contravening the prohibition imposed by section 19 of the Financial Services and Markets Act 2000; and
- (d) in relation to an authorised person, to a relevant professional or to a person falling within paragraph (c)—
 - (i) if it is a body corporate, any person who is or has been an officer of it;
 - (ii) if it is a partnership, any person who is or has been a partner in it;
 - (iii) if it is an unincorporated association, any person who is or has been a member of its governing body or an officer of it.

(4A) In subsection (4)—

“authorised person” has the meaning given in section 31(2) of the Financial Services and Markets Act 2000;

“relevant professional” means a member of a profession in relation to which a body has been designated under section 326(1) of that Act, and, in relation to such a profession, “member” has the meaning given in section 325(2) of that Act.”.

Provision for security of information obtained

22.—(1) Section 449 of the 1985 Act (provision for security of information obtained under section 447 of that Act)(**26**) is amended as follows.

(2) In subsection (1), the following are repealed—

- (a) in paragraph (c), the words “, or under section 94 or 177 of the Financial Services Act 1986,”;
- (b) in paragraph (d), the words “the Insurance Companies Act 1982,”;
- (c) paragraphs (de) and (df); and
- (d) paragraph (i).

(3) In subsection (1)(cc), for the words from “or appointed” to “Financial Services Act 1986” substitute “section 447 of this Act”.

(4) After subsection (1)(cc) insert—

- “(cd) for the purposes of enabling or assisting a person appointed under—
 - (i) section 167 of the Financial Services and Markets Act 2000 (general investigations),
 - (ii) section 168 of that Act (investigations in particular cases),

(25) Subsection (4) was amended by the Financial Services Act 1986 (c. 60), Schedule 16, paragraph 21.

(26) Amended by the Financial Services Act 1986 (c. 60), Schedule 13, paragraph 9 and Schedule 17; the Companies Act 1989 (c. 60), section 65 and Schedule 24; the Friendly Societies Act 1992 (c. 40), Schedule 21, paragraph 7 and Schedule 22; the Bank of England Act 1998 (c. 11), Schedule 5, paragraph 62; S.I. 1992/1315, Schedule 4, paragraph 1; S.I. 1994/1696, Schedule 13, paragraph 9; and S.I. 1995/710, regulation 5.

- (iii) section 169(1)(b) of that Act (investigation in support of overseas regulator),
 - (iv) section 284 of that Act (investigations into affairs of certain collective investment schemes), or
 - (v) regulations made as a result of section 262(2)(k) of that Act (investigations into open-ended investment companies),
- to conduct an investigation to discharge his functions;”.
- (5) In subsection (1)(d), for words from “the Financial Services Act 1986” to the end substitute “, Part 2, 3 or 7 of the Companies Act 1989 or the Financial Services and Markets Act 2000;”.
- (6) For paragraphs (fa) to (h) of subsection (1) substitute—
- “(fa) for the purposes of enabling or assisting the Financial Services Authority to discharge its functions under the legislation relating to friendly societies or to industrial and provident societies, under the Building Societies Act 1986, under Part 7 of the Companies Act 1989 or under the Financial Services and Markets Act 2000;
 - (fb) for the purposes of enabling or assisting the competent authority for the purposes of Part 6 of the Financial Services and Markets Act 2000 to discharge its functions under that Part;
 - (g) for the purposes of enabling or assisting a body corporate established in accordance with section 212(1) of the Financial Services and Markets Act 2000 (compensation scheme manager) to discharge its functions;
 - (h) for the purposes of any proceedings before the Financial Services Tribunal by virtue of the Financial Services and Markets Act 2000 (Transitional Provisions) (Partly Completed Procedures) Order 2001;
 - (ha) with a view to the institution of, or otherwise for the purposes of, proceedings before the Financial Services and Markets Tribunal;
 - (hb) for the purpose of enabling or assisting a recognised investment exchange or a recognised clearing house to discharge its functions as such;
 - (hc) for the purpose of enabling or assisting a body designated under section 326(1) of the Financial Services and Markets Act 2000 (designated professional bodies) to discharge its functions in its capacity as a body designated under that section;”.
- (7) In subsection (1A), before paragraph (a) insert—
- “(aa) in paragraph (hb) “recognised investment exchange” and “recognised clearing house” has the same meaning as in section 285 of the Financial Services and Markets Act 2000;”.
- (8) Subsection (1D) is repealed.
- (9) In subsection (3)(b)(27), the words “or under section 94 or 177 of the Financial Services Act 1986” are repealed.
- (10) After subsection (3)(b) insert—
- “(ba) a person appointed under—
 - (i) section 167 of the Financial Services and Markets Act 2000 (general investigations),
 - (ii) section 168 of that Act (investigations in particular cases),
 - (iii) section 169(1)(b) of that Act (investigation in support of overseas regulator),

(27) Subsection (3) was substituted by the Financial Services Act 1986, and further substituted by the Companies Act 1989, section 65.

- (iv) section 284 of that Act (investigations into affairs of certain collective investment schemes), or
 - (v) regulations made as a result of section 262(2)(k) of that Act (investigations into open-ended investment companies),
- to conduct an investigation;”.

(11) In subsection (3), in paragraph (c), for the words from “under” to “Financial Services Act 1986” substitute “under section 447 of this Act”.

(12) In subsection (3), for paragraphs (ha) to (k)(28) substitute—

“(ha) the Financial Services Authority;”.

Punishment for destroying etc documents of an authorised insurance company

23.—(1) Section 450 of the 1985 Act (punishment for destroying, mutilating etc company documents) is amended as follows.

(2) In subsection (1)(29) the words “, or of an insurance company to which Part II of the Insurance Companies Act 1985 applies,” are repealed.

(3) After that subsection insert—

“(1A) Subsection (1) applies to an officer of an authorised insurance company which is not a body corporate as it applies to an officer of a company.”.

Disclosure of information by inspectors

24. For subsection (3) of section 451A of the 1985 Act (disclosure of information by inspectors)(30) substitute—

“(3) Information to which this section applies may also be disclosed by an inspector appointed under this Part to—

- (a) another inspector appointed under this Part;
- (b) a person appointed under—
 - (i) section 167 of the Financial Services and Markets Act 2000 (general investigations),
 - (ii) section 168 of that Act (investigations in particular cases),
 - (iii) section 169(1)(b) of that Act (investigation in support of overseas regulator),
 - (iv) section 284 of that Act (investigations into affairs of certain collective investment schemes), or
 - (v) regulations made as a result of section 262(2)(k) of that Act (investigations into open-ended investment companies),to conduct an investigation; or
- (c) a person authorised to exercise powers under—
 - (i) section 447 of this Act; or
 - (ii) section 84 of the Companies Act 1989 (exercise of powers to assist overseas regulatory authority).”.

(28) Paragraph (ha) was inserted by the Bank of England Act 1998 (c. 11), section 23(1), Schedule 5, paragraph 62(1),(3), and paragraph (jj) was inserted by the Friendly Societies Act 1992 (c. 40), section 120(2), Schedule 22.

(29) Subsection (1) was amended by the Companies Act 1989 (c. 40), section 66(1).

(30) Inserted by the Financial Services Act 1986 (c. 60), Schedule 13, paragraph 10; substituted by the Companies Act 1989 (c. 40), section 68 and amended by S.I. 1994/1696, Schedule 8, paragraph 9.

Production of documents subject to customer confidentiality

25.—(1) Section 452 of the 1985 Act (privileged information) is amended as follows.

(2) In subsection (3)(**31**), for the words from “or the customer is a person on whom a requirement has been imposed under that section,” to the end of that subsection, substitute

“or the customer is—

- (a) a person on whom a requirement has been imposed under that section, or
- (b) a person on whom a requirement to produce information or documents has been imposed by the Secretary of State, or by a person appointed by the Secretary of State to conduct an investigation, under section 171 or 173 of the Financial Services and Markets Act 2000.”.

Companies to which section 460 applies

26. For subsection (1) of section 460 of the 1985 Act (order on application of the Secretary of State) substitute—

“(1) If it appears to the Secretary of State that—

- (a) the affairs of a company to which this subsection applies are being or have been conducted in a manner which is unfairly prejudicial to the interests of its members generally or of some part of its members, or
- (b) any actual or proposed act or omission of a company to which this subsection applies, including an act or omission on its behalf, is or would be so prejudicial,

he may himself (in addition to or instead of presenting a petition for the winding up of the company) apply to the court by petition for an order under this Part.

(1A) Subsection (1) applies to a company in respect of which—

- (a) the Secretary of State has received a report under section 437 of this Act;
- (b) the Secretary of State has exercised his powers under section 447 or 448 of this Act;
- (c) the Secretary of State or the Financial Services Authority has exercised his or its powers under Part 11 of the Financial Services and Markets Act 2000; or
- (d) the Secretary of State has received a report from an investigator appointed by him or the Financial Services Authority under that Part.”.

Application of section 720 to insurers

27.—(1) Section 720 of the 1985 Act (certain companies to publish periodical statement) is amended as follows.

(2) In subsection (1) for “insurance company” substitute “insurer”.

(3) In subsection (5) for “insurance company” substitute “insurer”.

(4) For subsection (6) substitute—

“(6) This section does not apply to an insurer which is—

- (a) an insurance company which is subject to, and complies with, rules made by the Financial Services Authority under Part 10 of the Financial Services and Markets Act 2000 as to the accounts and balance sheet to be prepared annually and deposited; or

(31) Subsection (3) was amended by the Companies Act 1989 (c. 40), section 69(4), and by S.I. 1994/1696, Schedule 8, paragraph 9(4).

- (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to the Financial Services and Markets Act 2000, if the firm complies with the provisions of law of its home State as to the accounts and balance sheets to be prepared annually and deposited.”.
- (5) After subsection (7) insert—
 - “(8) For the purposes of this section—
 - (a) “insurer” means a person who effects or carries out contracts of insurance in the United Kingdom; and
 - (b) “contract of insurance” includes a contract of insurance under which the benefits provided by the insurer are exclusively or primarily benefits in kind in the event of accident to or breakdown of a vehicle.
 - (9) Subsection (8) must be read with—
 - (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that Schedule; and
 - (c) Schedule 2 to that Act.”.

References to the Companies Acts in certain provisions to include references to the Financial Services and Markets Act 2000

28. In section 735B of the 1985 Act (construction of certain references to the Companies Acts)⁽³²⁾ for “Parts IV and V of the Financial Services Act 1986” substitute “Part 6 of the Financial Services and Markets Act 2000”.

Meaning of “offer to the public”, “banking company”, “insurance company” and “authorised insurance company”

29. After section 742 of the 1985 Act, insert—

“Meaning of “offer to the public”

742A.—(1) Any reference in Part IV (allotment of shares and debentures) or Part VII (accounts) to offering shares or debentures to the public is to be read as including a reference to offering them to any section of the public, however selected.

(2) This section does not require an offer to be treated as made to the public if it can properly be regarded, in all the circumstances—

- (a) as not being calculated to result, directly or indirectly, in the shares or debentures becoming available for subscription or purchase by persons other than those receiving the offer; or
- (b) as being a domestic concern of the persons receiving and making it.

(3) An offer of shares in or debentures of a private company (other than an offer to which subsection (5) applies) is to be regarded (unless the contrary is proved) as being a domestic concern of the persons making and receiving it if—

- (a) it is made to—
 - (i) an existing member of the company making the offer,
 - (ii) an existing employee of that company,

⁽³²⁾ Inserted by the Companies Act 1989 (c. 40), section 127 and amended by the Deregulation and Contracting Out Act 1994 (c. 40), Schedule 16, paragraph 10.

- (iii) the widow or widower of a person who was a member or employee of that company,
- (iv) a member of the family of a person who is or was a member or employee of that company, or
- (v) an existing debenture holder; or
- (b) it is an offer to subscribe for shares or debentures to be held under an employee's share scheme.
- (4) Subsection (5) applies to an offer—
 - (a) which falls within paragraph (a) or (b) of subsection (3); but
 - (b) which is made on terms which permit the person to whom it is made to renounce his right to the allotment of shares or issue of debentures.
- (5) The offer is to be regarded (unless the contrary is proved) as being a domestic concern of the persons making and receiving it if the terms are such that the right may be renounced only in favour—
 - (a) of any person mentioned in subsection (3)(a); or
 - (b) in the case of an employee's share scheme, of a person entitled to hold shares or debentures under the scheme.
- (6) For the purposes of subsection (3)(a)(iv), the members of a person's family are—
 - (a) the person's spouse and children (including step-children) and their descendants, and
 - (b) any trustee (acting in his capacity as such) of a trust the principal beneficiary of which is the person him or herself or of any of those relatives.
- (7) Where an application has been made to the competent authority in any EEA State for the admission of any securities to official listing, then an offer of those securities for subscription or sale to a person whose ordinary business it is to buy or sell shares or debentures (whether as principal or agent) is not to be regarded as an offer to the public for the purposes of this Part.
- (8) For the purposes of subsection (7)—
 - (a) "competent authority" means a competent authority appointed for the purposes of the Council Directive of 28 May 2001 on the admission of securities to official stock exchange listing and on information to be published on those securities; and
 - (b) "official listing" means official listing pursuant to that directive.

Meaning of "banking company"

742B.—(1) Subject to subsection (2), "banking company" means a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits.

- (2) A banking company does not include—
 - (a) a person who is not a company, and
 - (b) a person who has permission to accept deposits only for the purpose of carrying on another regulated activity in accordance with that permission.
- (3) This section must be read with—
 - (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.

Meaning of “insurance company” and “authorised insurance company”

742C.—(1) For the purposes of this Act, “insurance company” has the meaning given in subsection (2) and “authorised insurance company” has the meaning given in subsection (4).

(2) Subject to subsection (3), “insurance company” means a person (whether incorporated or not)—

- (a) who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of insurance; or
- (b) who carries on insurance market activity; or
- (c) who may effect or carry out contracts of insurance under which the benefits provided by that person are exclusively or primarily benefits in kind in the event of accident to or breakdown of a vehicle, and does not fall within paragraph (a).

(3) An insurance company does not include a friendly society, within the meaning of section 116 of the Friendly Societies Act 1992.

(4) An “authorised insurance company” means a person falling within paragraph (a) of subsection (2).

(5) References in this section to contracts of insurance and the effecting or carrying out of such contracts must be read with -

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

Interpretation of the 1985 Act

30. In section 744 of the 1985 Act (interpretation)(**33**)—

- (a) the definitions of “banking company” and “insurance company” are repealed;
- (b) after the definition of “the insider dealing legislation” insert—
““insurance market activity” has the meaning given in section 316(3) of the Financial Services and Markets Act 2000;” and
- (c) before the definition of “the registrar of companies” insert—
““regulated activity” has the meaning given in section 22 of the Financial Services and Markets Act 2000;”.

Table of defined expressions

31. In the Table in section 744A (index of defined expressions)(**34**)—

- (a) after the entry relating to “articles” insert—

“authorised insurance company	section 742C”
<hr/>	
(b) in the second column of the entry relating to “banking company”, for “section 744” substitute “section 742B”;	
(c) in the second column of the entry relating to “insurance company”, for “section 744” substitute “section 742C”;	
(d) after the entry relating to “insurance company” insert—	

(33) Relevant amendments made by the Companies Act 1989 (c. 40), Schedule 10, paragraph 16.

(34) Inserted by the Companies Act 1989 (c. 40), section 145, Schedule 19, paragraph 20.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

“insurance market activity section 744”;

(e) after the entry relating to “registrar and registrar of companies” insert—

“regulated activity section 744”.

Form and content of company accounts

32. For paragraph 84 of Schedule 4 to the 1985 Act (form and content of company accounts: listed investments)(**35**) substitute—

“**84.**—(1) “Listed investment” means an investment as respects which there has been granted a listing on—

- (a) a recognised investment exchange other than an overseas investment exchange; or
- (b) a stock exchange of repute outside Great Britain.

(2) “Recognised investment exchange” and “overseas investment exchange” have the meaning given in Part 18 of the Financial Services and Markets Act 2000.”.

Disclosure of information: emoluments and other benefits of directors and others

33.—(1) Paragraph 1(5) of Schedule 6 to the 1985 Act (disclosure of information: emoluments and other benefits of directors and others)(**36**) is amended as follows.

(2) For the definition of “listed company” substitute—

““listed company” means a company—

- (a) whose securities have been admitted to the official list in accordance with the provisions of Part 6 of the Financial Services and Markets Act 2000; or
- (b) dealings in whose securities are permitted on any recognised investment exchange approved by the Treasury in accordance with regulations made under section 2(2) of the European Communities Act 1972 with respect to dealings in unlisted securities;”.

(3) After the definition of “net value” insert—

““the official list” has the meaning given in section 103(1) of the Financial Services and Markets Act 2000;”.

(4) After the definition of “qualifying services” insert—

““recognised investment exchange” has the same meaning as in the Financial Services and Markets Act 2000;”.

Form and content of company accounts: small companies

34. For paragraph 54 of Schedule 8 to the 1985 Act (form and content of company accounts for small companies: listed investments)(**37**) substitute—

“**54.**—(1) “Listed investment” means an investment as respects which there has been granted a listing on—

- (a) a recognised investment exchange other than an overseas investment exchange; or

(35) Amended by the Financial Services Act 1986 (c. 40), Schedule 16, paragraph 23.

(36) Schedule 6 was inserted by the Companies Act 1989 (c. 40), Schedule 4, paragraph 3; paragraph 1 of Schedule 6 was substituted by S.I. 1997/570, paragraph 4.

(37) Substituted by S.I. 1997/220, Schedule 1.

(b) a stock exchange of repute outside Great Britain.

(2) “Recognised investment exchange” and “overseas investment exchange” have the meaning given in Part 18 of the Financial Services and Markets Act 2000.”.

Meaning of “deposit-taking business”, “chief executive” and “manager”

35.—(1) Schedule 9 to the 1985 Act (special provisions for banking companies and groups) is amended as follows.

(2) In Part II (consolidated accounts)(**38**), in paragraph 1 (undertakings to be included in consolidation)—

- (a) in sub-paragraph (1) for “banking business” substitute “deposit-taking business”; and
- (b) for sub-paragraph (2) substitute—

“(2) For the purposes of this paragraph “deposit-taking business” means the activity of accepting deposits by way of business, but does not include accepting deposits only for the purpose of carrying on another regulated activity.”;

- (c) after sub-paragraph (2) insert—

“(3) References in sub-paragraph (2) to deposits and their acceptance, and to regulated activities must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

(3) In Part IV of that Schedule (additional disclosure: emoluments and other benefits of directors and others), in sub-paragraph (1)(b) of paragraph 3 (other transactions and agreements) for “within the meaning of the Banking Act 1987” substitute “within the meaning of the Financial Services and Markets Act 2000”.

Form and content of accounts of insurance companies and groups

36.—(1) Schedule 9A to the 1985 Act (form and content of accounts of insurance companies and groups)(**39**) is amended in Part I (individual accounts) as follows.

(2) In paragraph 6—

- (a) the existing text is numbered sub-paragraph (1);
- (b) for “to business within Classes 1 and 2 of Schedule 2 to the 1982 Act” substitute “to business which consists of effecting or carrying out relevant contracts of general insurance”;
- (c) after sub-paragraph (1) insert—

“(2) For the purposes of paragraph (1), a contract of general insurance is a relevant contract if the risk insured against relates to—

- (a) accident; or
- (b) sickness.

(3) Sub-paragraph (2) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and

(38) Part II was inserted by the Companies Act 1989 (c. 40), section 18, Schedule 7.

(39) Substituted for Parts I and II of Schedule 9, as originally enacted, by S.I. 1993/3246, regulation 4, Schedule 1.

- (c) Schedule 2 to that Act.”.
- (3) In Part I, in paragraph 9—
- (a) the existing text is numbered sub-paragraph (1);
 - (b) in sub-paragraph (1)(a), for “business within the classes of insurance specified in Schedule 2 to the 1982 Act” substitute “business which consists of effecting or carrying out contracts of general insurance”;
 - (c) in sub-paragraph (1)(b), for “business within the classes of insurance specified in Schedule 1 to that Act” substitute “business which consists of effecting or carrying out contracts of long term insurance”; and
 - (d) after sub-paragraph (1) insert—
 - “(2) In sub-paragraph (1), references to—
 - (a) contracts of general or long term insurance; and
 - (b) the effecting or carrying out of such contracts,
 must be read with section 22 of the Financial Services and Markets Act 2000, any relevant order under that section, and Schedule 2 to that Act.”.
- (4) In Section B (the required format for accounts), in note (24) (Equalisation provision)(**40**) of the Notes on the balance sheet format for “the amount of any reserve maintained by the company under section 34A of the Insurance Companies Act 1982” substitute “the amount of any equalisation reserve maintained in respect of general business by the company, in accordance with rules made by the Financial Services Authority under Part X of the Financial Services and Markets Act 2000”.
- (5) In paragraph 11 (managed funds), for sub-paragraph (1)(a) substitute—
- “(a) the management of which constitutes long term insurance business, and”.
- (6) In Part I, for paragraph 50 (equalisation reserves)(**41**) substitute—
- “**50.** The amount of any equalisation reserve maintained in respect of general business, in accordance with rules made by the Financial Services Authority under Part X of the Financial Services and Markets Act 2000, shall be determined in accordance with such rules.”.
- (7) In paragraph 81 (interpretations of Part I), in sub-paragraph (1)—
- (a) omit the definition of “the 1982 Act”;
 - (b) for the definition of “general business” substitute—

““general business” means business which consists of effecting or carrying out contracts of general insurance;”;
 - (c) for the definition of “long term business” substitute—

““long term business” means business which consists of effecting or carrying out contracts of long term insurance;”;
 - (d) in the definition of “long term fund” for “in accordance with the provisions of the 1982 Act” substitute “in accordance with rules made by the Financial Services Authority under Part X of the Financial Services and Markets Act 2000”; and
 - (e) for the definition of “policy holder” substitute—

(40) Note (24) was amended (and the words substituted by this Order inserted) by the Insurance Companies (Reserves) Act 1995, section 3(1), (2).

(41) Paragraph 50 was substituted by the Insurance Companies (Reserves) Act 1995 (c. 29), section 3(1), (3), and further substituted by S.I. 1996/946, regulation 13.

““policy holder” has the meaning given in any relevant order under section 424(2) of the Financial Services and Markets Act 2000;”.

Share dealing by directors etc.: supplementary provision

37.—(1) Paragraph 11 of Schedule 13 to the 1985 Act (share dealing by directors etc.: provision supplementary to sections 324 to 328)(**42**) is amended as follows.

(2) The existing provision becomes sub-paragraph (1).

(3) In that sub-paragraph, in paragraph (a), the words “within the meaning of the Financial Services Act 1986” are repealed.

(4) After that sub-paragraph, insert—

“(2) “Unit trust scheme” and “authorised unit trust scheme” have the meaning given in section 237 of the Financial Services and Markets Act 2000.”.

Companies Consolidation (Consequential Provisions) Act 1985 (c. 9)

Repeal of spent provisions

38. The following provisions of the Companies Consolidation (Consequential Provisions) Act 1985 are repealed—

(a) section 25; and

(b) in Schedule 2, the entries relating to—

(i) the Policyholders Protection Act 1975;

(ii) the Insurance Brokers (Registration) Act 1977; and

(iii) the Insurance Companies Act 1982.

Company Directors Disqualification Act 1986 (c. 46)

Disqualification after investigation of company

39. In section 8 of the Company Directors Disqualification Act 1986 (disqualification after company investigation)(**43**), for subsection (1) substitute—

“(1) If it appears to the Secretary of State from investigative material that it is expedient in the public interest that a disqualification order should be made against a person who is, or has been, a director or shadow director of a company, he may apply to the court for such an order.

(1A) “Investigative material” means—

(a) a report made by inspectors under—

(i) section 437 of the Companies Act 1985;

(ii) section 167, 168, 169 or 284 of the Financial Services and Markets Act 2000; or

(42) Amended by the Financial Services Act 1986 (c. 60), Schedule 16, paragraph 25.

(43) Amended by the Financial Services Act 1986 (s. 60), section 198; the Criminal Justice (Scotland) Act 1987 (c.), section 55; the Companies Act 1989 (c. 40), section 79; the Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c.), Schedule 4, paragraph 62.

- (iii) where the company is an open-ended investment company (within the meaning of that Act) regulations made as a result of section 262(2)(k) of that Act; and
- (b) information or documents obtained under—
 - (i) section 447 or 448 of the Companies Act 1985;
 - (ii) section 2 of the Criminal Justice Act 1987;
 - (iii) section 28 of the Criminal Law (Consolidation)(Scotland) Act 1995;
 - (iv) section 83 of the Companies Act 1989; or
 - (v) section 165, 171, 172, 173 or 175 of the Financial Services and Markets Act 2000.”.

Companies (Northern Ireland) Order 1986 (S.I. 1986/1032 (N.I. 6))

Interpretation of the 1986 Order

40. In Article 2(3) of the Companies (Northern Ireland) Order 1986 (“the 1986 Order”) (interpretation)(44)—

- (a) the definitions of “banking company” and “insurance company” are revoked; and
- (b) after the definition of “the insider dealing legislation” insert—
 - ““insurance market activity” has the meaning given in section 316(3) of the Financial Services and Markets Act 2000;”
- (c) before the definition of “the registrar of companies” insert—
 - “regulated activity has the meaning given in section 22 of the Financial Services and Markets Act 2000;”.

Table of defined expressions

41. In the Table in Article 2A of the 1986 Order (index of defined expressions)(45)—

- (a) after the entry relating to “articles” insert—

“authorised insurance company	Article 10C”
(b) in the second column of the entry relating to “banking company”, for “Article 2(3)” substitute “Article 10B”;	
(c) in the second column of the entry relating to “insurance company”, for “Article 2(3)” substitute “Article 10C”;	
(d) after the entry relating to “insurance company” insert—	
“insurance market activity	Article 2(3)”;
(e) after the entry relating to “registrar and registrar of companies” insert—	
“regulated activity	Article 2(3)”.

(44) Relevant amendments made by the Companies (Northern Ireland) Order 1990 (S.I. 1990/593 (NI 5)), Schedule 10, paragraph 2 and the Criminal Justice Act 1993 (c. 36) section 79(13), Schedule 5, paragraph 18(1).

(45) Inserted by the Companies (No.2) (Northern Ireland) Order 1990 (S.I. 1990/1504 (N.I. 10)), Article 78, Schedule 5, paragraph 1.

References to the Companies Orders in certain provisions to include references to the Financial Services and Markets Act 2000

42. In Article 2B of the 1986 Order (construction of certain references to the Companies Orders)⁽⁴⁶⁾ for “Parts IV and V of the Financial Services Act 1986” substitute “Part 6 of the Financial Services and Markets Act 2000”.

Meaning of “offer to the public”, “banking company”, “insurance company” and “authorised insurance company”

43. After Article 10⁽⁴⁷⁾ of the 1986 Order, insert—

“Meaning of “offer to the public”

10A.—(1) Any reference in Part V (allotment of shares and debentures) or Part VIII (accounts) to offering shares or debentures to the public is to be read as including a reference to offering them to any section of the public, however selected.

(2) This Article does not require an offer to be treated as made to the public if it can properly be regarded, in all the circumstances—

- (a) as not being calculated to result, directly or indirectly, in the shares or debentures becoming available for subscription or purchase by persons other than those receiving the offer; or
- (b) as being a domestic concern of the persons receiving and making it.

(3) An offer of shares in or debentures of a private company (other than an offer to which paragraph (5) applies) is to be regarded (unless the contrary is proved) as being a domestic concern of the persons making and receiving it if—

- (a) it is made to—
 - (i) an existing member of the company making the offer;
 - (ii) an existing employee of that company;
 - (iii) the widow or widower of a person who was a member or employee of that company;
 - (iv) a member of the family of a person who is or was a member or employee of that company; or
 - (v) an existing debenture holder; or
- (b) it is an offer to subscribe for shares or debentures to be held under an employee’s share scheme.

(4) Paragraph (5) applies to an offer—

- (a) which falls within sub-paragraph (a) or (b) of paragraph (3); but
- (b) which is made on terms which permit the person to whom it is made to renounce his right to the allotment of shares or issue of debentures.

(5) The offer is to be regarded (unless the contrary is proved) as being a domestic concern of the persons making and receiving it if the terms are such that the right may be renounced only in favour—

- (a) of any person mentioned in paragraph (3)(a); or

⁽⁴⁶⁾ Inserted by the [Companies \(No. 2\) \(NI\) Order 1990 \(NI 10\)](#), article 62(1).

⁽⁴⁷⁾ Article 10 was substituted by the [Companies \(Northern Ireland\) Order 1990 \(S.I. 1990/593 \(N.I. 5\)\)](#), Article 25, Schedule 10, Part I.

- (b) in the case of an employee’s share scheme, of a person entitled to hold shares or debentures under the scheme.
- (6) For the purposes of paragraph (3)(a)(iv), the members of a person’s family are—
 - (a) the person’s spouse and children (including step-children) and their descendants, and
 - (b) any trustee (acting in his capacity as such) of a trust the principal beneficiary of which is the person him or herself or of any of those relatives.
- (7) Where an application has been made to the competent authority in any EEA State for the admission of any securities to official listing, then an offer of those securities for subscription or sale to a person whose ordinary business it is to buy or sell shares or debentures (whether as principal or agent) is not to be regarded as an offer to the public for the purposes of this Part.
- (8) For the purposes of paragraph (7)—
 - (a) “competent authority” means a competent authority appointed for the purposes of the Council Directive of 28 May 2001 on the admission of securities to official stock exchange listing and on information to be published on those securities; and
 - (b) “official listing” means official listing pursuant to that directive.

Meaning of “banking company”

- 10B.**—(1) Subject to paragraph (2), “banking company” means a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits.
- (2) A banking company does not include—
 - (a) a person who is not a company, and
 - (b) a person who has permission to accept deposits only for the purpose of carrying on another regulated activity in accordance with that permission.
 - (3) This Article must be read with—
 - (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.

Meaning of “insurance company” and “authorised insurance company”

- 10C.**—(1) For the purposes of this Order, “insurance company” has the meaning given in paragraph (2) and “authorised insurance company” has the meaning given in paragraph (4).
- (2) Subject to paragraph (3), “insurance company” means a person (whether incorporated or not)—
 - (a) who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of insurance;
 - (b) who carries on insurance market activity; or
 - (c) who may effect or carry out contracts of insurance under which the benefits provided by that person are exclusively or primarily benefits in kind in the event of accident to or breakdown of a vehicle, and does not fall within sub-paragraph (a).
 - (3) An insurance company does not include a friendly society, within the meaning of section 116 of the Friendly Societies Act 1992.

(4) An “authorised insurance company” means a person falling within sub-paragraph (a) of paragraph (2).

(5) References in this Article to contracts of insurance and the effecting or carrying out of such contracts must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

Membership of holding company

44.—(1) Article 33 of the 1986 Order (membership of holding company)(**48**) is amended as follows.

(2) In paragraph (3)(a) the words “(within the meaning of the Financial Services Act 1986)” are repealed.

(3) After paragraph (3) insert—

“(3A) In paragraph (3)(a) “recognised investment exchange” and “overseas investment exchange” have the same meaning as in Part 18 of the Financial Services and Markets Act 2000.”.

Repeal of unnecessary provisions

45. Articles 69 and 70 of the 1986 Order (so far as those Articles continue to have effect) are repealed.

Purchase by company of its own shares: definition of “off-market” and “market” purchase

46.—(1) Article 173 of the 1986 Order (meaning of “off-market” and “market” purchase) is amended as follows.

(2) In paragraph (2)(a)(**49**) for “Part IV of the Financial Services Act 1986” substitute “Part 6 of the Financial Services and Markets Act 2000”.

(3) For paragraph (4)(**50**) substitute—

“(4) “Recognised investment exchange” means a recognised investment exchange other than an overseas investment exchange.

(5) Expressions used in the definition contained in paragraph (4) have the same meaning as in Part 18 of the Financial Services and Markets Act 2000.”.

Duty of company as to issue of certificates

47. For paragraph (4) of Article 195 of the 1986 Order (duty of company to issue certificates in relation to shares allotted or transferred)(**51**) substitute—

“(4) Paragraph (4A) applies in relation to a company—

- (a) of which shares or debentures are allotted to a financial institution,
- (b) of which debenture stock is allotted to a financial institution, or

(48) Substituted by the [Companies \(No. 2\) \(NI\) Order 1990 \(NI 10\)](#), Article 64(1).

(49) Amended by the [Financial Services Act 1986 \(c. 60\)](#), Schedule 16 paragraph 32.

(50) Inserted by the [Financial Services Act 1986 \(c. 60\)](#), Schedule 16 paragraph 32.

(51) Amended by the [Financial Services Act 1986 \(c. 60\)](#) section 194(6).

- (c) with which a transfer for transferring shares, debentures or debenture stock to a financial institution is lodged.
- (4A) The company is not required, in consequence of that allotment or transfer, to comply with paragraph (1).
- (4B) “Financial institution” means—
 - (a) a recognised clearing house acting in relation to a recognised investment exchange; or
 - (b) a nominee of—
 - (i) a recognised clearing house acting in that way; or
 - (ii) a recognised investment exchange.
- (4C) No person may be a nominee for the purposes of this Article unless he is a person designated for those purposes in the rules of the recognised investment exchange in question.
- (4D) Expressions used in paragraphs (4B) and (4C) have the same meaning as in Part 18 of the Financial Services and Markets Act 2000.”.

Disclosure of interests in shares: interests to be disclosed

48.—(1) Article 207 of the 1986 Order (interests in shares required to be disclosed) is amended as follows.

(2) In paragraph (2A)(**52**), in sub-paragraph (a) for “authorised to” substitute “who may lawfully”.

(3) In that paragraph, in sub-paragraph (b), for paragraphs (ii) and (iii) substitute—

“or

(ii) a recognised scheme;”.

(4) For paragraphs (6) and (7)(**53**) substitute—

“(6) For the purposes of paragraph (2A), a person (“A”) may lawfully manage investments belonging to another if—

- (a) A can manage those investments in accordance with the permission which A has under Part 4 of the Financial Services and Markets Act 2000;
 - (b) A is an EEA firm of the kind mentioned in sub-paragraph (a) or (b) of paragraph 5 of Schedule 3 to that Act, and can manage those investments in accordance with its EEA authorisation;
 - (c) A can, in accordance with section 327 of that Act, manage those investments without contravening the prohibition contained in section 19 of that Act; or
 - (d) A can lawfully manage those investments in another Member State and would, if he were to manage those investments in the United Kingdom, require permission under Part 4 of that Act.
- (7) References in this Article to the management of investments must be read with—
- (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.”.

(52) Inserted by [SR \(NI\) 1997/251](#).

(53) Paragraphs (6) and (7) inserted by [SR \(NI\) 1994/2](#).

- (5) In paragraph (8)—
- (a) in sub-paragraph (b) for the words from the beginning to “conferred” substitute “is certified by the competent authority in that member State as complying with the conditions imposed”; and
 - (b) for “subsection (8) of section 86 of the Financial Services Act 1986” substitute “subsection (5) of section 264 of the Financial Services and Markets Act 2000”.

Disclosure of interests in shares: interests to be disregarded

49. For paragraph (2) of Article 217(54) of the 1986 Order (interests in shares to be disregarded for purposes of disclosure requirements) substitute—

- “(2) An interest in shares is an exempt security interest for the purposes of paragraph (1)
- (c) if the condition mentioned in paragraph (2A) is satisfied and the interest is held by—
 - (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits;
 - (b) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to accept deposits;
 - (c) a person authorised under the law of a member State other than the United Kingdom to accept deposits who—
 - (i) would not qualify for authorisation under paragraph 12 of Schedule 3 to that Act, and
 - (ii) would require permission under another provision of that Act to accept such deposits in the United Kingdom;
 - (d) an authorised insurance undertaking;
 - (e) a person authorised under the law of a member State to deal in securities or derivatives, who deals in securities or derivatives on a relevant stock exchange or a relevant investment exchange, whether as a member or otherwise;
 - (f) a relevant stock exchange;
 - (g) a relevant investment exchange;
 - (h) a recognised clearing house;
 - (i) the Bank of England; or
 - (j) the central bank of a member State other than the United Kingdom.
- (2A) The condition is that the interest in the shares must be held by way of security only for the purposes of a transaction entered into in the ordinary course of his or its business as a person or other body falling within any of sub-paragraphs (a) to (j) of paragraph (2).
- (2B) Sub-paragraphs (a) to (c) of paragraph (2) must be read with—
- (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.
- (2C) But sub-paragraph (a) of paragraph (2) does not include—
- (a) a building society incorporated, or deemed to be incorporated, under the Building Societies Act 1986; or

- (b) a credit union, within the meaning of the Credit Unions Act 1979 or the Credit Unions (Northern Ireland) Order 1985.”.

Disclosure of interests in shares: interpretation

50.—(1) Paragraph (1) of Article 228(**55**) of the 1986 Order (interpretation of Part 7) is amended in accordance with sub-paragraphs (2) to (8).

(2) The definitions of “authorised credit institution” and “designated agency” are repealed.

(3) In the definition of “authorised unit trust scheme” for “Chapter VIII of Part I of the Financial Services Act 1986” substitute “Part 17 of the Financial Services and Markets Act 2000”.

(4) For the definition of “derivatives” substitute—

““derivatives” means options and futures in relation to shares;”.

(5) After the definition of “derivatives” insert—

““EEA authorisation” has the meaning given in paragraph 6 of Schedule 3 to the Financial Services and Markets Act 2000;”

(6) In the definition of “operator” for “section 75(8) of the Financial Services Act 1986” substitute “section 237(2) of the Financial Services and Markets Act 2000”.

(7) For the definition which begins ““recognised clearing house”, substitute—

““recognised clearing house” has the same meaning as in the Financial Services and Markets Act 2000;

“recognised scheme” has the same meaning as in Part 17 of the Financial Services and Markets Act 2000;”.

(8) In the definition of “units” for “section 75 of the Financial Services Act 1986” substitute “section 237(2) of the Financial Services and Markets Act 2000”.

(9) After paragraph (1) of Article 228 of the 1986 Order insert—

“(1A) References in paragraph (1) to contracts of insurance (of any description), options and futures must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

Limitations on exemptions for small and medium-sized companies in relation to accounts etc.

51.—(1) Article 255A of the 1986 Order (limitations on exemptions for small and medium-sized companies in relation to accounts etc.)(**56**) is amended as follows.

(2) In paragraph (1), for sub-paragraph (a) substitute—

“(a) the company is, or was at any time within the financial year to which the accounts relate—

- (i) a public company,
- (ii) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to carry on one or more regulated activities, or
- (iii) a person who carries on insurance market activity;”.

(55) Substituted by [SR \(NI\) 1994/2](#).

(56) Article 255A was inserted by [SR \(N.I.\) 1997/436](#).

(3) In paragraph (2), for sub-paragraphs (b) to (d) substitute—

- “(b) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to carry on a regulated activity, or
- (c) a person who carries on insurance market activity.”.

Limitations on exemptions for small and medium-sized groups

52. In paragraph (2) of Article 256 of the 1986 Order (exemption for small and medium-sized groups)(**57**), for sub-paragraphs (b) to (d) substitute—

- “(b) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to carry on a regulated activity,
- (c) a person who carries on insurance market activity.”.

Limitations on exemptions for dormant companies

53. In paragraph (3) of Article 257AA of the 1986 Order (dormant companies)(**58**), for sub-paragraphs (a) and (b) substitute—

- “(a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to carry on one or more regulated activities;
- (b) a person who carries on insurance market activity.”.

Cases where exemptions not available

54.—(1) Paragraph (1) of Article 257B of the 1986 Order (cases where exemptions not available)(**59**) is amended as follows.

(2) For sub-paragraph (b) substitute—

- “(b) it was a person who had permission under Part 4 of the Financial Services and Markets Act 2000 to carry on a regulated activity,”.

(3) After sub-paragraph (b) insert—

- “(bb) it carried on an insurance market activity,”.

(4) For sub-paragraph (d) substitute—

- “(d) it was an appointed representative, within the meaning of section 39 of the Financial Services and Markets Act 2000,”.

Summary financial statements by listed public companies

55. In Article 259(1) of the 1986 Order (summary financial statements by listed public companies)(**60**), for the definition of “listed”, and the word “and” preceding it, substitute—

- ““listed” means included in the official list by the competent authority for the purposes of Part 6 of the Financial Services and Markets Act 2000 (official listing); and
- “the official list” has the meaning given in section 103(1) of that Act.”.

(57) Article 256 was inserted by the Companies (Northern Ireland) Order 1990 (S.I. 1990/593 (N.I. 5)), Articles 3(a), 15(3).

(58) Article 257AA was inserted by SR (N.I.) 2001/154.

(59) Article 257B was inserted by SR (N.I.) 1995/128.

(60) Article 259 was inserted by the Companies (Northern Ireland) Order 1990 (S.I. 1990/593 (NI 5)), Articles 3(a), 17; paragraph (1) amended by S.R.(N.I.) 1993/220.

Meaning of “banking partnership”

56.—(1) For paragraph (2) of Article 263D of the 1986 Order (power to apply provisions to banking)(61) substitute—

“(2) A “banking partnership” means a partnership which has permission under Part 4 of the Financial Services and Markets Act 2000.

(2A) But a partnership is not a banking partnership if it has permission to accept deposits only for the purpose of carrying on another regulated activity in accordance with that permission.”.

(2) After paragraph (4) of that Article insert—

“(5) Paragraphs (2) and (2A) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

Other distributions by investment companies

57.—(1) Article 273 of the 1986 Order (other distributions by investment companies) is amended as follows.

(2) In paragraph (4)(a) the words “within the meaning of the Financial Services Act 1986” are repealed.

(3) After paragraph (4)(62) insert—

“(4A) In paragraph (4)(a) “recognised investment exchange” and “overseas investment exchange” have the same meaning as in Part 18 of the Financial Services and Markets Act 2000.”.

Realised profits of an insurance company with long term business

58.—(1) Article 276 of the 1986 Order (realised profits of insurance company with long term business) is amended as follows.

(2) In paragraph (1)—

- (a) for “an insurance company to which Part II of the Insurance Companies Act 1982 applies” substitute “an authorised insurance company”; and
- (b) in sub-paragraph (a), for “in accordance with section 30(1) of that Act or carried forward unappropriated as mentioned in section 30(7) of that Act” substitute “or, as the case may be, carried forward unappropriated, in accordance with asset identification rules made under section 142(2) of the Financial Services and Markets Act 2000”.

(3) In paragraph (3)—

(a) for sub-paragraph (a) substitute—

“(a) “actuarial investigation” means—

- (i) an investigation made into the financial condition of an authorised insurance company in respect of its long term business, carried out once in every period of twelve months in accordance with rules made under Part 10 of the Financial Services and Markets Act 2000 by an actuary appointed as actuary to that company; or

(61) Article 263D was inserted by the Companies (Northern Ireland) Order 1990 (S.I. 1990/593 (NI 5)), Articles 3(a), 20(2).

(62) Amended by the Financial Services Act 1986 (c. 60), Schedule 16 paragraph 34.

- (ii) an investigation made into the financial condition of an authorised insurance company in respect of its long term business carried out in accordance with a requirement imposed by the Financial Services Authority under section 166 of that Act by an actuary appointed as actuary to that company;”
- (b) for sub-paragraph (b) substitute—
 - “(b) “long term business” means business which consists of effecting or carrying out contracts of long term insurance.”.
- (4) After paragraph (3) insert—
 - “(4) The definition of “long term business” in paragraph (3) must be read with—
 - (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.”.

Exceptions to rules relating to substantial property transactions involving directors

59. In Article 329(4)(**63**) of the 1986 Order (exceptions to rules in Article 328: transactions through independent broker on recognised investment exchange), for “Financial Services Act 1986” substitute “Financial Services and Markets Act 2000.”.

Duty of company to notify recognised investment exchange of certain matters concerning directors notified to the company

60. In Article 337 of the 1986 Order (duty of company to notify recognised investment exchange of matters notified to it under Articles 332 or 336), after paragraph (3) insert—

“(4) In paragraph (1) “recognised investment exchange” has the same meaning as in Part 18 of the Financial Services and Markets Act 2000.”.

Investigation of share dealing

61. In Article 439 of the 1986 Order (investigation of share dealing), for paragraph (3)(**64**) substitute—

“(3) Articles 427 to 429 apply for the purposes of an investigation under this Article to the following persons as they apply to officers of the company or of the other body corporate—

- (a) an authorised person;
- (b) a relevant professional;
- (c) a person not falling within sub-paragraph (a) or (b) who may carry on a regulated activity without contravening the prohibition imposed by section 19 of the Financial Services and Markets Act 2000; and
- (d) in relation to an authorised person, to a relevant professional or to a person falling within sub-paragraph (c)—
 - (i) if it is a body corporate, any person who is or has been an officer of it,
 - (ii) if it is a partnership, any person who is or has been a partner in it,
 - (iii) if it is an unincorporated association, any person who is or has been a member of its governing body or an officer of it.

(63) Inserted by the [Companies \(No. 2\) \(NI\) Order 1990 \(NI 10\)](#) article 78, Schedule 5.

(64) Section 439(3) was amended by the [Financial Services Act 1986 \(c. 60\)](#) Schedule 13 paragraph 12(a) and [Companies \(no. 2\) \(NI\) Order \(NI 10\)](#), article 113, Schedule 6.

(3A) In paragraph (3)—

“authorised person” has the meaning given in section 31(2) of the Financial Services and Markets Act 2000;

“relevant professional” means a member of a profession if a body has been designated under section 326(1) of that Act in relation to that profession, and, in relation to such a profession, “member” has the meaning given in section 325(2) of that Act.”

Provision for security of information obtained

62.—(1) Article 442 of the 1986 Order (provision for security of information obtained under Article 440 of that Order) is amended as follows.

(2) In paragraph (1), the following are repealed—

- (a) in sub-paragraph (c), the words “or section 94 of the Financial Services Act 1986”;
- (b) in sub-paragraph (d), the words “the Insurance Companies Act 1982”;
- (c) sub-paragraphs (de) and (df);
- (d) sub-paragraph (i).

(3) In paragraph (1)(cc), for the words from “or appointed” to “Financial Services Act 1986” substitute “Article 440 of this Order”.

(4) After paragraph (1)(cc) insert—

- “(cd) for the purposes of enabling or assisting a person appointed under—
- (i) section 167 of the Financial Services and Markets Act 2000 (general investigations),
 - (ii) section 168 of that Act (investigations in particular cases),
 - (iii) section 169(1)(b) of that Act (investigation in support of overseas regulator),
 - (iv) section 284 of that Act (investigations into affairs of certain collective investment schemes), or
 - (v) regulations made as a result of section 262(2)(k) of that Act (investigations into open-ended investment companies),
- to conduct an investigation to discharge his functions;”.

(5) In paragraph (1)(d), for “the Insurance Companies Act 1982” substitute “the Financial Services and Markets Act 2000”.

(6) For sub-paragraphs (fa) to (i) of paragraph (1) substitute—

- “(fa) for the purposes of enabling or assisting the Financial Services Authority to discharge its functions under the legislation relating to friendly societies or to industrial and provident societies, under the Building Societies Act 1986, under Part 7 of the Companies Act 1989 or under the Financial Services and Markets Act 2000;
- (g) for the purposes of enabling or assisting a body corporate established in accordance with section 212(1) of the Financial Services and Markets Act 2000 (compensation scheme manager) to discharge its functions;
 - (h) for the purposes of any proceedings before the Financial Services Tribunal by virtue of the Financial Services and Markets Act 2000 (Transitional Provisions) (Partly Completed Procedures) Order 2001;
 - (ha) with a view to the institution of or otherwise for the purposes of proceedings before the Financial Services and Markets Tribunal;

- (hb) for the purpose of enabling or assisting a recognised investment exchange or a recognised clearing house to discharge its functions as such;
 - (hc) for the purpose of enabling or assisting a body designated under section 326(1) of the Financial Services and Markets Act 2000 (designated professional bodies) to discharge its functions in its capacity as a body designated under that section;”.
- (7) In paragraph (1A)(65), before sub-paragraph (a) insert—
- “(aa) in sub-paragraph (hb) “recognised investment exchange” and “recognised clearing house” have the same meaning as in section 285 of the Financial Services and Markets Act 2000;”.
- (8) Paragraph (1D) is repealed.
- (9) In paragraph (3)(b)(66), the words “or section 94 of the Financial Services Act 1986” are repealed.
- (10) After paragraph (3)(b) insert—
- “(ba) a person appointed under—
 - (i) section 167 of the Financial Services and Markets Act 2000 (general investigations),
 - (ii) section 168 of that Act (investigations in particular cases),
 - (iii) section 169(1)(b) of that Act (investigation in support of overseas regulator),
 - (iv) section 284 of that Act (investigations into affairs of certain collective investment schemes), or
 - (v) regulations made as a result of section 262(2)(k) of that Act (investigations into open-ended investment companies),to conduct an investigation;”.
- (11) In paragraph (3), in sub-paragraph (c), for the words from “under” to “Financial Services Act 1986” substitute “under Article 440 of this Order”.
- (12) In paragraph (3), for sub-paragraphs (ha) to (k) substitute—
- “(ha) the Financial Services Authority;”.

Punishment for destruction etc. of company documents

63.—(1) Article 443 of the 1986 Order (punishment for destroying, mutilating etc company documents) is amended as follows.

(2) In paragraph (1)(67) the words “, or of an insurance company to which Part II of the Insurance Companies Act 1982 applies,” are repealed.

(3) After that paragraph insert—

- “(1A) Paragraph (1) applies to an officer of an authorised insurance company which is not a body corporate as it applies to an officer of a company.”.

(65) Inserted by [SR \(NI\) 1992/257](#).

(66) Paragraph (3) was substituted by the Financial Services Act 1986 (c. 60), section 182, Schedule 13, paragraph 13, and substituted again by the Companies (No.2) (NI) Order (NI 10), Article 13(1)(6). Sub-paragraph (b) of paragraph (3) was amended by the [Companies \(No. 2\) \(NI\) Order 1990 \(NI 10\)](#), Article 78 Schedule 5.

(67) Paragraph (1) was amended by the Companies (No.2) (Northern Ireland) Order 1990 ([S.I. 1990/1504 \(NI 10\)](#)), Article 14(1) (2).

Disclosure of information by inspectors

64. For paragraph (3) of Article 444A(68) of the 1986 Order (disclosure of information by inspectors) substitute—

“(3) Information to which this Article applies may also be disclosed by an inspector appointed under this Part to—

- (a) another inspector appointed under this Part;
- (b) a person appointed under—
 - (i) section 167 of the Financial Services and Markets Act 2000 (general investigations),
 - (ii) section 168 of that Act (investigations in particular cases),
 - (iii) section 169(1)(b) of that Act (investigation in support of overseas regulator),
 - (iv) section 284 of that Act (investigations into affairs of certain collective investment schemes), or
 - (v) regulations made as a result of section 262(2)(k) of that Act (investigations into open-ended investment companies),
 to conduct an investigation; or
- (c) a person authorised to exercise powers under—
 - (i) Article 440 of this Order; or
 - (ii) section 84 of the Companies Act 1989 (exercise of powers to assist overseas regulatory authority).”.

Production of documents subject to customer confidentiality

65.—(1) Article 445 of the 1986 Order (privileged information) is amended as follows.

(2) In paragraph (3)(69), for the words from “or the customer is a person on whom a requirement has been imposed under that Article,” to the end of that paragraph, substitute

“or the customer is—

- (a) a person on whom a requirement has been imposed under that Article, or
- (b) an authorised insurance company on whom a requirement to produce information or documents has been imposed by or on behalf of the Secretary of State under Part XI of the Financial Services and Markets Act 2000.”.

Companies to which Article 453 applies

66. For paragraph (1)(70) of section 453 of the 1986 Order (order on application of the Department) substitute—

“(1) If it appears to the Department that—

- (a) the affairs of a company to which this paragraph applies are being or have been conducted in a manner which is unfairly prejudicial to the interests of its members generally or of some part of its members, or

(68) Article 444A was substituted by the [Companies \(No. 2\) \(NI\) Order 1990 \(NI 10\)](#) Article 16 and has been amended by the [Criminal Justice Act 1993 \(c. 36\)](#) Schedule 5 part II paragraph 20 and [S.I. 1994/1696](#), Schedule 8 paragraph 13(3).

(69) Paragraph (3) was amended by the [Companies \(No.2\) \(Northern Ireland\) Order 1990 \(S.I. 1990/1504 \(NI 10\)\)](#), and by [S.I. 1994/1696](#), Schedule 8, paragraph 14(4).

(70) Paragraph (1) was amended by the [Companies \(No.2\) \(Northern Ireland\) Order 1990 \(S.I. 1990/1504 \(NI 10\)\)](#), Articles 78, 113 Schedules 5 and 6, and by [S.I. 1994/1696](#), Schedule 8 paragraph 13(5).

(b) any actual or proposed act or omission of a company to which this paragraph applies, including an act or omission on its behalf, is or would be so prejudicial, the Department may (in addition to or instead of presenting a petition for the winding up of the company) apply to the court by petition for an order under this Part.

(1A) Paragraph (1) applies to a company in respect of which—

- (a) the Department has received a report under Article 430;
- (b) the Department has exercised its powers under Article 440 or 441;
- (c) the Secretary of State or the Financial Services Authority has exercised his or its powers under Part 11 of the Financial Services and Markets Act 2000; or
- (d) the Secretary of State has received a report from an investigator appointed by him or by the Financial Services Authority under that Part.”.

Application of Article 669 to insurers

67.—(1) Article 669 of the 1986 Order (certain companies to publish periodical statement) is amended as follows.

(2) In paragraph (1) for “insurance company” substitute “insurer”.

(3) In paragraph (5) for “insurance company” substitute “insurer”.

(4) For paragraph (6) substitute—

“(6) This Article does not apply to an insurer which is—

- (a) an insurance company which is subject to, and complies with, rules made by the Financial Services Authority under Part 10 of the Financial Services and Markets Act 2000 as to the accounts and balance sheet to be prepared annually and deposited; or
- (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to the Financial Services and Markets Act 2000, if the firm complies with the provisions of law of its home State as to the accounts and balance sheets to be prepared annually and deposited.”.

(5) After paragraph (7) insert—

“(8) For the purposes of this Article—

- (a) “insurer” means a person who effects or carries out contracts of insurance in the United Kingdom; and
- (b) “contract of insurance” includes a contract of insurance under which the benefits provided by the insurer are exclusively or primarily benefits in kind in the event of accident to or breakdown of a vehicle.

(9) Paragraph (8) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that Schedule; and
- (c) Schedule 2 to that Act.”.

Form and content of company accounts

68. For paragraph 83(71) of Schedule 4 to the 1986 Order (form and content of company accounts: listed investments) substitute—

(71) Paragraph 83 has been amended by the Financial Services Act 1986 (c. 60) Schedule 16, paragraph 38.

83.—(1) “Listed investment” means an investment as respects which there has been granted a listing on—

- (a) a recognised investment exchange other than an overseas investment exchange; or
- (b) a stock exchange of repute outside Northern Ireland.

(2) “Recognised investment exchange” and “overseas investment exchange” have the meaning given in Part 18 of the Financial Services and Markets Act 2000.”.

Disclosure of information: emoluments and other benefits of directors and others

69.—(1) Paragraph 1(5) of Schedule 6(72) to the 1986 Order (disclosure of information: emoluments and other benefits of directors and others) is amended as follows.

(2) For the definition of “listed company” substitute—

““listed company” means a company—

- (a) whose securities have been admitted to the official list in accordance with the provisions of Part 6 of the Financial Services and Markets Act 2000; or
- (b) dealings in whose securities are permitted on any recognised investment exchange approved by the Treasury in accordance with regulations made under section 2(2) of the European Communities Act 1972 with respect to dealings in unlisted securities;”.

(3) After the definition of “net value” insert—

““the official list” has the meaning given in section 103(1) of the Financial Services and Markets Act 2000;”.

(4) After the definition of “qualifying services” insert—

““recognised investment exchange” has the same meaning as in the Financial Services and Markets Act 2000;”.

Form and content of company accounts: small companies

70. For paragraph 54 of Schedule 8(73) to the 1986 Order (form and content of company accounts for small companies: listed investments) substitute—

54.—(1) “Listed investment” means an investment as respects which there has been granted a listing on—

- (a) a recognised investment exchange other than an overseas investment exchange; or
- (b) a stock exchange of repute outside Northern Ireland.

(2) “Recognised investment exchange” and “overseas investment exchange” have the meaning given in Part 18 of the Financial Services and Markets Act 2000.”.

Meaning of deposit-taking business, chief executive and manager

71.—(1) Schedule 9 to the 1986 Order (special provisions for banking companies and groups) is amended as follows.

(2) In Part II (consolidated accounts)(74), in paragraph 1 (undertakings to be included in consolidation)—

- (a) in sub-paragraph (1) for “banking business” substitute “deposit-taking business”;

(72) Part I of Schedule 6 was inserted by the [Companies \(NI\) Order 1990 \(NI 5\)](#) Articles 3(b), 8(4) and Schedule 4 and paragraph 1 was substituted by [SR \(NI\) 1997/545](#).

(73) Schedule 8 was substituted by [SR \(NI\) 1997/436](#).

(74) Part II was inserted by [SR \(NI\) 1992/258](#), regulation 5, Schedule 1.

(b) for sub-paragraph (2) substitute—

“(2) For the purposes of this paragraph “deposit-taking business” means the activity of accepting deposits by way of business, but does not include accepting deposits only for the purpose of carrying on another regulated activity.”;

(c) after sub-paragraph (2) insert—

“(3) References in sub-paragraph (2) to deposits and their acceptance, and to regulated activities must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

(3) In Part IV of that Schedule (additional disclosure: emoluments and other benefits of directors and others)(75), in sub-paragraph (1)(b) of paragraph 3 (other transactions and agreements) for “within the meaning of the Banking Act 1987” substitute “within the meaning of the Financial Services and Markets Act 2000”.

Form and content of accounts of insurance companies and groups

72.—(1) In Schedule 9A to the 1986 Order (form and content of accounts of insurance companies and groups)(76) Part I (individual accounts) is amended as follows.

(2) In paragraph 6—

- (a) the existing text is numbered sub-paragraph (1);
- (b) for “to business within Classes 1 and 2 of Schedule 2 to the 1982 Act” substitute “to business which consists of effecting or carrying out relevant contracts of general insurance”;

(c) after sub-paragraph (1) insert—

“(2) For the purposes of sub-paragraph (1), a contract of general insurance is a relevant contract if the risk insured against relates to—

- (a) accident; or
- (b) sickness.

(3) Sub-paragraph (2) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

(3) In paragraph 9—

- (a) the existing text is numbered sub-paragraph (1);
 - (b) in paragraph (a) of that sub-paragraph, for “business within the classes of insurance specified in Schedule 2 to the 1982 Act” substitute “business which consists of effecting or carrying out contracts of general insurance”;
 - (c) in paragraph (b) of that sub-paragraph, for “business within the classes of insurance specified in Schedule 1 to that Act” substitute “business which consists of effecting or carrying out contracts of long term insurance”;
- (d) after sub-paragraph (1) insert—

(75) As inserted by the Companies (Northern Ireland) Order 1990 (S.I. 1990/593 (NI 5)), Schedule 7 Part IV.

(76) Substituted for Parts I and II of Schedule 9, as originally enacted, by S.R. 1992/258.

“(2) In sub-paragraph (1), references to—

- (a) contracts of general or long term insurance; and
- (b) the effecting or carrying out of such contracts,

must be read with section 22 of the Financial Services and Markets Act 2000, any relevant order under that section, and Schedule 2 to that Act.”.

(4) In Section B (the required format for accounts), in note (24) (Equalisation provision)(77) of the Notes on the balance sheet format for “the amount of any reserve maintained by the company under section 34A of the Insurance Companies Act 1982” substitute “the amount of any equalisation reserve maintained in respect of general business by the company, in accordance with rules made by the Financial Services Authority under Part X of the Financial Services and Markets Act 2000”.

(5) In paragraph 11 (managed funds), for sub-paragraph (1)(a) substitute—

“(a) the management of which constitutes long term insurance business, and”.

(6) For paragraph 50 (equalisation reserves)(78) substitute—

“**50.** The amount of any equalisation reserve maintained in respect of general business, in accordance with rules made by the Financial Services Authority under Part X of the Financial Services and Markets Act 2000, shall be determined in accordance with such rules.”.

(7) In paragraph 81 (interpretations of Part I), in sub-paragraph (1)—

- (a) omit the definition of “the 1982 Act”;
- (b) for the definition of “general business” substitute—
 - ““general business” means business which consists of effecting or carrying out contracts of general insurance;”;
- (c) for the definition of “long term business” substitute—
 - ““long term business” means business which consists of effecting or carrying out contracts of long term insurance;”;
- (d) in the definition of “long term fund” for “in accordance with the provisions of the 1982 Act” substitute “in accordance with rules made by the Financial Services Authority under Part X of the Financial Services and Markets Act 2000”; and
- (e) for the definition of “policy holder” substitute—
 - ““policy holder” has the meaning given in any relevant order under section 424(2) of the Financial Services and Markets Act 2000;”.

Share dealing by directors etc.: supplementary provision

73.—(1) Paragraph 11 of Schedule 13 to the 1986 Order (share dealing by directors etc.: provision supplementary to Articles 332 to 336) is amended as follows.

(2) The existing provision becomes sub-paragraph (1).

(3) In that sub-paragraph, in paragraph (a), the words “within the meaning of the Financial Services Act 1986” are repealed.

(4) After that sub-paragraph, insert—

(77) Note (24) was amended (and the words substituted by this Order inserted) by the Insurance Companies (Reserves) Act 1995 (c. 29), section 3(1), (2).

(78) Paragraph 50 was substituted by the Insurance Companies (Reserves) Act 1995 (c. 29), section 3(1), (3), and further substituted by S.I. 1996/946, regulation 13.

“(2) “Unit trust scheme” and “authorised unit trust scheme” have the meaning given in section 237 of the Financial Services and Markets Act 2000.”.

*Companies Consolidation (Consequential Provisions)
(Northern Ireland) Order 1986 (S.I. 1986/1035 (N.I. 9))*

Repeal of spent provisions

74. The following provisions of the Companies Consolidation (Consequential Provisions) (Northern Ireland) Order 1986 are repealed—

- (a) Article 22; and
- (b) in Part 2 of Schedule 1, the entries relating to-
 - (i) the Policyholders Protection Act 1975;
 - (ii) the Insurance Brokers (Registration) Act 1977; and
 - (iii) the Insurance Companies Act 1982.

The Companies' Act 1989 (c. 40)

Repeal of spent or unnecessary provisions

75. The following provisions of the Companies Act 1989 are repealed—

- (a) sections 72 to 77;
- (b) section 79;
- (c) section 81;
- (d) section 119(3);
- (e) section 156;
- (f) section 168;
- (g) section 169(1) and (4);
- (h) section 171;
- (i) sections 192 to 197;
- (j) section 200(1);
- (k) sections 201 to 206;
- (l) in section 213, subsections (5)(b) and (6);
- (m) section 214;
- (n) in Schedule 10, paragraphs 36 and 37;
- (o) in Schedule 20, paragraph 26;
- (p) Schedule 21;
- (q) Schedule 22; and
- (r) Schedule 23.

Requests for assistance by overseas regulatory authorities

76.—(1) Section 82 of the Companies Act 1989 (requests for assistance by overseas regulatory authorities) is amended as follows.

- (2) In subsection (2), for paragraph (a)(79) substitute—
- “(a) any function corresponding to—
- (i) any function of the Secretary of State under the Companies Act 1985;
 - (ii) any function of the Financial Services Authority under the Financial Services and Markets Act 2000;
 - (iii) any function exercised by the competent authority under Part VI of that Act in relation to the listing of shares;”.
- (3) In subsection (3), for “he is” substitute “he and the Financial Services Authority are”.
- (4) In subsection (5)(80), in the definition of “banking supervisor”, for “under the Banking Act 1987” substitute “in relation to authorised persons with permission under the Financial Services and Markets Act 2000 to accept deposits”.
- (5) After that subsection, insert—
- “(5A) In subsection (5), “authorised person” has the meaning given in the Financial Services and Markets Act 2000 and the references to deposits and their acceptance must be read with—
- (a) section 22 of that Act;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.”.

Exceptions from restrictions on disclosure of information

77.—(1) Section 87 of the Companies Act 1989 (exceptions from restrictions on disclosure of information) is amended as follows.

- (2) In subsection (2), for paragraph (b) substitute—
- “(b) civil proceedings arising under or by virtue of the Financial Services and Markets Act 2000 and proceedings before the Financial Services and Markets Tribunal;”.
- (3) In subsection (4), the table is amended in accordance with paragraphs (4) to (11).
- (4) The entries relating to the following are repealed—
- A designated agency within the meaning of the Financial Services Act 1986;
 - A transferee body or the competent authority within the meaning of the Financial Services Act 1986;
 - The body administering a scheme under section 54 of the Financial Services Act 1986;
 - A recognised self-regulating organisation, recognised professional body, recognised investment exchange, recognised clearing house or recognised self-regulating organisation for friendly societies (within the meaning of the Financial Services Act 1986);
 - The Chief Registrar of friendly societies, and the Assistant Registrar of Friendly Societies for Scotland;
 - The Friendly Societies Commission(81);
 - The Deposit Protection Board;
 - The Industrial Assurance Commissioner and the Industrial Assurance Commissioner for Northern Ireland; and

(79) Amended by the Bank of England Act 1998 (c. 11) Schedule 5 paragraph 66(2)(a).

(80) Amended by the Bank of England Act 1998 (c. 11) Schedule 5 paragraph 66(2)(b)(i).

(81) The entry relating to the Friendly Societies Commission was inserted by the Friendly Societies Act 1992, Schedule 21 paragraph 11.

The Building Societies Commission.

(5) For the entry relating to the Secretary of State substitute—

“The Secretary of State	Functions under—
	(a) the enactments relating to companies or insolvency;
	(b) Part 2, this Part or Part 7 of this Act;
	(c) the Financial Services and Markets Act 2000.”.

(6) For the entry relating to the Treasury(82) substitute—

“The Treasury.	Functions under—
	(a) this Part or Part 7 of this Act;
	(b) the Financial Services and Markets Act 2000.”.

(7) For the entry relating to an inspector substitute—

“An inspector appointed under Part 14 of the Companies Act 1985.	Functions under that Part.”
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(8) For the entry which begins “A person authorised to exercise powers”(83) substitute—

“A person authorised to exercise powers under section 447 of the Companies Act 1985 or section 84 of this Act.	Functions under that section.
A person appointed under—	Functions in relation to the investigation.”.
(a) section 167 of the Financial Services and Markets Act 2000 (general investigations),	
(b) section 168 of that Act (investigations in particular cases),	
(c) section 169(1)(b) of that Act (investigation in support of overseas regulator),	
(d) section 284 of that Act (investigations into affairs of certain collective investment schemes), or	
(e) regulations made as a result of section 262(2) (k) of that Act (investigations into open-ended investment companies),	
to conduct an investigation.	

(9) For the entry relating to the Financial Services Authority(84) substitute—

(82) The entry relating to the Treasury was inserted by [S.I. 1992/1315](#), Schedule 4 paragraph 12 and amended by [S.I. 1997/2781](#) Schedule, paragraph 116.

(83) This entry was amended by [S.I. 1994/1696](#), Schedule 8 paragraph 18.

(84) The entry relating to the Financial Services Authority was inserted by the Bank of England Act 1998, Schedule 5 paragraph 66(3).

“The Financial Services Authority.	Functions under the enactments relating to friendly societies, under the Building Societies Act 1986 and under the Financial Services and Markets Act 2000.”.
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(10) After that entry insert—

“A body corporate established in accordance with section 212(1) of that Act.	Functions under the Financial Services Compensation Scheme, established in accordance with section 213 of that Act.
A recognised investment exchange or a recognised clearing house (as defined by section 285 of that Act).	Functions in its capacity as an exchange or clearing house recognised under that Act.
A body designated under section 326(1) of the Financial Services and Markets Act 2000.	Functions in its capacity as a body designated under that section.”.

(11) In the entry relating to the Director General of Fair Trading, for “Financial Services Act 1986” substitute “Financial Services and Markets Act 2000”.

Exercise of powers in relation to Northern Ireland

78. In section 88 of the Companies Act 1989 (exercise of powers in relation to Northern Ireland), in subsection (3), for paragraph (b) substitute—

“(b) section 449 of the Companies Act 1985 and sections 86 and 87 above (restrictions on disclosure of information);”.

Change in default rules of recognised investment exchange and clearing house

79. In section 157(1) of the Companies Act 1989 (notification of change in default rules), for “Secretary of State”, in both places, substitute “Authority”.

Duty to report on completion of default proceedings

80.—(1) Section 162 of the Companies Act 1989 (duty to report on completion of default proceedings) is amended as follows.

(2) In subsection (1)(**85**), for “Secretary of State” substitute “Authority”.

(3) In subsection (1A)(**86**), for “Secretary of State” substitute “Authority”.

(4) In subsection (4)—

(a) for “Secretary of State, he” substitute “Authority, it”;

(b) for “he”, in the second place where it occurs, substitute “it”; and

(c) for “it” substitute “the report”.

Power to give directions

81.—(1) Section 166 of the Companies Act 1989 (power to give directions to recognised investment exchanges and recognised clearing houses with head offices in the UK) is amended as follows.

(85) Amended by S.I. 1991/880 regulation 6(2).

(86) Inserted by S.I. 1991/880 regulation 6(3).

- (2) In subsection (2), in each of paragraphs (a) and (b)—
 - (a) for “Secretary of State” substitute “Authority”;
 - (b) for “he” substitute “the Authority”.
- (3) In subsection (3)—
 - (a) for “Secretary of State” substitute “Authority”; and
 - (b) for “he”, in both places, substitute “it”.
- (4) In subsection (7)—
 - (a) for “Secretary of State”, in both places, substitute “Authority”; and
 - (b) for “he is satisfied that it” substitute “it is satisfied that the direction”.
- (5) In subsection (8) for “Secretary of State” substitute “Authority”.

Application to determine whether default proceedings to be taken

82.—(1) Section 167 of the Companies Act 1989 (application to determine whether default proceedings to be taken) is amended as follows.

- (2) In subsection (1) for “Secretary of State” substitute “Authority”.
- (3) In subsection (3), for “Secretary of State”, in both places, substitute “Authority”.
- (4) In subsection (4) for “Secretary of State” substitute “Authority”.
- (5) In subsection (5) for “Secretary of State”, in both places, substitute “Authority”.

Application of certain provisions for purposes of Part 7

83.—(1) Section 169 of the Companies Act 1989 (Part 7: supplementary provisions) is amended as follows.

(2) In subsection (2) for the words from the beginning to “apply” substitute “Sections 296 and 297 of the Financial Services and Markets Act 2000 apply”.

- (3) In subsection (3)—
 - (a) for “Financial Services Act 1986, the Secretary of State” substitute “Financial Services and Markets Act 2000, the appropriate authority”; and
 - (b) for “he” substitute “it”.

(4) After that subsection insert—

“(3A) “The appropriate authority” means—

- (a) in the case of an overseas investment exchange or clearing house, the Treasury;
and
- (b) in the case of a UK investment exchange or clearing house, the Authority.”.

(5) In subsection (5)—

- (a) for the words from the beginning to “applies” substitute “Regulations under section 414 of the Financial Services and Markets Act 2000 (service of notices) may make provision”;
and
- (b) for “Secretary of State” substitute “Treasury or the Authority”.

Application of Part 7 in relation to overseas investment exchanges and clearing houses

84.—(1) Section 170 of the Companies Act 1989 (power to make provision in relation to certain overseas investment exchanges and clearing houses) is amended as follows.

- (2) In subsection (1)—
 - (a) after “Secretary of State” insert “and the Treasury”; and
 - (b) for “him” substitute “the Treasury”.
- (3) In subsection (2)—
 - (a) for “Secretary of State” substitute “Treasury”; and
 - (b) for “he is” substitute “they are”.
- (4) In subsections (4), (5)(a) and (6) for “Financial Services Act 1986” substitute “Financial Services and Markets Act 2000”.

Power to make provision about certain charges other than market charges

85.—(1) Section 176 of the Companies Act 1989 (power to make provision about certain other charges) is amended as follows.

- (2) In paragraph (b) of subsection (2)—
 - (a) the words “Financial Services” are repealed⁽⁸⁷⁾; and
 - (b) for “section 171” substitute “section 301 of the Financial Services and Markets Act 2000”.
- (3) For paragraphs (d) and (e) of that subsection substitute—
 - “(d) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to carry on a relevant regulated activity, or
 - (e) an international securities self-regulating organisation approved for the purposes of an order made under section 22 of the Financial Services and Markets Act 2000.”.
- (4) In subsection (6)⁽⁸⁸⁾—
 - (a) the words “Financial Services” are repealed; and
 - (b) for “section 171” substitute “section 301 of the Financial Services and Markets Act 2000”.
- (5) After subsection (7) insert—
 - “(8) For the purposes of subsection (2)(d), “relevant regulated activity” means—
 - (a) dealing in investments as principal or as agent;
 - (b) arranging deals in investments;
 - (c) managing investments;
 - (d) safeguarding and administering investments;
 - (e) sending dematerialised instructions; or
 - (f) establishing etc. a collective investment scheme.
 - (9) Subsection (8) must be read with—
 - (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.”.

Power to apply sections 177 to 180 to other cases

86.—(1) Section 181 of the Companies Act 1989 (power to apply sections 177 to 180 to other cases) is amended as follows.

⁽⁸⁷⁾ The words repealed were substituted by the Bank of England Act 1998 (c. 11), Schedule 5 paragraph 48(2).

⁽⁸⁸⁾ Subsection (6) was substituted by the Bank of England Act 1998 (c. 11), Schedule 5 paragraph 48(3).

(2) In subsection (1), for the words from the beginning to “includes” substitute “A power to which this subsection applies includes the”.

(3) After subsection (2) insert—

“(3) Subsection (1) applies to the powers of the Secretary of State and the Treasury to act jointly under—

(a) sections 170, 172 and 176 of this Act; and

(b) section 301 of the Financial Services and Markets Act 2000 (supervision of certain contracts).”.

Indemnity for certain acts

87. In section 184(5) of the Companies Act 1989 (indemnity for certain acts), for the words from “exercising” to “procedures” substitute “to whom the exercise of any function of a recognised investment exchange or recognised clearing house is delegated under its default rules”.

Power of Treasury and Secretary of State to make further provision for purposes of Part 7

88. After subsection (3) of section 185 of the Companies Act 1989 (power of Treasury and Secretary of State to make further provision for purposes of Part 7) insert—

“(4) References in this section to the provisions of this Part include any provision made under section 301 of the Financial Services and Markets Act 2000.”.

Definitions for purposes of Part 7

89.—(1) Section 190 of the Companies Act 1989 (definitions for purposes of Part 7) is amended in accordance with paragraphs (2) to (6).

(2) In subsection (1), after the definition of “administrative receiver”, insert—

““the Authority” means the Financial Services Authority;”.

(3) In that subsection, the definitions of “clearing house”, of “investment” and “investment exchange” and of “recognised” are repealed.

(4) In that subsection, after the definition of “overseas”, insert—

““recognised clearing house” and “recognised investment exchange” have the same meaning as in the Financial Services and Markets Act 2000;”.

(5) In that subsection, for the definition of “The Stock Exchange” substitute—

““The Stock Exchange” means the London Stock Exchange Limited;”.

(6) Subsection (4) is repealed.

(7) In the table in section 191 of that Act (table of defined expressions)—

(a) the entries relating to the following expressions are repealed—

clearing house;

ensuring the performance of a transaction;

investment;

investment exchange; and

recognised; and

(b) insert the following in the appropriate places—

“the Authority

section 190(1)”; and

“recognised clearing house and recognised investment exchange section 190(1)”.

Transfer of securities

90. In section 207(1) of the Companies Act 1989 (transfer of securities), in paragraph (a), for “Financial Services Act 1986” substitute “Financial Services and Markets Act 2000”.

The Companies (Northern Ireland) Order 1989 (S.I. 1989/2404 (N.I. 18))

Disqualification after investigation of company

91. In Article 11 of the Companies (Northern Ireland) Order 1989 (disqualification after company investigation), for paragraphs (1)(**89**) and (2) substitute—

“(1) If it appears to the Department from investigative material that it is expedient in the public interest that a disqualification order should be made against a person who is, or has been, a director or shadow director of a company, the Department may apply to the High Court for such an order.

(1A) “Investigative material” means—

- (a) a report made by inspectors under—
 - (i) Article 430 of the Companies Order; or
 - (ii) section 167, 168, 169 or 284 of the Financial Services and Markets Act 2000; or
 - (iii) where the company is an open-ended investment company (within the meaning of that Act) regulations made as a result of section 262(2)(k) of that Act; and
- (b) information or documents obtained under—
 - (i) Article 440 or 441 of the Companies Order;
 - (ii) section 2 of the Criminal Justice Act 1987;
 - (iii) section 28 of the Criminal Law (Consolidation)(Scotland) Act 1995;
 - (iv) section 83 of the Companies Act 1989; or
 - (v) section 165, 171, 172, 173 or 175 of the Financial Services and Markets Act 2000.”.

The Companies (No.2)(Northern Ireland) Order 1990 (S.I. 1990/1504 (N.I. 10))

Repeal of spent or unnecessary provisions

92. The following provisions of the Companies (No. 2) (Northern Ireland) Order 1990 are repealed—

- (a) Articles 24 to 26;
- (b) Article 54(3);
- (c) Article 91; and

(89) Paragraph (1) of Article 11 was amended by the Criminal Justice Act 1993 (c. 36) Schedule 6 Part II and Companies (No. 2) (NI) Order 1990 (NI 10) Article 26.

(d) Article 93.

Duty to report on completion of default proceedings

93.—(1) Article 85 of the Companies (No. 2)(Northern Ireland) Order 1990 (duty to report on completion of default proceedings) is amended as follows.

- (2) In paragraph (1)(**90**), for “Secretary of State” substitute “Authority”.
- (3) In paragraph (1A)(**91**), for “Secretary of State” substitute “Authority”.
- (4) In paragraph (4)—
 - (a) for “Secretary of State, he” substitute “Authority, it”;
 - (b) for “he”, in the second place where it occurs, substitute “it”; and
 - (c) for “it” substitute “the report”.

Power to give directions

94.—(1) Article 89 of the Companies (No. 2) (Northern Ireland) Order 1990 (power to give directions to recognised investment exchanges and recognised clearing houses with head offices in the UK) is amended as follows.

- (2) In paragraph (2), in each of sub-paragraphs (a) and (b)—
 - (a) for “Secretary of State” substitute “Authority”;
 - (b) for “he” substitute “the Authority”.
- (3) In paragraph (3)—
 - (a) for “Secretary of State” substitute “Authority”; and
 - (b) for “he”, in both places, substitute “it”.
- (4) In paragraph (7)—
 - (a) for “Secretary of State”, in both places, substitute “Authority”; and
 - (b) for “he is satisfied that it” substitute “it is satisfied that the direction”.
- (5) In paragraph (8) for “Secretary of State” substitute “Authority”.

Application to determine whether default proceedings to be taken

95.—(1) Article 90 of the Companies (No. 2) (Northern Ireland) Order 1990 (application to determine whether default proceedings to be taken) is amended as follows.

- (2) In paragraph (1) for “Secretary of State” substitute “Authority”.
- (3) In paragraph (3), for “Secretary of State”, in both places, substitute “Authority”.
- (4) In paragraph (4) for “Secretary of State” substitute “Authority”.
- (5) In paragraph (5) for “Secretary of State”, in both places, substitute “Authority”.

Application of Part 5 in relation to overseas investment exchanges and clearing houses

96. In Article 92(1) of the Companies (No. 2) (Northern Ireland) Order 1990 (power to make provision in relation to certain overseas investment exchanges and clearing houses)—

- (a) after “Department” insert “and the Treasury”; and

(90) Amended by [SR \(NI\) 1991/443](#).

(91) Inserted by [SR \(NI\) 1991/443](#).

- (b) for “Secretary of State” substitute “the Treasury”.

Power to make provision about certain charges other than market charges

97.—(1) Article 98 of the Companies (No.2) (Northern Ireland) Order 1990 (power to make provision about certain other charges) is amended as follows.

- (2) In sub-paragraph (b) of paragraph (2)—
- (a) the words “Financial Services” are repealed; and
 - (b) for “section 171” substitute “section 301 of the Financial Services and Markets Act 2000”.
- (3) For sub-paragraphs (d) and (e) of that paragraph substitute—
- “(d) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to carry on a relevant regulated activity, or
- (e) an international securities self-regulating organisation approved for the purposes of an order made under section 22 of the Financial Services and Markets Act 2000,”.
- (4) In paragraph (6)—
- (a) the words “Financial Services” are repealed; and
 - (b) for “section 171” substitute “section 301 of the Financial Services and Markets Act 2000”.
- (5) After paragraph (7) insert—
- “(8) For the purposes of subsection (2)(d), “relevant regulated activity” means—
- (a) dealing in investments as principal or as agent;
 - (b) arranging deals in investments;
 - (c) managing investments;
 - (d) safeguarding and administering investments;
 - (e) sending dematerialised instructions; or
 - (f) establishing etc. a collective investment scheme.
- (9) Paragraph (8) must be read with—
- (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.”.

Power to apply Articles 99 to 102 to other cases

98. In Article 103(1)(a) of the Companies (No. 2) (Northern Ireland) Order 1990 (power to apply Articles 99 to 102 to other cases), the words “93” are repealed.

Indemnity for certain acts

99. In Article 105(5) of the Companies (No. 2) (Northern Ireland) Order 1990 (indemnity for certain acts), for the words from “exercising” to “procedures” substitute “to whom the exercise of any function of a recognised investment exchange or recognised clearing house is delegated under its default rules”.

Power of Secretary of State to make further provision for purposes of Part 5

100. After paragraph (3) of Article 106 of the Companies (No. 2) (Northern Ireland) Order 1990 (power of Secretary of State to make further provision for purposes of Part 5) insert—

“(4) References in paragraph (2) to the provisions of this Part include any provision made under section 301 of the Financial Services and Markets Act 2000.”.

Definitions for purposes of Part 5

101.—(1) Article 111 of the Companies (No. 2) (Northern Ireland) Order 1990 (definitions for purposes of Part 5) is amended in accordance with paragraphs (2) to (6).

(2) In paragraph (1), after the definition of “administrative receiver”, insert—

““the Authority” means the Financial Services Authority;”.

(3) In that paragraph, the definitions of “clearing house”, of “investment” and “investment exchange” and of “recognised” are repealed.

(4) In that paragraph, after the definition of “overseas”, insert—

““recognised clearing house” and “recognised investment exchange” have the same meaning as in the Financial Services and Markets Act 2000;”.

(5) In that paragraph, for the definition of “The Stock Exchange” substitute—

““The Stock Exchange” means the London Stock Exchange Limited;”.

(6) Paragraph (4) is repealed.

(7) In the table in Article 112 of that Order (table of defined expressions)—

(a) the entries relating to the following expressions are repealed—

- clearing house;
- ensuring the performance of a transaction;
- investment;
- investment exchange; and
- recognised; and

(b) insert the following in the appropriate places—

“the Authority	Article 111(1)”; and
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“recognised clearing house and recognised investment exchange	Article 111(1)”.
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PART 3

ENACTMENTS RELATING TO PENSIONS

Fire Services Act 1947 (c. 41)

Information in connection with firemen’s pensions

102. In section 27A(92) of the Fire Services Act 1947 (information in connection with firemen’s pensions), in subsection (2)(a), after “section 62 of the Financial Services Act 1986” insert “or section 150 of the Financial Services and Markets Act 2000”.

(92) Section 27A was inserted by the Police and Firemen’s Pensions Act 1997 (c. 52) s. 3.

Judicial Pensions Act (Northern Ireland) 1951 (c. 20)

Additional voluntary contributions

103.—(1) Section 11A(93) of the Judicial Pensions Act (Northern Ireland) 1951 (additional voluntary contributions) is amended as follows.

(2) In subsection (2)(d), for sub-paragraph (iii) substitute—

“(iii) the general value of benefits available to a person under any contract of life insurance entered into by him with an insurer;”.

(3) In subsection (7)—

(a) for the definition of “authorised provider” substitute—

““authorised provider”, in relation to the investment of any sums paid by way of voluntary contributions or the provision of any benefit, means—

- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to invest such sums or, as the case may be, to provide that benefit;
- (b) an EEA firm of a kind mentioned in paragraph 5(a), (b) or (c) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to invest such sums or, as the case may be, to provide that benefit and which satisfies the conditions applicable to it which are specified in subsection (7B), (7C) or (7D); or
- (c) an EEA firm of a kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to invest such sums or, as the case may be, to provide that benefit.”; and

(b) after the definition of “employment” insert—

““insurer” means—

- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of long-term insurance;
- (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of long-term insurance;”.

(4) After subsection (7)(94) insert—

“(7A) In subsection (7), the definitions of “authorised provider” and “insurer” must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.

(7B) If the EEA firm concerned is of the kind mentioned in paragraph 5(a) of Schedule 3 to the Financial Services and Markets Act 2000, the conditions are—

- (a) that, in investing of the sums in question, or in providing the benefit in question, the firm is carrying on a service falling within section A or C of the Annex to the Investment Services Directive; and

(93) Section 11A was inserted by the Judicial Pensions (NI) Order 1991 NI 24 Article 6(1)(c), (2)

(94) Subsection (7) of section 11A was added by the Judicial Pensions and Retirement Act 1993 (c. 8) Schedule 3 Pt. II paragraph 9.

- (b) that the firm is authorised by its home state authorisation to carry on that service.
- (7C) If the EEA firm concerned is of the kind mentioned in paragraph 5(b) of that Schedule, the conditions are—
 - (a) that, in investing of the sums in question, or in providing the benefit in question, the firm is carrying on an activity falling within Annex 1 to the Banking Consolidation Directive; and
 - (b) that the activity in question is one in relation to which an authority in the firm’s home State has regulatory functions.
- (7D) If the EEA firm concerned is of the kind mentioned in paragraph 5(c) of that Schedule, the conditions are—
 - (a) that, in investing of the sums in question, or in providing the benefit in question, the firm is carrying on an activity falling within Annex 1 to the Banking Consolidation Directive;
 - (b) that the activity in question is one in relation to which an authority in the firm’s home State has regulatory functions; and
 - (c) that the firm also carries on the activity in question in its home State.
- (7E) Expressions used in subsections (7B) to (7D) which are also used in Schedule 3 to the Financial Services and Markets Act 2000 have the same meaning in those subsections as they have in that Schedule.”.

County Courts Act (Northern Ireland) 1959 (c. 25)

Additional voluntary contributions

104.—(1) Section 127A(95) of the County Courts Act (Northern Ireland) 1959 (additional voluntary contributions) is amended as follows.

- (2) In subsection (2)(d), for sub-paragraph (iii) substitute—

“(iii) the general value of benefits available to a person under any contract of life insurance entered into by him with an insurer;”.
- (3) In subsection (7)(96)—
 - (a) for the definition of “authorised provider” substitute—

““authorised provider”, in relation to the investment of any sums paid by way of voluntary contributions or the provision of any benefit, means—

 - (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to invest such sums or, as the case may be, to provide that benefit;
 - (b) an EEA firm of a kind mentioned in paragraph 5(a), (b) or (c) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to invest such sums or, as the case may be, to provide that benefit and which satisfies the conditions applicable to it which are specified in subsection (7B), (7C) or (7D); or
 - (c) an EEA firm of a kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result

(95) Section 127A was inserted by the [Judicial Pensions \(NI\) Order 1991 \(NI 24\)](#) Article 6(1)(a) and (2).

(96) Subsection (7) of section 127A was added by the [Judicial Pensions and Retirement Act 1993 \(c. 8\)](#) Schedule 3 Pt. II paragraph 9.

of qualifying for authorisation under paragraph 12 of that Schedule) to invest such sums or, as the case may be, to provide that benefit.”; and

(b) after the definition of “employment” insert—

““insurer” means—

- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of long-term insurance;
- (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of long-term insurance;”.

(4) After subsection (7) insert—

“(7A) In subsection (7), the definitions of “authorised provider” and “insurer” must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.

(7B) If the EEA firm concerned is of the kind mentioned in paragraph 5(a) of Schedule 3 to the Financial Services and Markets Act 2000, the conditions are—

- (a) that, in investing of the sums in question, or in providing the benefit in question, the firm is carrying on a service falling within section A or C of the Annex to the Investment Services Directive; and
- (b) that the firm is authorised by its home state authorisation to carry on that service.

(7C) If the EEA firm concerned is of the kind mentioned in paragraph 5(b) of that Schedule, the conditions are-

- (a) that, in investing of the sums in question, or in providing the benefit in question, the firm is carrying on an activity falling within Annex 1 to the Banking Consolidation Directive; and
- (b) that the activity in question is one in relation to which an authority in the firm’s home State has regulatory functions.

(7D) If the EEA firm concerned is of the kind mentioned in paragraph 5(c) of that Schedule, the conditions are—

- (a) that, in investing of the sums in question, or in providing the benefit in question, the firm is carrying on an activity falling within Annex 1 to the Banking Consolidation Directive;
- (b) that the activity in question is one in relation to which an authority in the firm’s home State has regulatory functions; and
- (c) that the firm also carries on the activity in question in its home State.

(7E) Expressions used in subsections (7B) to (7D) which are also used in Schedule 3 to the Financial Services and Markets Act 2000 have the same meaning in those subsections as they have in that Schedule.”.

Resident Magistrates' Pensions Act (Northern Ireland) 1960 (c. 2)

Additional voluntary contributions

105.—(1) Section 9A(97) of the Resident Magistrates' Pensions Act (Northern Ireland) 1960 (additional voluntary contributions) is amended as follows.

(2) In subsection (2)(d), for sub-paragraph (iii) substitute—

“(iii) the general value of benefits available to a person under any contract of life insurance entered into by him with an insurer;”.

(3) In subsection (7)(98)—

(a) for the definition of “authorised provider” substitute—

““authorised provider”, in relation to the investment of any sums paid by way of voluntary contributions or the provision of any benefit, means—

(a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to invest such sums or, as the case may be, to provide that benefit;

(b) an EEA firm of a kind mentioned in paragraph 5(a), (b) or (c) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to invest such sums or, as the case may be, to provide that benefit and which satisfies the conditions applicable to it which are specified in subsection (7B), (7C) or (7D); or

(c) an EEA firm of a kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to invest such sums or, as the case may be, to provide that benefit.”; and

(b) after the definition of “employment” insert—

““insurer” means—

(a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of long-term insurance;

(b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of long-term insurance;”.

(4) After subsection (7) insert—

“(7A) In subsection (7), the definitions of “authorised provider” and “insurer” must be read with—

(a) section 22 of the Financial Services and Markets Act 2000;

(b) any relevant order under that section; and

(c) Schedule 2 to that Act.

(7B) If the EEA firm concerned is of the kind mentioned in paragraph 5(a) of Schedule 3 to the Financial Services and Markets Act 2000, the conditions are—

(a) that, in investing of the sums in question, or in providing the benefit in question, the firm is carrying on a service falling within section A or C of the Annex to the Investment Services Directive; and

(97) Section 9A was inserted by the [Judicial Pensions \(NI\) Order 1991 \(NI 24\)](#) Article 6(1)(b), 2.

(98) Subsection (7) of section 9A was added by the [Judicial Pensions and Retirement Act 1993 \(c. 8\)](#) Schedule 3 Pt. II paragraph 9.

- (b) that the firm is authorised by its home state authorisation to carry on that service.
- (7C) If the EEA firm concerned is of the kind mentioned in paragraph 5(b) of that Schedule, the conditions are—
 - (a) that, in investing of the sums in question, or in providing the benefit in question, the firm is carrying on an activity falling within Annex 1 to the Banking Consolidation Directive; and
 - (b) that the activity in question is one in relation to which an authority in the firm’s home State has regulatory functions.
- (7D) If the EEA firm concerned is of the kind mentioned in paragraph 5(c) of that Schedule, the conditions are—
 - (a) that, in investing of the sums in question, or in providing the benefit in question, the firm is carrying on an activity falling within Annex 1 to the Banking Consolidation Directive;
 - (b) that the activity in question is one in relation to which an authority in the firm’s home State has regulatory functions; and
 - (c) that the firm also carries on the activity in question in its home State.
- (7E) Expressions used in subsections (7B) to (7D) which are also used in Schedule 3 to the Financial Services and Markets Act 2000 have the same meaning in those subsections as they have in that Schedule.”.

Superannuation Act 1972 (c. 11)

Authorised providers in relation to superannuation schemes for civil servants etc.

106.—(1) Section 1 of the Superannuation Act 1972 (superannuation schemes in respect civil servants etc) is amended as follows.

- (2) In subsection (9)(99), for the definition of “authorised provider” substitute—

““authorised provider”, in relation to the investment of any sums paid by way of voluntary contributions or the provision of any benefit, means—

 - (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to invest such sums or, as the case may be, to provide that benefit;
 - (b) an EEA firm of a kind mentioned in paragraph 5(a), (b) or (c) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to invest such sums or, as the case may be, to provide that benefit and which satisfies the conditions applicable to it which are specified in subsection (9B), (9C) or (9D); or
 - (c) an EEA firm of a kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to invest such sums or, as the case may be, to provide that benefit;”.
- (3) After that subsection insert—

“(9A) In subsection (9), the definition of “authorised provider” must be read with—

 - (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and

(99) Section 1(9) was inserted by the Pensions (Miscellaneous Provisions) Act 1990 (c. 7) s. 8(2) and amended by the Pensions Schemes Act 1993 (c. 48) Schedule 8 paragraph 6.

(c) Schedule 2 to that Act.

(9B) If the EEA firm concerned is of the kind mentioned in paragraph 5(a) of Schedule 3 to the Financial Services and Markets Act 2000, the conditions are—

(a) that, in investing of the sums in question, or in providing the benefit in question, the firm is carrying on a service falling within section A or C of the Annex to the Investment Services Directive; and

(b) that the firm is authorised by its home state authorisation to carry on that service.

(9C) If the EEA firm concerned is of the kind mentioned in paragraph 5(b) of that Schedule, the conditions are—

(a) that, in investing of the sums in question, or in providing the benefit in question, the firm is carrying on an activity falling within Annex 1 to the Banking Consolidation Directive; and

(b) that the activity in question is one in relation to which an authority in the firm's home State has regulatory functions.

(9D) If the EEA firm concerned is of the kind mentioned in paragraph 5(c) of that Schedule, the conditions are—

(a) that, in investing of the sums in question, or in providing the benefit in question, the firm is carrying on an activity falling within Annex 1 to the Banking Consolidation Directive;

(b) that the activity in question is one in relation to which an authority in the firm's home State has regulatory functions; and

(c) that the firm also carries on the activity in question in its home State.

(9E) Expressions used in subsections (9B) to (9D) which are also used in Schedule 3 to the Financial Services and Markets Act 2000 have the same meaning in those subsections as they have in that Schedule.”.

Authorised providers in relation to superannuation schemes for teachers

107. In section 9(6) of the Superannuation Act 1972 (superannuation schemes as respects teachers) for the definition of “authorised provider”(100) substitute—

““authorised provider” has the meaning given in section 1;”.

Authorised providers in relation to superannuation schemes for persons engaged in health services, etc.

108. In section 10(6) of the Superannuation Act 1972 (superannuation schemes as respects persons engaged in health services, etc) for the definition of “authorised provider”(101) substitute—

““authorised provider” has the meaning given in section 1;”.

(100) The definition of “authorised provider” in section 9(6) was inserted by the Pensions (Miscellaneous Provisions) Act 1990 (c. 7) s. 8(6).

(101) The definition of “authorised provider” in section 10(6) was inserted by the Pensions (Miscellaneous Provisions) Act 1990 (c. 7) s. 8(6).

Police Pensions Act 1976 (c. 35)

Information in connection with police officers' pensions

109. In section 8A(**102**) of the Police Pensions Act 1976 (information in connection with police pensions), in subsection (2)(a), after “section 62 of the Financial Services Act 1986” insert “or section 150 of the Financial Services and Markets Act 2000”.

Judicial Pensions Act 1981 (c. 20)

Voluntary contributions by members of judicial pension scheme.

110.—(1) Section 33A(**103**) of the Judicial Pensions Act 1981 is amended as follows.

(2) In subsection (2)(d), for sub-paragraph (iii) substitute—

“(iii) the general value of benefits available to a person under any contract of life insurance entered into by him with an insurer;”.

(3) In subsection (9)(**104**)—

(a) for the definition of “authorised provider” substitute—

““authorised provider”, in relation to the investment of any sums paid by way of voluntary contributions or the provision of any benefit, means—

- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to invest such sums or, as the case may be, to provide that benefit;
- (b) an EEA firm of a kind mentioned in paragraph 5(a), (b) or (c) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to invest such sums or, as the case may be, to provide that benefit and which satisfies the conditions applicable to it which are specified in subsection (9B), (9C) or (9D); or
- (c) an EEA firm of a kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to invest such sums or, as the case may be, to provide that benefit.”; and

(b) after the definition of “employment” insert—

““insurer” means—

- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of long-term insurance;
- (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of long-term insurance;”.

(4) After subsection (9) insert—

“(9A) In subsection (9), the definitions of “authorised provider” and “insurer” must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;

(102) Section 8A was inserted by the Police and Firemen’s Pensions Act 1997 (c. 52) s. 2.

(103) Section 33A was inserted by the Courts and Legal Services Act 1990 (c. 41) s. 82(1).

(104) Subsection (9) of section 33A was inserted by the Judicial Pensions and Retirement Act 1993 (c. 8) Schedule 3 paragraph 3.

- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.

(9B) If the EEA firm concerned is of the kind mentioned in paragraph 5(a) of Schedule 3 to the Financial Services and Markets Act 2000, the conditions are—

- (a) that, in investing of the sums in question, or in providing the benefit in question, the firm is carrying on a service falling within section A or C of the Annex to the Investment Services Directive; and
- (b) that the firm is authorised by its home state authorisation to carry on that service.

(9C) If the EEA firm concerned is of the kind mentioned in paragraph 5(b) of that Schedule, the conditions are—

- (a) that, in investing of the sums in question, or in providing the benefit in question, the firm is carrying on an activity falling within Annex 1 to the Banking Consolidation Directive; and
- (b) that the activity in question is one in relation to which an authority in the firm's home State has regulatory functions.

(9D) If the EEA firm concerned is of the kind mentioned in paragraph 5(c) of that Schedule, the conditions are—

- (a) that, in investing of the sums in question, or in providing the benefit in question, the firm is carrying on an activity falling within Annex 1 to the Banking Consolidation Directive;
- (b) that the activity in question is one in relation to which an authority in the firm's home State has regulatory functions; and
- (c) that the firm also carries on the activity in question in its home State.

(9E) Expressions used in subsections (9B) to (9D) which are also used in Schedule 3 to the Financial Services and Markets Act 2000 have the same meaning in those subsections as they have in that Schedule.”.

Judicial Pensions (Northern Ireland) Order 1991 (S.I. 1991/2631 (N.I. 24))

Judicial pensions: transfer of accrued benefits

111.—(1) The Schedule which is set out in paragraph 1(2) of Schedule 2 to the Judicial Pensions (Northern Ireland) Order 1991 (transfer of accrued benefits) is amended as follows.

(2) In paragraph 1, the existing provision becomes sub-paragraph (1).

(3) In that sub-paragraph, for the definition of “authorised insurance company” substitute—

““authorised insurer” means—

- (i) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of long-term insurance, or
- (ii) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of long-term insurance;”.

(4) After that sub-paragraph, insert—

“(2) The definition of “authorised insurer” in sub-paragraph (1) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;

- (b) any relevant order under that section;
- (c) Schedule 2 to that Act.”.
- (5) In paragraph 6(2)(c), for “insurance companies” substitute “insurers”.
- (6) In paragraph 11(3), in paragraph (a) of the definition of “qualifying scheme” for “insurance company” substitute “insurer”.

Judicial Pensions and Retirement Act 1993 (c. 8)

Voluntary contributions by persons to whom Part 1 of the Act applies

- 112.**—(1) Section 10 of the Judicial Pensions and Retirement Act 1993 is amended as follows.
- (2) In subsection (4)(d), for sub-paragraph (iii) substitute—
- “(iii) the general value of benefits available to a person under any contract of life insurance entered into by him with an insurer;”.
- (3) In subsection (8)—
- (a) for the definition of “authorised provider” substitute—
 - ““authorised provider”, in relation to the investment of any sums paid by way of voluntary contributions or the provision of any benefit, means—
 - (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to invest such sums or, as the case may be, to provide that benefit;
 - (b) an EEA firm of a kind mentioned in paragraph 5(a), (b) or (c) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to invest such sums or, as the case may be, to provide that benefit and which satisfies the conditions applicable to it which are specified in subsection (8B), (8C) or (8D); or
 - (c) an EEA firm of a kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to invest such sums or, as the case may be, to provide that benefit.”; and
 - (b) after the definition of “employment” insert—
 - ““insurer” means—
 - (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of long-term insurance;
 - (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of long-term insurance;”.
- (4) After subsection (8) insert—
- “(8A) In subsection (8), the definitions of “authorised provider” and “insurer” must be read with—
- (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.

(8B) If the EEA firm concerned is of the kind mentioned in paragraph 5(a) of Schedule 3 to the Financial Services and Markets Act 2000, the conditions are—

- (a) that, in investing of the sums in question, or in providing the benefit in question, the firm is carrying on a service falling within section A or C of the Annex to the Investment Services Directive; and
- (b) that the firm is authorised by its home state authorisation to carry on that service.

(8C) If the EEA firm concerned is of the kind mentioned in paragraph 5(b) of that Schedule, the conditions are—

- (a) that, in investing of the sums in question, or in providing the benefit in question, the firm is carrying on an activity falling within Annex 1 to the Banking Consolidation Directive; and
- (b) that the activity in question is one in relation to which an authority in the firm's home State has regulatory functions.

(8D) If the EEA firm concerned is of the kind mentioned in paragraph 5(c) of that Schedule, the conditions are—

- (a) that, in investing of the sums in question, or in providing the benefit in question, the firm is carrying on an activity falling within Annex 1 to the Banking Consolidation Directive;
- (b) that the activity in question is one in relation to which an authority in the firm's home State has regulatory functions; and
- (c) that the firm also carries on the activity in question in its home State.

(8E) Expressions used in subsections (8B) to (8D) which are also used in Schedule 3 to the Financial Services and Markets Act 2000 have the same meaning in those subsections as they have in that Schedule.”.

Retirement date for holders of judicial offices etc: repeal of references to old tribunals

113. In section 26(8) of the Judicial Pensions and Retirement Act 1993 (retirement date for members of certain tribunals), paragraphs (e), (f) and (j) are repealed.

Judicial pensions: transfer of accrued benefits

114.—(1) Schedule 2 to the Judicial Pensions and Retirement Act 1993 (transfer of accrued benefits) is amended as follows.

(2) In paragraph 1, the existing provision becomes sub-paragraph (1).

(3) In that sub-paragraph, for the definition of “authorised insurance company” substitute—
““authorised insurer” means—

- (i) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of long-term insurance, or
- (ii) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of long-term insurance.”.

(4) After that sub-paragraph, insert—

“(2) The definition of “authorised insurer” in sub-paragraph (1) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section;

(c) Schedule 2 to that Act.”.

(5) In paragraph 6(2)(c), for “insurance companies” substitute “insurers”.

(6) In paragraph 11(3), in paragraph (a) of the definition of “qualifying scheme” for “insurance company” substitute “insurer”.

Repeal of spent amendments

115. The following provisions of Schedule 6 to the Judicial Pensions and Retirement Act 1993 (which are amendments to other legislation that are spent as a result of the coming into force of the Financial Services and Markets Act 2000) are repealed—

- (a) paragraph 41;
- (b) paragraph 64;
- (c) paragraph 65; and
- (d) paragraph 68.

Pension Schemes Act 1993 (c. 48)

Discharge of liability where guaranteed minimum pension secured by insurance policies or annuity contracts

116.—(1) Section 19 of the Pension Schemes Act 1993 (discharge of liability where guaranteed minimum pension secured by insurance policies or annuity contracts) is amended as follows.

(2) In subsection (4)(a)—

- (a) for “insurance company” substitute “insurer”; and
- (b) in sub-paragraph (i), the word “ordinary” is repealed.

(3) Subsection (7) is repealed.

Ways of giving effect to the protected rights: the pension and annuity requirements

117.—(1) Section 29 of the Pension Schemes Act 1993 (the pension and annuity requirements) is amended as follows.

(2) In subsection (3)(b)(**105**) for “insurance company” substitute “insurer”.

(3) In subsection (4)(**106**), for “insurance company”, in both places, substitute “insurer”.

Discharge of protected rights on winding up: insurance policies

118. In section 32A(**107**) of the Pension Schemes Act 1993 (discharge of protected rights on winding up: insurance policies), in subsection (2)(a)—

- (a) for “insurance company” substitute “insurer”; and
- (b) in sub-paragraph (i), the word “ordinary” and the words “(within the meaning of the Insurance Companies Act 1982)” are repealed.

(**105**) Section 29(3)(b) was amended by the Pensions Act 1995 (c. 26) s. 144(3), (4).

(**106**) Section 29(4) was amended by the Pensions Act 1995 (c. 26) s. 144(3), (4).

(**107**) Section 32A was inserted by the Pensions Act 1995 (c. 26) s. 146(1).

Alteration of rules of appropriate schemes: permitted form of scheme

119.—(1) Section 38 of the Pensions Schemes Act 1993 (alteration of rules of appropriate schemes: permitted forms) is amended as follows.

(2) In subsection (6), in paragraph (b) for the words from “has” to the end substitute “is an authorised unit trust scheme”.

(3) After that subsection, insert—

“(6A) “Authorised unit trust scheme” has the meaning given in Part 17 of the Financial Services and Markets Act 2000 and includes any scheme which is, as a result of an order made under section 426 of that Act making transitional provisions, treated as falling within that meaning.”.

Entitlement to guaranteed minimum pensions: treatment of entitlements

120. In section 47(3)(d) of the Pension Schemes Act 1993 (Further provisions concerning entitlement to guaranteed minimum pensions for the purposes of section 46), for “Policyholders Protection Act 1975” substitute “Financial Services Compensation Scheme”.

Ways of taking rights to cash equivalent: members of occupational pension schemes

121. In section 95(2)(c) of the Pension Schemes Act 1993 (ways of taking rights to cash equivalent) for “insurance companies” substitute “insurers”.

Cash equivalent: authorised purposes for transfer notice

122. In section 101F(2)(b)(**108**) of the Pension Schemes Act 1993 (authorised purposes for transfer notice) for “insurance companies” substitute “insurers”.

Procedure on an investigation by the Pensions Ombudsman

123. In section 149(6) of the Pension Schemes Act 1993 (procedure on an investigation by the Pensions Ombudsman: persons to whom information may be disclosed)—

(a) paragraphs (f) and (g) are repealed;

(b) for paragraph (h) substitute—

“(h) a person appointed under—

(i) Part 14 of the Companies Act 1985,

(ii) section 167 of the Financial Services and Markets Act 2000,

(iii) subsection (3) or (5) of section 168 of that Act, or

(iv) section 284 of that Act,

to conduct an investigation;”;

(c) for paragraphs (k) to (m) substitute—

“(k) a body designated under section 326(1) of the Financial Services and Markets Act 2000; and

(l) a recognised investment exchange or a recognised clearing house (as defined by section 285 of that Act).”.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Disclosure of information by the Secretary of State

124.—(1) The table set out in section 158A(1)(109) of the Pension Schemes Act 1993 (power of Secretary of State to disclose social security information for certain purposes) is amended as follows.

(2) The entries relating to the following persons are repealed—

- The Treasury;
- The Friendly Societies Commission;
- The Building Societies Commission;
- An inspector appointed by the Secretary of State;
- A person authorised to exercise powers under section 106 of the Financial Services Act 1986;
- A designated agency or transferee body or the competent authority (within the meaning of the Financial Services Act 1986); and
- A recognised self-regulating organisation, recognised professional body, recognised investment exchange or recognised clearing house (within the meaning of the Financial Services Act 1986).

(3) In the entry relating to the Financial Services Authority(110), for the second column, substitute—

“Functions under the legislation relating to friendly societies, under the Building Societies Act 1986 or under the Financial Services and Markets Act 2000.”

(4) After the entry relating to the Pensions Compensation Board insert—

“A person appointed under—	Functions in relation to that investigation
(a) section 167 of the Financial Services and Markets Act 2000,	
(b) subsection (3) or (5) of section 168 of that Act,	
or	
(c) section 284 of that Act, to conduct an investigation.	
A body designated under section 326(1) of the Financial Services and Markets Act 2000.	Functions in its capacity as a body designated under that section.
A recognised investment exchange or a recognised clearing house (as defined by section 285 of that Act).	Functions in its capacity as an exchange or clearing house recognised under that Act.”.

Determination of questions by Secretary of State

125. In section 170(1)(c) of the Pension Schemes Act 1993 (Determination of questions by Secretary of State) for “Policyholders Protection Act 1975” substitute “Financial Services Compensation Scheme”.

(109) Section 158A was inserted by the Pensions Act 1995 (c. 26) Schedule 6 paragraph 9.

(110) The entry relating to the Financial Services Authority was inserted by the Bank of England Act 1998 (c. 11) Schedule 5 paragraph 69(3).

Interpretation of expressions relating to insurance

126. In the Pensions Schemes Act 1993, after section 180 insert—

“Insurer and long-term insurance business

180A.—(1) In this Act “insurer” means—

- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of insurance, or
- (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of insurance.

(2) In this Act “long term insurance business” means business which consists of the effecting or carrying out of contracts of long-term insurance.

(3) This section must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

Interpretation: Financial Services Compensation Scheme

127. In section 181(1) of the Pension Schemes Act 1993—

(a) after the definition of “employment”, insert—

““Financial Services Compensation Scheme” means the Financial Services Compensation Scheme referred to in section 213(2) of the Financial Services and Markets Act 2000.”;

(b) the definition of “insurance company” is repealed.

Consultation on regulations concerning pension business of friendly societies

128. In section 185(7) of the Pension Schemes Act 1993 (consultation on regulations concerning removal of restrictions on pension business of friendly societies), for the words “Chief Registrar of Friendly Societies or the Friendly Societies Commission” substitute “Financial Services Authority or, if the matter concerns section 464 of the Income and Corporation Taxes Act 1988, the Commissioners of the Inland Revenue”.

Pension Schemes (Northern Ireland) Act 1993 (c. 49)

Discharge of guaranteed minimum pension secured by insurance policies or annuity contracts

129.—(1) Section 15 of the Pension Schemes (Northern Ireland) Act 1993 (discharge of guaranteed minimum pension secured by insurance policies or annuity contracts) is amended as follows.

(2) In subsection (4)(a)—

- (a) for “insurance company” substitute “insurer”; and
- (b) in sub-paragraph (i), the word “ordinary” is repealed.

(3) Subsection (7) is repealed.

Ways of giving effect to the protected rights: the pension and annuity requirements

130.—(1) Section 25 of the Pension Schemes (Northern Ireland) Act 1993 (the pension and annuity requirements) is amended as follows.

- (2) In subsection (3)(b) for “insurance company” substitute “insurer”.
- (3) In subsection (4), for “insurance company”, in both places, substitute “insurer”.

Discharge of protected rights on winding up: insurance policies

131. In section 28A of the Pension Schemes (Northern Ireland) Act 1993 (discharge of protected rights on winding up: insurance policies), in subsection (4)—

- (a) for “insurance company” substitute “insurer”; and
- (b) in sub-paragraph (i), the word “ordinary” and the words “(within the meaning of the Insurance Companies Act 1982)” are repealed.

Alteration of rules of appropriate schemes: permitted form of scheme

132.—(1) Section 34 of the Pension Schemes (Northern Ireland) Act 1993 (alteration of rules of appropriate schemes: permitted forms) is amended as follows.

(2) In subsection (6), in paragraph (b) for the words from “has” to the end substitute “is an authorised unit trust scheme”.

(3) After that subsection, insert—

“(6A) “Authorised unit trust scheme” has the meaning given in Part 17 of the Financial Services and Markets Act 2000 and includes any scheme which is, as a result of an order under section 426 of that Act making transitional provisions, treated as falling within that meaning.”

Ways of taking rights to cash equivalent: members of occupational pension schemes

133. In section 91(2)(c) of the Pension Schemes (Northern Ireland) Act 1993 (ways of taking rights to cash equivalent) for “insurance companies” substitute “insurers”.

Cash equivalent: authorised purposes for transfer notice

134. In section 97F(2)(b) of the Pension Schemes (Northern Ireland) Act 1993 (authorised purposes for transfer notice) for “insurance companies” substitute “insurers”.

Procedure on an investigation by the Pensions Ombudsman

135. In section 145(6) of the Pension Schemes (Northern Ireland) Act 1993 (procedure on an investigation by the Pensions Ombudsman: persons to whom information may be disclosed)—

- (a) paragraphs (f) and (g) are repealed;
- (b) for paragraph (i) to (l) substitute—
 - “(i) a person appointed under—
 - (i) Part 14 of the Companies Act 1985,
 - (ii) section 167 of the Financial Services and Markets Act 2000,
 - (iii) subsection (3) or (5) of section 168 of that Act, or
 - (iv) section 284 of that Act,
 - to conduct an investigation;

- (j) a body designated under section 326(1) of the Financial Services and Markets Act 2000; and
- (k) a recognised investment exchange or a recognised clearing house (as defined by section 285 of that Act).”.

Disclosure of information by the Department

136.—(1) The table set out in section 154A(1) of the Pension Schemes (Northern Ireland) Act 1993 (power of Department to disclose social security information for certain purposes) is amended as follows.

(2) The entries relating to the following persons are repealed—

The Treasury;

The Friendly Societies Commission;

The Building Societies Commission;

An inspector appointed by the Secretary of State;

A person authorised to exercise powers under section 106 of the Financial Services Act 1986;

A designated agency or transferee body or the competent authority (within the meaning of the Financial Services Act 1986); and

A recognised self-regulating organisation, recognised professional body, recognised investment exchange or recognised clearing house (within the meaning of the Financial Services Act 1986).

(3) In the entry relating to the Financial Services Authority, for the second column, substitute—

“Functions under the legislation relating to friendly societies, under the Building Societies Act 1986, or under the Financial Services and Markets Act 2000.”.

(4) After the entry relating to the Pensions Compensation Board insert—

“A person appointed under—

(a) section 167 of the Financial Services and Markets Act 2000

(b) subsection (3) or (5) of section 168 of that Act,
or

(c) section 284 of that Act,
to conduct an investigation.

Functions in relation to that investigation.

A body designated under section 326(1) of the Financial Services and Markets Act 2000.

Functions in its capacity as a body designated under that section.

A recognised investment exchange or a recognised clearing house (as defined by section 285 of that Act).

Functions in its capacity as an exchange or clearing house recognised under that Act.”.

Interpretation of expressions relating to insurance

137.—(1) In the Pension Schemes (Northern Ireland) Act 1993, after section 175 insert—

“Insurer and long-term insurance business

175A.—(1) In this Act “insurer” means—

- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of insurance, or
- (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of insurance.

(2) In this Act “long term insurance business” means business which consists of the effecting or carrying out of contracts of long-term insurance.

(3) This section must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

(2) In section 176(1) of that Act, the definition of “insurance company” is repealed.

Consultation on regulations concerning pension business of friendly societies

138. In section 180(1) of the Pension Schemes (Northern Ireland) Act 1993 (consultation on regulations concerning removal of restrictions on pension business of friendly societies), for the words “Chief Registrar of Friendly Societies” substitute “Financial Services Authority or, if the matter concerns section 464 of the Income and Corporation Taxes Act 1988, the Commissioners of the Inland Revenue”.

Pensions Act 1995 (c. 26)

Occupational pension scheme under a trust: power of investment and delegation

139.—(1) Section 34 of the Pensions Act 1995 (power of investment and delegation) is amended as follows.

(2) For subsection (3) substitute—

“(3) This subsection applies to a fund manager who, in relation to the investments, may take the decisions in question without contravening the prohibition imposed by section 19 of the Financial Services and Markets Act 2000 (prohibition on carrying on regulated activities unless authorised or exempt).”.

(3) In subsection (5)(b) for the words from “carrying” to “1986)” substitute “the carrying on, in the United Kingdom, of a regulated activity (within the meaning of the Financial Services and Markets Act 2000)”.

Choice of investments by trustees of occupational pension scheme under a trust: meaning of “proper advice”

140. For paragraph (a) of section 36(6) of the Pensions Act 1995 (choice of investments: meaning of “proper advice”) substitute—

- “(a) if the giving of the advice constitutes the carrying on, in the United Kingdom, of a regulated activity (within the meaning of the Financial Services and Markets Act 2000), advice given by a person who may give it without contravening the prohibition

imposed by section 19 of that Act (prohibition on carrying on regulated activities unless authorised or exempt);”.

Restriction on employer-related investments

141.—(1) Section 40 of the Pensions Act 1995 (employer-related investments) is amended as follows.

(2) In subsection (2) the definition of “securities” is repealed.

(3) After that subsection, insert—

“(2A) In subsection (2)(a) “securities” does not include government or other public securities.

(2B) Paragraph (a) of subsection (2) and subsection (2A) must be read with—

- (i) section 22 of the Financial Services and Markets Act 2000;
- (ii) any relevant order under that section; and
- (iii) Schedule 2 to that Act.”.

Advisers for occupational pension schemes

142.—(1) Section 47 of the Pensions Act 1995 is amended as follows.

(2) In subsection (2) the words “(within the meaning of the Financial Services Act 1986)” are repealed.

(3) After that subsection insert—

“(2A) References in this section to investments must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

Receipts, record and payments: duties of pension trustees and others

143.—(1) Section 49 of the Pensions Act 1995 (receipts, record and payments: duties of pension trustees and others) is amended as follows.

(2) In subsection (1)(**111**), for the words from “at” to the end substitute “with a deposit-taker”.

(3) Subsection (1A)(**112**) is repealed.

(4) In subsection (5)(**113**), for the words “at a relevant institution” substitute “with a deposit-taker”.

(5) After subsection (8)(**114**) insert—

“(8A) “Deposit taker” means—

- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits;
- (b) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result

(111) The words being substituted were substituted by the Welfare Reform and Pensions Act 1999 (c. 30) Sch 2 paragraph 12(1), (2).

(112) Section 49(1A) was inserted by the Welfare Reform and Pensions Act 1999 (c. 30) Sch 2 paragraph 12(1), (3).

(113) The words being substituted were substituted by the Welfare Reform and Pensions Act 1999 (c. 30) Sch 2 paragraph 12(1), (2).

(114) Subsection (8) was substituted by the Welfare Reform and Pensions Act 1999 (c. 30) s. 10(1).

- of qualifying for authorisation under paragraph 12 of that Schedule) to accept deposits;
- (c) the Bank of England or the central bank of a member state other than the United Kingdom;
 - (d) the National Savings Bank; or
 - (e) a municipal bank, that is to say a company which was, immediately before the repeal of the Banking Act 1987 exempted from the prohibition in section 3 of that Act by virtue of section 4(1) of, and paragraph 4 of Schedule 2 to, that Act.
- (8B) Paragraphs (a) and (b) of subsection (8A) must be read with—
- (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.”.

Salary related occupational pension schemes: discharge of liabilities by insurance etc

144. In section 74 of the Pensions Act 1995 (discharge of liabilities by insurance etc.), in subsection (3)(c), for “insurance companies” substitute “insurers”.

Borrowing power of Compensation Board

- 145.**—(1) Section 78 of the Pensions Act 1995 (the Compensation Board) is amended as follows.
- (2) In subsection (5), for the words from “an” to “1987” substitute “a deposit-taker”.
- (3) After that subsection, insert—
- “(5A) “Deposit taker” means—
- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits; or
 - (b) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to accept deposits.
- (5B) Sub-paragraph (5A) must be read with—
- (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.”.

Disclosure of information by the Occupational Pensions Regulatory Authority

146.—(1) The table set out in section 107(1) of the Pensions Act 1995 (power of the Authority to disclose pension information for certain purposes) is amended as follows.

- (2) The entries relating to the following persons are repealed—

The Treasury⁽¹¹⁵⁾;
 The Policyholders Protection Board;
 The Deposit Protection Board;
 The Investor Protection Board;

(115) The entry relating to the Treasury was amended by [S.I. 1997/2781](#), Schedule paragraph 125.

The Friendly Societies Commission;

The Building Societies Commission;

A person authorised to exercise powers under section 106 of the Financial Services Act 1986;

A designated agency or transferee body or the competent authority (within the meaning of the Financial Services Act 1986);

A recognised self-regulating organisation, recognised professional body, recognised investment exchange or recognised clearing house (within the meaning of the Financial Services Act 1986); and

A person administering a scheme for the compensation of investors under section 54 of the Financial Services Act 1986.

(3) In the entry relating to the Secretary of State, in the second column—

(a) the words “Insurance Companies Act 1982,” and “the Financial Services Act 1986,” are repealed; and

(b) for “or Part III of the Pension Schemes Act 1993” substitute “, Part 3 of the Pension Schemes Act 1993 or the Financial Services and Markets Act 2000”.

(4) In the entry relating to the Financial Services Authority(116), for the second column, substitute—

“Functions under the legislation relating to friendly societies, under the Building Societies Act 1986 or under the Financial Services and Markets Act 2000.”.

(5) In the entry relating to an inspector appointed by the Secretary of State, the words “or section 94 or 177 of the Financial Services Act 1986” are repealed.

(6) For the entry beginning “A person authorised to exercise powers” substitute—

“A person authorised to exercise powers under section 447 of the Companies Act 1985, Article 440 of the Companies (Northern Ireland) Order 1986 or section 84 of the Companies Act 1989.

Functions under those sections or that Article.

A person appointed under—

Functions in relation to that investigation.

(a) section 167 of the Financial Services and Markets Act 2000,

(b) subsection (3) or (5) of section 168 of that Act,

or

(c) section 284 of that Act, to conduct an investigation.

A body designated under section 326(1) of the Financial Services and Markets Act 2000.

Functions in its capacity as a body designated under that section.

A recognised investment exchange or a recognised clearing house (as defined by section 285 of that Act).

Functions in its capacity as an exchange or clearing house recognised under that Act.

(116) The entry relating to the Financial Services Authority was inserted by the Bank of England Act 1998 (c. 11) Schedule 5 paragraph 71.

A body corporate established in accordance with section 212(1) of that Act.

Functions under the Financial Services Compensation Scheme, established in accordance with section 213 of that Act.”.

Disclosure of information to Compensation Board

147. In section 114(7) of the Pensions Act 1995 (bodies which may disclose information to the Compensation Board)—

- (a) paragraphs (f) and (j) are repealed;
- (b) after paragraph (l), insert—

“(la) the Financial Services Authority;

(lb) a body corporate established in accordance with section 212(1) of the Financial Services and Markets Act 2000 (Financial Services Compensation Scheme: the scheme manager);”.

Disclosure of information concerning public service pension schemes

148. In section 172 of the Pensions Act 1995 (information in connection with public service pensions), in subsection (1)(a), after “section 62 of the Financial Services Act 1986” insert “or under section 150 of the Financial Services and Markets Act 2000”.

Repeal of spent amendments by Pensions Act 1995 to other legislation

149. The following provisions of the Pensions Act 1995 (amendments to other legislation spent as a result of the coming into force of the Financial Services and Markets Act 2000) are repealed—

- (a) in Schedule 3, paragraphs 11, 17, 18 and 19;
- (b) in Schedule 5, paragraph 11; and
- (c) in Schedule 7, in Part 1, the entries relating to the Insurance Companies Act 1982 and the Banking Act 1987 and, in Part 2, the entries relating to the Insurance Companies Act 1982.

Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22))

Occupational pension scheme under a trust: power of investment and delegation

150.—(1) Article 34 of the Pensions (Northern Ireland) Order 1995 (power of investment and delegation) is amended as follows—

- (2) For paragraph (3) substitute—

“(3) This paragraph applies to a fund manager who, in relation to the investments, may take the decisions in question without contravening the prohibition imposed by section 19 of the Financial Services and Markets Act 2000 (prohibition on carrying on regulated activities unless authorised or exempt).”.

(3) In paragraph (5)(b) for the words from “carrying” to “1986” substitute “the carrying on, in the United Kingdom, of a regulated activity (within the meaning of the Financial Services and Markets Act 2000)”.

Choice of investments by trustees of occupational pension scheme under a trust: meaning of “proper advice”

151. For paragraph (a) of Article 36(6) of the Pensions (Northern Ireland) Order 1995 (choice of investments: meaning of “proper advice”) substitute—

- “(a) if the giving of the advice constitutes the carrying on, in the United Kingdom, of a regulated activity (within the meaning of the Financial Services and Markets Act 2000), advice given by a person who may give it without contravening the prohibition imposed by section 19 of that Act (prohibition on carrying on regulated activities unless authorised or exempt);”.

Restriction on employer-related investments

152.—(1) Article 40 of the Pensions (Northern Ireland) Order 1995 (employer-related investments) is amended as follows.

(2) In paragraph (2) the definition of “securities” is repealed.

(3) After that paragraph, insert—

“(2A) In paragraph (2)(a) “securities” does not include government or other public securities.

(2B) Sub-paragraph (a) of paragraph (2) and paragraph (2A) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

Advisers for occupational pension schemes

153.—(1) Article 47 of the Pensions (Northern Ireland) Order 1995 is amended as follows.

(2) In paragraph (2) the words “(within the meaning of the Financial Services Act 1986)” are repealed.

(3) After that paragraph insert—

“(2A) References in this Article to investments must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

Receipts, record and payments: duties of pension trustees and others

154.—(1) Article 49 of the Pensions (Northern Ireland) Order 1995 (receipts, record and payments: duties of pension trustees and others) is amended as follows.

(2) In paragraph (1) **(117)**, for the words from “at” to the end substitute “with a deposit-taker”.

(3) Paragraph (1A) **(118)** is revoked.

(4) In paragraph (5) **(119)** for the words from “at” to “1987” substitute “with a deposit-taker”.

(117) The words being substituted were substituted by the [Welfare Reform and Pensions \(NI\) Order 1999 \(NI 11\)](#) Schedule 2 paragraph 10(2).

(118) Article 49(1A) was inserted by the [Welfare Reform and Pensions \(NI\) Order 1999 \(NI 11\)](#) Sch 2 paragraph 10(3).

(119) The words being substituted were substituted by the [Welfare Reform and Pensions \(NI\) Order 1999 \(NI 11\)](#) Schedule 2 paragraph 10(2).

(5) After paragraph (8) **(120)** insert—

“(8A) “Deposit taker” means—

- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits;
- (b) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to accept deposits;
- (c) the Bank of England or the central bank of a member state other than the United Kingdom;
- (d) the National Savings Bank; or
- (e) a municipal bank, that is to say a company which was, immediately before the repeal of the Banking Act 1987, exempted from the prohibition in section 3 of that Act by virtue of section 4(1) of, and paragraph 4 of Schedule 2 to, that Act.”

(8B) Paragraph (8A) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

Disclosure of information by the Occupational Pensions Regulatory Authority

155.—(1) The table set out in Article 105(1) of the Pensions (Northern Ireland) Order 1995 (power of the Authority to disclose pension information for certain purposes) is amended as follows.

(2) The entries relating to the following persons are repealed—

The Treasury;

The Policyholders Protection Board;

The Deposit Protection Board;

The Investor Protection Board;

The Friendly Societies Commission;

The Building Societies Commission;

A person authorised to exercise powers under section 106 of the Financial Services Act 1986;

A designated agency or transferee body or the competent authority (within the meaning of the Financial Services Act 1986);

A recognised self-regulating organisation, recognised professional body, recognised investment exchange or recognised clearing house (within the meaning of the Financial Services Act 1986); and

A person administering a scheme for the compensation of investors under section 54 of the Financial Services Act 1986.

(3) In the entry relating to the Secretary of State, in the second column—

- (a) the words “Insurance Companies Act 1982,” and “the Financial Services Act 1986,” are repealed; and
- (b) for “or Part III of the Pension Schemes Act 1993” substitute “, Part 3 of the Pension Schemes Act 1993 or the Financial Services and Markets Act 2000”.

(4) In the entry relating to the Financial Services Authority(121), for the second column, substitute—

“Functions under the legislation relating to friendly societies, under the Building Societies Act 1986 or under the Financial Services and Markets Act 2000.”.

(5) In the entry relating to an inspector appointed by the Secretary of State, the words “or section 94 or 177 of the Financial Services Act 1986” are repealed.

(6) For the entry beginning “A person authorised to exercise powers” substitute—

“A person authorised to exercise powers under section 447 of the Companies Act 1985, Article 440 of the Companies (Northern Ireland) Order 1986 or section 84 of the Companies Act 1989.	Functions under those sections or that Article.
A person appointed under— (a) section 167 of the Financial Services and Markets Act 2000, (b) subsection (3) or (5) of section 168 of that Act, or (c) section 284 of that Act, to conduct an investigation.	Functions in relation to that investigation.
A body designated under section 326(1) of the Financial Services and Markets Act 2000.	Functions in its capacity as a body designated under that section.
A recognised investment exchange or a recognised clearing house (as defined by section 285 of that Act).	Functions in its capacity as an exchange or clearing house recognised under that Act.
A body corporate established in accordance with section 212(1) of that Act.	Functions under the Financial Services Compensation Scheme, established in accordance with section 213 of that Act.”.

Disclosure of information to Compensation Board

156. In Article 112(7) of the Pensions (Northern Ireland) Order 1995 (bodies which may disclose information to the Compensation Board)—

- (a) sub-paragraphs (f) and (i) are repealed;
- (b) after sub-paragraph (k), insert—
 - “(ka) the Financial Services Authority;
 - (kb) a body corporate established in accordance with section 212(1) of the Financial Services and Markets Act 2000 (Financial Services Compensation Scheme: the scheme manager);”.

(121) The entry relating to the Financial Services Authority was inserted by the Bank of England Act 1998 (c. 11) Schedule 5 paragraph 72.

Disclosure of information concerning public service pension schemes

157. In Article 164 of the Pensions (Northern Ireland) Order 1995 (information in connection with public service pensions), in paragraph (1)(a), after “section 62 of the Financial Services Act 1986” insert “or section 150 of the Financial Services and Markets Act 2000”.

Repeal of spent amendments by Pensions (Northern Ireland) Order 1995 to other legislation

158. Paragraph 7 of Schedule 3 to the Pensions (Northern Ireland) Order 1995 (which is spent as a result of the coming into force of the Financial Services and Markets Act 2000) is repealed.

Welfare Reform and Pensions Act 1999 (c. 30)

Pension credits: qualifying arrangements

159.—(1) Paragraph 6 of Schedule 5 to the Welfare Reform and Pensions Act 1999 (pension credits: qualifying arrangements) is amended as follows.

(2) In sub-paragraph (2)—

- (a) for “insurance company” substitute “insurer”; and
- (b) in paragraph (a), the word “ordinary” is repealed.

(3) For sub-paragraph (3) substitute—

“(3) “Insurer” and “long-term insurance business” have the meaning given in section 180A of the Pension Schemes Act 1993.”.

Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11))

Pension credits: qualifying arrangements

160.—(1) Paragraph 6 of Schedule 5 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 (pension credits: qualifying arrangements) is amended as follows.

(2) In sub-paragraph (2)—

- (a) for “insurance company” substitute “insurer”; and
- (b) in paragraph (a), the word “ordinary” is repealed.

(3) For sub-paragraph (3) substitute—

“(3) “Insurer” and “long-term insurance business” have the meaning given in section 175A of the Pension Schemes Act.”.

PART 4

ENACTMENTS RELATING TO THE BANK OF ENGLAND

Bank of England Act 1998 (c. 11)

Power of Bank of England to require undertakings to provide information

161.—(1) Section 17 of the Bank of England Act 1998 (power of Bank to require undertakings to provide information for purposes of Bank’s functions under Part 2 of that Act) is amended as follows.

(2) For subsection (3)(122) substitute—

“(3) An undertaking is one to which this section applies if—

- (a) it has a place of business in the United Kingdom; and
- (b) it falls within subsection (3A), (3B), (3C) or (3D).

(3A) An undertaking falls within this subsection if it is a deposit-taker.

(3B) An undertaking falls within this subsection if it is not a deposit-taker but it—

- (a) falls within the subsector “other monetary financial institution”, as defined by paragraph 2.48 of Annex A to Council Regulation (EC) No. 2223/96,
- (b) carries on a business of granting credits secured on land used for residential purposes,
- (c) has issued a debt security, or
- (d) has acted as an agent in connection with arranging or managing the issue of a debt security.

(3C) An undertaking falls within this subsection if it is a financial holding company.

(3D) An undertaking falls within this subsection if it is not a deposit-taker but continues to have a liability in respect of a deposit which was held by it in accordance with the Banking Act 1979 or the Banking Act 1987 or a permission under Part 4 of the Financial Services and Markets Act 2000.”.

(3) In subsection (5), for “subsection (3)” substitute “subsections (3) to (3D)”.

(4) For subsection (7) substitute—

“(7) “Deposit taker” means—

- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits; or
- (b) an EEA firm of the kind mentioned in paragraph 5(b) or (c) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) to accept deposits or other repayable funds.

(7A) “Debt security” means any instrument creating or acknowledging indebtedness (including a government or public security).

(7B) Subsections (7) and (7A) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.

(7C) “Financial holding company” has the meaning given by Article 1(21) of Council Directive 2000/12/EC of the European Parliament and the Council.

(7D) “Undertaking” has the meaning given by section 259 of the Companies Act 1985.”.

Repeal of spent provisions relating to transfer of functions from the Bank to the Authority etc

162. The following provisions of the Bank of England Act 1998 (which are spent or unnecessary as a result of the coming into force of the Financial Services and Markets Act 2000) are repealed—

- (a) sub-paragraphs (i) and (ii) of paragraph (a) and paragraphs (b) and (c) of section 21;

- (b) paragraphs 1 to 35, 39, 44, 45, 47, 52 to 59, 61, 65, 66 and 68 of Schedule 5 and section 23(1) so far as it relates to those paragraphs;
- (c) section 25;
- (d) section 26 and Schedule 6;
- (e) sections 27 to 29;
- (f) section 31;
- (g) section 32;
- (h) section 36;
- (i) in Schedule 8, paragraphs 1 to 5 and paragraph 7; and
- (j) in Schedule 9—
 - (i) in Part 1, the entries relating to the Financial Services Act 1986 and to the Banking Act 1987; and
 - (ii) Part 2.

Cash ratio deposits

163.—(1) For sub-paragraph (1) of paragraph 1 of Schedule 2 to the Bank of England Act 1998 (cash ratio deposits) substitute—

“(1) Each deposit-taker is an eligible institution for the purposes of this Schedule.

(1A) “Deposit-taker” has the meaning given in section 17, except that it does not include—

- (a) a credit union;
- (b) a friendly society;
- (c) a person who has permission to accept deposits under Part 4 of the Financial Services and Markets Act 2000 only in the course of effecting or carrying out contracts of insurance in accordance with that permission; or
- (d) an EEA firm of the kind mentioned in paragraph 5(c) of Schedule 3 to that Act.

(1B) “Credit union” has the meaning given—

- (a) by the Credit Unions Act 1979; or
- (b) in Northern Ireland, by the Credit Unions (Northern Ireland) Order 1985.

(1C) “Friendly society” means—

- (a) a society which is registered within the meaning of the Friendly Societies Act 1974; or
- (b) a society incorporated under the Friendly Societies Act 1992.”.

(2) In sub-paragraph (2) of that paragraph, for “sub-paragraph (1)” substitute “sub-paragraphs (1) to (1C)”.

Restriction on disclosure of information

164.—(1) Schedule 7 to the Bank of England Act 1998 (restriction on disclosure of information) is amended as follows.

(2) For paragraph 2(2) substitute—

“(2) “Credit institution” means an undertaking whose business is to receive deposits or other repayable funds from the public and to grant credits for its own account.”.

(3) For the Table in paragraph (3) substitute—

“The Treasury.	Functions under the Financial Services and Markets Act 2000.
The Secretary of State.	Functions under the Financial Services and Markets Act 2000.
An inspector appointed under Part 14 of the Companies Act 1985 or Part 15 of the Companies (Northern Ireland) Order 1986.	Functions under that Part.
A person authorised to exercise powers under section 447 of the Companies Act 1985, Article 440 of the Companies (Northern Ireland) Order 1986 or section 84 of the Companies Act 1989.	Functions under that section or Article.
A person appointed under— (a) section 167 of the Financial Services and Markets Act 2000, (b) subsection (3) or (5) of section 168 of that Act, or (c) section 284 of that Act, to conduct an investigation.	Functions in relation to that investigation.
The Financial Services Authority.	Functions under the legislation relating to friendly societies, the Building Societies Act 1986, Part 7 of the Companies Act 1989 or the Financial Services and Markets Act 2000.
The competent authority for the purposes of Part 6 of the Financial Services and Markets Act 2000.	Functions under that Part.
The Office for National Statistics.	Functions under the Statistics of Trade Act 1947.
The Occupational Pensions Regulatory Authority	Functions under the Pension Schemes Act 1993 or the Pensions Act 1995 or any enactment in force in Northern Ireland corresponding to either of them.”.

PART 5

AMENDMENTS TO THE CONSUMER CREDIT ACT 1974 (c. 39)

Exempt agreements

165.—(1) Section 16 (exempt agreements) of the Consumer Credit Act 1974 is amended as follows.

(2) In subsection (1)—

(a) for paragraph (a) substitute—

“(a) an insurer;”;

(b) for paragraph (h) substitute—

“(h) a deposit-taker.”.

(3) For subsection (3), substitute—

“(3) Before he makes, varies or revokes an order under subsection (1), the Secretary of State must undertake the necessary consultation.

(3A) The necessary consultation means consultation with the bodies mentioned in the following table in relation to the provision under which the order is to be made, varied or revoked:

TABLE

<i>Provision of subsection (1)</i>	<i>Consultee</i>
Paragraph (a) or (b)	The Financial Services Authority
Paragraph (d)	The Charity Commissioners
Paragraph (e), (f) or (ff)	Any Minister of the Crown with responsibilities in relation to the body in question
Paragraph (g) or (h)	The Treasury and the Financial Services Authority”.

(4) For subsection (8) substitute—

“(8) In the application of this section to Scotland, subsection (3A) shall have effect as if the reference to the Charity Commissioners were a reference to the Lord Advocate.”.

(5) In subsection (9)—

- (a) for “subsection (3)” substitute “subsection (3A)”;
- (b) the words “any reference to the Chief Registrar of Friendly Societies were a reference to the Registrar of Friendly Societies for Northern Ireland,” are repealed.

(6) After that subsection insert—

“(10) In this section—

(a) “deposit-taker” means—

- (i) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits,
- (ii) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to accept deposits,
- (iii) any wholly owned subsidiary (within the meaning of the Companies Act 1985) of a person mentioned in sub-paragraph (i), or
- (iv) any undertaking which, in relation to a person mentioned in sub-paragraph (ii), is a subsidiary undertaking within the meaning of any rule of law in force in the EEA State in question for purposes connected with the implementation of the European Council Seventh Company Law Directive of 13 June 1983 on consolidated accounts (No. 83/349/EEC), and which has no members other than that person;

(b) “insurer” means—

- (i) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of insurance, or
- (ii) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result

of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of insurance,
but does not include a friendly society or an organisation of workers or of employers.

- (11) Subsection (10) must be read with—
- (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.”.

Standard licences

166. In section 22 of the Consumer Credit Act 1974 (standard licences), after subsection (8) insert—

“(9) Subsection (10) applies if a standard licence is issued to an EEA consumer credit firm.

(10) The activities described in the licence are not to include an activity for which the firm has, or could obtain, permission under paragraph 15 of Schedule 3 to the Financial Services and Markets Act 2000.”.

Fitness of licensees

167.—(1) Section 25 of the Consumer Credit Act 1974 (licensees to be fit persons) is amended as follows.

(2) After subsection (1), insert—

“(1A) The Director shall refuse an application for the grant of standard licence made by a consumer credit EEA firm if all of the activities described in the licence are activities for which the firm has permission, or could obtain permission, under paragraph 15 of Schedule 3 to the Financial Services and Markets Act 2000.

(1B) If an application for the grant of a standard licence—

- (a) is made by a person with permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits, and
- (b) relates to a listed activity,

the Financial Services Authority may, if it considers that the Director ought to refuse the application, notify him of that fact.

(1C) In subsection (1B) “listed activity” means an activity listed in Annex 1 to the banking consolidation directive (2000/12/EC) or in the Annex to the investment services directive (93/22/EEC) and references to deposits and to their acceptance must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

(3) In subsection (2), after paragraph (b) insert—

“(bb) contravened any provision in force in an EEA State which corresponds to a provision of the kind mentioned in paragraph (b);”.

Conduct of Consumer Credit Act business

168. For section 26 of the Consumer Credit Act 1974 (regulations as to the conduct of business) substitute—

“26 Conduct of business

- (1) Regulations may be made as to—
 - (a) the conduct by a licensee of his business; and
 - (b) the conduct by a consumer credit EEA firm of its business in the United Kingdom.
- (2) The regulations may in particular specify—
 - (a) the books or other records to be kept by any person to whom the regulations apply;
 - (b) the information to be furnished by such a person to those persons with whom—
 - (i) that person does business, or
 - (ii) that person seeks to do business,
 and the way in which that information is to be furnished.”.

The register maintained under the Consumer Credit Act 1974

169. In section 35 of the Consumer Credit Act 1974 (the register), after subsection (1) insert—

“(1A) The Director shall also cause to be kept in the register any copy of any notice or other document relating to a consumer credit EEA firm which is given to the Director by the Financial Services Authority for inclusion in the register.”.

Enforcement of agreements made by unlicensed trader

170. In section 40 of the Consumer Credit Act 1974 (enforcement of agreements made by unlicensed trader), after subsection (5) insert—

“(6) This section does not apply to a regulated agreement, other than a non-commercial agreement, made by a consumer credit EEA firm unless at the time it was made that firm was precluded from entering into it as a result of—

- (a) a consumer credit prohibition imposed under section 203 of the Financial Services and Markets Act 2000; or
- (b) a restriction imposed on the firm under section 204 of that Act.”.

Appeals to the Secretary of State

171. In the table at the end of section 41 of the Consumer Credit Act 1974 (appeals to the Secretary of State) at the end insert—

“Imposition of, or refusal to withdraw, consumer credit prohibition under section 203 of the Financial Services and Markets Act 2000.	The consumer credit EEA firm concerned.
Imposition of, or refusal to withdraw, a restriction under section 204 of the Financial Services and Markets Act 2000.	The consumer credit EEA firm concerned.”.

Conduct of business regulations

172. In section 54 of the Consumer Credit Act 1974 (conduct of business regulations), for “a licensee” substitute “a person to whom the regulations apply”.

Enforcement of agreements made by unlicensed trader

173. In section 148 of the Consumer Credit Act 1974 (enforcement of agreements made by unlicensed trader), after subsection (5) insert—

“(6) This section does not apply to an agreement made by a consumer credit EEA firm unless at the time it was made that firm was precluded from entering into it as a result of—

- (a) a consumer credit prohibition imposed under section 203 of the Financial Services and Markets Act 2000; or
- (b) a restriction imposed on the firm under section 204 of that Act.”.

Regulated agreements made on introductions by unlicensed credit-brokers

174. In section 149 of the Consumer Credit Act 1974 (enforcement of regulated agreements made on introductions by unlicensed credit-brokers), after subsection (5) insert—

“(6) For the purposes of this section, “unlicensed credit-broker” does not include a consumer credit EEA firm unless at the time the introduction was made that firm was precluded from making it as a result of—

- (a) a consumer credit prohibition imposed under section 203 of the Financial Services and Markets Act 2000; or
- (b) a restriction imposed on the firm under section 204 of that Act.”.

Restriction on disclosure of information

175. For subsection (3A) of section 174 of the Consumer Credit Act 1974 (disclosure of information), substitute—

“(3A) Subsections (1) and (2) do not apply to any disclosure of information by the Director to the Financial Services Authority for the purpose of—

- (a) enabling or assisting the Authority to discharge any of its functions;
- (b) enabling or assisting the Director to discharge any of his functions under this Act or the Financial Services and Markets Act 2000.”.

Interpretation

176. In section 189(1) of the Consumer Credit Act 1974 (definitions)—

- (a) the definitions of “authorised institution” and “insurance company” are repealed;
- (b) in the definition of “deposit”, after “means” insert “(except in section 16(10) and 25(1B))”; and
- (c) in the definition of “friendly society” for “under the Friendly Societies Acts 1896 to 1971” substitute “or treated as registered under the Friendly Societies Act 1974 or the Friendly Societies Act 1992”.

Meaning of “consumer credit EEA firm”

177. After section 189 of the Consumer Credit Act 1974 insert—

“Meaning of “consumer credit EEA firm”

189A. In this Act “consumer credit EEA firm” means an EEA firm falling within subparagraph (a), (b) or (c) of paragraph 5 of Schedule 3 to the Financial Services and Markets Act 2000 carrying on, or seeking to carry on, consumer credit business, consumer hire business or ancillary credit business for which a licence would be required under this Act but for paragraph 15(3) of Schedule 3 to the Financial Services and Markets Act 2000.”.

PART 6

ENACTMENTS RELATING TO MUTUAL SOCIETIES

CHAPTER I

primary legislation

Superannuation and Other Trust Funds (Validation) Act 1927 (c. 41)

Amendments consequential on dissolution of Registrar of Friendly Societies

178.—(1) The Superannuation and other Trust Funds (Validation) Act 1927 is amended as follows.

(2) In the following sections for the word “registrar” (wherever it appears), substitute “Authority”; for the word “he” (wherever it appears) substitute “it” and for the word “his” (wherever it appears) substitute “its”—

- (a) section 3(1), 3(2), 3(3), 3(4) and 3(5);
- (b) section 4(1) and 4(2);
- (c) section 5(2);
- (d) the side heading to section 6 and section 6(1).

(3) Section 3(6) is repealed.

(4) In section 6(2) (supplementary provisions as to powers of registrar) for the words “Chief Registrar, or in Scotland the assistant registrar for Scotland” substitute “Authority” and for the word “he” substitute “it”.

(5) In section 7 (penalties for default) for the word “registrar” (wherever it appears) substitute “Authority”.

(6) In section 8 (interpretation)—

- (a) for the definition of “actuary”(123) substitute—

““Actuary” means a person who satisfies the requirements which are specified by the Authority for the purposes of section 340(6) of the Financial Services and Markets Act 2000 in so far as that subsection relates to actuaries;”;

- (b) the definition of “Chief Registrar” and “Registrar” is repealed; and
- (c) after the definition of “auditor” insert—

““Authority” means the Financial Services Authority;”.

(7) Section 10 (reports to Parliament) is repealed.

(123) The definition of “actuary” was amended by the Friendly and Industrial and Provident Societies Act 1968 (c. 55), Schedule 1 paragraph 9.

Industrial and Provident Societies Act 1965 (c. 12)

Cancellation of registration of society

179.—(1) In section 16(1) of the Industrial and Provident Societies Act 1965(**124**) (cancellation of registration of society), the words “by writing under his hand or seal or, in Scotland” are repealed.

(2) In the Financial Services and Markets Act 2000 (Mutual Societies) Order 2001(**125**), paragraph 218(a) of Schedule 3 is revoked.

Advertising dissolution of society

180. In section 58(6) of the Industrial and Provident Societies Act 1965(**126**) (instrument of dissolution) the words “at the expense of the society” are repealed.

Power to make regulations

181.—(1) Section 71 of the Industrial and Provident Societies Act 1965 is repealed.

(2) In sections 2(3) and 10(3), for the words from “in the prescribed form” to the end substitute “bearing the Authority’s seal”.

Depositing of documents

182. For section 72(1) of the Industrial and Provident Societies Act 1965(**127**) (form, deposit and evidence of documents), substitute—

“Every return and other document required for the purposes of this Act shall be made in such form, shall contain such particulars and shall be deposited in such manner as the Authority may direct and the Authority shall register and record those documents with such observations thereon (if any) as it considers appropriate.”

Industrial and Provident Societies Act 1967 (c. 48)

References to regulations made by Treasury

183.—(1) The Industrial and Provident Societies Act 1967 is amended as follows.

(2) In section 1(2)(a) (charges on assets of English and Welsh societies) for the words “in the prescribed manner” substitute “in the manner directed by the Authority” and for the words “as may be prescribed” substitute “as may be required by the Authority”.

(3) In section 1(3)—

- (a) for the words “in the prescribed form” in paragraph (a) substitute “bearing the Authority’s seal”;
- (b) the word “prescribed” in paragraph (b) is repealed;
- (c) the words after paragraph (c) are repealed.

(4) In section 1(4)—

- (a) for the words “to make regulations” substitute “to give directions”;
- (b) for the words “section 71” substitute “section 72”;

(**124**) Section 16 was amended by [S.I. 1996/1738](#) and by [S.I. 2001/2617](#), Schedule 3, paragraph 218 (in addition to the amendment revoked by this article).

(**125**) [S.I. 2001/2617](#).

(**126**) Amended by [S.I. 2001/2617](#), Schedule 3, paragraph 215(i).

(**127**) Section 72 was amended by [S.I. 2001/2617](#), Schedule 3, paragraph 215.

- (c) for the words “regulations under that section may” substitute “the Authority may, under that section”.
- (5) In section 4(1) (filing of information relating to charges)—
 - (a) in paragraph (a), for the words “in the prescribed manner” substitute “in the manner directed by the Authority”;
 - (b) in paragraph (b), for the words “as may be prescribed” substitute “as may be required by the Authority”.
- (6) In section 4(3)(a) for the words “in the prescribed form” substitute “bearing the Authority’s seal”.
- (7) Section 4(4) is repealed.
- (8) In section 5(1) (supplemental provisions)—
 - (a) for the words “to make regulations” substitute “to give directions”;
 - (b) for the words “section 71” substitute “section 72”;
 - (c) for the words “regulations under that section may” substitute “the Authority may, under that section”.
- (9) In section 7 (interpretation, etc general)—
 - (a) the word “prescribed” in subsection (1) is repealed;
 - (b) the words “, 71” and “, regulations” are repealed.

Friendly and Industrial and Provident Societies Act 1968 (c. 55)

Power of societies to disapply obligation to appoint auditors

184.—(1) Section 4A of the Friendly and Industrial and Provident Societies Act 1968(**128**) (power of societies to disapply section 4) is amended as follows.

- (2) In subsection (3)(e) the words “within the meaning of the Banking Act 1987” are repealed.
- (3) After subsection (8), insert—
 - “(9) In subsection (3), the reference to a deposit must be read with—
 - (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section;
 - (c) Schedule 2 to that Act.”.

Interpretation

185. In section 21 of the Friendly and Industrial and Provident Societies Act 1968 (interpretation), in the definition of “annual return”(**129**) for the words “appropriate registrar” substitute “Authority”.

(128) Section 4A was inserted by S.I. 1996/1738 article 8(1).

(129) The definition of “annual return” in section 21 has been amended by the Friendly Societies Act 1974 (c. 46) Schedule 11.

Friendly Societies Act 1974 (c. 46)

Power of societies to disapply obligation to appoint auditors

186.—(1) Section 32A of the Friendly Societies Act 1974(**130**) (power of societies to disapply section 31) is amended as follows.

(2) In subsection (3) the words “within the meaning of the Banking Act 1987” are repealed.

(3) After that subsection, insert—

“(3A) In subsection (3) the reference to a deposit must be read with—

(a) section 22 of the Financial Services and Markets Act 2000;

(b) any relevant order under that section;

(c) Schedule 2 to that Act.”.

References to Chief Registrar etc.

187.—(1) In sections 82(5)(**131**), 84(3) and 84A(6)(**132**) of the Friendly Societies Act 1974, for the words from “Chief Registrar or,” to the end substitute “Authority”.

(2) In Schedule 3 to the Financial Services and Markets Act 2000 (Mutual Societies) Order 2001, paragraphs 27, 29(b) and 30 are revoked.

Regulations with respect to registration and procedure

188. Section 109(1)(a) of the Friendly Societies Act 1974 (Regulations) is repealed.

Advertising dissolution of society

189. In section 94(7)(**133**) of the Friendly Societies Act 1974 (instrument of dissolution), the words “at the expense of the society or branch” are repealed.

Requirements for rules of registered societies

190.—(1) Schedule 2 to the Friendly Societies Act 1974 (matters to be provided for by the rules of societies registered under that Act) is amended as follows.

(2) In sub-paragraph (2) of paragraph 11, the words “within the meaning of the Insurance Companies Act 1974” are repealed.

(3) After that sub-paragraph insert—

“(2A) In sub-paragraph (2) “long-term business” has the meaning given by section 117(2) of the Friendly Societies Act 1992.”.

Credit Unions Act 1979 (c. 34)

General prohibition on deposit taking

191. In section 8(2) of the Credit Unions Act 1979(**134**) (general prohibition on deposit taking) for the words “has the meaning given in section 5 of the Banking Act 1987” substitute—

(**130**) Section 32A was inserted by *S.I. 1996/1738* article 10(1) and amended by *S.I. 2001/2617*, Schedule 3, paragraph 13.

(**131**) Section 85(5) has been amended by the Friendly Societies Act 1992 (*c. 40*), Schedule 22 Part I.

(**132**) Section 84A was inserted by the Friendly Societies Act 1992, Schedule 16 paragraph 32.

(**133**) Section 94(7) has been amended by *S.I. 2001/2617* Schedule 3 paragraph 38(b).

(**134**) Subsection (2) of section 8 was substituted by the Banking Act 1987 section 108(1), Schedule 6 paragraph 7(1).

“must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

Insurance against fraud or other dishonesty

192.—(1) Section 15 of the Credit Unions Act 1979 (insurance against fraud or other dishonesty) is amended as follows.

(2) In subsection (2), for paragraph (d) substitute—

“(d) must be issued by—

- (i) a person who has a permission under Part IV of the Financial Services and Markets Act 2000 to effect or carry out contracts of insurance of a relevant class, or
- (ii) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of insurance of a relevant class.”.

(3) After subsection (3) insert—

“(3A) Paragraph (d) of subsection (2) above must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

Definition of “authorised bank”

193.—(1) Section 31(1) of the Credit Unions Act 1979 (interpretation) is amended as follows.

(2) In subsection (1), for paragraph (a) of the definition of “authorised bank”**(135)** substitute—

- “(a) a person who has permission under Part IV of the Financial Services and Markets Act 2000 to accept deposits;
- (ab) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) to accept deposits;
- (ac) a municipal bank, that is to say a company which, immediately before the coming into force of this provision, fell within the definition in section 103 of the Banking Act 1987;”.

(3) After subsection (1) insert—

“(1A) Paragraphs (a) and (ab) of the definition of “authorised bank” in subsection (1) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

(135) The definition of “authorised bank” in section 31(1) was substituted by the Banking Act 1987 (c. 22), Schedule 6 paragraph 7.

Building Societies Act 1986 (c. 53)

Lending limit for building societies

194.—(1) Section 6(**136**) of the Building Societies Act 1986 (the lending limit) is amended as follows.

(2) In paragraph (c) of the definition of X in subsection (2), for the words “insurance companies within the meaning of the Insurance Companies Act 1982” substitute “effecting or carrying out contracts of insurance”.

(3) For subsection (12), substitute—

“(12) In this section “long term insurance funds”, in relation to an undertaking effecting or carrying out contracts of insurance, means funds maintained by it—

- (a) in accordance with asset identification rules (within the meaning of section 142(2) of the Financial Services and Markets Act 2000) in respect of its business in effecting or carrying out contracts of long term insurance; or
- (b) where it is incorporated in a country or territory outside the United Kingdom, under the corresponding provisions of the law of that country or territory.”.

(4) After subsection 12, insert—

“(12A) The definition of X in subsection (2) and subsection (12) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

Restrictions on powers of building societies

195.—(1) Section 9A of the Building Societies Act 1986(**137**) (restrictions on certain transactions) is amended as follows.

(2) In subsection (5)—

(a) for paragraphs (a) and (b) substitute—

- “(a) as a person who has permission under Part IV of the Financial Services and Markets Act 2000 to effect or carry out contracts of long-term insurance, or
- (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of long-term insurance.”;

(b) the words after paragraph (b) to the end are repealed.

(3) In subsection (9)—

(a) in the definition of “collective investment scheme” for the words “Financial Services Act 1986” substitute “Financial Services and Markets Act 2000”;

(b) for the definition of “derivative investment” substitute—

““derivative investment” means an investment of the following kinds—

- (a) instruments giving entitlements to investments;
- (b) options;

(136)Section 6 was substituted by the Building Societies Act 1997 (c. 32), section 4 and amended by S.I. 2001/2617 Schedule 3 paragraph 134.

(137)Section 9A was inserted by the Building Societies Act 1997, section 10 and amended by S.I. 2001/1826 and S.I. 2001/2617.

- (c) futures;
 - (d) contracts for differences;”.
- (4) After subsection (9) insert—
- “(9A) Subsection (5) and the definition of “derivative investment” in subsection (9) must be read with—
- (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act;”.

Transfers of business by building society to company

196.—(1) Section 98(**138**) of the Building Societies Act 1986 (transfers of business; supplementary provisions) is amended as follows.

(2) In section 98(3)(c), for the words “become or,” to the end substitute—
“have—

- (i) such permission under Part IV of the Financial Services and Markets Act 2000, or
- (ii) such permission under paragraph 15 of Schedule 3 to that Act (as a result of qualifying for authorisation under paragraph 12 of that Schedule),

as will enable it to carry on the business which it will have as a result of the transfer without being taken (by virtue of section 20 of that Act) to have contravened a requirement imposed on it by the Authority under that Act; or”.

Financial institution becoming subsidiary of building society

197.—(1) Section 101 of the Building Societies Act 1986(**139**) (protective provisions for specially formed successors) is amended as follows.

- (2) In subsection (4)(a)—
- (a) for the words “financial institution” substitute “person who is an authorised person within the meaning of section 31 of the Financial Services and Markets Act 2000”;
 - (b) for the words “an institution” substitute “a person”.
- (3) In subsection (6), the definition of “financial institution” is repealed.

Definition of “institution” and “deposit”

198.—(1) Section 107 of the Building Societies Act 1986(**140**) (restriction of use of certain names and descriptions) is amended as follows.

- (2) For subsection (12)(**141**) substitute—
- “(12) In this section—
- “deposit” must be read with—
- (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and

(138) Section 98(3) was amended by the Banking Act 1987 (c. 22) Schedule 6 paragraph 26, by the Building Societies Act 1997, section 30 and by S.I. 2001/2617, Schedule 3 paragraph 181(b).

(139) Section 101 was substituted by the Building Societies Act 1997 (c. 32) section 41.

(140) Section 107 was amended by S.I. 2001/2617.

(141) Subsection (12) was amended by the Banking Act 1987 (c. 22), Schedule 6 paragraph 26.

- (c) Schedule 2 to that Act;
- “institution” means—
- (a) a body corporate wherever incorporated;
 - (b) a partnership formed under the law of any part of the United Kingdom;
 - (c) a partnership or other unincorporated association of two or more persons formed under the law of a member State other than the United Kingdom.”.

Repeal of unnecessary provisions etc.

- 199.**—(1) Section 119 of the Building Societies Act 1986 is amended as follows.
- (2) In subsection (1) after the definition of “ordinary resolution” insert—
- ““own funds” means own funds as defined in Section 1 of Chapter 2 of Title V of the Banking Consolidation Directive;”.
- (3) In subsection (1) the definition of “currency” is repealed(**142**).
- (4) Subsections (2A) and (2C) are repealed(**143**).

Application of companies insolvency legislation to building societies

- 200.**—(1) In Schedule 15 to the Building Societies Act 1986, in paragraph 3(2), before paragraph (a) insert—
- “(aa) every reference to a company registered in Scotland shall have effect as a reference to a building society whose principal office is situated in Scotland;”.
- (2) In Schedule 15A(**144**) to the Building Societies Act 1986, in paragraph 2(2) before paragraph (a) insert—
- “(aa) every reference to a company registered in Scotland shall have effect as a reference to a building society whose principal office is situated in Scotland;”.
- (3) Paragraphs 209(b) and 210(b) of Schedule 3 to the Financial Services and Markets Act 2000 (Mutual Societies) Order 2001 are revoked.

Friendly Societies Act 1992 (c. 40)

Transfers of engagements

- 201.**—(1) Section 86 of the Friendly Societies Act 1992 (transfer of engagements by or to friendly society) is amended as follows.
- (2) Subsection (1)(a) is repealed.
- (3) In subsection (1)(d), for the words “insurance company” to the end, substitute “insurer”.
- (4) In subsection (1)(e) for the words “paragraph (a), (b) or (c) above” substitute “paragraph (b), (c) or (d) above”.
- (5) After subsection (11), insert—
- “(12) In this section “insurer” means—

(142) The definition of “currency” was inserted by the Building Societies Act 1997 (c. 32) Schedule 7 paragraph 53(1)(f).

(143) Subsections (2A) and (2C) were inserted by S.I. 1996/1669, Schedule 5 paragraph 5 and amended by S.I. 2000/2952.

(144) Schedule 15A was inserted by the Building Societies Act 1997 (c. 32) section 39 and Schedule 6 and amended by the Insolvency Act 2000 (c. 39) Schedule 2 Part II.

- (a) a person who has permission under Part IV of the Financial Services and Markets Act 2000 to effect or carry out contracts of insurance, or
 - (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of insurance.
- (13) Subsection (12) must be read with—
- (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.”.

Law applicable to contracts of insurance

202. The following provisions of the Friendly Societies Act 1992 are repealed (having been re-enacted in the Financial Services and Markets Act 2000 (Law Applicable to Contracts of Insurance) Regulations 2001(**145**))—

- (a) section 101 (law applicable to contracts of insurance with friendly societies)(**146**);
- (b) Schedule 20(**147**) (law applicable to certain contracts of insurance).

Miscellaneous amendments

203.—(1) The Friendly Societies Act 1992 is amended as follows.

(2) In section 85(3) (amalgamation of friendly societies), for the words “central office” substitute “Authority”.

(3) In section 89 (power of Commission to alter requirements for transfer by friendly society) for subsection (7) substitute—

“(7) The Authority shall keep a copy of any direction given under this section in the public file of the society concerned.”.

(4) In section 90(8) (power of Commission to effect transfer of engagements) for the words from the beginning to “who” substitute “If the Authority gives a direction it shall keep a copy of that direction and”.

(5) In section 104 (public file of a friendly society)—

- (a) in subsection (1)(b) for the words “on payment of the fee prescribed under section 114 below”, substitute “subject to subsection (2A) below”;
- (b) in subsection (2) for the words “on payment of the fee so prescribed” substitute “subject to subsection (2A) below”.

(6) In Schedule 3 to the Financial Services and Markets Act 2000 (Mutual Societies) Order 2001, paragraphs 99(b), 100(f) and 108(b) are revoked.

Form of documents

204.—(1) For section 114 of the Friendly Societies Act 1992 (form of documents and power to prescribe fees) substitute—

(145) S.I. 2001/2635.

(146) Section 101 was substituted by S.I. 1993/2519, regulation 6(1).

(147) Schedule 20 was added by S.I. 1993/2519, regulation 6(4).

(1) The Authority may, by directions under this section, make provision with respect to the form of any document to be sent to it under this Act or the 1974 Act, the particulars to be included in any such document and the procedure to be followed in sending any such document.

(2) The directions have effect subject to any other provision of or made under this Act.”.

(2) In Schedule 3 to the Financial Services and Markets Act 2000 (Mutual Societies) Order 2001, paragraph 113 is revoked.

Interpretation of the Friendly Societies Act 1992

205.—(1) Section 117(8) of the Friendly Societies Act 1992 (meaning of “provision of insurance”) is repealed.

(2) Section 119 of the Friendly Societies Act 1992 (interpretation) is amended as follows.

(3) In the definition of “supervisory authority” in subsection (1) (**148**) for the words “insurance companies” substitute “persons whose business consists of effecting or carrying out contracts of insurance”.

(4) In subsection (1A)(**149**) for the words “Prudential Supervision Directive” to the end of that subsection substitute “European Parliament and Council Directive of 29th June 1995 amending Directives [77/780/EEC](#) and [89/646/EEC](#) in the field of credit institutions, Directives [72/239/EEC](#) and [92/96/EEC](#) in the field of non-life insurance, Directives [79/267/EEC](#) and [92/49/EEC](#) in the field of life assurance, Directive [93/22/EEC](#) in the field of investment firms and Directive [85/611/EEC](#) in the field of undertakings for collective investment in transferable securities (UCITS) with a view to reinforcing prudential supervision (No. [95/26/EC](#))”.

(5) Subsection (1B) is repealed.

(6) After subsection (1B), insert—

“(1C) In the definition of “supervisory authority” in subsection (1), the reference to contracts of insurance and to effecting or carrying out such contracts must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

Transfer of engagements: margin of solvency

206.—(1) For paragraph 13 of Schedule 15 to the Friendly Societies Act 1992 substitute—

“**13.**—(1) The Authority shall not confirm a transfer in any case where the transferee is required by section 87 above to furnish the Authority with a report unless it is satisfied (after taking the proposed transfer into account) either that the transferee will possess the margin of solvency required by rules made by the Authority under section 138 of the Financial Services and Markets Act 2000 or, where no margin of solvency is required by such rules, that the value of the transferee’s assets will exceed its liabilities.

(2) The Authority shall not confirm a transfer of any engagements the fulfilment of which will constitute effecting or carrying out contracts of insurance in the United Kingdom unless it is satisfied (after taking the proposed transfer into account) either that the transferee will possess the margin of solvency required by rules made by the Authority under section 138

(148) The definition of “supervisory authority” was inserted by [S.I. 1994/1984](#), regulation 30(f).

(149) Subsections (1A) and (1B) were inserted by [S.I. 1996/1669](#), Schedule 5, paragraph 6.

of the Financial Services and Markets Act 2000 or, where no margin of solvency is required by such rules, that the value of the transferee's assets will exceed its liabilities.

(3) This paragraph does not apply to any transfer of engagements to which paragraph 15 or 15A below applies.

(4) The reference in sub-paragraph (2) to effecting or carrying out contracts of insurance must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

(2) In paragraph 128 of Schedule 3 to the Financial Services and Markets Act 2000 (Mutual Societies) Order 2001—

- (a) in sub-paragraph (o), for the words “paragraphs 12 and 13” substitute “paragraph 12”;
- (b) sub-paragraphs (p) and (q) are revoked.

Transfer of engagements: general business

207.—(1) In Schedule 15 to the Friendly Societies Act 1992, paragraph 15(**150**) is amended as follows.

(2) In sub-paragraph (1)(c)—

(a) for paragraph (ii) substitute—

“(ii) a UK firm which has an EEA right deriving from any of the insurance directives;”;

(b) for paragraph (iii) substitute—

“(iii) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to the Financial Services and Markets Act 2000;”;

(c) paragraph (iv) is repealed;

(d) for paragraph (v) substitute—

“(v) an insurance company whose head office is in Switzerland, which has permission under Part IV of the Financial Services and Markets Act 2000 to effect or carry out contracts of insurance, which permission is not limited to reinsurance business;”.

(3) For sub-paragraph (6), substitute—

“(6) In this paragraph “the relevant authority” means—

- (a) if the transferee falls within paragraph (1)(c)(iii), its home state regulator;
- (b) if the transferee falls within paragraph (1)(c)(v), the supervisory authority in Switzerland;
- (c) if the transferee falls within paragraph (1)(c)(vi), the Authority or other supervisory body responsible for the supervision;
- (d) in any other case, the Authority.”.

(150) Paragraph 15 was substituted by [S.I. 1994/1984](#), Schedule 4, paragraph 3 and amended by [S.I. 1997/2849](#) regulations 3, 5, and Schedule and by [S.I. 2001/2617](#).

Transfer of engagements: long term business

208.—(1) In Schedule 15 to the Friendly Societies Act 1992, paragraph 15A(**151**) is amended as follows.

(2) In sub-paragraph (1)(c)—

(a) for paragraph (ii) substitute—

“(ii) a UK firm which has an EEA right deriving from any of the insurance directives;”;

(b) for paragraph (iii) substitute—

“(iii) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to the Financial Services and Markets Act 2000;”;

(c) paragraph (iv) is repealed.

(3) For sub-paragraph (6), substitute—

“(6) In this paragraph “the relevant authority” means—

(a) if the transferee falls within paragraph (1)(c)(iii), its home state regulator;

(b) if the transferee falls within paragraph (1)(c)(v), the Authority or other supervisory body responsible for the supervision;

(c) in any other case, the Authority.”.

Transfer of engagements: interpretation

209. In paragraph 18(**152**) of Schedule 15 to the Friendly Societies Act 1992 for the words “the Insurance Companies Act 1982” substitute “Schedule 3 to the Financial Services and Markets Act 2000”.

CHAPTER II

subordinate legislation

Enactments relating to friendly societies

Revocation of redundant provisions

210. The following enactments are revoked—

(a) the Friendly Societies (Fees) Order 1971 ([S.I. 1971/1900](#));

(b) the Friendly Societies Regulations 1975 ([S.I. 1975/205](#));

(c) the Friendly Societies Act 1992 (Consequential Provisions) (No 2) Regulations 1993 ([S.I. 1993/1187](#));

(d) the Friendly Societies Appeal Tribunal Regulations 1993 ([S.I. 1993/2002](#));

(e) the Friendly Societies (Qualifications of Actuaries No 2) Regulations 1993 ([S.I. 1993/2518](#));

(f) the Friendly Societies (Auditors) Order 1994 ([S.I. 1994/132](#))(**153**);

(g) the Friendly Societies (Insurance Business) Regulations 1994 ([S.I. 1994/1981](#));

(h) The Friendly Societies (Authorisation) Regulations 1994 ([S.I. 1994/1982](#));

(**151**) Paragraph 15A was inserted by [S.I. 1993/2519](#) regulation 5, substituted by [S.I. 1994/1984](#), regulation 25, Schedule 4, paragraph 4 and has been amended by [S.I. 1997/2849](#) and [S.I. 2001/2617](#).

(**152**) Paragraph 18 was substituted by [S.I. 1994/1984](#), regulation 25, Schedule 4 paragraph 7 and has been amended by [S.I. 1997/2849](#) and [S.I. 2001/2617](#).

(**153**) Modified by [S.I. 1996/1669](#)

- (i) the Friendly Societies (Activities of a Subsidiary) Order 1995 (S.I. 1995/3062);
- (j) The Friendly Societies (Insurance Business) (Amendment) Regulations 1996 (S.I. 1996/3008);
- (j) the Friendly Societies (Activities of a Subsidiary) Order 1996 (S.I. 1996/3009);
- (k) the Friendly Societies (Insurance Business) (Amendment) Regulations 1997 (S.I. 1997/966);
- (l) the Friendly Societies (Activities of a Subsidiary) Order 1998 (S.I. 1998/2328);
- (m) the Friendly Societies (Activities of a Subsidiary) (No 2) Order 1998 (S.I. 1998/2696);
- (n) the Friendly Societies (Insurance Business) (Amendment) Regulations 1998 (S.I. 1998/3034);
- (o) the Friendly Societies (Insurance Business) (Amendment) Regulations 2000 (S.I. 2000/1700);
- (p) the Friendly Societies (General Charge and Fees) Regulations 2001 (S.I. 2001/816).

Revocation of references to dissolved bodies, repealed legislation etc.

211.—(1) In the Friendly Societies Act 1992 (Commencement No 3 and Transitional Provisions) Order 1993 (S.I. 1993/16)—

- (a) in article 1(2) (interpretation), the definitions of “assistant registrar”, “Chief Registrar”, “Commission” and “registrar” are revoked; and
- (b) articles 5, 7 and 9 (transitional provisions) are revoked.

(2) In the Friendly Societies Act 1992 (Transitional and Consequential Provisions and Savings) Regulations 1993 (S.I. 1993/932)—

- (a) in regulation 2 (interpretation), the definitions of “the 1987 Regulations”, “incorporated friendly society” and “registrar” are revoked; and
- (b) regulations 3 to 5 (transitional provisions) are revoked.

(3) In the Friendly Societies Act 1992 (Commencement No 6 and Transitional Provisions) Order 1993 (S.I. 1993/2213)—

- (a) in article 1(2), the definition of “Industrial Assurance Commissioner” is revoked; and
- (b) article 6 is revoked.

(4) Article 7 of the Friendly Societies Act 1992 (Commencement No 7 and Transitional Provisions and Savings) Order 1993 (S.I. 1993/3226) is revoked.

(5) In regulation 9 (associated bodies) of, and paragraph 12 of Schedule 3 to, the Friendly Societies (Accounts and Related Provisions) Regulations 1994 (S.I. 1994/1983), for “Commission” substitute “Authority”.

(6) In the Friendly Societies Act 1992 (Transitional and Consequential Provisions) Regulations 1995 (S.I. 1995/710), regulations 3 and 5 are revoked.

Enactments relating to building societies

Revocation of redundant provisions

212. The following enactments are revoked—

- (a) the Building Societies Appeal Tribunal Regulations 1987 (S.I. 1987/891)(154);

- (b) the Building Societies (Designation of Prescribed Regulatory Authorities) Order 1988 (S.I. 1988/630);
- (c) the Building Societies Appeal Tribunal (Amendment) Regulations 1993 (S.I. 1993/983);
- (d) The Building Societies (Auditors) Order 1994 (S.I. 1994/525)(155);
- (e) The Building Societies (Designation of Prescribed Regulatory Authorities) Order 1997 (S.I. 1997/2302);
- (f) The Building Societies (General Charge and Fees) Regulations 2001 (S.I. 2001/815).

Revocation or amendment of references to dissolved bodies, repealed legislation etc.

213.—(1) In the Building Societies Act 1986 (Rules and Miscellaneous Transitional Provisions) Order 1986 (S.I. 1986/2168), articles 3(4) and (5), 4, 10 and 11 are revoked.

(2) In the Building Societies Act 1986 (Powers and Miscellaneous Transitional Provisions) Order 1986 (S.I. 1986/2169), the definition of “the registrar” in article 2 and articles 4, 8 and 11 are revoked.

(3) In regulation 2 of, and paragraph 28 of Part I of Schedule 1 to, and Schedule 3 to, the Building Societies (Transfer of Business) Regulations 1998 (S.I. 1998/212), for “Building Societies Commission” in each place those words appear, substitute “Authority”.

(4) In regulation 6 of, and Schedule 4 to, the Building Societies (Accounts and Related Provisions) Regulations 1998 (S.I. 1998/504)(156), for “Commission”, substitute “Authority”.

(5) In regulation 3 of the Building Societies (Business Names) Regulations 1998 (S.I. 1998/3186) and in the cross-heading before that regulation, for “Commission” substitute “Authority”.

(6) In regulation 2 of, and the Schedule to, the Building Societies (Merger Notification Statement) Regulations 1999 (S.I. 1999/1215), for “Building Societies Commission” in each place those words appear, substitute “Authority”.

Building Societies (Deferred Shares) Order 1991

214. The Building Societies (Deferred Shares) Order 1991 (S.I. 1991/701) is amended as follows—

- (a) for article 3(2), substitute—

“(2) The condition mentioned in paragraph (1) of this article is that—

- (a) the document containing the issue terms, or where the issue terms are contained in a series of documents, one of those documents, being in either case a document which is furnished to every applicant for the shares (“the issue document”), and every document evidencing title to the shares (“the title document”), contains a prominent statement to the effect that the shares are deferred shares for the purposes of section 119 of the Act;
- (b) where the issue document was issued before 1st December 2001 or where the title document evidences title obtained before that date, that document contains a prominent statement to the effect that the shares are not protected investments for the purposes of payments out of the Building Societies Investor Protection Fund; and
- (c) where the issue document was issued on or after 1st December 2001 or where the title document evidences title obtained on or after that date, that document contains a prominent statement stating whether or not the shares are

(155) Modified by S.I. 1996/1669.

(156) Amended by S.I. 1999/248.

- an investment in respect of which a claim may be entertained by the Financial Services Compensation Scheme.”; and
- (b) in the Schedule, for “Commission” substitute “Authority”.

Enactments relating to industrial and provident societies and credit unions

Revocation of redundant provisions

- 215.** The following enactments are revoked—
- (a) the Industrial and Provident Societies (Forms and Procedure) Regulations 1996 (S.I. 1996/3121);
 - (b) the Industrial and Provident Societies (Fees) Regulations 2001 (S.I. 2001/813);
 - (c) the Industrial and Provident Societies (Credit Unions) Regulations 1979 (S.I. 1979/937);
 - (d) the Industrial and Provident Societies (Credit Unions) (Fees) Regulations 2001 (S.I. 2001/814).

PART 7

ENACTMENTS RELATING TO SCOTLAND

CHAPTER I

primary legislation

Agricultural Credits (Scotland) Act 1929 (19&20 Geo. V c. 13)

Repeal of redundant provision

216. Section 8 of the Agricultural Credits (Scotland) Act 1929 (registration of agricultural charges) is repealed.

Definition of “Bank”

217. In section 9 of the Agricultural Credits (Scotland) Act 1929 (interpretation) for the definition of “Bank”(157) substitute—

““Bank” means—

- (a) the Bank of England,
 - (b) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits,
 - (c) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to accept deposits, or
 - (d) the Post Office in the exercise of its powers to provide banking services,
- and the expressions used in paragraphs (b) and (c) of this definition must be read with section 22 of the Financial Services and Markets Act 2000, any relevant order under that section and Schedule 2 to that Act.”.

(157) The definition of “Bank” in section 9 was amended by the Banking Act 1987 (c. 22, S.I.F 10), section 108(1), Schedule 6 and modified by S.I. 1992/3218, regulation 82(1), Schedule 10, Pt. 1, paragraph 4.

Local Government (Scotland) Act 1973 (c. 65)

Meaning of “securities”

218. For subsection (1) of section 42(**158**) of the Local Government (Scotland) Act 1973 (interpretation of sections 39 and 41) substitute—

“(1) In sections 39 and 41 of this Act “securities” has the meaning given by section 92.”

Contracts deemed to be insurance policies

219. In section 86(3) of the Local Government (Scotland) Act 1973 (insurance by local authorities against accidents to members) for the words “the Insurance Companies Act 1982”(159) substitute “the Financial Services and Markets Act 2000”.

Meaning of “securities”

220.—(1) Section 92 of the Local Government (Scotland) Act 1973 (transfer of securities on alteration of area etc.) is amended as follows.

(2) In subsection (2), the definition of “securities”(160) is repealed.

(3) After that subsection insert—

“(3) “Securities” means—

- (a) shares;
- (b) instruments creating or acknowledging indebtedness;
- (c) government and public securities;
- (d) instruments giving entitlements to investments;
- (e) certificates representing securities;
- (f) units in a collective investment scheme;
- (g) rights to, or interests in, any security of the kind mentioned in paragraphs (a) to (f);
- (h) rights (whether actual or contingent) to money lent to, or deposited with—
 - (i) a society registered under the Industrial and Provident Societies Act 1965,
or
 - (ii) a building society within the meaning of the Building Societies Act 1986.

(4) Subsection (3) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”

(158) Subsection (1) of section 42 was substituted by the Financial Services Act 1986 (c. 60, S.I.F 69) section 212(2), Schedule 16, paragraph 9.

(159) The words being substituted were substituted by the Insurance Companies Act 1982 (c. 50), Schedule 4, paragraph 22.

(160) The definition of “securities” was substituted by the Local Government etc. (Scotland) Act 1994 (c. 39), Schedule 13, paragraph 92(22).

National Health Service (Scotland) Act 1978 (c. 29)

Financial Services and Markets Act 2000 disappplied to certain health service schemes

221. In section 85B(5)(**161**) of the National Health Service (Scotland) Act 1978 (schemes for meeting losses and liabilities etc. of certain health service bodies), for the words “carrying on insurance business for the purposes of the Insurance Companies Act 1982” substitute “effecting or carrying out contracts of insurance for the purposes of the Financial Services and Markets Act 2000”.

Solicitors (Scotland) Act 1980 (c. 46)

Specification of banks where solicitors may keep accounts

222.—(1) Section 35 of the Solicitors (Scotland) Act 1980 (accounts rules) is amended as follows.

(2) In subsection (2), for paragraph (e)(**162**) substitute—

“(e) a person (other than a building society) who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits;

(ea) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to the Financial Services and Markets Act 2000 which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to accept deposits;”.

(3) After subsection (2) of section 35 insert—

“(2A) Paragraphs (e) and (ea) of subsection (2) must be read with—

(a) section 22 of the Financial Services and Markets Act 2000;

(b) any relevant order under that section; and

(c) Schedule 2 to that Act.”.

Meaning of “authorised insurer”

223.—(1) Section 44 of the Solicitors (Scotland) Act 1980 (professional indemnity) is amended as follows.

(2) In subsection (5), for the words “authorised insurer” to the end of paragraph (b) substitute—

“an “authorised insurer” is—

(a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of general liability insurance;

(b) a person who has permission under Part 4 of that Act to effect or carry out contracts of insurance relating to accident, sickness, credit, suretyship, miscellaneous financial loss and legal expenses;

(c) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of general liability insurance; or

(d) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation

(161) Section 85B was inserted by the National Health Service and Community Care Act 1990 (c. 19, S.I.F 113:2), section 41.

(162) Section 35(2)(e) was substituted by the Banking Act 1987 (c. 22, S.I.F 10), section 108(1), Schedule 6, paragraph 9.

under paragraph 12 of that Schedule) to effect or carry out contracts relating to accident, sickness, credit, suretyship, miscellaneous financial loss and legal expenses;”.

(3) After subsection (5) of section 44 insert—

“(6) The definition of “authorised insurer” in subsection (5) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

Bankruptcy (Scotland) Act 1985 (c. 66)

Petitions for sequestration under Financial Services and Markets Act 2000

224. In section 10(1)(c)(**163**) of the Bankruptcy (Scotland) Act 1985 (concurrent proceedings for sequestration or analogous remedies), for the words “section 72 of the Financial Services Act 1986” substitute “section 372 of the Financial Services and Markets Act 2000”.

Meaning of “appropriate bank or institution”

225. In section 73 of the Bankruptcy (Scotland) Act 1985 (interpretation) for the definition of “appropriate bank or institution”(**164**) substitute—

““appropriate bank or institution” means—

- (a) the Bank of England,
- (b) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits,
- (c) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to accept deposits, or
- (d) a person who is exempt from the general prohibition in respect of accepting deposits as a result of an exemption order made under section 38(1) of that Act,

and the expressions in this definition must be read with section 22 of the Financial Services and Markets Act 2000, any relevant order under that section and Schedule 2 to that Act;”.

Housing (Scotland) Act 1987 (c. 26)

Definition of “bank”

226.—(1) Section 338 of the Housing (Scotland) Act 1987 (interpretation) is amended as follows.

(2) In subsection (1)—

(a) in the definition of “bank”, for paragraph (a) substitute—

“(a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits,

(ab) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result

(163) Section 10(1)(c) was substituted by the Financial Services Act 1986 (c. 60, S.I.F 69) section 212(2), Schedule 16, paragraph 29.

(164) The definition of “appropriate bank or institution” was substituted by the Banking Act 1987 (c. 22, S.I.F 10), section 108(1), Schedule 6, paragraph 20.

of qualifying for authorisation under paragraph 12 of that Schedule) to accept deposits, or”;

(b) for the definition of “insurance company” substitute—

““insurance company” means—

- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of insurance, or
- (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of insurance;”.

(3) After subsection (1) insert—

“(1A) The definitions of “bank” and “insurance company” in subsection (1) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

Local authority indemnity for building societies: consultation requirements

227. In section 229(4) of the Housing (Scotland) Act 1987 (local authority indemnity for building societies: consultation requirements) for “Building Societies Commission” substitute “Financial Services Authority”.

The Criminal Justice (Scotland) Act 1987 (c. 41)

Competent authorities for receipt of information

228. For paragraphs (e) to (l) of section 54(5) of the Criminal Justice (Scotland) Act 1987 (competent authorities for the purposes of disclosure of information obtained in relation to serious or complex fraud) substitute—

“(e) a person appointed under—

- (i) section 167 of the Financial Services and Markets Act 2000 (general investigations),
- (ii) section 168 of that Act (investigations in particular cases),
- (iii) section 169(1)(b) of that Act (investigation in support of overseas regulator),
- (iv) section 284 of that Act (investigations into affairs of certain collective investment schemes), or
- (v) regulations made as a result of section 262(2)(k) of that Act (investigations into open-ended investment companies),

to conduct an investigation;

(f) a body corporate established in accordance with section 212(1) of the Financial Services and Markets Act 2000 (compensation scheme manager);”.

Self-Governing Schools etc. (Scotland) Act 1989 (c. 39)

Specification of banks and investments

229.—(1) Section 53 of the Self-Governing Schools etc. (Scotland) Act 1989 (disposal of surplus money on winding up) is amended as follows.

(2) In subsection (1)(a), for the words “any bank” to the end substitute—
“any person who has permission under the Financial Services and Markets Act 2000 to accept deposits); and”.

(3) For subsection (4) substitute—

“(4) This section applies to any investment which is a security.”

(4) For subsection (5) substitute—

“(5) The references to accepting deposits in subsection (1)(a) and to an investment being a security in subsection (4) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

Enterprise and New Towns (Scotland) Act 1990 (c. 35)

Exclusion from financial promotion restriction

230. For section 31(2) of the Enterprise and New Towns (Scotland) Act 1990 (application and disapplication of certain provisions) substitute—

“(2) Section 21 of the Financial Services and Markets Act 2000 (restrictions on financial promotion) shall not apply to any invitation or inducement (within the meaning of that section) which Scottish Enterprise communicates in the discharge of its functions.”

Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40)

Definition of “relevant institution”

231. For section 12(13)(a) of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (dormant accounts of charities in banks, etc.) substitute—

“(a) a “relevant institution” is—

- (i) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits;
- (ii) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to accept deposits;
- (iii) such other person or class of persons as the Secretary of State may by regulations made under this section, prescribe;”.

Definition of “recognised financial institution”

232.—(1) Section 19 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (executory services by recognised financial institutions) is amended as follows.

(2) For subsection (2) substitute—

“(2) In this section “recognised financial institution” means—

- (a) any person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits;
- (b) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to accept deposits;
- (c) any subsidiary (as defined by section 736(1) of the Companies Act 1985) of a body falling within paragraph (a) or (b) above whose business or any part of whose business consists of the provision of executry services.”

(3) After subsection (2) insert—

“(2A) The definition of “recognised financial institution” in subsection (2) above must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”

(4) In subsection (6), for the words from “section 16” to the end, substitute “rules made under section 141(1) of the Financial Services and Markets Act 2000 (which may restrict insurers to carrying on insurance business).”

Meaning of “executry services”

233. In section 23 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (interpretation of sections 16 to 22), in the definition of “executry services” for the words “investment business within the meaning of the Financial Services Act 1986” substitute “carrying on a regulated activity within the meaning of the Financial Services and Markets Act 2000”.

Criminal Law (Consolidation) (Scotland) Act 1995 (c. 39)

Competent authorities for the receipt of information

234. For paragraphs (e) to (l) of section 30(5) of the Criminal Law (Consolidation) (Scotland) Act 1995 (disclosure of information) substitute—

- “(e) a person appointed under—
 - (i) section 167 of the Financial Services and Markets Act 2000 (general investigations),
 - (ii) section 168 of that Act (investigations in particular cases),
 - (iii) section 169(1)(b) of that Act (investigation in support of overseas regulator),
 - (iv) section 284 of that Act (investigations into affairs of certain collective investment schemes), or
 - (v) regulations made as a result of section 262(2)(k) of that Act (investigations into open-ended investment companies),
 to conduct an investigation;
- (f) a body corporate established in accordance with section 212(1) of the Financial Services and Markets Act 2000 (compensation scheme manager);”

Adults with Incapacity (Scotland) Act 2000 (asp 4)

Persons capable of giving “proper advice”

235.—(1) Schedule 2 to the Adults with Incapacity (Scotland) Act 2000 (management of estate of adult) is amended as follows.

(2) In paragraph 5(2), for the words “authorised to carry on investment business in the United Kingdom for the purposes of the Financial Services Act 1986 (c. 60)” substitute “who has permission for the purposes of the Financial Services and Markets Act 2000 to advise on investments”.

(3) After paragraph 5(2) insert—

“(2A) Sub-paragraph (2) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

CHAPTER II

secondary legislation

The Banking Appeal Tribunal (Scottish Appeals)

Revocation of instruments made under the Banking Act 1987

236. The following instruments are revoked—

- (a) The Banking Appeal Tribunal (Scottish Appeals) Regulations 1987 (S.I. 1987/1336 (S.95));
- (b) The Banking Appeal Tribunal (Scottish Appeals) Amendment Regulations 1993 (S.I. 1993/1061 (S.150)).

Local Government Superannuation (Scotland) Regulations 1987 (S.I. 1987/1850)

Actionable loss arising from pension mis-selling

237. In regulation B4B(4)(b) of the Local Government Superannuation (Scotland) Regulations 1987(rejoining pensionable employment)(**165**)—

- (a) after the words “section 62 of the Financial Services Act 1986” insert “or section 150 of the Financial Services and Markets Act 2000”; and
- (b) the words “made under the Act” are revoked.

Use and investment of superannuation funds' moneys

238.—(1) Regulation P6 of the Local Government Superannuation (Scotland) Regulations 1987 (use and investment of superannuation funds' moneys) is amended as follows.

(2) In paragraph (7A)(**166**) for the words “the provisions of” to the end of sub-paragraph (b) substitute—

(165) Regulation B4B(4)(b) was inserted by the Local Government Superannuation (Scotland) Amendment (No. 2) Regulations 1997 (S.I. 1997/1373 (S. 108)).

(166) Paragraph (7A) was inserted by the Local Government Superannuation (Scotland) Amendment (No. 2) Regulations 1993 (S.I. 1993/2013 (S.224)).

“the provisions of CIS 5.14.4R and CIS 5.14.6R of the rules made by the Financial Services Authority under Part 10 of the Financial Services and Markets Act 2000.”.

(3) In paragraph (10), for the definition of “investment manager”(167) substitute—

““investment manager” means a person who has permission for the purposes of the Financial Services and Markets Act 2000 to manage investments which are held for the purposes of an occupational pension scheme and who is reasonably believed by the administering authority to be suitably qualified to make investment decisions on their behalf, but who is not an employee of that authority;”.

(4) After paragraph (10) insert—

“(11) The definition of “investment manager” in paragraph (10) must be read with—

- (a) sections 22 and 419 of the Financial Services and Markets Act 2000;
- (b) any relevant order under those sections;
- (c) Schedule 2 to that Act.”.

The Teachers' Superannuation (Scotland) Regulations 1992 (S.I. 1992/280)

Meaning of “reference banks”

239.—(1) The Teachers' Superannuation (Scotland) Regulations 1992 are amended as follows.

(2) For paragraph (5)(b) of regulation E31A (interest on late payment of certain benefits)(168) substitute—

- “(b) “the reference banks” means the four largest persons for the time being who—
- (i) have permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits;
 - (ii) are incorporated in and carrying on in the United Kingdom a regulated activity of accepting deposits; and
 - (iii) quote a base rate applicable to sterling deposits,
- and in this definition the reference to accepting deposits must be read with section 22 of the Financial Services and Markets Act 2000, any relevant order under that section and Schedule 2 to that Act;”.

The Brechin and Bridge of Dun Light Railway Order 1992 (S.I. 1992/1267)

Meaning of “insurer”

240.—(1) Article 10 of the Brechin and Bridge of Dun Light Railway Order 1992 (public liability insurance) is amended as follows.

(2) In paragraph (1), for the definition of “insurer” substitute—

““insurer” means—

- (a) any person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of insurance of a relevant class, or

(167) The definition of “investment manager” was substituted by the Local Government Superannuation (Scotland) Amendment Regulations 1991 (S.I. 1991/78 (S.7)), regulation 5(4).

(168) Regulation E31A was substituted by the Teachers' Superannuation (Scotland) Amendment Regulations 1999 (S.I. 1999/446 (S. 30)), regulation 15.

- (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of insurance of a relevant class;”.
- (3) After paragraph (1) insert—
 - “(1A) The definition of “insurer” in paragraph (1) must be read with—
 - (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.”.

*The Non-Domestic Rating (Payment of Interest)
(Scotland) Regulations 1992 (S.I. 1992/2184 (S. 218))*

Definition of “reference banks”

241.—(1) Regulation 4 of the Non-Domestic Rating (Payment of Interest) (Scotland) Regulations 1992 (calculation of interest—repayment on or after 1st October 1992) is amended as follows.

- (2) In paragraph (3)—
 - (a) for the words from “seven” to “United Kingdom” substitute—
 - “seven largest persons who—
 - (a) have permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits; and
 - (b) are incorporated in the United Kingdom and carrying on there a regulated activity of accepting deposits;”;
 - (b) for the words “an institution” substitute “a person”; for the words “that institution” substitute “that person” and for the word “its” substitute “the”.
- (3) After paragraph (3) insert—
 - “(4) Paragraph (3) must be read with—
 - (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.”.

*The Registered Housing Associations (Accounting
Requirements) (Scotland) Order 1993 (S.I. 1993/487 (S. 52))*

Meaning of “listed investment”

242. In paragraph 15 of Schedule 2 to the Registered Housing Associations (Accounting Requirements) (Scotland) Order 1993 (investments)—

- (a) in sub-paragraph (1)(b) for the words “the Financial Services Act 1986” substitute “the Financial Services and Markets Act 2000”;
- (b) in sub-paragraph (3) for the words “the Financial Services Act 1986” substitute “the Financial Services and Markets Act 2000”.

The Criminal Justice (Scotland) Act 1987 (Crown Servants and Regulators etc.) Regulations 1994 (S.I. 1994/1808) (S.80)

Exemption from obligation to disclose knowledge or suspicion of money laundering

243. In regulation 4(1) of the Criminal Justice (Scotland) Act 1987 (Crown Servants and Regulators etc.) Regulations 1994 (designation of persons appearing to the Secretary of State to be performing regulatory etc. functions)—

- (a) for sub-paragraph (c) substitute—
 - “(c) the Financial Services Authority;”;
- (b) sub-paragraphs (b), (d) to (g) and (i) to (m) are revoked.

The National Health Service Superannuation Scheme (Scotland) Regulations 1995 (S.I. 1995/365)

Actionable loss arising from pension mis-selling

244. In paragraph (1)(c) of regulation B6(169) of the National Health Service Superannuation Scheme (Scotland) Regulations 1995 (opting into the scheme: mis-sold pensions), after the words “section 62 of the Financial Services Act 1986” add “or section 150 of the Financial Services and Markets Act 2000”.

The Charities (Dormant Accounts) (Scotland) Regulations 1995 (S.I. 1995/2056)

Prescribed “relevant institutions”

245. In regulation 2A of the Charities (Dormant Accounts) (Scotland) Regulations 1995(170) for the words “(being institutions mentioned in Schedule 2 to the Banking Act 1987)” substitute “that is to say a company which was, immediately before the repeal of the Banking Act 1987, exempted from the prohibition in section 3 of that Act by virtue of section 4(1) of, and paragraph 4 of Schedule 2 to, that Act”.

The Acquisition of Land (Rate of Interest After Entry) (Scotland) Regulations 1995 (S.I. 1995/2791) (S.206)

Definition of reference banks

246.—(1) Regulation 2 of the Acquisition of Land (Rate of Interest after Entry) (Scotland) Regulations 1995 (rate of interest) is amended as follows.

- (2) In paragraph (5)(a) for the words from “seven” to “United Kingdom,” substitute—
 - “seven largest persons who—
 - (a) have permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits; and
 - (b) are incorporated in the United Kingdom and carrying on there a regulated activity of accepting deposits;”;

(169) Regulation B6 was inserted by the National Health Services Superannuation Scheme (Scotland) Amendment Regulations 1997 (S.I. 1997/1434 (S.111), regulation 4.

(170) Regulation 2A was inserted by the Charities (Dormant Accounts) (Scotland) Amendment Regulations 1997 (S.I. 1997/964 (S.86)).

(3) In paragraphs (5)(b) and (6) for the words “an institution” (in both places) substitute “a person”; for the words “that institution” substitute “that person” and for “its” (wherever it appears) substitute “his”.

(4) After paragraph (5) insert—

“(5A) Paragraph (5) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

THE TEACHERS' SUPERANNUATION (ADDITIONAL VOLUNTARY CONTRIBUTIONS) (SCOTLAND) REGULATIONS 1995 (S.I. 1995/2814)

Meaning of “insurer”

247.—(1) Regulation 9 of the Teachers' Superannuation (Additional Voluntary Contributions) (Scotland) Regulations 1995 (investment of contributions) is amended as follows.

(2) In paragraphs (1) and (2), for “insurance company” wherever it appears substitute “insurer”.

(3) For paragraph (3) substitute—

“(3) In this regulation “insurer” means—

- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of long-term insurance, or
- (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of long-term insurance.”.

(4) After paragraph (3) insert—

“(4) Paragraph (3) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section;
- (c) Schedule 2 to that Act.”.

The Fossil Fuel Levy (Scotland) Regulations 1996 (S.I. 1996/293)

Investment of sums collected

248.—(1) Regulation 25 of the Fossil Fuel Levy (Scotland) Regulations 1996 (investment of sums collected) is amended as follows.

(2) In paragraph (3) for the words from “an institution” to “Regulations 1992”**(171)** substitute—
“a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits and an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule to accept deposits as a result of satisfying the establishment conditions within the meaning of that Schedule”.

(3) After paragraph (3) insert—

(171) The words now being substituted were themselves substituted by the Fossil Fuels Levy (Scotland) Amendment Regulations 1996 (S.I. 1996/1512) (S.135) regulation 2.)

- “(4) Paragraph (3) must be read with—
- (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.”.

The Independent Qualified Conveyancers (Scotland) Regulations 1997 (S.I. 1997/316) (S.20)

Meaning of “banks” and “recognised financial institution”

249.—(1) Regulation 2 of the Independent Qualified Conveyancers (Scotland) Regulations 1997 (interpretation) is amended as follows.

- (2) In paragraph (1)—
- (a) for the definition of “Bank” substitute—
 - ““Bank” means—
 - (a) a person (other than a building society) who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits; or
 - (b) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule to accept deposits as a result of satisfying the establishment conditions within the meaning of that Schedule;”;
 - (b) for the definition of “recognised financial institution” substitute—
 - ““recognised financial institution” means—
 - (a) any person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits;
 - (b) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to accept deposits;
 - (c) any subsidiary (as defined by section 736(1) of the Companies Act 1985) of a body falling within paragraph (a) or (b) above whose business or any part of whose business consists of the provision of executry services.”.
- (3) After paragraph (1) insert—
- “(1A) The definitions of “bank” and “recognised financial institution” in paragraph (1) must be read with—
- (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.”.

The Executry Practitioners (Scotland) Regulations 1997 (S.I. 1997/317) (S.21)

Meaning of “bank” and “recognised financial institution”

250.—(1) Regulation 2 of the Executry Practitioners (Scotland) Regulations 1997 (interpretation) is amended as follows.

- (2) In paragraph (1) for the definition of “bank” substitute—

““Bank” means—

- (a) a person (other than a building society) who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits; or
 - (b) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule to accept deposits as a result of satisfying the establishment conditions within the meaning of that Schedule;”.
- (3) In paragraph (1) for the definition of “recognised financial institution” substitute—
- ““recognised financial institution” means—
- (a) any person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits;
 - (b) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to accept deposits;
 - (c) any subsidiary (as defined by section 736(1) of the Companies Act 1985) of a body falling within paragraph (a) or (b) above whose business or any part of whose business consists of the provision of executry services.”.
- (4) After paragraph (1) insert—
- “(1A) The definitions of “bank” and “recognised financial institution” in paragraph (1) must be read with—
- (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.”.

The Local Government Pension Scheme (Scotland) Regulations 1998 (S.I. 1998/366)

Meaning of “authorised insurer” and “relevant institution”

251.—(1) Regulation 4(16)(**172**) of the Local Government Pension Scheme (Scotland) Regulations 1998 (agreements to enable employees of non-Scheme employers to be members (“admission agreements”)) is amended as follows.

- (2) For sub-paragraph (a) substitute—
- “(a) “authorised insurer” means—
- (i) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of general insurance; or
 - (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of general insurance, and the expressions used in this definition must be read with section 22 of the Financial Services and Markets Act 2000, any relevant order under that section and Schedule 2 to that Act.”.
- (3) For sub-paragraph (e) substitute—
- “(e) “relevant institution” means—
- (i) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 accept deposits;

- (ii) a person who is exempt from the general prohibition in respect of accepting deposits as a result of an exemption order made under section 38(1) of that Act;
- (iii) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule to accept deposits as a result of satisfying the establishment conditions within the meaning of that Schedule,

and the expressions used in this definition must be read with section 22 of the Financial Services and Markets Act 2000, any relevant order under that section and Schedule 2 to that Act.”.

Actionable loss arising from pensions mis-selling

252. In regulation 6(9) of the Local Government Pension Scheme (Scotland) Regulations 1998 (joining the Scheme), after the words “section 62 of the Financial Services Act 1986” add “or section 150 of the Financial Services and Markets Act 2000”.

Appropriate annuity contracts etc.

253.—(1) Regulation 145(**173**) of the Local Government Pension Scheme (Scotland) Regulations 1998 (qualifying arrangements) is amended as follows.

(2) In paragraph (2), for sub-paragraph (a) substitute—

“(a) effects or carries out contracts of long-term insurance in the United Kingdom or any other member State; and”.

(3) For paragraph (3) substitute—

“(3) Paragraph (2)(a) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order made under that section; and
- (c) Schedule 2 to that Act.”.

Definition of terms

254.—(1) Schedule 1 to the Local Government Pension Scheme (Scotland) Regulations 1998 (interpretation) is amended as follows.

(2) In the definition of “AVC insurance company”—

(a) for paragraphs (a) and (b) substitute—

“(a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of long-term insurance;

(b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of long-term insurance; or”

(b) for the words after the end of paragraph (c) substitute—

“and paragraphs (a) and (b) of this definition must be read with section 22 of the Financial Services and Markets Act 2000, any relevant order under that section and Schedule 2 to that Act.”.

(3) In the definition of “the Reference banks”—

- (a) for the words from “seven largest institutions” to the end of the definition substitute—
“seven largest persons for the time being who—
- (a) have permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits;
 - (b) are incorporated in and carrying on in the United Kingdom a regulated activity of accepting deposits; and
 - (c) quote a base rate in sterling,
- and in this definition—
- the size of a person at any time is to be determined by reference to the gross assets denominated in sterling of that person, together with any subsidiary (as defined in section 736 of the Companies Act 1985), as shown in the audited end-of-year accounts last published before that time; and
 - the reference to accepting deposits must be read with section 22 of the Financial Services and Markets Act 2000, any relevant order under that section and Schedule 2 to that Act;”.
- (4) In the definition of “open ended investment company”(174) for the words “section 75(8) of the Financial Services Act 1986” substitute “section 236 of the Financial Services and Markets Act 2000”.

The National Health Service Superannuation Scheme (Scotland) (Additional Voluntary Contributions) Regulations 1998 (S.I. 1998/1451) (S.75)

Meaning of “insurance company”

255.—(1) Regulation 2 of the National Health Service Superannuation Scheme (Scotland) (Additional Voluntary Contributions) Regulations 1998 (interpretation) is amended as follows.

- (2) In paragraph (1) for the definition of “insurance company” substitute—
““insurance company” means—
- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of long-term insurance; or
 - (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule to effect or carry out contracts of long-term insurance as a result of satisfying the establishment conditions within the meaning of that Schedule;”.
- (3) After paragraph (1) insert—
“(1A) The definition of “insurance company” in paragraph (1) must be read with—
- (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.”.

(174) The definition of “open ended investment company” was substituted by S.S.I. 2000/74, regulation 6(2).

The Local Government Pension Scheme (Management and Investment of Funds) (Scotland) Regulations 1998 (S.I. 1998/2888) (S.168)

Definitions of terms

256.—(1) In regulation 2 of the Local Government Pension Scheme (Management and Investment of Funds) (Scotland) Regulations 1998 (general definitions)(**175**)—

- (a) the existing provision becomes paragraph (1);
- (b) the definitions of “European authorised institution” and “European institution” are revoked;
- (c) the definition of “home-regulated investment business” is revoked;
- (d) for the definition of “relevant institution” substitute—

““relevant institution” means—

- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits;
 - (b) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) to accept deposits; or
 - (c) a person who is an exempt person in respect of accepting deposits as a result of an order made under section 38(1) of that Act;”;
- (e) after paragraph (1) insert—
- “(2) The definition of “relevant institution” in paragraph (1), together with regulations 3(5) to (6A) and 4(2) and paragraph 4 of Part I of Schedule 1, must be read with—
- (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.”.

Meaning of “investment”

257.—(1) In regulation 3 of the Local Government Pension Scheme (Management and Investment of Funds) (Scotland) Regulations 1998 (definition of “investment”), for paragraphs (5) and (6) substitute—

“(5) A contract of insurance is an investment if and only if it is a contract of a relevant class, and is entered into with a person within paragraph (6) for whom entering into the contract constitutes the carrying on of a regulated activity (within the meaning of the Financial Services and Markets Act 2000).

(6) The persons within this paragraph are—

- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of insurance of a relevant class;
- (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of insurance of a relevant class; or

- (c) a person who does not fall within sub-paragraph (a) or (b) and who, because he has his head office in an EEA State (within the meaning of that Act) other than the United Kingdom, is permitted by the law of that State to effect or carry out contracts of insurance of a relevant class.
- (6A) A contract of insurance is of a relevant class for the purposes of paragraphs (5) and (6) if it is—
 - (a) a contract of insurance on human life or a contract to pay an annuity on human life where the benefits are wholly or partly to be determined by reference to the value of, or the income from, property of any description (whether or not specified in the contract) or by reference to fluctuations in, or in an index of, the value of property of any description (whether or not so specified); or
 - (b) a contract to manage the investments of pension funds, whether or not combined with contracts of insurance covering either conservation of capital or payment of a minimum interest.”.
- (2) For paragraphs (7) and (8) substitute—
 - “(7) A stock lending arrangement is an investment if, and only if, in respect of it, the conditions in rules 5.14.4R and 5.14.6R in the Collective Investment Scheme Sourcebook are complied with.
 - (8) For the purposes of paragraph (7)—
 - (a) the references in rules 5.14.4R and 5.14.6R to the trustee must be read as if they were references to the administering authority; and
 - (b) the “Collective Investment Scheme Sourcebook” means the Collective Investment Scheme Sourcebook made by the Financial Services Authority under Part 10 of the Financial Services and Markets Act 2000.”.

Meaning of “investment manager”

258.—(1) Regulation 4 of the Local Government Pension Scheme (Management and Investment of Funds) (Scotland) Regulations 1998 (definition of “investment manager”), for paragraphs (2) to (4) substitute—

- “(2) A person is an investment manager if—
 - (a) he has permission under Part 4 of the Financial Services and Markets Act 2000 to manage the assets of occupational pension schemes;
 - (b) he is an EEA firm of the kind mentioned in paragraph 5(a) or (b) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to manage the assets of occupational pension schemes; or
 - (c) he is a person—
 - (i) who does not carry on regulated activities (within the meaning of that Act) from a permanent place of business maintained by him in the United Kingdom;
 - (ii) whose head office is situated in an EEA State (within the meaning of that Act) other than the United Kingdom;
 - (iii) who is recognised by the law of that EEA State as a national of that or another EEA State;
 - (iv) who is authorised under that law to carry on one or more regulated activities (within the meaning of that Act); and

- (v) who is not prevented by that law from managing the assets of occupational pension schemes or assets belonging to another person.”.

Limits on investments and other definitions

259.—(1) Schedule 1 to the Local Government Pension Scheme (Management and Investment of Funds) (Scotland) Regulations 1998 (limits on investments) is amended as follows.

(2) For paragraph 4 of Part I of that Schedule (limits on investments) substitute—

“4. All deposits with—

- (a) any local authority, or
- (b) any body with power to issue a precept or requisition to a local authority, or to the expenses of which a local authority can be required to contribute,

which is an exempt person (within the meaning of the Financial Services and Markets Act 2000) in respect of accepting deposits as a result of an order made under section 38(1) of that Act, and all loans (but see paragraph 12).”.

(3) In paragraph 15—

- (a) in the definition of “collective investment scheme” for the words “section 75 of the Financial Services Act 1986” substitute “section 235 of the Financial Services and Markets Act 2000”; and
- (b) in the definition of “open-ended investment company” for the words “Open-ended Investment Companies (Investment Companies with Variable Capital) Regulations 1996” substitute “Open-Ended Investment Companies Regulations 2001”.

The Registered Housing Associations (Accounting Requirements) (Scotland) Order 1999 (S.I. 1999/1073)

Listed investments shown on balance sheet

260. In paragraph 28 of the Schedule to the Registered Housing Associations (Accounting Requirements) (Scotland) Order 1999, for the words from “granted a listing” to the end, substitute—

“granted a listing on—

- (a) a recognised investment exchange other than an overseas investment exchange within the meaning of the Financial Services and Markets Act 2000; or
- (b) any stock exchange of repute outside Great Britain.”.

The Scotland Act 1998 (Transitory and Transitional Provisions) (Scottish Parliamentary Pension Scheme) Order 1999 (S.I. 1999/1082)

Additional voluntary contributions

261.—(1) Schedule 6 to the Scotland Act 1998 (Transitory and Transitional Provisions) (Scottish Parliamentary Pension Scheme) Order 1999 (additional voluntary contributions) is amended as follows.

(2) After sub-paragraph (2) of paragraph 1 (interpretation) insert—

“(3) In this Schedule, paragraphs 5(2) and 8(2) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;

- (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.”.
- (3) For sub-paragraphs (a) and (b) of paragraph 5(2) (investment of contributions) substitute—
- “(a) in an insurance policy or policies taken out with an office or branch in the United Kingdom of—
 - (i) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of long-term insurance; or
 - (ii) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) to effect or carry out contracts of long-term insurance;
 - (b) in a deposit account or accounts with a building society (within the meaning of the Building Societies Act 1986) which has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits.”.
- (4) In paragraph 8(2) (purchase of pensions), for the words from “being either” to the end of sub-paragraph (b) substitute—
- “being a United Kingdom branch or office of—
- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of long-term insurance; or
 - (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule to effect or carry out contracts of long-term insurance as a result of satisfying the establishment conditions within the meaning of that Schedule;”.

The Scotland Act 1998 (Functions Exercisable in or as Regards Scotland) Order 1999 (S.I. 1999/1748)

Revocation of redundant provision

262. In Schedule 1 to the Scotland Act 1998 (Functions Exercisable in or as Regards Scotland) Order 1999—

- (a) paragraphs 8 and 23 (which relate to the tribunal established under section 47 of the Building Societies Act 1986⁽¹⁷⁶⁾), and
- (b) paragraph 9 (which relates to the Financial Services Tribunal),

are revoked.

The European Communities (Lawyer’s Practice) (Scotland) Regulations 2000 (S.I. 2000/121)

Application of Part 20 of the Financial Services and Markets Act 2000 to European lawyers

263.—(1) Schedule 2 to the European Communities (Lawyer’s Practice) (Scotland) Regulations (application, extension and modification of enactments to registered European lawyers) is amended as follows.

- (2) For paragraph 3 of Part II substitute—

⁽¹⁷⁶⁾ 1986 c. 53. Section 47 is superseded by provisions inserted by S.I. 2001/2617 and the tribunal established under that section abolished.

“3. For the purposes of Part 20 of the Financial Services and Markets Act 2000 (provision of financial services by members of the professions), a registered European lawyer and any partner shall be treated as—

- (a) a member of the profession in relation to which the Law Society of Scotland(177) is established; and
- (b) as subject to the rules of the Law Society of Scotland.”.

(3) Paragraph 5 of Part II is revoked.

PART 8

MISCELLANEOUS AMENDMENTS TO PRIMARY LEGISLATION

Lloyd’s Act 1871 (c. 21)

Functions to be exercised by the Authority

264.—(1) The Lloyd’s Act 1871 is amended as follows.

(2) In section 35 (salvage operations as to wreck of Lutine) for “the Treasury”(178) substitute “the Financial Services Authority”.

(3) In section 39 (agreements for incorporation of other Societies, &c) for “the Treasury”(179) substitute “the Financial Services Authority”.

Bankers’ Books Evidence Act 1879 (c. 11)

Meaning of “bank” etc.

265.—(1) Section 9 of the Bankers’ Books Evidence Act 1879 (meaning of “bank” etc.) is amended as follows.

(2) In subsection (1)(180), for paragraphs (a) and (aa) substitute—

“(a) a deposit-taker;”.

(3) After that subsection, insert—

“(1A) “Deposit taker” means—

- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits; or
- (b) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) to accept deposits or other repayable funds from the public.

(177) The Law Society of Scotland is a designated professional body for the purposes of Part 20: [S.I. 2001/1226](#).

(178) The reference to “the Treasury” was substituted by [S.I. 1997/2781](#), article 8. The function in question was contracted out to the Financial Services Authority under [S.I. 1998/2842](#), article 2, Schedule, paragraph 62(a). That Order is revoked by this Order, and the substitution made by this paragraph is consequential on that revocation.

(179) The reference to “the Treasury” was substituted by [S.I. 1997/2781](#), article 8. The function in question was contracted out to the Financial Services Authority under [S.I. 1998/2842](#), article 2, Schedule, paragraph 62(b). That Order is revoked by this Order, and the substitution made by this paragraph is consequential on that revocation.

(180) Subsection (1)(a) was substituted by the Banking Act 1987 (c. 22), Schedule 6, paragraph 1. Subsection (1)(aa) was inserted by the Building Societies Act 1986, Schedule 18 Pt. 1, paragraph 1 and has been amended by [S.I. 2001/1148](#) Schedule 1, paragraph 3.

(1B) But a person is not a deposit-taker if he has permission to accept deposits only for the purpose of carrying on another regulated activity in accordance with that permission.

(1C) Subsections (1A) and (1B) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

Meaning of “legal proceedings”

266. In section 10 of the Bankers' Books Evidence Act 1879 (interpretation), in the definition of “legal proceedings”, for paragraph (c)(**181**) substitute—

- “(c) an investigation, consideration or determination of a complaint by a member of the panel of ombudsmen for the purposes of the ombudsman scheme within the meaning of the Financial Services and Markets Act 2000.”.

Agricultural Credits Act 1928 (c. 43)

Agricultural charges on farming stock and assets

267.—(1) In subsection (7)(**182**) of section 5 of the Agricultural Credits Act 1928 (agricultural charges on farming stock and assets: defined terms), for the definition of “Bank” substitute—

““Bank” means—

- (a) the Bank of England;
- (b) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits;
- (c) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) to accept deposits or other repayable funds from the public;”.

(2) After that subsection, insert—

“(7A) Paragraphs (b) and (c) of the definition of “Bank” in subsection (7) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

Trustee Investments Act 1961 (c. 62)

Power of Treasury to give directions in relation to local authority investment schemes

268. In section 11(3)(**183**) of the Trustee Investments Act 1961 (power of Treasury to give directions in relation to approved schemes for investment by local authorities), for “Financial Services Act 1986” substitute “Financial Services and Markets Act 2000”.

(**181**) Paragraph (c) was substituted by the Building Societies Act 1997 (c. 32) s. 45(1).

(**182**) The definition of “bank” in subsection (7) was substituted by the Banking Act 1979 (c. 37) Schedule 6, paragraphs 2, 14 and has been amended by the Banking Act 1987 (c. 22) Schedule 6, paragraph 2; the Trustee Savings Banks Act 1985 (c. 58) ss. 4(3), 7(3), Schedule 4 and S.I. 2001/1149, article 1(2).

(**183**) Section 11(3) was amended by the Financial Services Act 1986 (c. 60) Schedule 16, paragraph 2.

Manner of investment

269.—(1) Schedule 1(**184**) to the Trustee Investments Act 1961 (manner of investment) is amended as follows.

(2) In Part 2, for paragraph 10A(**185**) substitute—

“**10A.** In any units of a gilt unit trust scheme.

A gilt unit trust scheme is an authorised unit trust scheme, or a recognised scheme, the objective of which is—

- (a) to invest at least 90% of the property of the scheme in loan stock, bonds or other instruments creating indebtedness which—
 - (i) are transferable; and
 - (ii) are issued or guaranteed by the government of the United Kingdom or of any other country or territory, by a local authority in the United Kingdom or in a relevant state, or by an international organisation the members of which include the United Kingdom or a relevant state;
- (b) to invest the remainder of the property of the scheme in shares, debentures or other instruments creating or acknowledging indebtedness, certificates representing securities or units in a collective investment scheme.

Sub-paragraphs (a) and (b) must be read with—

- (i) section 22 of the Financial Services and Markets Act 2000;
- (ii) any relevant order under that section; and
- (iii) Schedule 2 to that Act.”

(3) In Part 3, in paragraph 3(**186**), the words “within the meaning of the Financial Services Act 1986” are repealed.

(4) In that Part, for paragraph 6(**187**) substitute—

“(6) In any units of a recognised scheme which does not fall within Part 2 of this Schedule.”

(5) In Part 4(**188**), in paragraphs 2 and 2A, the words “within the meaning of the Financial Services Act 1986” are repealed.

(6) In that Part, after paragraph 4 insert—

“**4A.** In this Schedule—

“authorised unit trust scheme” and “recognised scheme” have the meaning given by section 237(3) of the Financial Services and Markets Act 2000;

“collective investment scheme” has the meaning given by section 235 of that Act; and

“recognised investment exchange” has the meaning given by section 285 of that Act.”

(7) Paragraph 6A(**189**) is repealed.

(**184**) Schedule 1 has been repealed, except in so far as it is applied by or under any other enactment, by virtue of the Trustees Act 2000 (c. 29) Schedule 2 Pt. 1, paragraph 1(1).

(**185**) Section 10A was inserted by the Finance Act 1982 (c. 39), s. 150, substituted by S.I. 1994/1908 article 2 and amended by S.I. 1995/768 article 3.

(**186**) Paragraph 3 was substituted by the Financial Services Act 1986 (c. 60) Schedule 16, paragraph 2(b).

(**187**) Paragraph 6 was added by S.I. 1994/1908 article 3.

(**188**) Paragraph 2 was amended by the Financial Services Act 1986 (c. 60) Schedule 16, paragraph 2(c) and by S.I. 1994/1908 article 3(1), (3). Paragraph 2A was inserted by S.I. 1994/1908 article 3(1), (4).

(**189**) Paragraph 6A was inserted by S.I. 1994/1908 article 3(1), (8).

Stock Transfer Act 1963 (c. 18)

Registered securities to which section 1 of the Act applies

270. In section 1(4) of the Stock Transfer Act 1963 (registered securities which may be transferred by simplified form) in paragraph (e)(**190**), for “the Financial Services Act 1986” substitute “Part 17 of the Financial Services and Markets Act 2000”.

Meaning of “securities”: units of a collective investment scheme

271. In section 4(1)(**191**) of the Stock Transfer Act 1963 (interpretation), in the definition of “securities”, for “Financial Services Act 1986” substitute “Financial Services and Markets Act 2000”.

Stock Transfer Act (Northern Ireland) 1963 (c. 24)

Registered securities to which section 1 of the Act applies

272. In section 1(4) of the Stock Transfer Act (Northern Ireland) 1963 (registered securities which may be transferred by simplified form) in paragraph (e)(**192**), for “the Financial Services Act 1986” substitute “Part 17 of the Financial Services and Markets Act 2000”.

Meaning of “securities”: units of a collective investment scheme

273. In section 4(1)(**193**) of the Stock Transfer Act (Northern Ireland) 1963 (interpretation), in the definition of “securities”, for “Financial Services Act 1986” substitute “Financial Services and Markets Act 2000”.

Parliamentary Commissioner Act 1967 (c. 13)

Bodies no longer subject to investigation

274. In Schedule 2(**194**) to the Parliamentary Commissioner Act 1967, the entries in relation to the following are repealed—

- the Building Societies Commission;
- the Friendly Societies Commission; and
- the Registry of Friendly Societies (and Note 2, which relates to that entry is also repealed).

Functions of administrative staff of certain tribunals subject to investigation by Commissioner

275. In Schedule 4(**195**) to the Parliamentary Commissioner Act 1967 (relevant tribunals for the purposes of section 5(7)), before the entry relating to the Financial Services Tribunal(**196**) insert—

(**190**) The words being substituted were in turn substituted by the Financial Services Act 1986 (c. 60) Schedule 16, paragraph 4.
(**191**) The words being substituted were in turn substituted by the Financial Services Act 1986 (c. 60) Schedule 16, paragraph 4.
(**192**) The words being substituted were in turn substituted by the Financial Services Act 1986 (c. 60) Schedule 16, paragraph 5.
(**193**) The words being substituted were in turn substituted by the Financial Services Act 1986 (c. 60) Schedule 16, paragraph 5.
(**194**) Schedule 2 was substituted by the Parliamentary and Health Service Commissioners Act 1987 (c. 39) s. 1(2), Schedule 1 and the entry relating to the Friendly Societies Commission was inserted by the Friendly Societies Act 1992 (c. 40) Schedule 1, paragraph 12.
(**195**) Schedule 4 was inserted by the Parliamentary Commissioner Act 1994 (c. 14) s. 1(3).
(**196**) The entry relating to the Financial Services Tribunal was inserted by S.I. 1996/1914.

“Financial Services and Markets Tribunal constituted under section 132 of the Financial Services and Markets Act 2000.”.

Local Authorities' Mutual Investment Trust Act 1968 (c. 25)

Meaning of “securities”

276. In section 1(2)(**197**) of the Local Authorities' Mutual Investment Trust Act 1968 (extension of Company's power to invest: meaning of securities), the words “within the meaning of the Financial Services Act 1986” are repealed.

Interpretation

277.—(1) Section 2 of the Local Authorities' Mutual Investment Trust Act 1968 (interpretation) is amended as follows.

- (2) After the definition of “participation certificate” insert—
 ““recognised investment exchange” has the meaning given by section 285(1) of the Financial Services and Markets Act 2000;”
- (3) For the definition of “unit trust scheme”(**198**) substitute—
 ““unit trust scheme” has the meaning given by section 237(1) of the Financial Services and Markets Act 2000;”.

Theft Act 1968 (c. 60)

Obtaining a money transfer by deception: interpretation

278.—(1) Section 15B(**199**) of the Theft Act 1968 (obtaining a money transfer by deception: interpretation) is amended as follows.

- (2) In subsection (4), the words after paragraph (b) are repealed.
- (3) After that subsection insert—
 “(4A) References in subsection (4) to a deposit must be read with—
 (a) section 22 of the Financial Services and Markets Act 2000;
 (b) any relevant order under that section; and
 (c) Schedule 2 to that Act,
 but any restriction on the meaning of deposit which arises from the identity of the person making it is to be disregarded.”.

Theft Act (Northern Ireland) 1969 (c. 16)

Obtaining a money transfer by deception: interpretation

279.—(1) Section 15B(**200**) of the Theft Act (Northern Ireland) 1969 (obtaining a money transfer by deception: interpretation) is amended as follows.

- (2) In subsection (4), the words after paragraph (b) are repealed.

(**197**) The words being substituted were substituted by the Financial Services Act 1986 (c. 60) Schedule 16, paragraph 7.
 (**198**) The definition of “unit trust scheme” was amended by the Financial Services Act 1986 (c. 60) Schedule 16, paragraph 7.
 (**199**) Section 15B was inserted by the Theft (Amendment) Act 1996 (c. 62) s. 1(1).
 (**200**) Section 15B was inserted by the Theft (Amendment) (Northern Ireland) Order 1997 NI 3, Article 3(1).

(3) After that subsection insert—

“(4A) References in subsection (4) to a deposit must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act,

but any restriction on the meaning of deposit which arises from the identity of the person making it is to be disregarded.”.

Employers' Liability (Compulsory Insurance) Act 1969 (c. 57)

Insurance against liability for employees: meaning of authorised insurer

280.—(1) Section 1 of the Employers' Liability (Compulsory Insurance) Act 1969 (insurance against liability for employees) is amended as follows.

(2) In subsection (3), for paragraph (b)(201) substitute—

“(b) “authorised insurer” means—

- (i) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect and carry out contracts of insurance of a kind required by this Act and regulations made under this Act, or
- (ii) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to the Financial Services and Markets Act 2000, which has permission under paragraph 15 of that Schedule to effect and carry out contracts of insurance of a kind required by this Act and regulations made under this Act;”.

(3) After that subsection insert—

“(3A) Subsection (3)(b) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

Local Government Act 1972 (c. 70)

Restrictions on voting: interpretation

281. For subsection (1) of section 98(202) of the Local Government Act 1972 (restrictions on voting: interpretation) substitute—

“(1) In sections 95 and 97 “securities” means—

- (a) shares;
- (b) instruments creating or acknowledging indebtedness;
- (c) instruments giving entitlements to investments;
- (d) certificates representing securities;
- (e) units in a collective investment scheme;

(201) Subsection 3(b) has been amended by the Insurance Companies Act 1981 (c. 31) Schedule 4 Pt II, paragraph 19; by the Insurance Companies Act 1982 (c. 50) Schedule 5, paragraph 8; and by S.I. 1992/2890 regulation 11(1).

(202) Section 98 is repealed by the Local Government Act 2000 (c. 22) Schedule 5, paragraph 12 from a date to be appointed and has been amended by the Financial Services Act 1986 (c. 60) Schedule 16, paragraph 8.

- (f) rights to, or interests in, any security of the kind mentioned in paragraphs (a) to (e);
- (g) rights (whether actual or contingent) to money lent to, or deposited with—
 - (i) a society registered under the Industrial and Provident Societies Act 1965, or
 - (ii) a building society within the meaning of the Building Societies Act 1986, and the definition of securities must be read with section 22 of the Financial Services and Markets Act 2000, any relevant order under that section and Schedule 2 to that Act.”.

Insurance by local authorities against accidents to members

282.—(1) Section 140 of the Local Government Act 1972 (insurance by local authorities against accidents to members) is amended as follows.

(2) In subsection (1)(**203**) for the words from “insurance” to “1982” substitute “accident insurance”.

(3) After subsection (3), insert—

“(3A) References to accident insurance must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

Insurance against accidents to voluntary assistants

283.—(1) Section 140C(**204**) of the Local Government Act 1972 (insurance against accidents to voluntary assistants: supplementary) is amended as follows.

(2) In subsection (1) for paragraphs (a) and (b) substitute—

- “(a) contracts of permanent health insurance; and
- (b) contracts of accident insurance.”.

(3) After that subsection, insert—

“(1A) Subsection (1) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

Fair Trading Act 1973 (c. 41)

Exclusions from Part 11 of the Fair Trading Act 1973

284.—(1) Section 118(**205**) of the Fair Trading Act 1973 (trading schemes to which Part XI applies) is amended as follows.

(2) In subsection (6), for paragraph (a) substitute—

(**203**) Section 140(1) was substituted by the Local Government (Miscellaneous Provisions) Act 1982 (c. 30) s. 39(1) and has been amended by the Insurance Companies Act 1982 (c. 50) Schedule 5, paragraph 13.

(**204**) Section 140C was inserted by the Local Government (Miscellaneous Provisions) Act 1982 (c. 30) s. 39(2) and subsection (1) has been amended by the Insurance Companies Act 1982 (c. 50) Schedule 5, paragraph 13.

(**205**) Section 118 was substituted by the Trading Schemes Act 1996 (c. 32) s. 1.

- “(a) under which the promoter or any of the promoters or participants is to carry on, or to purport to carry on, a relevant regulated activity;”.
- (3) After subsection (6) insert—
- “(6A) For the purposes of subsection (6)(a), “relevant regulated activity” means—
- (a) dealing in investments as principal or agent;
 - (b) arranging deals in investments;
 - (c) managing investments;
 - (d) safeguarding and administering investments;
 - (e) sending dematerialised instructions;
 - (f) establishing etc. a collective investment scheme;
 - (g) advising on investments,
- and paragraphs (a) to (g) must be read with section 22 of the Financial Services and Markets Act 2000, any relevant order under that section, and Schedule 2 to that Act.”.

Restrictions on disclosure of information

- 285.**—(1) Section 133(2) of the Fair Trading Act 1973 (exceptions from general restrictions on disclosure of information obtained under that Act) is amended as follows.
- (2) In paragraph (a)(206), the words “or Chapter XIV of Part I of the Financial Services Act 1986” are repealed.
- (3) At the end of that paragraph, insert “or Chapter 2 of Part 18 of the Financial Services and Markets Act 2000”.

Solicitors Act 1974 (c. 47)

Meaning of “authorised insurer”

- 286.**—(1) Section 87 of the Solicitors Act 1974 (interpretation) is amended as follows.
- (2) In subsection (1), the definition of “authorised insurer”(207) is repealed.
- (3) In subsection (1) for the definition of “bank”(208) substitute—
- ““bank” means the Bank of England, a person (other than a building society) who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits or an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to accept deposits;”.
- (4) After that subsection, insert—
- “(1A) In this Act “authorised insurer” means—
- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of insurance of a relevant class;
 - (b) a person who carries on an insurance market activity, within the meaning of section 316(3) of that Act;

(206) The reference in section 133(2)(a) to the Financial Services Act 1986 was inserted by that Act, Schedule 13, paragraph 1.

(207) The definition of “authorised insurer” was substituted by S.I. 1992/2890 regulation 12(1).

(208) The definition of “bank” has been amended by the Banking Act 1979 (c. 37) Schedule 6; the Banking Act 1987 (c. 22) Schedule 6 paragraph 5; the Trustee Savings Banks Act 1985 (c. 58) Schedule 4 and S.I. 2001/1149 article 1(2).

- (c) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of insurance of a relevant class; or
 - (d) a person who does not fall within paragraph (a), (b) or (c) and who may lawfully effect or carry out contracts of insurance of a relevant class in a member state other than the United Kingdom.
- (1B) A contract of insurance is of a relevant class for the purposes of subsection (1A) if it insures against risks arising from—
- (a) accident;
 - (b) credit;
 - (c) legal expenses;
 - (d) general liability to third parties;
 - (e) sickness;
 - (f) suretyship;
 - (g) miscellaneous financial loss.
- (1C) The definition of “bank” in subsection (1) and subsections (1A) and (1B) must be read with—
- (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.”.

House of Commons Disqualification Act 1975 (c. 24)

Repeal of spent disqualifications

287.—(1) Schedule 1(209) to the House of Commons Disqualification Act 1975 (disqualifying offices) is amended as follows.

- (2) In Part 2, the following entries are repealed—
 - “The Building Societies Commission.”; and
 - “The Friendly Societies Commission.”.
- (3) In Part 3, the following entries are repealed—
 - “Chairman of a designated agency within the meaning of the Financial Services Act 1986 if he is in receipt of remuneration.”;
 - “Chairman of a transferee body within the meaning of Schedule 11 to the Financial Services Act 1986 if he is in receipt of remuneration.”;
 - “Registrar or Assistant Registrar of Friendly Societies.”.

Northern Ireland Assembly Disqualification Act 1975 (c. 25)

Repeal of spent disqualifications

288.—(1) Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (disqualifying offices) is amended as follows.

- (2) In Part 2, the following entries are repealed—
“The Building Societies Commission.”; and
“The Friendly Societies Commission.”
- (3) In Part 3, the following entries are repealed—
“Chairman of a designated agency within the meaning of the Financial Services Act 1986 if he is in receipt of remuneration.”;
“Chairman of a transferee body within the meaning of Schedule 11 to the Financial Services Act 1986 if he is in receipt of remuneration.”;
“Industrial Assurance Commissioner or Deputy Industrial Assurance Commissioner appointed under the Industrial Assurance Act (Northern Ireland) 1924.”; and
“Registrar or Assistant Registrar of Friendly Societies.”

The Stock Exchange (Completion of Bargains) Act 1976 (c. 47)

Acquisition and disposal of securities by trustees etc

289.—(1) Section 5 of the Stock Exchange (Completion of Bargains) Act 1976 (acquisition and disposal of securities by trustees etc.) is amended as follows.

(2) In paragraph (a) of subsection (1)(**210**), for the words from “a recognised” to “exchange” substitute “a financial institution”.

(3) In paragraph (b) of that subsection, for “clearing house or nominee” substitute “financial institution”.

(4) In that subsection, the words after paragraph (b) are repealed.

(5) For subsection (2)(**211**) substitute—

“(2) “Financial institution” means—

(a) a recognised clearing house acting in relation to a recognised investment exchange; or

(b) a nominee of—

(i) a recognised clearing house acting in that way; or

(ii) a recognised investment exchange.

(3) No person may be a nominee for the purposes of this section unless he is a person designated for those purposes in the rules of the recognised investment exchange in question.

(4) Expressions used in subsections (2) and (3) have the same meaning as in the Part 18 of the Financial Services and Markets Act 2000.”.

Supreme Court Act 1981 (c. 54)

Attachment of debts

290.—(1) Section 40 of the Supreme Court Act 1981 (attachment of debts) is amended as follows.

(2) In subsection (1), for the words from “the following” to the end substitute “any deposit account, and any withdrawable share account, with a deposit-taker”.

(210) Section 5(1) was amended by the Financial Services Act 1986 (c. 60) s. 194.

(211) Section 5(2) was inserted by the Financial Services Act 1986 (c. 60) s. 194.

- (3) In subsection (4)(b) for “deposit-taking institution”, in both places, substitute “deposit-taker”.
- (4) For subsection (6)(212) substitute—
- “(6) “Deposit-taker” means a person who may, in the course of his business, lawfully accept deposits in the United Kingdom.”.
- (5) After subsection (6) insert—
- “(7) Subsection (6) must be read with—
- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

Administrative expenses of garnishees and others

291.—(1) Section 40A(213) of the Supreme Court Act 1981 (administrative expenses of garnishees and others) is amended as follows.

- (2) In subsection (1)—
- (a) for “any deposit-taking institution, the institution” substitute “a deposit-taker, it”;
- (b) for “the administrative and clerical expenses of the institution” substitute “its administrative and clerical expenses”; and
- (c) the words “of an institution” are repealed.
- (3) In subsection (1A)—
- (a) for “any such institution as is mentioned in that subsection” substitute “a deposit-taker”; and
- (b) for “the institution” substitute “it”.
- (4) In subsection (3), for the definition of “deposit-taking institution” substitute—
- ““deposit-taker” has the meaning given by section 40(6);”.
- (5) In subsection (4)(c)(214), for “deposit-taking institutions” substitute “deposit-takers”.

Betting and Gaming Duties Act 1981 (c. 63)

Saving of section 63 of the Financial Services Act 1986

- 292.** Notwithstanding the repeal of the Financial Services Act 1986(215)—
- (a) section 63 of that Act (gaming contracts),
- (b) paragraphs 9 and 12 of Schedule 1 to that Act, and
- (c) Parts III and IV of that Schedule 1

have effect for the purposes of section 3(2) of the Betting and Gaming Duties Act 1981 (bookmakers: spread bets)(216).

(212) Section 40(6) was amended by the Banking Act 1987 (c. 22) Schedule 6, paragraph 11.

(213) Section 40A was inserted by the Administration of Justice Act 1982 (c. 53), Schedule 4, Pt I. Subsections (1) and (1A) were substituted for the original subsection (1) by the Administration of Justice Act 1985 (c. 61), s. 52.

(214) Section 40A(4)(c) was substituted by the Administration of Justice Act 1985 (c. 61), s. 52(4).

(215) 1986 c. 60, repealed by article 3 of this Order.

(216) Section 3 was substituted by the Finance Act 2001 (c. 9), section 6(1), Schedule 1, paragraph 1.

Duchy of Cornwall Management Act 1982 (c. 47)

Bank accounts in the name of the Duchy

293.—(1) Section 6 of the Duchy of Cornwall Management Act 1982 (banking) is amended as follows.

(2) In subsection (2), for “recognised bank or banks” substitute “deposit taker”.

(3) In subsection (3), in paragraphs (b) and (c)(**217**) for “an authorised institution” substitute “a deposit taker”.

(4) For subsection (4) substitute—

“(4) In this section “deposit taker” means—

- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits; or
- (b) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) to accept deposits.”.

(5) After subsection (4) insert—

“(5) Subsection (4) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that Schedule; and
- (c) Schedule 2 to that Act.”.

County Courts Act 1984 (c. 28)

Attachment of debts

294.—(1) Section 108 of the County Courts Act 1984 (attachment of debts) is amended as follows.

(2) In subsection (1), for the words from “the following” to the end substitute “any deposit account, and any withdrawable share account, with a deposit-taker”.

(3) In subsection (4)(b) for “deposit-taking institution”, in both places, substitute “deposit-taker”.

Administrative expenses of garnishees and others

295.—(1) Section 109 of the County Courts Act 1984 (administrative expenses of garnishees and others) is amended as follows.

(2) In subsection (1)(**218**)—

- (a) for “any deposit-taking institution, the institution” substitute “a deposit-taker, it”;
- (b) for “the administrative and clerical expenses of the institution” substitute “its administrative and clerical expenses”; and
- (c) the words “of an institution” are repealed.

(3) In subsection (1A)(**219**)—

(**217**) Paragraphs (b) and (c) of subsection (3) were amended by the Banking Act 1987 (c. 22), s.108(1), Schedule 6, paragraph 14.

(**218**) Subsection (1) was substituted by the Administration of Justice Act 1985 (c. 61), s.52(2).

(**219**) Subsection (1A) was inserted by the Administration of Justice Act 1985 (c. 61), s.52(2).

- (a) for “any such institution as is mentioned in that subsection” substitute “a deposit-taker”; and
 - (b) for “the institution” substitute “it”.
- (4) In subsection (4)(c)(220), for “deposit-taking institution” substitute “deposit-taker”.

Meaning of “deposit-taking institution”

- 296.**—(1) Section 147 of the County Courts Act 1984 (Interpretation) is amended as follows.
- (2) In subsection (1), for the definition of “deposit-taking institution”(221) substitute—
 ““deposit-taking institution” means a person who may, in the course of his business, lawfully accept deposits in the United Kingdom;”.
- (3) After subsection (1) insert—
 “(1A) The definition of “deposit-taking institution” in subsection (1) must be read with—
 (a) section 22 of the Financial Services and Markets Act 2000;
 (b) any relevant order under that section; and
 (c) Schedule 2 to that Act.”.

Trustee Savings Banks Act 1985 (c. 58)

Transferees to be treated as included within certain categories of institution

297.—(1) Paragraph 11 of Schedule 1 to the Trustee Savings Banks Act 1985 (status of transferees as authorised institutions for certain purposes) is amended as follows.

(2) In sub-paragraph (4)(b)(222), for “an institution authorised under the Banking Act 1987” substitute “a deposit-taker”.

- (3) After that sub-paragraph, insert—
 “(4A) “Deposit taker” means—
 (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits; or
 (b) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) to accept deposits or other repayable funds from the public.
 (4B) But a person is not a deposit-taker if he has permission to accept deposits only for purpose of carrying on another regulated activity in accordance with that permission.
 (4C) Sub-paragraphs (4A) and (4B) must be read with—
 (a) section 22 of the Financial Services and Markets Act 2000;
 (b) any relevant order under that section; and
 (c) Schedule 2 to that Act.”.

(220) Section 109(4)(c) was substituted by the Administration of Justice Act 1985 (c. 61) s. 52(4).

(221) The definition of “deposit-taking institution” was amended by the Banking Act 1987 (c. 22), s.108(1), Schedule 6, para.15.

(222) The words being substituted were substituted by the Banking Act 1987 (c. 22), Schedule 6, paragraph 19.

Administration of Justice Act 1985 (c. 61)

Meaning of “authorised insurer”

298. For section 21(5)(**223**) of the Administration of Justice Act 1985 (professional indemnity and compensation: meaning of “authorised insurer”) substitute—

“(5) “Authorised insurer” means—

- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of insurance of a relevant class;
- (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of insurance of a relevant class; or
- (c) a person who does not fall within sub-paragraph (i) or (ii) and who may lawfully effect or carry out contracts of insurance of a relevant class in a member State other than the United Kingdom.

(6) A contract of insurance is of a relevant class for the purposes of subsection (5) if it insures against a risk arising from—

- (a) accident;
- (b) credit;
- (c) legal expenses;
- (d) general liability to third parties;
- (e) sickness;
- (f) suretyship; or
- (g) miscellaneous financial loss.

(7) Subsections (5) and (6) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

Housing Act 1985 (c. 68)

Lending institutions and savings institutions

299.—(1) The Housing Act 1985 is amended as follows.

(2) In section 36(4) (liability to repay is a charge on the premises), for the words from “a building society” to “a friendly society” substitute—

“an authorised deposit taker
an authorised insurer”.

(3) In section 151B(5) (mortgage for securing redemption of landlord’s share)(**224**), for the words from “a building society” to “a friendly society” substitute—

“an authorised deposit taker
an authorised insurer”.

(**223**) Section 21(5) was substituted by [S.I. 1992/2890](#), regulation 12(4).

(**224**) Section 151B was inserted by the Leasehold Reform, Housing and Urban Development Act 1993 ([c. 28](#)), section 118.

- (4) In section 156(4) (liability to repay is a charge on the premises)(**225**), for the words from “a building society” to “a friendly society” substitute—
- “an authorised deposit taker
an authorised insurer”.
- (5) In section 447(1) (recognised lending institutions)—
- (a) the entries relating to “building societies”(226), “trustees savings banks”, “banks”, “insurance companies” and “friendly societies” in the list of lending institutions recognised for the purposes of section 445 are repealed; and
- (b) at the beginning of that list insert—
- “an authorised deposit taker
an authorised insurer”.
- (6) In section 448(1) (recognised savings institutions)—
- (a) the entries relating to “building societies”(227), “trustees savings banks” and “banks” in the list of savings institutions recognised for the purposes of section 446 are repealed; and
- (b) at the beginning of that list insert—
- “an authorised deposit taker”.
- (7) In section 576 (meaning of “lending institution”) for the words from “a building society” to “an insurance company” substitute—
- “an authorised deposit taker, or
an authorised insurer.”

Interpretation of the 1985 Act

300.—(1) Section 622 of the Housing Act 1985 is amended as follows.

- (2) The existing text is numbered subsection (1).
- (3) In subsection (1), the definitions of “bank”, “building society”(228), “insurance company” and “trustee savings bank” are repealed.
- (4) In subsection (1), after the definition of “assured agricultural tenancy” insert—
- ““authorised deposit taker” means—
- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits, or
- (b) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act who has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) to accept deposits;
- “authorised insurer” means—
- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of insurance, or

(225) Subsection (4) of section 156 was amended by the Housing Act 1988, section 140(1), Schedule 17, paragraph 106.

(226) The reference to building societies was substituted by the Building Societies Act 1986 (c. 53), section 120(1), Schedule 18, paragraph 18(3).

(227) The reference to building societies was substituted by the Building Societies Act 1986 (c. 53), section 120(1), Schedule 18, paragraph 18(3).

(228) The definition of “bank” was amended by the Banking Act 1987 (c. 22), and the definition of “building society” was substituted by the Building Societies Act 1986 (c. 53), section 120(1), Schedule 18, paragraph 18(5).

- (b) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act who has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) to effect or carry out contracts of insurance;”.
- (5) After subsection (1) insert—
 - “(2) The definitions of “authorised deposit taker” and “authorised insurer” in subsection (1) must be read with—
 - (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.”.

Housing Associations Act 1985 (c. 69)

Agreements to indemnify certain lenders in England and Wales: consultation requirements

301. In section 84(5)(a)(**229**) of the Housing Associations Act 1985 (requirement to consult before approving form of agreements with building societies), for “Building Societies Commission” substitute “Financial Services Authority”.

Agreements to indemnify certain lenders in Scotland: consultation requirements

302. In section 86(4)(**230**) of the Housing Associations Act 1985 (requirement to consult before giving general approval to agreements), for “Building Societies Commission” substitute “Financial Services Authority”.

Insolvency Act 1986 (c. 45)

Further meaning of inability to pay debts where the company is a deposit taker

303.—(1) After section 8(1) of the Insolvency Act 1986 (restrictions on making of administration order) insert—

“(1A) For the purposes of a petition presented by the Financial Services Authority alone or together with any other party, an authorised deposit taker who defaults in an obligation to pay any sum due and payable in respect of a relevant deposit is deemed to be unable to pay its debts as mentioned in subsection (1).

(1B) In subsection (1A)—

- (a) “authorised deposit taker” means a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits, but excludes a person who has such permission only for the purpose of carrying on another regulated activity in accordance with that permission; and
- (b) “relevant deposit” must be read with—
 - (i) section 22 of the Financial Services and Markets Act 2000,
 - (ii) any relevant order under that section, and
 - (iii) Schedule 2 to that Act,

(229) The reference to the Building Societies Commission in section 84(5)(a) was substituted by the Building Societies Act 1986 (c. 53), Schedule 18, paragraph 19(3).

(230) The reference to the Building Societies Commission in section 86(4) was substituted by the Building Societies Act 1986 (c. 53), Schedule 18, paragraph 19(3).

but any restriction on the meaning of deposit which arises from the identity of the person making it is to be disregarded.”.

Limitation on power to make administration order

304. For section 8(4)(**231**) of the Insolvency Act 1986 (restrictions on making of administration order) substitute—

“(4) An administration order shall not be made in relation to a company after it has gone into liquidation.

(5) An administration order shall not be made against a company if—

- (a) it has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of insurance in the United Kingdom;
- (b) it continues to have a liability in respect of a deposit which was held by it in accordance with the Banking Act 1979 or the Banking Act 1987.

(6) Subsection (5)(a) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

Petition for winding-up by the Secretary of State

305. In subsection (1) of section 124A of the Insolvency Act 1986 (petition for winding-up on the grounds of public interest), for paragraph (b) substitute—

“(b) any report made by inspectors under—

- (i) section 167, 168, 169 or 284 of the Financial Services and Markets Act 2000, or
- (ii) where the company is an open-ended investment company (within the meaning of that Act), regulations made as a result of section 262(2)(k) of that Act;

(bb) any information or documents obtained under section 165, 171, 172, 173 or 175 of that Act.”.

Winding-up on petition of the Authority: partnerships

306. Section 168(5C)(**232**) of the Insolvency Act 1986 (which is superseded by section 367 of the Financial Services and Markets Act 2000) is repealed.

Power to apply Parts 1 to 7 to former authorised institutions

307. In section 422(1)(**233**) of the Insolvency Act 1986 (power to apply first group of Parts to banks etc), for “authorised institutions and former authorised institutions within the meaning of the Banking Act 1987” substitute “any person who continues to have a liability in respect of a deposit which was held by him in accordance with the Banking Act 1979 or the Banking Act 1987”.

(**231**) Section 8(4) has been amended by the Banking Act 1987 (c. 22), Schedule 6, paragraph 25(1).

(**232**) Section 168(5C) was inserted by S.I. 194/2421, article 14(1).

(**233**) Section 422(1) has been amended by the Banking Act 1987 (c. 22), Schedule 5, paragraph 37; and Schedule 6, paragraph 25(2).

Criminal Justice Act 1987 (c. 38)

Restriction on disclosure of information by members of Serious Fraud Office

308. For paragraphs (e) to (k) of section 3(6)(**234**) of the Criminal Justice Act 1987 (competent authorities for the purposes of disclosure of information by members of the Serious Fraud Office) substitute—

- “(e) a person appointed under—
- (i) section 167 of the Financial Services and Markets Act 2000 (general investigations),
 - (ii) section 168 of that Act (investigations in particular cases),
 - (iii) section 169(1)(b) of that Act (investigation in support of overseas regulator),
 - (iv) section 284 of that Act (investigations into affairs of certain collective investment schemes), or
 - (v) regulations made as a result of section 262(2)(k) of that Act (investigations into open-ended investment companies),
- to conduct an investigation;
- (f) a body corporate established in accordance with section 212(1) of the Financial Services and Markets Act 2000 (compensation scheme manager);”.

Consumer Protection Act 1987 (c. 43)

Exclusion of offences under section 397 of the Financial Services and Markets Act 2000

309. After subsection (5) of section 20 of the Consumer Protection Act 1987 (offence of giving misleading information) insert—

“(5A) A person is not guilty of an offence under subsection (1) or (2) above if, in giving the misleading indication which would otherwise constitute an offence under either of those subsections, he is guilty of an offence under section 397 of the Financial Services and Markets Act 2000 (misleading statements and practices).”.

Repeal of unnecessary provisions

310.—(1) Section 22 of the Consumer Protection Act 1987 (application of provisions relating to misleading price indications to services and facilities) is amended as follows.

(2) Subsection (3) is repealed.

(3) In subsection (5), the definitions of “appointed representative”, “authorised person” and “investment business” are repealed.

Access to Medical Reports Act 1988 (c. 28)

Access to medical reports: “insurance purposes”

311.—(1) Section 2 of the Access to Medical Reports Act 1988 (interpretation) is amended as follows.

(2) In subsection (1), for the definition of “insurance purposes” substitute—

(234) Paragraph (e) to (k) of section 3(6), have been amended by the Criminal Justice Act 1993 (c. 36), Schedule 6 Pt. I; the Criminal Justice Act 1998 (c. 33), Schedule 15, paragraph 111; and S.I. 1994/1696, Schedule 8, paragraph 16.

““insurance purposes”, in a case of any individual who has entered into, or is seeking to enter into, a contract of insurance with an insurer, means the purposes of that insurer in relation to that individual;

“insurer” means—

- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of insurance;
 - (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out relevant contracts of insurance.”.
- (3) After that subsection, insert—
- “(1A) The definitions of “insurance purposes” and “insurer” in subsection (1) must be read with—
- (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.”.

Road Traffic Act 1988 (c. 52)

Notification of refusal of insurance on health grounds

312. For subsection (2) of section 95 of the Road Traffic Act 1988 (notification of refusal of insurance on health grounds) substitute—

“(2) “Authorised insurer” means an insurer who is a member of the Motor Insurers Bureau (a company limited by guarantee and incorporated under the Companies Act 1929 on 14th June 1946).

(3) “Insurer” means—

- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out relevant contracts of insurance, or
 - (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out relevant contracts of insurance.
- (4) A contract is a relevant contract of insurance if the risk insured against relates to—
- (a) the insured sustaining accidental injury or death as a result of travelling as a passenger;
 - (b) land vehicles;
 - (c) goods in transit; or
 - (d) motor vehicle liability.
- (5) This section must be read with—
- (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any order for the time being in force under that section; and
 - (c) Schedule 2 to that Act.”.

Requirements with respect to policies of insurance

313. For section 145(5) of the Road Traffic Act 1988 (requirements with respect to policies of insurance) substitute—

“(5) “Authorised insurer” has the same meaning as in section 95.”.

Defined expressions: “authorised insurer”

314. In section 162 of the Road Traffic Act 1988 (defined expressions in Part 6), for the entry relating to “authorised insurer” substitute—

“Authorised insurer	Section 145(5).”
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Water Act 1989 (c. 15)

Listing particulars of nominated holding companies

315.—(1) Section 90 of the Water Act 1989 (listing particulars of nominated holding companies) is amended as follows.

(2) Subsection (2) is repealed.

(3) For subsection (3) substitute—

“(3) In this section—

“listing particulars” has the same meaning as in section 90(1) of the Financial Services and Markets Act 2000; and

“responsible”, in relation to listing particulars, has the meaning given in section 79(3) of that Act.”.

Restriction on disclosure of information

316. For paragraph (e) of section 174(2) of the Water Act 1989 (restrictions on disclosure of information) substitute—

“(e) for the purpose of enabling or assisting the Secretary of State, the Treasury or the Financial Services Authority to exercise any powers conferred by or under the Financial Services and Markets Act 2000 or by the enactments relating to companies or insolvency;

(ea) for the purpose of enabling or assisting any inspector appointed under enactments relating to companies to carry out his functions;”.

Law of Property (Miscellaneous Provisions) Act 1989 (c. 34)

Contracts to which section 2 of the 1989 Act does not apply

317.—(1) Section 2 of the Law of Property (Miscellaneous Provisions) Act 1989 (Contracts for sale etc of land to be made by signed writing) is amended as follows.

(2) For paragraph (c) of subsection (5) substitute—

“(c) a contract regulated under the Financial Services and Markets Act 2000, other than a regulated mortgage contract;”.

(3) In subsection (6) after the definition of “interest in land” insert—

““regulated mortgage contract” must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000,
- (b) any relevant order under that section, and
- (c) Schedule 2 to that Act.”.

Local Government and Housing Act 1989 (c. 42)

Borrowing powers of local authorities

318.—(1) Section 43 of the Local Government and Housing Act 1989 (borrowing powers) is amended as follows.

(2) In paragraph (a) of subsection (2), for “an authorised institution within the meaning of the Banking Act 1987” substitute “a deposit-taker”.

(3) In that subsection, the words after paragraph (c) are repealed.

(4) After subsection (8) insert—

“(9) In this section—

(a) “deposit-taker” means—

- (i) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits, or
- (ii) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) to accept deposits; and

(b) “short-term”, in relation to borrowing, is to be read with section 45(6).

(10) Subsection (9)(a) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

National Health Service and Community Care Act 1990 (c. 19)

Schemes for meeting losses and liabilities of certain health service bodies

319. For section 21(5)(**235**) of the National Health Service and Community Care Act 1990 (schemes for meeting losses and liabilities of certain health service bodies) substitute—

“(5) A person or body administering a scheme under this section does not require permission under any provision of the Financial Services and Markets Act 2000 as respects activities carried out under the scheme.”.

(**235**) Section 21(5) has been amended by the Health Authorities Act 1995 (c. 17), Schedule 1, paragraph 79(b) and the Health Act 1999 (c. 8), Schedule 4, paragraphs 74, 81(1), (3).

Contracts (Applicable Law) Act 1990 (c. 36)

Law applicable to a contract of insurance

320. In section 2 of the Contracts (Applicable Law) Act 1990 (conventions to have force of law), for subsection (1A)(**236**) substitute—

“(1A) The internal law for the purposes of Article 1(3) of the Rome Convention is the provisions of the regulations for the time being in force under section 424(3) of the Financial Services and Markets Act 2000.”.

Courts and Legal Services Act 1990 (c. 41)

Authorisation of conveyancing practitioners

321. For section 37(8)(**237**) of the Courts and Legal Services Act 1990 (authorisation of conveyancing practitioners) substitute—

“(8) Subsection (8A) applies if the applicant is—

- (a) a person with permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits or to effect or carry out contracts of insurance; or
- (b) an EEA firm of the kind mentioned in paragraph 5(b) or (d) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) either—
 - (i) to accept deposits, or
 - (ii) to effect or carry out contracts of insurance.

(8A) The Board must have regard to the fact that the applicant has obtained that permission in determining whether it is satisfied as mentioned in subsection (1)(a).

(8B) Subsection (8) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

Investigation of conveyancing practitioners

322. For section 48(4)(**238**) of the Courts and Legal Services Act 1990 (investigation of conveyancing practitioners on behalf of the Board) substitute—

“(4) Subsection (4A) applies if an authorised practitioner whose affairs are under investigation is—

- (a) a person with permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits or to effect or carry out contracts of insurance; or
- (b) an EEA firm of the kind mentioned in paragraph 5(b) or (d) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) either—
 - (i) to accept deposits, or
 - (ii) to effect or carry out contracts of insurance.

(**236**) Subsection (1A) was inserted by *S.I. 1993/174*, regulation 9, and substituted by *S.I. 1993/2519*, regulation 6(5).

(**237**) Section 37(8) was amended by the Bank of England Act 1998 (c. 11), Schedule 5, paragraph 41(2).

(**238**) Section 48(4) was amended by the Bank of England Act 1998 (c. 11), Schedule 5, paragraph 41(2).

(4A) The Lord Chancellor may give a direction with a view to limiting the scope of the investigation to matters concerned with the provision of conveyancing services.

(4B) Subsection (4) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

Exceptions from restrictions on disclosure of information by the Authorised Conveyancing Practitioners Board

323.—(1) Subsection (2) of section 50 of the Courts and Legal Services Act 1990 (power of the Board to disclose information for certain purposes) is amended as follows.

(2) The following are repealed—

- (a) paragraphs (d) and (l);
- (b) sub-paragraph (vii) of paragraph (m); and
- (c) in paragraph (i)(**239**) of sub-paragraph (p), the words “the Building Societies Commission”.

(3) For paragraph (e) substitute—

“(e) a recognised investment exchange or a recognised clearing house (both within the meaning given by section 285 of the Financial Services and Markets Act 2000) to discharge any of its functions;”.

(4) For paragraphs (fa)(**240**) to (h) substitute—

- “(fa) the Financial Services Authority to discharge its functions under the legislation relating to friendly societies or to industrial and provident societies, under the Building Societies Act 1986 or under the Financial Services and Markets Act 2000;
- (g) the Secretary of State or the Treasury to discharge any function conferred by this Act, the Financial Services and Markets Act 2000 or any enactment relating to competition, companies or insolvency;
- (h) the competent authority for the purposes of Part 6 of the Financial Services and Markets Act 2000 to discharge its functions under that Part;
- (ha) a person appointed under—
 - (i) section 167 of the Financial Services and Markets Act 2000 (general investigations),
 - (ii) section 168 of that Act (investigations in particular cases),
 - (iii) section 169(1)(b) of that Act (investigation in support of overseas regulator),
 - (iv) section 284 of that Act (investigations into affairs of certain collective investment schemes), or
 - (v) regulations made as a result of section 262(2)(k) of that Act (investigations into open-ended investment companies),
 to conduct an investigation to discharge his functions;
- (hb) any inspector appointed by the Secretary of State under this Act or any enactment relating to competition, companies or insolvency to discharge his functions under that enactment;

(**239**) Section 50(2)(p)(i) was amended by the Bank of England Act 1998 (c. 11), Schedule 5, paragraph 67(b).

(**240**) Section 50(2)(fa) was inserted by the Bank of England Act 1998 (c. 11), Schedule 5, paragraph 67(a).

- (hc) a body designated under section 326(1) of the Financial Services and Markets Act 2000 to discharge its functions in its capacity as a body designated under that section;”.
- (5) In paragraph (m), after sub-paragraph (ix) insert—
 - “(x) the Financial Services and Markets Act 2000;”.
- (6) For paragraph (r) substitute—
 - “(r) the Financial Services Tribunal to discharge any function it has in relation to proceedings before it by virtue of the Financial Services and Markets Act 2000 (Transitional Provisions) (Partly Completed Procedures) Order 2001;
 - (s) the Financial Services and Markets Tribunal to discharge any of its functions.”.

Board’s power of intervention

324. For subsections (5) to (8) of section 52(**241**) of the Courts and Legal Services Act 1990 substitute—

- “(5) Subsection (6) applies to an authorised practitioner who—
 - (a) has permission under any provision of the Financial Services and Markets Act 2000 to carry on a regulated activity; or
 - (b) is an appointed representative of a person with such permission;and “regulated activity” and “appointed representative” have the meaning given in that Act.
- (6) In relation to an authorised practitioner to whom this subsection applies, the powers of intervention may be exercised only after consultation with the Financial Services Authority.”.

Preparation of papers for probate

325.—(1) Section 54(1) of the Courts and Legal Services Act 1990 (which amends the Solicitors Act 1974(**242**)) is amended as follows.

- (2) In the inserted subsection (2), for paragraphs (e)(**243**) to (g) substitute—
 - “(e) a person who—
 - (i) has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits or to effect or carry out contracts of insurance, and
 - (ii) satisfies the conditions mentioned in subsection (2A);
 - (f) an EEA firm of the kind mentioned in paragraph 5(b) or (d) of Schedule 3 to that Act—
 - (i) which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) either to accept deposits or to effect or carry out contracts of insurance, and
 - (ii) which satisfies those conditions;”.
- (3) In paragraph (h) of that inserted subsection, for “, (f) or (g)” substitute “or (f)”.
- (4) After the inserted subsection (2A), insert—
 - “(2AB) Paragraphs (e) and (f) of subsection (2) must be read with—
 - (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and

(241) Section 52(6) was amended by the Bank of England Act 1998 (c. 11), Schedule 5, paragraph 41(3)(b).

(242) Section 54(1) inserts subsections (2), (2A), (3) and (4) into section 23 of the Solicitors Act 1974 (c. 47) from a date to be appointed.

(243) The inserted subsection (2)(e)(i) has been amended by the Bank of England Act 1998 (c. 11), Schedule 5, paragraph 41(4).

(c) Schedule 2 to that Act.”.

Judicial pensions: transfer of accrued benefits

326.—(1) Schedule 13 to the Courts and Legal Services Act 1990 (transfer of accrued benefits) is amended as follows.

(2) In paragraph 1 of Schedule 1A(**244**) (to be inserted in the Judicial Pensions Act 1981), the existing provision becomes sub-paragraph (1).

(3) In that sub-paragraph, for the definition of “authorised insurance company” substitute—

““authorised insurer” means—

- (i) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of long-term insurance, or
- (ii) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of long-term insurance;”.

(4) After that sub-paragraph, insert—

“(2) The definition of “authorised insurer” in sub-paragraph (1) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section;
- (c) Schedule 2 to that Act.”.

(5) In paragraph 6(2)(c), for “insurance companies” substitute “insurers”.

(6) In paragraph 11(3), in paragraph (a) of the definition of “qualifying scheme” for “insurance company” substitute “insurer”.

Foreign lawyers: authorisation under Financial Services Act 1986

327. Paragraph 9 of Schedule 14 to the Courts and Legal Services Act 1990 is repealed.

Water Industry Act 1991 (c. 56)

Restriction on disclosure of information

328. For paragraph (e) of section 206(3) of the Water Industry Act 1991 (restrictions on disclosure of information) substitute—

- “(e) for the purpose of enabling or assisting the Secretary of State, the Treasury or the Financial Services Authority to exercise any powers conferred by or under the Financial Services and Markets Act 2000 or by the enactments relating to companies or insolvency;
- (ea) for the purpose of enabling or assisting any inspector appointed under enactments relating to companies to carry out his functions;”.

(244) Schedule 1A is to be inserted in the Judicial Pensions Act 1981 (c. 20), from a date not yet appointed on the date when this Order comes in to force.

Water Resources Act 1991 (c. 57)

Restriction on disclosure of information

329. For paragraph (e) of section 204(2) of the Water Resources Act 1991 (restrictions on disclosure of information) substitute—

- “(e) for the purpose of enabling or assisting the Secretary of State, the Treasury or the Financial Services Authority to exercise any powers conferred by or under the Financial Services and Markets Act 2000 or by the enactments relating to companies or insolvency;
- (ea) for the purpose of enabling or assisting any inspector appointed under enactments relating to companies to carry out his functions;”.

The Social Security Administration Act 1992 (c. 5)

Meaning of “qualifying lender”

330.—(1) Section 15A of the Social Security Administration Act 1992 is amended as follows.

(2) In subsection (3)—

- (a) for paragraph (a) substitute—
“(a) a deposit taker;”;
- (b) paragraph (b) is repealed; and
- (c) for paragraph (c) substitute—
“(c) an insurer;”.

(3) In subsection (4), before the definition of “mortgage interest” insert—

““deposit taker” means—

- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits, or
- (b) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to accept deposits;

“insurer” means—

- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect and carry out contracts of insurance, or
- (b) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect and carry out contracts of insurance;”.

(4) After subsection (4) insert—

“(4A) The definitions of “deposit taker” and “insurer” in subsection (4) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

Local Government Act 1992 (c. 19)

Repeal of spent provision

331. Paragraph 22 of Schedule 3 to the Local Government Act 1992 (minor and consequential amendments) is repealed.

Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52)

Application of section 99 of Friendly Societies Act 1992 to trade unions

332. In section 19(1)(245) of the Trade Union and Labour Relations (Consolidation) Act 1992 (application of section 99 of Friendly Societies Act 1992 to trade unions) for “an industrial assurance company” substitute “a friendly society”.

Application of section 19 to employers' associations

333. In section 129(3) of the Trade Union and Labour Relations (Consolidation) Act 1992 (application of section 19 of that Act to employers' associations), the words “industrial assurance or” are repealed.

Tribunals and Inquiries Act 1992 (c. 53)

Concurrence required for removal of members of certain tribunals

334. In section 7(2)(246) of the Tribunals and Inquiries Act 1992 (tribunals in relation to which requirement of concurrence to removal of members does not apply) the words “,4” and “, 21A” are repealed.

Consultation on tribunal rules

335.—(1) Section 8 of the Tribunals and Inquiries Act 1992 (consultation on tribunal rules) is amended as follows.

(2) Subsection (2) is repealed.

(3) For paragraphs (a) and (b)(247) of subsection (3) substitute “with respect to any tribunal specified in Part 2 of Schedule 1.”.

Removal of unnecessary right of appeal

336. In section 11(1)(248) of the Tribunals and Inquiries Act 1992 (right of appeal from certain tribunals on a point of law) the word “, 18” is repealed.

Power to amend or repeal certain provisions

337. In section 13(5) of the Tribunals and Inquiries Act 1992 (power to amend or repeal certain provisions of that Act) in paragraph (a), the word “, 6” is repealed.

(245) Section 19(1) was substituted by S.I. 1993/3084, regulation 7.

(246) Section 7(2) has been amended in terms not relevant to this Order.

(247) Section 8(3)(b) was amended by S.I. 1993/3258, article 2(c); and S.I. 1999/678, article 2(1) and Schedule.

(248) Section 11(1) has been amended in terms not relevant to this Order.

Removal of references to old tribunals

338. In Schedule 1 to the Tribunals and Inquiries Act 1992 (tribunals subject to the Council’s supervision) the entries relating to the following matters are repealed—

- Banking;
- Building Societies; and
- Friendly Societies(249).

Charities Act 1993 (c. 10)

Power to give directions about dormant bank accounts of charities

339.—(1) Section 28 of the Charities Act 1993 (power to give directions about dormant bank accounts of charities) is amended as follows.

(2) In subsection (8)(b), for sub-paragraphs (ii)(250) to (v) of the definition of “relevant institution” substitute—

- “(ii) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits;
- (iii) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) to accept deposits; or
- (iv) such other person who may lawfully accept deposits in the United Kingdom as may be prescribed by the Secretary of State.”.

(3) After that subsection insert—

“(8A) Sub-paragraphs (ii) to (iv) of the definition of “relevant institution” in subsection (8)(b) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

Criminal Justice Act 1993 (c. 36)

Penalties under implementing regulations

340. In section 70(2)(251) of the Criminal Justice Act 1993 (penalties under implementing regulations), for “under sections 39, 40 and 41 of the Banking Act 1987” substitute “punishable on summary conviction under section 177 of the Financial Services and Markets Act 2000”.

Insider dealing: special defences

341.—(1) Schedule 1 to the Criminal Justice Act 1993 (insider dealing: special defences) is amended as follows.

(2) In paragraph 1(3) for “under paragraph 25B of Schedule 1 to the Financial Services Act 1986” substitute “by the Treasury under any relevant order under section 22 of the Financial Services and Markets Act 2000”.

(249) The entry in Schedule 1 relating to Friendly Societies was inserted by [S.I. 1993/3258](#), article 3.

(250) Section 28(8)(b)(ii) was amended by the Bank of England Act 1998 (c. 11), Schedule 5, paragraph 42.

(251) Section 70(2) has been amended by [S.I. 2000/2952](#), regulation 6(a)(i) and (ii) and 6(b).

(3) For paragraph 5(2) substitute—

“(2) “Price stabilisation rules” means rules made under section 144(1) of the Financial Services and Markets Act 2000.”.

Repeal of spent provisions

342. The following provisions of the Criminal Justice Act 1993 (which are spent) are repealed—

- (a) in Schedule 5, paragraphs 7 to 13; and
- (b) in Schedule 6, the entries relating to the Financial Services Act 1986 and the Banking Act 1987.

Railways Act 1993 (c. 43)

Restriction on disclosure of information

343. For paragraph (c) of section 145(2) of the Railways Act 1993 (general restrictions on disclosure of information) substitute—

- “(c) for the purpose of enabling or assisting the Secretary of State, the Treasury or the Financial Services Authority to exercise any powers conferred by or under the Financial Services and Markets Act 2000 or by the enactments relating to companies or insolvency;
- (ca) for the purpose of enabling or assisting any inspector appointed under enactments relating to companies to carry out his functions;”.

Definition of “securities”

344. In subsection (1) of section 151 of the Railways Act 1993 (general interpretation), in the definition of “securities” for “section 142 of the Financial Services Act 1986” substitute “section 74(5) of the Financial Services and Markets Act 2000”.

Finance Act 1994 (c. 9)

Insurance Premium Tax: Tax representatives

345.—(1) Section 57 of the Finance Act 1994 (tax representatives)(**252**) is amended as follows.

(2) In subsections (2) and (3) for “a representative fulfilling the requirements of section 10 of the Insurance Companies Act 1982” substitute “a general representative”.

(3) After subsection (16) insert—

“(16A) For the purposes of subsections (2) and (3), “general representative” means a person resident in the United Kingdom who—

- (a) has been designated as the representative of the insurer or taxable intermediary,
- (b) is authorised to act generally, and to accept service of any document, on behalf of the insurer or taxable intermediary, and
- (c) fulfils the requirements of rules made under Part 10 of the Financial Services and Markets Act 2000.”.

(252) Section 57 was amended by the Finance Act 1997 (c. 16), section 27.

Insurance Premium Tax: Contracts that are not taxable

346.—(1) Schedule 7A to the Finance Act 1994(**253**) (insurance premium tax) is amended as follows.

(2) In paragraph 2(1) (contracts constituting long term business) for the words from “if it is one” to the end of that sub-paragraph substitute “if it is exclusively a contract of long-term insurance.”.

(3) For paragraph 2(2) substitute—

“(2) In deciding whether a contract is exclusively a contract of long-term insurance, as is mentioned in sub-paragraph (1) above, where—

- (a) the contract includes cover for risks relating to accident or sickness;
- (b) the contract contains related and subsidiary provisions such that it might also be regarded as a contract of general insurance, but is treated as a contract of long-term insurance for the purposes of any relevant order made under section 22 of the Financial Services and Markets Act 2000; and
- (c) the contract was not entered into after 30th November 1993,

the inclusion of such cover shall be ignored.”

(4) In paragraph 4 (contracts relating to commercial ships)—

- (a) in sub-paragraph (1) for the words from “a contract whose effecting” to the end of that sub-paragraph substitute “a contract of general insurance of a relevant class.”; and
- (b) for sub-paragraph (2) substitute—

“(2) For the purposes of this paragraph, a contract of general insurance is of a relevant class if it insures against risks arising from or in relation to—

- (a) accidents,
- (b) ships, or
- (c) liabilities of ships,

(and no other risks).”.

(5) In paragraph 5 (contracts relating to lifeboats and lifeboat equipment)—

- (a) in sub-paragraph (1) for the words from “a contract whose effecting” to the end of that sub-paragraph substitute “a contract of general insurance of a relevant class.”; and
- (b) for sub-paragraph (2) substitute—

“(2) For the purposes of this paragraph, a contract of general insurance is of a relevant class if it insures against risks arising from or in relation to—

- (a) accidents,
- (b) ships, or
- (c) liabilities of ships,

(and no other risks).”.

(6) In paragraph 7 (contracts relating to commercial aircraft)—

- (a) in sub-paragraph (1) for the words from “a contract whose effecting” to the end of that sub-paragraph substitute “a contract of general insurance of a relevant class.”; and
- (b) for sub-paragraph (2) substitute—

“(2) For the purposes of this paragraph, a contract of general insurance is of a relevant class if it insures against risks arising from or in relation to—

- (a) accidents,
 - (b) aircraft, or
 - (c) aircraft liability,

(and no other risks).”.
- (7) In paragraph 8 (contracts relating to risks outside the United Kingdom)—
 - (a) for sub-paragraph (2) substitute—

“(2) The question of whether a risk is situated in the United Kingdom shall be determined in accordance with regulations made under section 424(3) of the Financial Services and Markets Act 2000; but in determining that question as respects a contract which relates to a building it shall be irrelevant whether or not the contract also covers the contents of the building.”.
- (8) In paragraph 9 (contracts relating to foreign or international railway rolling stock)—
 - (a) in sub-paragraph (1) for the words from “a contract whose effecting” to the end of that sub-paragraph substitute “a contract of general insurance of a relevant class.”; and
 - (b) for sub-paragraph (2) substitute—

“(2) For the purposes of this paragraph, a contract of general insurance is of a relevant class if it insures against risks arising from or in relation to—

 - (a) railway rolling stock, or
 - (b) general liability to third parties,

(and no other risks).”.
- (9) In paragraph 10 (contracts relating to the Channel tunnel)—
 - (a) in sub-paragraph (1) for the words from “a contract whose effecting” to the end of that sub-paragraph substitute “a contract of general insurance of a relevant class.”; and
 - (b) for sub-paragraph (2) substitute—

“(2) For the purposes of this paragraph, a contract of general insurance is of a relevant class if it insures against risks arising from or in relation to—

 - (a) fire or natural forces,
 - (b) damage to property, or
 - (c) general liability to third parties,

(and no other risks).”.
- (10) In paragraph 11—
 - (a) in sub-paragraph (1) for the words from “a contract whose effecting” to the end of that sub-paragraph substitute “a contract of general insurance of a relevant class.”; and
 - (b) for sub-paragraph (2) substitute—

“(2) For the purposes of this paragraph, a contract of general insurance is of a relevant class if it insures against risks arising from or in relation to—

 - (a) fire or natural forces,
 - (b) damage to property, or
 - (c) general liability to third parties,

(and no other risks).”.
- (11) For paragraph 15(2)(c) (contracts relating to the provision of financial facilities) substitute—

- “(c) the contract of insurance insures against risks arising from or in relation to either or both—
- (i) credit,
 - (ii) suretyship.”
- (12) In Part II of the Schedule (Interpretation) after paragraph 16 insert—
- “**16A.** Paragraphs 2, 4, 5, 7, 8, 9, 10, 11 and 15 must be read with—
- (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.”.

Value Added Tax Act 1994 (c. 23)

Supplies exempt from Value Added Tax

347.—(1) Schedule 9 to the Value Added Tax Act 1994 (exempt supplies)(**254**) is amended as follows.

(2) For Item 1 of Group 2 substitute—

- “**1** The provision of insurance or reinsurance in the course of insurance business by—
- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of insurance;
 - (b) a person who is exempt in respect of effecting or carrying out contracts of insurance by reason of an order under section 38 of that Act (and accordingly may effect or carry out contracts of insurance without contravening the general prohibition);
 - (c) a person who carries on an insurance market activity;
 - (d) a person (not falling within paragraph (a)) who would require permission to effect or carry out—
 - (i) a contract of insurance under which the benefits provided by that person are exclusively or primarily benefits in kind in the event of accident to or breakdown of a vehicle, or
 - (ii) a contract in the course of a Community co-insurance operation, but for the identity of the person carrying on that activity.”.

(3) For Item 2 substitute—

- “**2** The provision by an insurer or reinsurer who belongs outside the United Kingdom of—
- (a) insurance against any of the risks or other things described in the Annex to the first non-life insurance directive or in the Annex to the first life insurance directive, or
 - (b) reinsurance relating to any of those risks or other things.”.

(4) In Item 4, in paragraph (a) for “a contract of insurance or reinsurance” substitute “a contract of insurance”.

(5) Before Note (1) to Group 2, insert—

- “(A1) For the purposes of Item 1—

“Community co-insurance operation” has the same meaning as in the Council Directive of 30 May 1978 on the co-ordination of laws, regulations and administrative provisions relating to Community co-insurance (No. [78/473/EEC](#));

“insurance business” means business which consists of effecting and carrying out contracts of insurance;

“insurance market activity” has the meaning given in section 316(3) of the Financial Services and Markets Act 2000.

(B1) References—

(a) in Items 1 and 4 to contracts of insurance, and

(b) in Item 1 and Note (AI) to the effecting and carrying out of contracts of insurance,

must be read with section 22 of the Financial Services and Markets Act 2000, any relevant order under that section, and Schedule 2 to that Act.

(C1) In Item 2—

(a) “first non-life insurance directive” means the Council Directive of 24 July 1973 on the co-ordination of laws, regulations and administrative provisions relating to the taking up and pursuit of the business of direct insurance other than life assurance (No. [73/239/EEC](#));

(b) “first life insurance directive” means the Council Directive of 5 March 1979 on the co-ordination of laws, regulations and administrative provisions relating to the taking up and pursuit of the business of direct life assurance (No. [79/267/EEC](#)).”.

Supplies exempt from Value Added Tax—Finance

348.—(1) In Schedule 9 to the Value Added Tax Act 1994 (exempt supplies), Group 5 (Finance) is amended as follows.

(2) For Note (6), substitute—

“(6) In item 9—

“authorised unit trust scheme” has the meaning given in section 237(3) of the Financial Services and Markets Act 2000;

“operator” has the meaning given in section 237(2) of that Act; and

“trust based scheme” means a scheme the purpose or effect of which is to enable persons taking part in the scheme, by becoming beneficiaries under a trust, to participate in or receive profits or income arising from the acquisition, holding, management or disposal of property of a kind described in section 239(3)(a) of the Financial Services and Markets Act 2000 or sums paid out of such profits or income.”

(3) For Note (10), substitute—

“(10) For the purposes of this Group—

“collective investment scheme” has the meaning given in section 235 of the Financial Services and Markets Act 2000; and

“open-ended investment company” has the meaning given in section 236 of that Act.”.

Police Act 1996 (c. 16)

Determination of status of particular bodies

349. Section 64(3) of the Police Act 1996 (power of chief registrar of friendly societies to determine status of bodies for the purposes of that section) is repealed.

Damages Act 1996 (c. 48)

Enhanced protection for structured settlement annuitants

350. In section 4 of the Damages Act 1996—

(a) in subsection (1) after “insurer”, and in subsections (2) and (3) after “sections”, insert “as applied by any transitional provisions made by order under section 426 of the 2000 Act”;

(b) after subsection (3), insert—

“(3A) In relation to an annuity—

- (a) purchased for a person pursuant to a structured settlement from an authorised insurer;
- (b) purchased from such an insurer pursuant to any order of the kind referred to in subsection (2); or
- (c) purchased from or otherwise provided by such an insurer pursuant to terms corresponding to those of a structured settlement contained in an agreement of the kind referred to in subsection (3),

any long term insurance provision in the Financial Services Compensation Scheme has effect in accordance with subsection (3B).

(3B) To the extent that any long term insurance provision limits the obligation of the scheme manager to make payments or secure continuity of insurance by reference to any amount less than the full amount of any liability, benefit or value due under a contract of long term insurance, the provision has effect as if the reference to that amount were a reference to the full amount of the liability, benefit or value.

(3C) In this section—

“the 2000 Act” means the Financial Services and Markets Act 2000;

“authorised insurer” means an authorised person within the meaning of the 2000 Act with permission under that Act to effect or carry out contracts of insurance as principal;

“Financial Services Compensation Scheme” means the Financial Services Compensation Scheme referred to in section 213(2) of the Financial Services and Markets Act 2000;

“long term insurance provision” means any provision in the Financial Services Compensation Scheme requiring the scheme manager to—

- (a) pay compensation in respect of a liability of an authorised insurer in liquidation under a contract of long term insurance;
- (b) secure continuity of insurance for parties to contracts of long term insurance in the event that an authorised insurer goes into liquidation; or
- (c) secure that payments are made in respect of benefits falling due under contracts of long term insurance during any period while the scheme manager is seeking to make arrangements to secure continuity of insurance as mentioned in (b) above;

“scheme manager” means a body corporate established in accordance with section 212(1) of the 2000 Act.

(3D) In subsections (3B) and (3C) above—

(a) a reference to a contract of long term insurance must be read with—

- (i) section 22 of the 2000 Act;

- (ii) any relevant order under that section; and
- (iii) Schedule 2 to that Act;
- (b) an authorised insurer is in liquidation when—
 - (i) a resolution has been passed in accordance with the provisions of the Insolvency Act 1986 or (as the case may be) of the Insolvency (Northern Ireland) Order 1989 for the voluntary winding up of the insurer, otherwise than merely for the purpose of reconstruction of the insurer or of amalgamation with another insurer; or
 - (ii) without any such resolution having been passed beforehand, an order has been made for the winding up of the insurer by the court under that Act or that Order.”;
- (c) In subsection (5), for “This section applies”, substitute “Subsections (1) to (3) of this section apply”;
- (d) After subsection (5), insert—

“(6) Subsections (3A) to (3D) of this section apply if the liquidation of the authorised insurer begins (within the meaning of subsection (3D)) after the coming into force of section 19 of the 2000 Act, irrespective of when the annuity was purchased or provided.”.

Housing Act 1996 (c. 52)

Registration of social landlords

351. In section 3(3) of the Housing Act 1996 (recording of registration as a social landlord), in sub-paragraph (b), for “appropriate registrar” substitute “Financial Services Authority”.

Removal of social landlord from register

352. In section 4(6) of the Housing Act 1996 (notification of removal of society from register of social landlords), in sub-paragraph (b), for “appropriate registrar” substitute “Financial Services Authority”.

Appeal against decision in relation to register of social landlords

353. In section 6(3) of the Housing Act 1996 (notification of appeal against decision concerning register of social landlords), in sub-paragraph (b), for “appropriate registrar” substitute “Financial Services Authority”.

Notice of agreed proposals where registered social landlord insolvent

354. In section 45(4) of the Housing Act 1996 (notification of agreed proposals where registered social landlord is insolvent), in sub-paragraph (d), for “appropriate registrar” substitute “Financial Services Authority”.

Transfer of engagements of registered social landlord

355. In section 48(3) of the Housing Act 1996 (copy of transfer of engagements of social landlord which is an industrial and provident society under an order under section 46), for “appropriate registrar and registered by him” substitute “Financial Services Authority and registered by it”.

Removal of definition of “appropriate registrar”

356.—(1) In section 57(1) of the Housing Act 1996 (definitions for the purposes of Part 1 of that Act) the entry relating to the “appropriate registrar” is repealed.

(2) In the Table set out in section 64 of that Act (index of defined expressions) the entry relating to the “appropriate registrar” is repealed.

Regulation of registered social landlords

357.—(1) Schedule 1 to the Housing Act 1996 (regulation of registered social landlords) is amended as follows.

(2) In paragraph 9, in sub-paragraphs (1) and (4), for “appropriate registrar” substitute “Financial Services Authority”.

(3) In paragraph 12—

- (a) in sub-paragraph (1), for “appropriate registrar” substitute “Financial Services Authority”;
- (b) in sub-paragraph (2)—
 - (i) for “registrar” substitute “Financial Services Authority”, and
 - (ii) for “him” substitute “it”;
- (c) in sub-paragraph (4)(b), for “appropriate registrar” substitute “Financial Services Authority”; and
- (d) in sub-paragraph (5)—
 - (i) for “appropriate registrar” substitute “Financial Services Authority”, and
 - (ii) for “him” substitute “it”.

Social Security (Recovery of Benefits) Act 1997 (c. 27)

Payments by insurers

358.—(1) Paragraph 5 of Schedule 1 to the Social Security (Recovery of Benefits) Act 1997 is amended as follows.

(2) The existing provision becomes sub-paragraph (1).

(3) In that sub-paragraph—

- (a) for “insurance company within the meaning of the Insurance Companies Act 1982” substitute “insurer”; and
- (b) for “the company” substitute “the insurer”.

(4) After that sub-paragraph, insert—

“(2) “Insurer” means—

- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of insurance; or
- (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of insurance.

(3) Sub-paragraph (2) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and

(c) Schedule 2 to that Act.”.

Local Government and Rating Act 1997 (c. 29)

Repeal of spent provision

359. Paragraph 21 of Schedule 3 to the Local Government and Rating Act 1997 (which is spent) is repealed.

Scotland Act 1998 (c. 46)

Functions of the Accountant in Bankruptcy

360.—(1) Paragraph 23 of Schedule 8 to the Scotland Act 1998 (consequential amendments in relation to Insolvency Act 1986) is amended as follows.

(2) For sub-paragraph (2) substitute—

“(2) Anything directed to be done, or which may be done, to or by the registrar of companies in Scotland by virtue of any of the provisions mentioned in sub-paragraph (3), shall, or (as the case may be) may, also be done to or by the Accountant in Bankruptcy.

(2A) In the case of a building society, friendly society or industrial and provident society which has its registered office in Scotland, anything directed to be done, or which may be done, to or by the Financial Services Authority by virtue of any of the provisions mentioned in sub-paragraph (3) as applied (with or without modifications) in relation to the society shall, or (as the case may be) may, also be done to or by the Accountant in Bankruptcy.”.

(3) For sub-paragraph (4) substitute—

“(4) Anything directed to be done, or which may be done, to or by the registrar of companies in Scotland by virtue of any of the provisions mentioned in sub-paragraph (5), shall, or (as the case may be) shall instead be done to or by the Accountant in Bankruptcy.

(4A) In the case of a building society, friendly society or industrial and provident society which has its registered office in Scotland, anything directed to be done, or which may be done, to or by the Financial Services Authority by virtue of any of those provisions as applied (with or without modifications) in relation to the society shall, or (as the case may be) shall instead be done to or by the Accountant in Bankruptcy.”.

Terrorism Act 2000 (c. 11)

Meaning of “financial institution”

361.—(1) Paragraph 6 of Schedule 6 to the Terrorism Act 2000 (financial information) is amended as follows.

(2) In sub-paragraph (1)(255)—

(a) for paragraph (a) substitute—

“(a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits,”;

(b) paragraph (b) is repealed; and

(c) for paragraph (d) substitute—

(255) Sub-paragraph (1) was amended by [S.I. 2000/2952](#).

- “(d) a person carrying on a relevant regulated activity.”.
- (3) After sub-paragraph (1) of paragraph 6 insert—
- “(1A) For the purposes of sub-paragraph (1)(d), a relevant regulated activity means—
- (a) dealing in investments as principal or as agent,
 - (b) arranging deals in investments,
 - (c) managing investments,
 - (d) safeguarding and administering investments,
 - (e) sending dematerialised instructions,
 - (f) establishing etc. collective investment schemes,
 - (g) advising on investments.
- (1B) Sub-paragraphs (1)(a) and (1A) must be read with—
- (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.”.

Postal Services Act 2000 (c. 26)

Meaning of “bank”

362.—(1) Section 7 of the Postal Services Act 2000 (exceptions from section 6) is amended as follows.

- (2) In subsection (5) for the definition of “bank” substitute—
- ““bank” means—
- (a) the Bank of England,
 - (b) a deposit taker,
 - (c) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to the Financial Services and Markets Act 2000 which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) to accept deposits, or
 - (d) the central bank of an EEA State other than the United Kingdom.”.
- (3) In subsection (5), after the definition of “departure facility” insert—
- ““deposit taker” means a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits, but does not include—
- (a) a credit union, within the meaning of the Credit Unions Act 1979⁽²⁵⁶⁾ or the Credit Unions (Northern Ireland) Order 1985⁽²⁵⁷⁾,
 - (b) a specially authorised society within the meaning of section 7(1)(f) of the Friendly Societies Act 1974⁽²⁵⁸⁾,
 - (c) a person who has permission to accept deposits only for the purpose of carrying on another regulated activity in accordance with that permission.”.
- (4) After subsection (5) insert—

⁽²⁵⁶⁾1979 c. 34

⁽²⁵⁷⁾S.I. 1985/1205 (N.I. 12).

⁽²⁵⁸⁾1974 c. 46.

“(6) In subsection (5), paragraph (c) of the definition of “bank” and the definition of “deposit taker” must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

Utilities Act 2000 (c. 27)

Restriction on disclosure of information

363. For paragraph (c) of section 105(4) of the Utilities Act 2000 (restrictions on disclosure of information) substitute—

- “(c) for the purpose of facilitating the exercise by the Secretary of State, the Treasury or the Financial Services Authority of any power conferred by or under the Financial Services and Markets Act 2000 or by the enactments relating to companies or insolvency;”.

Criminal Justice and Police Act 2001 (c. 16)

Repeal of unnecessary provisions

364. The following provisions of the Criminal Justice and Police Act 2001(**259**) are repealed—

- (a) in section 56(5), paragraphs (c), (d) and (e);
- (b) in section 57(1), paragraphs (e), (h) and (j);
- (c) in section 66(5), paragraphs (a), (c) and (e);
- (d) in section 68(2), paragraphs (b), (d) and (e);
- (e) in Schedule 1, paragraphs 32, 40 and 43; and
- (f) in Schedule 2, in paragraph 16(2), paragraphs (a), (b), (c) and (d).

PART 9

AMENDMENTS TO SECONDARY LEGISLATION

The Superannuation and other Trust Funds (Qualifications of Actuaries) Regulations 1968 (S.I. 1968/1480)

Revocation of the 1968 Regulations

365. The Superannuation and Other Trust Funds (Qualifications of Actuaries) Regulations 1968 are revoked.

(259)By virtue of paragraph 26 of Schedule 2 to the Criminal Justice and Police Act 2001, section 426 of the Financial Services and Markets Act 2000 has effect as if the provisions referred to in subsection (2)(b) included the provisions of Part 2 of the 2001 Act.

The British Transport (Alteration of Pension Schemes) Order 1969 (S.I. 1969/1858)

Additional powers of investment

366. In paragraph 8 of the Schedule(260) to the British Transport (Alteration of Pension Schemes) Order 1969 (additional powers of investment) for “Financial Services Act 1986” substitute “Financial Services and Markets Act 2000”.

The Employers' Liability (Defective Equipment and Compulsory Insurance) (Northern Ireland) Order 1972 (S.I. 1972/963 (N.I. 6))

Insurance against liability for employees: meaning of authorised insurer

367.—(1) Article 5 of the Employers' Liability (Defective Equipment and Compulsory Insurance) (Northern Ireland) Order 1972 (insurance against liability for employees) is amended as follows.

(2) In paragraph (3), for sub-paragraph (b)(261) substitute—

“(b) “authorised insurer” means—

- (i) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of insurance;
- (ii) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of insurance; or
- (iii) a person who does not fall within sub-paragraph (i) or (ii) and who may lawfully effect or carry out contracts of insurance in a member State other than the United Kingdom;”.

(3) After that paragraph insert—

“(3A) Paragraph (3)(b) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

The Local Authority (Stocks and Bonds) Regulations 1974 (S.I. 1974/519)

Interpretation of the 1974 Regulations

368. In paragraph 3 of regulation 1(262) of the Local Authority (Stocks and Bonds) Regulations 1974 (Title, commencement and interpretation), in the definition of “negotiable bonds”, for “Part IV of the Financial Services Act 1986” substitute “Part 6 of the Financial Services and Markets Act 2000”.

(260) Paragraph 8 was substituted by S.I. 1988/962, regulation 2.

(261) Paragraph 3(b) has been amended by the Insurance Companies Act 1981 (c. 31) Schedule 4 Pt II paragraph 19; by the Insurance Companies Act 1982 (c. 50) Schedule 5, paragraph 8; and by S.I. 1992/2890 regulation 11(1).

(262) The definition of “negotiable instrument” Regulation 1(3) was amended by S.I. 1991/2000, regulation 5(2), and modified by S.I. 2000/968, regulation 4.

The Superannuation and other Trust Funds (fees) Regulations 1976 (S.I. 1976/354)

Revocation of the 1976 Regulations

369. The Superannuation and Other Trust Funds (Fees) Regulations 1976 are revoked.

The National Savings Stock Register Regulations 1976 (S.I. 1976/2012)

Minors

370.—(1) For paragraph (1A) (**263**) of regulation 30 of the National Savings Stock Register Regulations 1976 (minors) substitute—

“(1A) In paragraph (1) above “approved account” means—

- (a) an account in the National Savings Bank comprising investment deposits within the meaning of the National Savings Bank Act 1971,
- (b) an account with a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits, or
- (c) an account with an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to the Financial Services and Markets Act 2000, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) to accept deposits.”.

(2) After paragraph (2) of that regulation insert—

“(3) Paragraph (1A) must be read with—

- (a) section 2 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

The Stock Exchange (Completion of Bargains) (Northern Ireland) Order 1977 (S.I. 1977/1254 (N.I. 21))

Acquisition and disposal of securities by trustees etc

371.—(1) Article 7 of the Stock Exchange (Completion of Bargains) (Northern Ireland) Order 1977 (acquisition and disposal of securities by trustees etc.) is amended as follows.

(2) In sub-paragraph (a) of paragraph (1)(**264**), for the words from “a recognised” to “exchange” substitute “a financial institution”.

(3) In sub-paragraph (b) of that paragraph, for “clearing house or nominee” substitute “financial institution”.

(4) In that paragraph, the words after sub-paragraph (b) are repealed.

(5) For paragraph (2) (**265**) substitute—

“(2) “Financial institution” means—

- (a) a recognised clearing house acting in relation to a recognised investment exchange; or
- (b) a nominee of—

(263) Paragraph (1A) was inserted by S.I. 1989/2046, regulation 2(c).

(264) Article 7(1) was amended by the Financial Services Act 1986 (c. 60), s. 194.

(265) Article 7(2) was inserted by the Financial Services Act 1986 (c. 60), s. 194.

- (i) a recognised clearing house acting in that way, or
- (ii) a recognised investment exchange.

(3) No person may be a nominee for the purposes of this Article unless he is a person designated for those purposes in the rules of the recognised investment exchange in question.

(4) Expressions used in paragraphs (2) and (3) have the same meaning as in Part 18 of the Financial Services and Markets Act 2000.”.

The British Railways Board (Winding up of Closed Pension Funds) Order 1978 (S.I. 1978/1358)

Interpretation of the 1978 Order: “insurer”

372.—(1) In paragraph (2) of article 1 of the British Railways Board (Winding Up of Closed Pension Funds) Order 1978 (commencement, citation and interpretation)—

- (a) the definition of friendly society is revoked, and
- (b) the definition of “insurance company” is revoked, and in its place insert—

““insurer” means—

- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of long term insurance, or
- (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of long-term insurance.”.

(2) After that paragraph insert—

“(2A) The definition of “insurer” in paragraph (2) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

(3) In paragraph (3)(b) of Article 4 of that Order (order on application of assets on winding up of a pension fund) for “an insurance company or friendly society” substitute “an insurer”.

The Road Traffic (Northern Ireland) Order 1981 (S.I. 1981/154 (N.I. 1))

Notification of refusal of insurance on health grounds

373. For paragraph (2) of Article 12 of the Road Traffic (Northern Ireland) Order 1981 (notification of refusal on health grounds) substitute—

“(2) “Authorised insurer” means an insurer who is a member of the Motor Insurers Bureau (a company limited by guarantee and incorporated under the Companies Act 1929 on 14th June 1946).

(3) “Insurer” means—

- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out relevant contracts of insurance; or
- (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of

qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out relevant contracts of insurance.

- (4) A contract is a relevant contract of insurance if the risk insured against relates to—
- (a) the insured sustaining accidental injury or death as a result of travelling as a passenger;
 - (b) land vehicles;
 - (c) goods in transit; or
 - (d) motor vehicle liability.
- (5) This Article must be read with—
- (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any order for the time being in force under that section; and
 - (c) Schedule 2 to that Act.”.

Requirements with respect to policies of insurance

374.—(1) Article 101 of the Road Traffic (Northern Ireland) Order 1981 (requirements with respect to policies of insurance) is amended as follows.

(2) For paragraph (1) substitute—

“(1) In this Part “authorised insurer” has the same meaning as in Article 12.”.

(3) In paragraph (2) the words “referred to in paragraph (1)” are repealed.

The Consumer Credit (Agreements) Regulations 1983 (S.I. 1983/1553)

Interpretation of the 1983 Regulations: “contract of insurance”

375.—(1) In paragraph (2) of regulation 1 of the Consumer Credit (Agreements) Regulations 1983 (citation, commencement and interpretation) the definition of “contract of insurance” is revoked⁽²⁶⁶⁾.

(2) After that paragraph insert—

“(2A) References in these Regulations to contracts of insurance must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

The Consumer Credit (Linked Transactions) (Exemptions) Regulations 1983 (S.I. 1983/1560)

Interpretation of the 1983 Regulations: “contract of insurance” and “deposit”

376.—(1) In paragraph (2) of Regulation 1 of the Consumer Credit (Linked Transactions) (Exemptions) Regulations 1983 (citation, commencement and interpretation) the definitions of “contract of insurance” and “deposit” are revoked.

(2) After that paragraph insert—

“(2A) References in these Regulations to contracts of insurance and to deposits must be read with—

⁽²⁶⁶⁾The words defining “contract of insurance” were inserted by S.I. 1984/1600, regulation 2(a).

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

The Insolvency Rules 1986 (S.I. 1986/1925)

Authorised deposit-takers and former authorised deposit-takers

377.—(1) The Insolvency Rules 1986 are amended as follows.

(2) In Rule 2.7 (Manner in which service to be effected), for paragraph (4A)(a)(**267**) substitute—

“(a) is an authorised deposit-taker or former authorised deposit-taker,”.

(3) In Rule 4.1 (Voluntary winding up; winding up by the court), in paragraph (1)(b)(**268**), for “authorised institutions or former authorised institutions within the meaning of the Banking Act 1987” substitute “authorised deposit-takers or former authorised deposit-takers”.

(4) In Rule 4.7 (Presentation and filing of petition), in paragraph (4)(e)(**269**) for “an authorised institution or former authorised institution within the meaning of the Banking Act 1987” substitute “an authorised deposit-taker or a former authorised deposit-taker”.

(5) In Rule 4.50 (First meetings (No CVL Application)), in paragraph (8)(**270**) for “an authorised institution or former authorised institution within the meaning of the Banking Act 1987” substitute “an authorised deposit-taker or a former authorised deposit-taker”.

(6) In Rule 4.51, in paragraph (3)(**271**) for “an authorised institution or former authorised institution within the meaning of the Banking Act 1987” substitute “an authorised deposit-taker or a former authorised deposit-taker”.

(7) In Rule 4.72 (Additional provisions as regards certain meetings) in paragraph (1)(**272**) for “an authorised institution or former authorised institution within the meaning of the Banking Act 1987” substitute

“an “authorised deposit-taker or a former authorised deposit-taker””.

The Scheme Manager of the Financial Services Compensation Scheme

378.—(1) In Rule 4.1 of those Rules (Voluntary winding up; winding up by court), in paragraph (1)(b), for “Deposit Protection Board” substitute “the scheme manager”.

(2) In Rule 4.72 (Additional provisions as regards certain meetings)—

(a) in paragraph (2)(**273**) for “to the Deposit Protection Board” substitute “to the scheme manager established under section 212(1) of the Financial Services and Markets Act 2000”, and

(b) in paragraphs (3), (4), (5), (6) and (7) for “the Board” substitute “the scheme manager”.

(3) In Schedule 1 (Deposit Protection Board’s Voting Rights) for “Deposit Protection Board” or “Board” wherever occurring, substitute “scheme manager”.

(**267**) Paragraph (4A) was inserted by [S.I. 1987/1919](#)

(**268**) Subparagraph (1)(b) was amended by [S.I. 1998/1129](#), article 2, Schedule 1, paragraph 4.

(**269**) Subparagraph (4)(e) was amended by [S.I. 1987/1919](#), rule 3(1), Schedule, Part 1, paragraph 36 and by [S.I. 1998/1129](#), article 2, Schedule 1, paragraph 4.

(**270**) Paragraph (8) was amended by [S.I. 1987/1919](#), rule 3(1), Schedule, Part 1, paragraph 50.

(**271**) Paragraph (3) was amended by [S.I. 1987/1919](#), rule 3(1), Schedule, Part 1, paragraph 51.

(**272**) Paragraph (1) of rule 4.72 was amended by [S.I. 1987/1919](#), rule 3(1), Schedule, Part I, paragraph 36.

(**273**) Amendments not relevant to this amendment were made to paragraph (2), (3), (4), (5), (6) and (7) by [S.I. 1998/1129](#), article 2, Schedule 1, paragraph 4(5)(a) and (b).

Additional Creditor Members

379. In Rule 4.152 of those Rules (Membership of Committee), for paragraph (7)(**274**) substitute—

“(7) The following categories of person are to be regarded as additional creditor members—

- (a) a representative of the Financial Services Authority who exercises the right under section 371(4)(b) of the Financial Services and Markets Act 2000 to be a member of the committee;
- (b) a representative of the scheme manager who exercises the right under section 215(4) of that Act to be a member of the committee.”.

Debts not provable unless all other claims have been paid in full

380. In Rule 12.3 of those Rules (provable debts), for sub-paragraphs (2A)(a) and (b)(**275**) substitute—

“(a) in a winding up or a bankruptcy, any claim arising by virtue of section 382(1) (a) of the Financial Services and Markets Act 2000, not being a claim also arising by virtue of section 382(1)(b) of that Act;”.

Interpretation of “deposit-taker”

381. After Rule 13.12 of those Rules insert—

“13.12A “Authorised deposit-taker and former authorised deposit-taker”

(1) “Authorised deposit-taker” means a person with permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits.

(2) “Former authorised deposit-taker” means a person who—

- (a) is not an authorised deposit-taker,
- (b) was formerly an authorised institution under the Banking Act 1987, or a recognised bank or a licensed institution under the Banking Act 1979(**276**), and
- (c) continues to have liability in respect of any deposit for which it had a liability at a time when it was an authorised institution, recognised bank or licensed institution.

(3) Paragraphs (1) and (2) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

(**274**) Paragraph (7) of rule 4.152 was amended by [S.I. 1987/1919](#), rule 3(1), Schedule, Part I, paragraph 70.

(**275**) Paragraph (2A) was inserted into rule 12.3 by [S.I. 1987/1919](#), rule 3(1), Schedule, Part I, paragraph 143(2).

(**276**) [1979, c. 37](#), repealed by the Banking Act 1987, section 108, Schedule 7.

The Police Pensions Regulations 1987 (S.I. 1987/257)

Mis-sold pensions

382. In regulation F11(277) of the Police Pensions Regulations 1987 (mis-sold pensions) in paragraph (1)(b) after “section 62 of the Financial Services Act 1986” insert “or section 150 of the Financial Services and Markets Act 2000”.

The Personal Pension Schemes (Disclosure of Information) Regulations 1987 (S.I. 1987/1110)

Information about the scheme: illustrative estimates of cash equivalents

383.—(1) In Schedule 1 to the Personal Pension Schemes (Disclosure of Information) Regulations 1987 (basic information about the scheme), for paragraph 9(278) substitute—

“9 Illustrative estimates of the cash equivalents which would be paid on the transfer of protected rights to another scheme at the end of the first 5 years of membership, which—

- (a) are clearly labelled as illustrative estimates, and state the period for which they will be honoured by the scheme, the assumptions made, and whether the same basis of calculation has been used for all members of the scheme; or
- (b) are prepared in accordance with rules made under Part 10 of the Financial Services and Markets Act 2000, if the scheme is established by an authorised person within the meaning of section 31(2) of that Act.”.

(2) In paragraph 10 of that Schedule, for the words from “where a scheme is established by a person to whose business Chapter V of Part I of the Financial Services Act 1986 applies” to the end of the paragraph substitute “where a scheme is established by an authorised person within the meaning of section 31(2) of the Financial Services and Markets Act 2000 the information required by this paragraph may be specified in accordance with rules made under Part 10 of that Act.”.

The Consumer Protection (Northern Ireland) Order 1987 (S.I. 1987/2049 (N.I. 20))

Exclusion of offences under section 397 of the Financial Services and Markets Act 2000

384. After paragraph (5) of Article 13 of the Consumer Protection (Northern Ireland) Order 1987 (offence of giving misleading information) insert—

“(5A) A person is not guilty of an offence under paragraph (1) or (2) above if, in giving the misleading indication which would otherwise constitute an offence under either of those paragraphs, he is guilty of an offence under section 397 of the Financial Services and Markets Act 2000 (misleading statements and practices).”.

Repeal of unnecessary provisions

385.—(1) Article 15 of the Consumer Protection (Northern Ireland) Order 1987 (application of provisions relating to misleading price indications to services and facilities) is amended as follows.

(2) Paragraph (3) is repealed.

(3) In paragraph (5), the definitions of “appointed representative”, “authorised person” and “investment business” are repealed.

(277) Paragraph F11 was inserted by S.I. 1997/2852, regulation 3.

(278) Paragraph 9 was amended by S.I. 1992/1531.

The Consumer Protection (Cancellation of Contracts Concluded Away From Business Premises) Regulations 1987 (S.I. 1987/2117)

Excepted contracts

386.—(1) Regulation 3 of the Consumer Protection (Cancellation of Contracts Concluded away from Business Premises) Regulations 1987 (contracts to which the Regulations apply) is amended as follows.

(2) For paragraph (2)(d) substitute—

“(d) contracts of insurance;”.

(3) For paragraph (2)(e) substitute—

“(e) any agreement the making or performance of which by either party constitutes a relevant regulated activity;”.

(4) After paragraph (3)(279) insert—

“(4) For the purposes of paragraph (2)(e)—

(a) “a relevant regulated activity” means an activity of the following kind, namely—

- (i) dealing in investments, as principal or as agent,
- (ii) arranging deals in investments,
- (iii) managing investments,
- (iv) safeguarding and administering investments,
- (v) establishing etc. a collective investment scheme; and

(b) “investment” means—

- (i) shares,
- (ii) instruments creating or acknowledging indebtedness,
- (iii) government and public securities,
- (iv) instruments giving entitlement to investments,
- (v) certificates representing securities,
- (vi) units in a collective investment scheme,
- (vii) options,
- (viii) futures,
- (ix) contracts for differences, and
- (x) rights to or interests in investments.

(5) Paragraphs (2)(d) and (4) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act,

but any restriction on or exclusion from the meaning of a regulated activity (which is a relevant regulated activity for the purposes of paragraph (2)(e)) which arises from the identity of the person carrying it on is to be disregarded.”.

The Insurance Companies (Assistance) Regulations 1987 (S.I. 1987/2130)

Revocation of the 1987 Regulations

387. The Insurance Companies (Assistance) Regulations 1987 are revoked.

The Department of Trade and Industry (Fees) Order 1988 (S.I. 1988/93)

Fees in relation to insurance

388. The Department of Trade and Industry (Fees) Order 1988 is amended as follows.

- (2) In article 2 (Interpretation) the definition of “the 1982 Act”(280) is revoked.
- (3) Article 10(281) is revoked.
- (4) Part VII of Schedule 1(282) is revoked.

The Social Security (Payments on Account, Overpayments and Recovery) Regulations 1988 (S.I. 1988/664)

Conversion of payments by an authorised institution

389. In regulation 10 of the Social Security (Payments on account, Overpayments and Recovery) Regulations 1988 (Conversion of payments made in a foreign currency)(283)—

- (a) the existing text is numbered paragraph (1);
- (b) in paragraph (1) for “any institution which is authorised under the Banking Act 1987” substitute “any authorised deposit-taker”;
- (c) after paragraph (1) insert—
 - “(2) In this regulation “authorised deposit-taker” means—
 - (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits; or
 - (b) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) to accept deposits.
 - (3) Paragraph (2) must be read with—
 - (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.”.

(280) The definition of “the 1982 Act” was inserted by S.I. 1995/1294, article 2(a).

(281) Article 10 was inserted by S.I. 1995/1294, article 2(b).

(282) Part VII of Schedule 1 was inserted by S.I. 1994/1294, article 2(c).

(283) Regulation 10 was amended by S.I. 1988/688, regulation 2(2), and modified, in relation to the reference to any institution authorised under the Banking Act 1987, by S.I. 1992/3218, regulation 82(1), Schedule 10, paragraph 47.

The Control of Misleading Advertisements Regulations 1988 (S.I. 1988/915)

Revocation of exception of communications by authorised persons or appointed representatives

390. Regulation 3(284) of the Control of Misleading Advertisements Regulations 1988 (Application) is revoked.

The Service Charge Contributions (Authorised Investments) Order 1988 (S.I. 1988/1284)

Investment of sums standing to the credit of any trust fund

391.—(1) In article 2 of the Service Charge Contributions (Authorised Investments) Order 1988, the existing text is numbered paragraph (1).

(2) For paragraph (1)(b) of that article, substitute—

“(b) deposited in the United Kingdom at interest with—

- (i) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits, or
- (ii) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) to accept deposits.”.

(3) Paragraph (1)(c) of that article is revoked.

(4) After paragraph (1) of that article, insert—

“(2) Where a person of a kind mentioned in paragraph (1)(b)(i) is a building society within the meaning of the Building Societies Act 1986, any such sums may also be invested in shares in that building society.

(3) Paragraph (1) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

The Consumer Protection (Code of Practice for Traders on Price Indications) Approval Order 1988 (S.I. 1988/2078)

Definition of services and facilities: investment business

392. In the Introduction to the Schedule to the Consumer Protection (Code of Practice for Traders on Price Indications) Approval Order 1988, in the definition of “Services and Facilities” the words “those provided by a person who is an authorised person or appointed representative under the Financial Services Act 1986 in the course of investment business,” are revoked.

The Personal Pension Schemes (Compensation) Regulations 1988 (S.I. 1988/2238)

Interpretation of the 1988 Regulations

393.—(1) In paragraph (2) of regulation 1 of the Personal Pension Scheme (Compensation) Regulations 1988 (citation, commencement and interpretation), the following definitions are revoked—

- (i) “the Banking Act”,
- (ii) “the Building Societies Act”,
- (iii) “the Financial Services Act”,
- (iv) “the Financial Services Compensation Rules”,
- (v) “the Friendly Societies Protection Scheme”, and
- (vi) “the Policyholders Protection Act”.

(2) In paragraph (2) of that regulation, after the definition of “the Appropriate Schemes Regulations” insert—

““authorised insurer” means—

- (a) a person who has permission under Part 4 of the Financial Services and Markets Act to effect and carry out contracts of insurance, or
- (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of insurance in the United Kingdom;

“authorised deposit taker” means—

- (a) a person who has permission under Part 4 of the Financial Services and Markets Act to accept deposits, or
- (b) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) to accept deposits;

“the Financial Services and Markets Act” means the Financial Services and Markets Act 2000;

“the Financial Services Compensation Scheme” has the same meaning as in section 213(2) of the Financial Services and Markets Act;”.

(3) In that regulation, after paragraph (2) insert—

“(3) In paragraph (2), the definitions of “authorised insurer” and “authorised deposit taker” must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

Meaning of “liable schemes”

394.—(1) For paragraph (a) of regulation 2 of the Personal Pension Scheme (Compensation) Regulations 1988 (application of Regulations) substitute—

“(a) mentioned in regulation 2(1)(a) of the Appropriate Schemes Regulations (insurance policies and annuity contracts), being a scheme established by an authorised insurer who is subject to the provisions of, or participates in, the Financial Services Compensation Scheme:”.

- (2) Paragraph (b) of regulation 2 is revoked.
- (3) In paragraph (c) of regulation 2, for “the Financial Services Compensation Rules” substitute “the Financial Services Compensation Scheme”.
- (4) For paragraph (d) of regulation 2 substitute—
- “(d) mentioned in regulation 2(1)(c) of those Regulations (interest-bearing accounts etc. with banks and building societies) being a scheme which is established by an authorised deposit taker who is subject to the provisions of, or participates in, the Financial Services Compensation Scheme.”.

Securing of liability for protected rights: prescribed requirements

395.—(1) For paragraph (1)(**285**) of regulation 3 of the Personal Pension Scheme (Compensation) Regulations 1988 (requirements to be complied with by liable schemes in the event of insolvency) substitute—

“(1) For the purposes of paragraph (b) of section 30(1) of the Act the prescribed circumstances are that if the scheme is a liable scheme which takes the form mentioned in any of subparagraphs (a), (b) or (c) of regulation 2(1) of the Appropriate Schemes Regulations, and if the provisions of the Financial Services Compensation Scheme applied, those provisions would become operative.”.

(2) For paragraph (3) of regulation 3 substitute—

“(3) The extent to which the liability specified in paragraph (2) must be met from some other source is, if the scheme takes the form mentioned in any of subparagraphs (a), (b) or (c) of regulation 2(1) of the Appropriate Schemes Regulations, the extent to which it would be met under the Financial Services Compensation Scheme if the rules of that Scheme applied.”.

The Consumer Credit (Exempt Agreements) Order 1989 (S.I. 1989/869)

Exemption where the creditor is an authorised deposit taker

396. In paragraph (2) of article 2 of the Consumer Credit (Exempt Agreements) Order 1989 (exemption of certain consumer credit agreements secured on land) for “or a building society authorised under the Building Societies Act 1986, or an authorised institution under the Banking Act 1987 or a wholly owned subsidiary of such an institution,” substitute “or a deposit taker (within the meaning given by section 16(10) of the Act)”.

The Consumer Credit (Advertisements) Regulations 1989 (S.I. 1989/1125)

Interpretation of the 1989 Regulations

397.—(1) The Consumer Credit (Advertisements) Regulations 1989 are amended as follows.

(2) In paragraph (2) of regulation 1 (citation, commencement, interpretation and revocation), after the definition of “the APR” insert—

““authorised deposit taker” means—

- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits, or

(285) Paragraph (1) of regulation 3 was amended by S.I. 1994/1062, regulation 2, Schedule 2, paragraph 22(3).

- (b) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1)) to accept deposits,
but sub-paragraph (a) does not include a person who is a credit union within the meaning of the Credit Unions Act 1979(286) or the Credit Unions (Northern Ireland) Order 1985(287), or a specially authorised friendly society within the meaning of section 7(1)(f) of the Friendly Societies Act 1974(288);”.
- (3) In that paragraph, for the definition of “contract of insurance” substitute—
““contract of insurance” means a contract of insurance the effecting or carrying out of which, by way of business, constitutes the carrying on of a regulated activity within the meaning of the Financial Services and Markets Act 2000;”.
- (4) After that paragraph insert—
“(2A) The definitions “authorised deposit taker” and “contract of insurance” in paragraph (2) must be read with—
(a) section 22 of the Financial Services and Markets Act 2000;
(b) any relevant order under that section; and
(c) Schedule 2 to that Act.”.
- (5) In paragraph (3) of regulation 2 (general Rules) for “an institution authorised under the Banking Act 1987 or a building society incorporated (or deemed to be incorporated) under the Building Societies Act 1986” substitute “an authorised deposit taker”.

The Banks (Administration Proceedings) Order 1989 (S.I. 1989/1276)

Application of Part II of the Insolvency Act 1986 to former authorised institutions

- 398.**—(1) The Banks (Administration Proceedings) Order 1989 is amended as follows.
(2) After article 1 (Citation and commencement) insert—

“Interpretation

- 1A.** In this Order, “former authorised institution” means a company which—
(a) continues to have a liability in respect of a deposit which was held by it in accordance the Banking Act 1979 or the Banking Act 1987, and
(b) is not an authorised person within the meaning of the Financial Services and Markets Act 2000.”.

(3) In article 2 (application of provisions in the Insolvency Act 1986 with modifications in relation to companies which are authorised or former authorised institutions under the Banking Act 1987) in the sub-heading the words “authorised or” and “under the Banking Act 1987” are revoked.

(4) In the sub-heading to the Schedule (Modifications of Part II of the Insolvency Act 1986 in relation to companies which are authorised or former authorised institutions under the Banking Act 1987) the words “authorised or” and “under the Banking Act 1987” are revoked.

- (5) For paragraph 1 of the Schedule(289) substitute—

(286) 1979 c. 34.

(287) NI 1985/12.

(288) 1974 c. 46.

(289) Amendments to the Schedule which are not relevant to this amendment were made by S.I. 1998/1129, article 2, Schedule 1, paragraph 9.

“(1) Subsection (1A) of section 8, and the definition of “relevant deposit” in subsection (1B), apply in relation to a former authorised institution as they apply in relation to an authorised deposit taker.”.

(6) In paragraph 8 of the Schedule for “the Deposit Protection Board” substitute “the scheme manager, within the meaning of the Financial Services and Markets Act 2000”.

*The Financial Services (Authorised Unit Trust Scheme)
(Certificate of Compliance) Regulations 1989 (S.I. 1989/1535)*

Revocation of the 1989 Regulations

399. The Financial Services (Authorised Unit Trust Scheme) (Certificate of Compliance) Regulations 1989 are revoked.

The Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19))

Further meaning of inability to pay debts where the company is a deposit taker

400. After Article 21(1) of the Insolvency (Northern Ireland) Order 1989 (restrictions on making of administration order) insert—

“(1A) For the purposes of a petition presented by the Financial Services Authority alone or together with any other party, an authorised deposit taker who defaults in an obligation to pay any sum due and payable in respect of a relevant deposit is deemed to be unable to pay its debts as mentioned in paragraph (1).

(1B) In paragraph (1A)—

- (a) “authorised deposit taker” means a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits, but excludes a person who has such permission only for the purpose of carrying on another regulated activity in accordance with that permission; and
- (b) “relevant deposit” must be read with—
 - (i) section 22 of the Financial Services and Markets Act 2000,
 - (ii) any relevant order under that section, and
 - (iii) Schedule 2 to that Act,

but any restriction on the meaning of deposit which arises from the identity of the person making it is to be disregarded.”.

Limitation on power to make administration order

401. For Article 21(4) of the Insolvency (Northern Ireland) Order 1989 (restrictions on making of administration order) substitute—

“(4) An administration order shall not be made in relation to a company after it has gone into liquidation.

(5) An administration order shall not be made against a company if—

- (a) it has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of insurance in the United Kingdom;
- (b) it continues to have a liability in respect of a deposit which was held by it in accordance with the Banking Act 1979 or the Banking Act 1987.

(6) Paragraph (5)(a) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

Petition for winding-up by the Department

402. In paragraph (1) of Article 104A of the Insolvency (Northern Ireland) Order 1989 (petition for winding-up on the grounds of public interest)(**290**), for sub-paragraph (c) substitute—

- “(c) any report made by inspectors under—
 - (i) section 167, 168, 169 or 284 of the Financial Services and Markets Act 2000, or
 - (ii) where the company is an open-ended investment company (within the meaning of that Act), regulations made as a result of section 262(2)(k) of that Act;
- (cc) any information or documents obtained under section 165, 171, 172, 173 or 175 of that Act;”.

Powers to apply Parts 2 to 7 to former authorised institutions

403. In Article 366 of the Insolvency (Northern Ireland) Order 1989 (power to apply Parts 2 to 7 to banks etc.)(**291**), for “authorised and former authorised institutions within the meaning of the Banking Act 1987” substitute “any company which continues to have a liability in respect of a deposit which was held by it in accordance with the Banking Act 1979 or the Banking Act 1987.”.

The Fossil Fuel Regulations 1990 (S.I. 1990/266)

Investment of sums collected

404.—(1) In regulation 30(3)(**292**) of the Fossil Fuel Levy Regulations 1990 (investment of sums collected) for “an institution authorised under the Banking Act 1987, a building society incorporated (or deemed to be incorporated) under the Building Societies Act 1986, and a European deposit-taker within the meaning of regulation 82(3) of the Banking Coordination (Second Council Directive) Regulations 1992” substitute “or an authorised deposit taker”.

- (2) After paragraph (3) insert—
 - “(4) In paragraph (3), “authorised deposit taker” means—
 - (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits, or
 - (b) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule), to accept deposits.
 - (5) The definition of “authorised deposit taker” must be read with—
 - (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.”.

(**290**) Article 104A was inserted by the Companies (No.2) (Northern Ireland) Order 1990 (S.I. 1990/1504 (NI 10)) and amended by the Criminal Justice Act 1993 (c. 36), section 79(13), Schedule 5, Part II, paragraph 22.

(**291**) Article 366 was amended by the Bank of England Act 1998 (c. 11), Schedule 5, paragraph 40.

(**292**) Paragraph (3) of regulation 30 was amended by S.I. 1996/1309, regulation 3.

The Local Authorities (Capital Finance) (Approved Investments) Regulations 1990 (S.I. 1990/426)

Interpretation of the 1990 Regulations

405.—(1) Regulation 1 of the Local Authorities (Capital Finance) (Approved Investments) Regulations 1990 is amended as follows.

(2) In paragraph (2) of that regulation the definition of “authorised institution” is revoked.

(3) In that paragraph before the definition of “bill of exchange” insert—

““authorised deposit taker” means—

- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits, or
- (b) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) to accept deposits;”.

(4) In that paragraph in the definition of “relevant lender”**(293)** for the words from “an authorised institution” to the end of that definition substitute “or an authorised deposit taker;”.

(5) After that paragraph insert—

“(3) The definition of “authorised deposit taker” in paragraph (2) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

Investments Approved for the purposes of Part IV of the Local Government and Housing Act 1989

406.—(1) In regulation 2 of the Local Authorities (Capital Finance) (Approved Investments) Regulations 1990 the existing text is numbered as paragraph (1).

(2) For sub-paragraphs (b) and (c) of paragraph (1) substitute—

- “(b) any deposit made with an authorised deposit taker or the Bank of England, or any certificate of such a deposit;
- (c) any shares in a building society, and for this purpose “share” and “building society” have the meaning given by section 119 of the Building Societies Act 1986**(294)**;”.

(3) In sub-paragraph (d) of paragraph (1), for “an authorised institution” substitute “an authorised deposit taker”.

(4) After paragraph (1) of regulation 2 insert—

“(2) Paragraph (1)(b) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000,
- (b) any relevant order under that section, and
- (c) Schedule 2 to that Act,

but for the purposes of this regulation a deposit includes a sum paid by a local authority.”.

(293) The definition of ‘relevant lender’ was inserted by S.I. 1995/1982, regulation 12(a).

(294) 1986 c. 53.

The Local Authorities (Borrowing) Regulations 1990 (S.I. 1990 /767)

Loan instruments issued by local authorities

407.—(1) The Local Authorities (Borrowing) Regulations 1990 are amended as follows.

(2) In regulation 2 (interpretation) in the definition of “listing rules” for “section 142(6) of the Financial Services Act 1986” substitute “section 74(4) of the Financial Services and Markets Act 2000”.

(3) In regulation 4 (issue of loan instruments), for paragraph (4) substitute—

“(4) In this regulation, references to a “deposit” must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

(4) In paragraph (b) of regulation 6(**295**) (redemption of loan instruments) for “Part IV of the Financial Services Act 1986” substitute “Part VI of the Financial Services and Markets Act 2000”.

(5) For paragraph (9)(e) of regulation 7 (loan instruments transferable by delivery) substitute—

“(e) contain a statement to the effect that the instrument is issued by a person who may, by reason of being an exempt person under section 38 of the Financial Services and Markets Act 2000, lawfully accept deposits in the United Kingdom without contravening the prohibition imposed by section 19 of that Act.”.

(6) In paragraph (10) of that regulation for the definition of “authorised institution” substitute—
““authorised institution” means—

- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits, or
- (b) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule), to accept deposits;”.

(7) After paragraph (10) of the regulation insert—

“(11) Paragraph (9)(e) and the definition of “authorised institution” in paragraph (10) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

The Insurance Companies (Legal Expenses Insurance) Regulations 1990 (S.I. 1990/1159)

Interpretation of the 1990 Regulations

408.—(1) Regulation 2 of the Insurance Companies (Legal Expenses Insurance) Regulations 1990 (interpretation) is amended as follows.

(2) In paragraph (1), renumber sub-paragraphs (a) and (b) as sub-paragraphs (c) and (d).

(3) Before paragraph (1)(c) insert—

“(a) “general insurance business” means the business of effecting or carrying out of contracts of general insurance;

(295) Paragraph (b) was amended by S.I. 1991/2000, regulation 5(3).

- (b) “insurance company” means—
- (i) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of insurance,
 - (ii) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of insurance, or
 - (iii) a person not falling with paragraph (i) or (ii) who may effect or carry out contracts of insurance without contravening the prohibition imposed by section 19 of that Act.”.
- (4) For paragraph (1)(c) substitute—
- “(c) “legal expenses insurance business” means the business of effecting or carrying out contracts of insurance (other than contracts of reinsurance) which insure against a risk arising from legal expense;”.
- (5) For paragraph (2) substitute—
- “(2) The definitions of “general insurance business”, “insurance company” and “legal expenses insurance business” in paragraph (1) must be read with—
- (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.”.

Revocation of spent provision

409. Regulation 10 of the Insurance Companies (Legal Expenses Insurance) Regulations 1990 (amendment) is revoked.

Enforcement of the 1990 Regulations

410. In regulation 11 of the Insurance Companies (Legal Expenses Insurance) Regulations 1990 (enforcement) for “as a failure by it to satisfy an obligation to which it is subject by virtue of the Insurance Companies Act 1982” substitute “as if it were a contravention of a requirement imposed on it by or under the Financial Services and Markets Act 2000, and Part XIV of that Act shall apply in the event of any such breach”.

The Insurance Companies (Amendment) Regulations 1990 (S.I. 1990/1333)

Revocation of the 1990 Regulations

411. The Insurance Companies (Amendment) Regulations 1990 are revoked.

The Non-Domestic Rating (Payment of Interest) Regulations 1990 (S.I. 1990/1904)

Meaning of “the reference banks”

412.—(1) In regulation 4 of the Non-Domestic Rating (Payment of Interest) Regulations 1990 (rates of interest) for paragraph (2)(b)(296) substitute—

(296) Paragraphs (2) and (3) were substituted for paragraph (2) as originally enacted by S.I. 1991/2111, regulation 4(b), and paragraph (2)(b)(i) was amended by S.I. 1998/1129, article 3, Schedule 2.

- “(b) the reference banks, in relation to any 15th March, are the seven largest persons who—
- (i) have permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits,
 - (ii) are incorporated in the United Kingdom and carrying on there a regulated activity of accepting deposits, and
 - (iii) quote a base rate in sterling effective as mentioned in sub-paragraph (a); and”.
- (2) In paragraph (2)(c) of that regulation for “institution” substitute “person” and for “its” (in both places) substitute “his”.
- (3) In paragraph (3) of that regulation, for “institution” substitute “person”.
- (4) After paragraph (3) insert—
- “(4) Paragraph (2)(b) must be read with—
- (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.”.

The Health and Personal Social Services (Northern Ireland) Order 1991 (S.I. 1991/194 (N.I. 1))

Schemes for meeting losses and liabilities of certain health service bodies

413. For Article 24(5) of the Health and Personal Social Services (Northern Ireland) Order 1991 (schemes for meeting losses and liabilities of certain health service bodies) substitute—

“(5) A person or body administering a scheme under this Article does not require permission under any provision of the Financial Services and Markets Act 2000 as respects activities carried out under the scheme.”.

The Banks (Administration Proceedings) Order (Northern Ireland) 1991 (S.R. (NI) 1991/295)

Application of Part III of the Insolvency (Northern Ireland) Order 1989 to former authorised institutions

414.—(1) The Banks (Administration Proceedings) Order (Northern Ireland) 1991 is amended as follows.

- (2) In Article 2 (interpretation), after “In this Order” insert—
- ““former authorised institution” means a company which—
- (a) continues to have a liability in respect of a deposit which was held by it in accordance with the Banking Act 1979 or the Banking Act 1987, and
 - (b) is not an authorised person within the meaning of the Financial Services and Markets Act 2000;”.
- (3) For paragraph 1 of the Schedule substitute—
- “(1) Paragraph (1A) of Article 21, and the definition of “relevant deposit” in paragraph (1B) apply in relation to a former authorised institution as they apply in relation to an authorised deposit taker.”.
- (4) In paragraph 8 of the Schedule for “the Deposit Protection Board” substitute “the scheme manager, within the meaning of the Financial Services and Markets Act 2000”.

The Financial Markets and Insolvency Regulations 1991 (S.I. 1991/880)

Meaning of “relevant investment”

415.—(1) Regulation 16 of the Financial Markets and Insolvency Regulations 1991 (circumstances in which member or designated non-member dealing as principal to be treated as acting in different capacities) is amended as follows.

(2) For paragraph (1)(a)(i) substitute—

“(i) which is a relevant investment; and”.

(3) After paragraph (2) insert—

“(3) In paragraph (1)(a)(i) “relevant investment” means an investment of one of the following kinds—

- (a) options;
- (b) futures;
- (c) contracts for differences;
- (d) rights to or interests in an investment of a kind mentioned in sub-paragraphs (a) to (c).

(4) Paragraph (3) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

*The Access to Personal Files and Medical Reports
(Northern Ireland) Order 1991 (S.I. 1991/1707 (N.I. 14))*

Access to medical reports: “insurance purposes”

416.—(1) Article 6 of the Access to Personal Files and Medical Reports (Northern Ireland) Order 1991 (interpretation) is amended as follows.

(2) In paragraph (1), for the definition of “insurance purposes” substitute—

““insurance purposes”, in the case of any individual who has entered into, or is seeking to enter into, a contract of insurance with an insurer, means the purposes of that insurer in relation to that individual;

“insurer” means—

- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of insurance; or
- (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out relevant contracts of insurance.”.

(3) After that paragraph, insert—

“(1A) The definitions of “insurance purposes” and “insurer” in paragraph (1) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and

(c) Schedule 2 to that Act.”.

The Bank Accounts Directive (Miscellaneous Banks) Regulations 1991 (S.I. 1991/2704)

Accounting requirements for authorised deposit takers not required to prepare accounts under Part VII of the Companies Act 1985

417.—(1) The Bank Accounts Directive (Miscellaneous Banks) Regulations 1991 are amended as follows.

(2) In regulation 3 of those Regulations (scope of application), the existing text is numbered as paragraph (1).

(3) In paragraph (1)(c) of regulation 3, for “an authorised institution within the meaning of the Banking Act 1987” substitute “an authorised deposit taker”.

(4) After paragraph (1) of regulation 3 insert—

“(2) In paragraph (1), “authorised deposit taker” means a person with permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits, but excludes—

- (a) a building society, within the meaning of section 119 of the Building Societies Act 1986,
- (b) a credit union, within the meaning of the Credit Unions Act 1979 or the Credit Unions (Northern Ireland) Order 1985,
- (c) a specially authorised friendly society, within the meaning of section 7(1)(f) of the Friendly Societies Act 1974, and
- (d) a person who has permission to accept deposits only in the course of effecting or carrying out contracts of insurance in accordance with that permission.

(3) References in paragraph (2) to—

- (a) accepting deposits, and
- (b) effecting and carrying out contracts of insurance,

must be read with section 22 of the Financial Services and Markets Act 2000, any relevant order under that section, and Schedule 2 to that Act.”.

(5) In regulation 5 (publication of Accounts), paragraph (4) is revoked.

The Registered Foreign Lawyers Order 1991 (S.I. 1991/2831)

Revocation of spent provision

418. Article 3 of the Registered Foreign Lawyers Order 1991 (Banking Act 1987 (Exempt Transactions) Regulations 1988) is revoked.

The Opencast Coal (Rate of Interest on Compensation) Order 1992 (S.I. 1992/46)

Meaning of “the reference banks”

419.—(1) In article 2 of the Opencast Coal (Rate of Interest on Compensation) Order 1992, for paragraph (2)(b)(297) substitute—

“(b) the reference banks are the seven largest persons for the time being who—

- (i) have permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits,
- (ii) are incorporated in the United Kingdom and carrying on there a regulated activity of accepting deposits, and
- (iii) quote a base rate in sterling; and”.

(2) In paragraph (2)(c) of article 2, for “an institution” substitute “a person” and for “its” (in both places) substitute “his”.

(3) In paragraph (3) of article 2, for “an institution” substitute “a person” and for “that institution” substitute “that person”.

(4) After paragraph (3) of that article insert—

“(4) Paragraph (2)(b) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

The Firemen’s Pension Scheme Order 1992 (S.I. 1992/129)

Actionable contravention giving rise to loss

420. In Schedule 2 to the Firemen’s Pension Scheme Order 1992, in sub-paragraph (1)(b) of paragraph F6A(298) (previous service reckonable following actionable loss) after “section 62 of the Financial Services Act 1986” insert “or section 150 of the Financial Services and Markets Act 2000”.

The Serbia and Montenegro (United Nations Sanctions) Order 1992 (S.I. 1992/1302)

Assets of Serbia and Montenegro: definition of “investments”

421. In paragraph 4 of article 10 of the Serbia and Montenegro (United Nations Sanctions) Order 1992 (assets of Serbia and Montenegro), for sub-paragraph (b) substitute—

- “(b) “investment” means any investment of a kind specified by any relevant order made under section 22 of the Financial Services and Markets Act 2000 which is not a security.”.

*The Serbia and Montenegro (United Nations Sanctions)
(Dependent Territories) Order 1992 (S.I. 1992/1303)*

Assets of Serbia and Montenegro: definition of “investments”

422. In paragraph 4 of article 10 of the Serbia and Montenegro (United Nations Sanctions) (Dependent Territories) Order 1992 (assets of Serbia and Montenegro), for sub-paragraph (b) substitute—

- “(b) “investment” means any investment of a kind specified by any relevant order made under section 22 of the Financial Services and Markets Act 2000 which is not a security.”.

*The Serbia and Montenegro (United Nations Sanctions)
(Channel Islands) Order 1992 (S.I. 1992/1308)*

Assets of Serbia and Montenegro: definition of “investments”

423. In paragraph 4 of article 10 of the Serbia and Montenegro (United Nations Sanctions) (Channel Islands) Order 1992 (assets of Serbia and Montenegro), for sub-paragraph (b) substitute—

- “(b) “investment” means any investment of a kind specified by any relevant order made under section 22 of the Financial Services and Markets Act 2000 which is not a security.”.

*The Child Support (Arrears, Interest and Adjustment of
Maintenance Assessments) Regulations 1992 (S.I. 1992/1816)*

Meaning of “the reference banks”

424.—(1) In paragraph (3) of regulation 6 of the Child Support (Arrears, Interest and Adjustment of Maintenance Assessments) Regulations 1992 (rate of interest and calculation of interest), for sub-paragraph (b) substitute—

- “(b) the reference banks are the seven largest persons for the time being who—
- (i) have permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits,
 - (ii) are incorporated in the United Kingdom and carrying on there a regulated activity of accepting deposits, and
 - (iii) quote a base rate in sterling; and”.

(2) In paragraph (3)(c) of that regulation, for “an institution” substitute “a person” and for “its” (in both places) substitute “his”.

(3) In paragraph (4) of that regulation, for “an institution” substitute “a person” and for “that institution” substitute “that person”.

(4) After paragraph (5) of that regulation insert—

- “(6) Paragraph (3)(b) must be read with—
- (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.”.

*The Local Government Superannuation (National
Rivers Authority) Regulations 1992 (S.I. 1992/1991)*

Meaning of “the reference banks”

425.—(1) In paragraph (3) of regulation 5 of the Local Government Superannuation (National Rivers Authority) Regulations 1992 (refund of contributions), for sub-paragraph (b) substitute—

- “(b) the reference banks, in relation to any 15th March, are the seven largest persons who—
- (i) have permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits,

- (ii) are incorporated in the United Kingdom and carrying on there a regulated activity of accepting deposits, and
- (iii) quote a base rate in sterling; and”.

(2) In sub-paragraph (c) of that paragraph for “an institution” substitute “a person” and for “its” (in both places) substitute “his”.

(3) In that paragraph, sub-paragraph (d) is revoked.

(4) In paragraph (4) of that regulation, for “an institution” substitute “a person” and for “that institution” substitute “that person”.

(5) After paragraph (4) of that regulation, insert—

“(5) Paragraph (3)(b) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

The Education (London Residuary Body) (Transfer of Functions and Property) (No. 2) Order 1992 (S.I. 1992/2257)

Meaning of “the reference banks”

426.—(1) In paragraph (7) of article 1 of the Education (London Residuary Body) (Transfer of Functions and Property) (No.2) Order 1992 (citation, commencement and interpretation), for sub-paragraph (b) substitute—

“(b) the reference banks, in relation to any 15th March, are the seven largest persons who—

- (i) have permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits,
- (ii) are incorporated in the United Kingdom and carrying on there a regulated activity of accepting deposits, and
- (iii) quote a base rate in sterling effective as mentioned in sub-paragraph (a) above; and”.

(2) In paragraph (7)(c) of that regulation, for “an institution” substitute “a person” and for “its” (in both places) substitute “his”.

(3) Paragraph (7)(d) of that regulation is revoked.

(4) In paragraph (8) of that regulation, for “an institution” substitute “a person” and for “that institution” substitute “that person”.

(5) After paragraph (8) of that article insert—

“(8A) The definition of “reference banks” in paragraph (7) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

The Local Authorities (Funds) (England) Regulations 1992 (S.I. 1992/2428)

Meaning of “the reference banks”

427.—(1) For paragraph (3) of regulation 8 of the Local Authorities (Funds) (England) Regulations 1992 (calculation of interest on amount of instalments) substitute—

“(3) For the purposes of paragraph (1), the reference banks are the seven largest persons for the time being who—

- (a) have permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits,
- (b) are incorporated in the United Kingdom and carrying on there a regulated activity of accepting deposits, and
- (c) quote a base rate in sterling.”.

(2) In paragraph (4) of that regulation, for “an institution” substitute “a person” and for “its” (in both places) substitute “his”.

(3) In paragraph (5) of that regulation—

- (a) in the definition of “consolidated gross assets” for “an institution” substitute “a person” and for “that institution” substitute “that person”, and
- (b) the definition of “a deposit-taking business” is revoked.

(4) After paragraph (5) of that regulation insert—

“(6) Paragraph (3) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

Prescribed investments

428.—(1) Schedule 3 to the Local Authorities (Funds) (England) Regulations 1992 is amended as follows.

(2) The existing text is numbered paragraph (1).

(3) In paragraph (1)(a) (as renumbered) for “an institution authorised under Part I of the Banking Act 1987” substitute “an authorised deposit taker”.

(4) Sub-paragraph (b) of that paragraph is revoked.

(5) For sub-paragraph (c) of that paragraph substitute—

“(c) if the deposit is repayable at not more than 7 days notice, a deposit with a relevant body (other than the billing authority) which may accept deposits without contravening the prohibition imposed by section 19 of the Financial Services and Markets Act 2000, by reason of being an exempt person under section 38 of that Act.”.

(6) After paragraph (1) insert—

“(2) In this Schedule—

(a) “an authorised deposit taker” means—

- (i) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits, or
- (ii) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result

of qualifying for authorisation under paragraph 12(1) of that Schedule), to accept deposits;

- (b) “relevant body” means—
- (i) a local authority, within the meaning of the Local Government Act 1972~~(299)~~, the Common Council of the City, or the Council of the Isles of Scilly, or
 - (ii) any other body which by virtue of any enactment has power to issue a precept to a local authority in England or Wales or a requisition to a local authority in Scotland.
- (3) The definition of “authorised deposit-taker” in paragraph (1) must be read with—
- (a) section 22 of the Financial Services and Markets Act 2000,
 - (b) any relevant order under that section, and
 - (c) Schedule 2 to that Act.”.

The Levying Bodies (General) Regulations 1992 (S.I. 1992/2903)

Meaning of “the reference banks”

429.—(1) In paragraph (3) of regulation 10 of the Levying Bodies (General) Regulations 1992 (interest on unpaid levies) for sub-paragraph (a) substitute—

- “(a) the reference banks are the seven largest persons for the time being who—
- (i) have permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits,
 - (ii) are incorporated in the United Kingdom and carrying on there a regulated activity of accepting deposits, and
 - (iii) quote a base rate in sterling;”.

(2) In paragraph (3)(b) of that regulation, for “an institution” substitute “a person” and for “its” (in both places) substitute “his”.

(3) In paragraph (4) of that regulation—

- (a) in the definition of “consolidated gross assets” for “an institution” substitute “a person” and for “that institution” substitute “that person”, and
- (b) the definition of “a deposit taking business” is revoked.

(4) After paragraph (4) of that regulation insert—

- “(5) Paragraph (3)(a) must be read with—
- (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.”.

The Local Authorities (Funds) (Wales) Regulations 1992 (S.I. 1992/2929)

Meaning of “the reference banks”

430.—(1) For paragraph (3) of regulation 8 of the Local Authorities (Funds) (Wales) Regulations 1992 (calculation of interest on amount of instalments) substitute—

- “(3) For the purposes of paragraph (1), the reference banks are the seven largest persons for the time being who—
- (i) have permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits,
 - (ii) are incorporated in the United Kingdom and carrying on there a regulated activity of accepting deposits, and
 - (iii) quote a base rate in sterling.”.
- (2) In paragraph (4) of that regulation, for “an institution” substitute “a person” and for “its” (in both places) substitute “his”.
- (3) In paragraph (5) of that regulation—
- (a) in the definition of “consolidated gross assets” for “an institution” substitute “a person” and for “that institution” substitute “that person”, and
 - (b) the definition of “a deposit-taking business” is revoked.
- (4) After paragraph (5) of that regulation insert—
- “(6) Paragraph (3) must be read with—
- (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.”.

Prescribed investments

431.—(1) Schedule 3 to the Local Authorities (Funds) (Wales) Regulations 1992 is amended as follows.

- (2) The existing text is numbered paragraph (1).
- (3) In paragraph (1)(a) (as renumbered) for “an institution authorised under Part I of the Banking Act 1987” substitute “an authorised deposit taker”.
- (4) Sub-paragraph (b) of that paragraph is revoked.
- (5) For sub-paragraph (c) of that paragraph substitute—
- “(c) if the deposit is repayable at not more than 7 days notice, a deposit with a relevant body (other than the billing authority) which may accept deposits without contravening the prohibition imposed by section 19 of the Financial Services and Markets Act 2000, by reason of being an exempt person under section 38 of that Act.”.
- (6) After paragraph (1) insert—
- “(2) In this Schedule—
- (a) “an authorised deposit taker” means—
 - (i) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits, or
 - (ii) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule), to accept deposits;
 - (b) “relevant body” means—
 - (i) a local authority, or
 - (ii) any other body which by virtue of any enactment has power to issue a precept to a local authority in England or Wales or a requisition to a

local authority in Scotland, or to the expenses of which, by virtue of any enactment, a local authority in the United Kingdom is or can be required to contribute.

- (3) The definition of “authorised deposit-taker” in paragraph (2) must be read with—
- (a) section 22 of the Financial Services and Markets Act 2000,
 - (b) any relevant order under that section, and
 - (c) Schedule 2 to that Act.”.

The Value Added Tax (Cars) Order 1992 (S.I. 1992/3122)

Interpretation of the 1992 Order

432.—(1) Article 2 of the Value Added Tax (Cars) Order 1992 (Interpretation) is amended as follows.

- (2) The existing text is numbered paragraph (1).
- (3) For the definition of “insurer” substitute—
- ““insurer” means—
- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect and carry out contracts of insurance against risks arising from loss of or damage to goods; or
 - (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) to effect and carry out in the United Kingdom contracts of insurance against risks arising from loss of or damage to goods;”.
- (4) After paragraph (1) insert—
- “(2) The definition of “insurer” in paragraph (1) must be read with—
- (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.”.

The Insurance Companies (Amendment) Regulations 1993 (S.I. 1993/174)

Revocation of the 1993 Regulations

433. The Insurance Companies (Amendment) Regulations 1993 are revoked.

The Iraq (United Nations) (Sequestration of Assets) Order 1993 (S.I. 1993/1244)

Interpretation of the 1993 Order

434.—(1) Article 2 of the Iraq (United Nations) (Sequestration of Assets) Order 1993 (interpretation) is amended as follows.

- (2) In paragraph (1) of that article before the definition of “the Bank” insert—
- ““authorised deposit taker” means—
- (a) a person with permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits, or

- (b) an EEA firm of the kind mentioned in sub-paragraph (b) or (c) of paragraph 5 of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule), to accept deposits;”.
- (3) In that paragraph, the definition of “the Banking Act” is revoked.
- (4) In that paragraph, before the definition of “funds” insert—
 - ““former authorised institution” means a person who—
 - (a) continues to have a liability in respect of a deposit which was held by him in accordance the Banking Act 1979 or the Banking Act 1987, and
 - (b) is not an authorised person within the meaning of the Financial Services and Markets Act 2000;”.
- (5) In that paragraph, for the definition of “relevant institution” substitute—
 - ““relevant institution” means—
 - (a) an authorised deposit taker, and
 - (b) a person who may lawfully accept deposits by reason of being an exempt person within the meaning of section 38 of that Act;”.
- (6) After that paragraph insert—
 - “(1A) The definitions of “authorised deposit taker” and “relevant institution” in paragraph (1) must be read with—
 - (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.”.

Winding up of an authorised deposit taker or former authorised institution

435.—(1) In paragraph (1)(b) of article 10 of the Iraq (United Nations) (Sequestration of Assets) Order 1993 (Scope of Third Party Rights) for “or is the subject of a winding-up order under section 92 of the Banking Act” substitute “or is, or has been, an authorised deposit taker or is a former authorised institution, and is the subject of a winding-up order under section 367 of the Financial Services and Markets Act 2000(**300**)”.

(2) In paragraph (3)(iv) of article 20 of that Order (restitution), for “or a winding-up order made against it under section 92 of the Banking Act” substitute “or is an authorised deposit taker or former authorised institution and has a winding-up order made against it under section 367 of the Financial Services and Markets Act 2000”.

The Insurance Companies (Cancellation) Regulations 1993 (S.I. 1993/1327)

Revocation of the 1993 Regulations

436. The Insurance Companies (Cancellation) Regulations 1993 are revoked.

(300) Article 12 of the [Financial Services and Markets Act 2000 \(Transitional Provisions and Savings\) \(Civil Remedies, Discipline, Criminal Offences etc.\) \(No. 2\) Order 2001 \(S.I. 2001/ 3083\)](#) provides that a former authorised institution may be treated as if it were a person who has been an authorised person for the purposes of s.367(1)(a) of the Financial Services and Markets Act 2000.

*The Financial Services (Disclosure of Information)
(Designated Authorities) (No. 7) Order 1993 (S.I. 1993/1826)*

Revocation of unnecessary provision

437. In article 2 of the Financial Services (Disclosure of Information) (Designated Authorities) (No. 7) Order 1993 (Designation of authorities and specification of functions), the words “section 180(3) of the Financial Services Act 1986 and” are revoked.

The Money Laundering Regulations 1993 (S.I. 1993/1933)

Interpretation of the 1993 Regulations

438.—(1) Regulation 2 of the Money Laundering Regulations 1993 (interpretation) is amended as follows.

(2) In paragraph (1), for the definition of “European institution” substitute—

““European institution” means an EEA firm of the kind mentioned in sub-paragraph (b) or (c) of paragraph 5 of Schedule 3 to the Financial Services and Markets Act 2000 which qualifies for authorisation for the purposes of that Act under paragraph 12 of that Schedule;”.

(3) In that paragraph, after the definition of “European institution” insert—

““home regulated activity”, in relation to a European institution, means any activity listed in Annex 1 to the banking consolidation directive (the text of which is, for convenience set out in the Schedule to these Regulations)—

- (a) in relation to which a supervisory authority in its home state has regulatory functions, and
- (b) in the case of an EEA firm of the kind mentioned in paragraph 5(c) of Schedule 3 to the Financial Services and Markets Act 2000, it is carrying on in its home State;

“home state”, in relation to a person incorporated in or formed under the law of another member State, means that State;”.

(4) In that paragraph, for the definition of “insurance business” substitute—

““insurance business” means business which consists of effecting or carrying out contracts of long-term insurance”.

(5) After paragraph (1) insert—

“(1A) The definition of “insurance business” in paragraph (1) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

Meaning of “relevant financial business”

439.—(1) Regulation 4 of the Money Laundering Regulations 1993 (relevant financial business) is amended as follows.

(2) In paragraph (1), for sub-paragraph (a) substitute—

“(a) accepting deposits, by a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits (including, in the case of a building society, the raising of money from members of the society by the issue of shares);”.

(3) Sub-paragraph (b) of paragraph (1) is revoked.

(4) In sub-paragraph (e) of paragraph (1), for “the requirements of paragraph 1 of Schedule 2 to the Banking Coordination (Second Council Directive) Regulations 1992 have been complied with” substitute “the establishment conditions in paragraph 13 of Schedule 3 to the Financial Services and Markets Act 2000, or the service conditions in paragraph 14 of that Schedule, have been satisfied;”.

(5) For sub-paragraph (f) of that paragraph substitute—

“(f) business which consists of carrying on one or more of the following kinds of regulated activity in the United Kingdom—

- (i) dealing in investments as principal or as agent,
- (ii) arranging deals in investments,
- (iii) managing investments,
- (iv) safeguarding and administering investments,
- (v) sending dematerialised instructions,
- (vi) establishing etc. a collective investment scheme,
- (vii) advising on investments.”.

(6) In paragraph (2)—

- (a) sub-paragraph (d) is revoked; and
- (b) for sub-paragraph (e) substitute—

“(e) in relation to any person who is for the time being specified in any order made under section 38 of the Financial Services and Markets Act 2000 as an exempt person in respect of all or any regulated activities (within the meaning of that Act), those activities in respect of which he is exempt.”.

(7) Paragraph (3) of that regulation is revoked.

(8) In paragraph (4) of that regulation, the definition of “deposit-taking business” is revoked.

(9) After that paragraph insert—

“(5) Sub-paragraphs (a) and (f) of paragraph (1) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000,
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

Accounts with deposit takers which constitute evidence of identity

440. In paragraph (4) of regulation 8 of the Money Laundering Regulations 1993 (payment by post etc.) for sub-paragraphs (a)(**301**) and (b) substitute—

- “(a) a person who for the time being has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits;
- (b) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to the Financial Services and Markets Act 2000 which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to accept deposits; or”.

Responsibility of principal for record-keeping by appointed representative

441.—(1) In paragraph (4) of regulation 13 of the Money Laundering Regulations 1993 (record-keeping procedures; supplementary provisions)—

(301) Sub-paragraph (4)(a) of regulation 8 was amended by [S.I. 1998/1129](#), article 2, Schedule 1, paragraph 13(c).

- (a) for the words from the beginning of the paragraph to the end of sub-paragraph (b) substitute “Where a person bound by regulation 5(1) above is an appointed representative”; and
 - (b) for “under section 44 of the Financial Services Act 1986” substitute “under section 39 of the Financial Services and Markets Act 2000”.
- (2) For paragraph (6) of that regulation substitute—
- “(6) For the purposes of paragraphs (4) and (5) above, “appointed representative” has the same meaning as in section 39(2) of the Financial Services and Markets Act 2000, and “principal” (in relation to an appointed representative) has the same meaning as in section 39(1) of that Act.”.

Meaning of references to “supervisory authorities” in the 1993 Regulations

442.—(1) In paragraph (2) of regulation 15 of the Money Laundering Regulations 1993 (supervisory authorities)—

- (a) sub-paragraphs (b), (c), (d), (f), (g), (l), (m), (n), (o) and (p) are revoked, and
 - (b) for sub-paragraph (e) substitute—
 - “(e) a designated professional body within the meaning of section 326(2) of the Financial Services and Markets Act 2000;”.
- (2) For paragraph (3) substitute—
- “(3) These Regulations apply to the Secretary of State and to the Treasury in the exercise, in relation to any person carrying on relevant financial business, of their respective functions under the enactments relating to companies or insolvency or under the Financial Services and Markets Act 2000.”.

Persons who must disclose information indicating engagement in money laundering

443. In paragraph (6) of regulation 16 of the Money Laundering Regulations 1993 (supervisors etc. to report evidence of money laundering)—

- (a) in sub-paragraph (a) the words “section 17 of the Industrial Assurance Act 1923 or” are revoked;
- (b) for sub-paragraph (e) substitute—
 - “(e) a person appointed under section 167, 168(3) or (5), or 169(1)(b) or 284 of the Financial Services and Markets Act 2000, or under regulations made as a result of section 262(2)(k) of that Act, to conduct an investigation, or;”;
- (c) sub-paragraphs (f) and (fa)(302) are revoked; and
- (d) in sub-paragraph (g) the words “section 44 of the Insurance Companies Act 1982,” and “section 106 of the Financial Services Act 1986,” are revoked.

The Libya (United Nations Sanctions) Order 1993 (S.I. 1993/2807)

Interpretation of article 12: assets of Libya

444.—(1) Paragraph (5) of article 12 of the Libya (United Nations Sanctions) Order 1993 (assets of Libya) is amended as follows.

- (2) For sub-paragraph (b) substitute—

(302) Sub-paragraph (fa) was inserted into regulation 15(6) by S.I. 1994/1696, regulation 68, Schedule 8, paragraph 36.

- “(b) “investment” means any investment of a kind specified by any relevant order under section 22 of the Financial Services and Markets Act 2000 which is not a security.”.
- (3) For the definition of “relevant institution” in sub-paragraph (c) substitute—
- ““relevant institution” means—
- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits,
 - (b) an EEA firm of the kind mentioned in sub-paragraph (b) or (c) of paragraph 5 of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule), to accept deposits, or
 - (c) a person who may accept deposits without contravening the prohibition imposed by section 19 of that Act, by reason of being an exempt person as a result of an order under section 38 of that Act;”.

The Libya (United Nations Sanctions) (Dependent Territories) Order 1993 (S.I. 1993/2808)

Interpretation of article 12: assets of Libya

445.—(1) Paragraph (5) of article 12 of the Libya (United Nations Sanctions) (Dependent Territories) Order 1993 (assets of Libya) is amended as follows.

- (2) For sub-paragraph (b) substitute—
- “(b) “investment” means any investment of a kind specified by any relevant order made under section 22 of the Financial Services and Markets Act 2000 which is not a security.”.
- (3) In that paragraph, for sub-paragraph (b) of the definition of “relevant institution” substitute—
- “(b) a person who may lawfully accept deposits in or from within the Territory by way of business.”.
- (4) After paragraph (5) insert—
- “(6) For the purpose of the definition of “relevant institution” in paragraph (5)—
- (a) the activity of accepting deposits has the meaning given in any relevant order under section 22 of the Financial Services and Markets Act 2000; and
 - (b) a person is not regarded as accepting deposits by way of business if—
 - (i) he does not hold himself out as accepting deposits on a day to day basis, and
 - (ii) any deposits which he accepts are accepted only on particular occasions, whether or not involving the issue of any securities.
- (7) In determining for the purposes of that definition whether deposits are accepted only on particular occasions, regard is to be had to the frequency of those occasions and to any characteristics distinguishing them from each other.”.

The Libya (United Nations Sanctions) (Channel Islands) Order 1993 (S.I. 1993/2811)

Interpretation of article 12: assets of Libya

446.—(1) Article 12 of the Libya (United Nations Sanctions) (Channel Islands) Order 1993 (assets of Libya) is amended as follows.

- (2) In paragraph (5), for sub-paragraph (b) substitute—

- “(b) “investment” means any investment of a kind specified by any relevant order made under section 22 of the Financial Services and Markets Act 2000 which is not a security.”.

The Libya (United Nations Sanctions) (Isle of Man) Order 1993 (S.I. 1993/2812)

Interpretation of article 12: assets of Libya

447.—(1) Paragraph (5) of article 12 of the Libya (United Nations Sanctions) (Isle of Man) Order 1993 (assets of Libya) is amended as follows.

(2) For sub-paragraph (b) substitute—

- “(b) “investment” means any investment of a kind specified by any relevant order made under section 22 of the Financial Services and Markets Act 2000 which is not a security.”.

The Credit Unions (Authorised Investments) Order 1993 (S.I. 1993/3100)

Interpretation of the Schedule to the 1993 Order

448.—(1) The Schedule to the Credit Unions (Authorised Investments) Order 1993 (authorised investments) is amended as follows.

(2) In paragraph 3 for sub-paragraph (a) substitute—

- “(a) deposits;”.

(3) In paragraph 4 (Interpretation)—

(a) for the definition of “deposits” substitute—

““deposits” includes shares in a building society (other than deferred shares), but does not include transferable instruments;”;

(b) for the definition of “European authorised institution” substitute—

““European authorised institution” means an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to the Financial Services and Markets Act 2000 which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation by virtue of paragraph 12 of that Schedule) to accept deposits;”;

(c) for the definition of “European deposit-taker” substitute—

““European deposit-taker” means an EEA firm falling within paragraph 5(b) of Schedule 3 to the Financial Services and Markets Act 2000 which has lawfully established a branch in the United Kingdom for the purpose of accepting deposits;”.

The Insurance Companies (Switzerland) Regulations 1993 (S.I. 1993/3127)

Revocation of the 1993 Regulations

449. The Insurance Companies (Switzerland) Regulations 1993 are revoked.

The Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 1993 (S.I. 1993/3245)

Interpretation of the 1993 Regulations: qualifying bodies

450.—(1) Regulation 2 of the Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 1993 (interpretation) is amended as follows.

- (2) In paragraph (1) after the definition of “enactment” insert—
““friendly society” has the same meaning as in the Financial Services and Markets Act 2000;”.
- (3) In paragraph (2) for sub-paragraph (b) substitute—
“(b) requires permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of insurance without contravening the prohibition imposed by section 19 of that Act, and”.
- (4) After paragraph (3)(b) insert—
“(c) is a friendly society.”.
- (5) After paragraph (4) insert—
“(5) Paragraph (2)(b) must be read with—
 - (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.”.

The Parliamentary Pensions (Additional Voluntary Contributions Scheme) Regulations 1993 (S.I. 1993/3252)

Investment of additional voluntary contributions

451.—(1) In regulation 6 of the Parliamentary Pensions (Additional Voluntary Contributions Scheme) Regulations 1993 (additional voluntary contributions) for sub-paragraph (a) of paragraph (2)(**303**) substitute—

- “(a) an insurance policy or policies taken out with an office or branch in the United Kingdom of—
 - (i) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect and carry out contracts of long-term term insurance, or
 - (ii) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) to effect or carry out contracts of long-term insurance; or”.
- (2) In sub-paragraph (b) of paragraph (2) of that regulation, for “a building society authorised by virtue of Part II of the Building Societies Act 1986” substitute “a building society, within the meaning of the Building Societies Act 1986, which has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits”.
- (3) After paragraph (4) of that regulation insert—
“(5) Paragraph (2) must be read with—
 - (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.”.

(303) Paragraph (2) of regulation 6 was modified by S.I. 1994/1696, regulation 68, Schedule 8, paragraph 37(a). That modification has been incorporated in paragraph (2)(a) as amended by this Order.

Persons from whom pensions must be purchased

452.—(1) In regulation 9 of the Parliamentary Pensions (Additional Voluntary Contributions Scheme) Regulations 1993 (purchase of pensions) for paragraph (2)(304) substitute—

“(2) The Trustees shall purchase the pension or pensions specified under paragraph (1) above from such insurer as the Trustees may determine from time to time or as the contributor may in writing specify, being an office or branch in the United Kingdom of—

- (a) person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect and carry out contracts of long-term term insurance; or
- (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) to effect or carry out contracts of long-term insurance.”.

(2) In paragraph (3) of that regulation the words “or friendly society” in each place are revoked.

(3) After paragraph (3) of that regulation insert—

“(4) Paragraph (2) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

The Traded Securities (Disclosure) Regulations 1994 (S.I. 1994/188)

Interpretation of the 1994 Regulations

453.—(1) In regulation 2 of the Traded Securities (Disclosure) Regulations 1994 (interpretation)

(a) for the definition of “the Official List” substitute—

““the Official List” means the list maintained by the competent authority in accordance with section 74 of the Financial Services and Markets Act 2000;”;

(b) for the definition of “overseas investment exchange” and “recognised investment exchange” substitute—

““overseas investment exchange” means a recognised investment exchange in the case of which a recognition order was made by virtue of section 292(2) of the Financial Services and Markets Act 2000;”;

(c) after the definition of “overseas investment exchange” insert—

““recognised investment exchange” has the same meaning as in section 285 of the Financial Services and Markets Act 2000;”;

(d) in the definition of “security” for “Part IV of the Financial Services Act 1986” substitute “Part VI of the Financial Services and Markets Act 2000”.

Requirements for recognition of overseas investment exchanges

454. For regulation 4 of the Traded Securities (Disclosure) Regulations 1994 substitute—

“The Financial Services and Markets Act 2000 shall have effect as if the requirement set out in paragraph (3) of regulation 3 above were, in the case of an overseas investment exchange, among

(304) Paragraph (2) was modified by S.I. 1994/1696, regulation 68, Schedule 8, paragraph 37(b). The effect of that modification has been incorporated in paragraph (2)(b) as amended by this Order.

those specified in section 292(3) of that Act (requirements for recognition of overseas investment exchange) and mentioned in section 297(2)(a) of that Act (revocation of recognition order).”.

*The Financial Services (Disclosure of Information)
(Designated Authorities) (No. 8) Order 1994 (S.I. 1994/340)*

Revocation of unnecessary provision

455. In article 2(305) of the Financial Services (Disclosure of Information) (Designated Authorities) (No. 8) Order 1994 (designation of authorities and specification of functions), the words “section 180(3) of the Financial Services Act 1986 and” are revoked.

The Haiti (United Nations Sanctions) Order 1994 (S.I. 1994/1323)

Assets of Haiti: definition of “investments”

456. In paragraph (4) of article 9 of the Haiti (United Nations Sanctions) Order 1994 (assets of Haiti)(306), for sub-paragraph (b) substitute—

“(b) “investments” means any investment of a kind specified by any relevant order made under section 22 of the Financial Services and Markets Act 2000 which is not a security.”.

The Haiti (United Nations Sanctions) (Dependent Territories) Order 1994 (S.I. 1994/1324)

Assets of Haiti: definition of “investments”

457. In paragraph (4) of article 9 of the Haiti (United Nations Sanctions)(Dependent Territories) Order 1994 (assets of Haiti)(307), for sub-paragraph (b) substitute—

“(b) “investments” means any investment of a kind specified by any relevant order made under section 22 of the Financial Services and Markets Act 2000 which is not a security.”.

The Haiti (United Nations Sanctions) (Channel Islands) Order 1994 (S.I. 1994/1325)

Assets of Haiti: definition of “investments”

458. In paragraph (4) of article 9 of the Haiti (United Nations Sanctions) (Channel Islands) Order 1994 (assets of Haiti)(308), for sub-paragraph (b) substitute—

“(b) “investments” means any investment of a kind specified by any relevant order made under section 22 of the Financial Services and Markets Act 2000 which is not a security.”.

(305) Amendments not relevant to this amendment were inserted into article 2 by the National Lottery Act 1998, section 1(5), Schedule 1, paragraph 4.

(306) Amended by S.I. 2000/1106.

(307) Amended by S.I. 2000/1106.

(308) Amended by S.I. 2000/1106

The Haiti (United Nations Sanctions) (Isle of Man) Order 1994 (S.I. 1994/1326)

Assets of Haiti: definition of “investments”

459. In paragraph (4) of article 9 of the Haiti (United Nations Sanctions) (Isle of Man) Order 1994 (assets of Haiti)(**309**), for sub-paragraph (b) substitute—

- “(b) “investments” means any investment of a kind specified by any relevant order made under section 22 of the Financial Services and Markets Act 2000 which is not a security.”.

The Insurance Companies Regulations 1994 (S.I. 1994/1516)

Revocation of the 1994 Regulations

460. The Insurance Companies Regulations 1994 are revoked.

The Drug Trafficking Offences Act 1986 (Crown Servants and Regulators etc) Regulations 1994 (S.I. 1994/1757)

Revocation of references to person no longer performing regulatory functions

461. In regulation 4(1)(**310**) of the Drug Trafficking Offences Act 1986 (Crown Servants and Regulators etc) Regulations 1994 (designation of persons performing regulatory etc. functions)—

- (a) sub-paragraphs (b), (c), (d), (f), (g), (i), (j), (k) and (l) are revoked; and
 (b) for sub-paragraph (e) substitute—
 “(e) a designated professional body within the meaning of section 326(2) of the Financial Services and Markets Act 2000;”.

The Insurance Premium Tax Regulations 1994 (S.I. 1994/1774)

Interpretation of the 1994 Regulations

462. In regulation 20 of the Insurance Premium Tax Regulations 1994 (interpretation), in paragraph (2)(a)—

- (a) for “by section 17(1) of the Insurance Companies Act 1982” substitute “in accordance with rules made under Part 10 of the Financial Services and Markets Act 2000”; and
 (b) for “in regulation 3 of the Insurance Companies (Accounts and Statements) Regulations 1983” substitute “in those rules”.

General representatives

463. In the Schedule to the Insurance Premium Tax Regulations 1994, in Form 1 (Application for Registration)(**311**), in question 3(a) for “who meets the requirements of section 10 of the Insurance Companies Act 1982” substitute “as defined in section 57(16A) of the Finance Act 1994”.

(309) Amended by S.I. 2000/1106.

(310) An amendment to regulation 4(1) which is not relevant to these amendments was inserted by S.I. 1998/1129, article 2, Schedule 1, paragraph 16.

(311) Form 1 was substituted by S.I. 1997/1157, regulation 15, Schedule.

The Friendly Societies (Insurance Business) Regulations 1994 (S.I. 1994/1981)

Revocation of the 1994 Regulations

464. The Friendly Societies (Insurance Business) Regulations 1994 are revoked.

The Friendly Societies (Accounts and Related Provisions) Order 1994 (S.I. 1994/1983)

Meaning of “policy holder”

465. In article 2(1) of the Friendly Societies (Accounts and Related Provisions) Order 1994 (interpretation), in the definition of “policy holder” for “the Insurance Companies Act 1982” substitute “any order made under section 424(2) of the Financial Services and Markets Act 2000 and for the time being in force”.

Notes to annual accounts of friendly societies

466. In Schedule 4 to the Friendly Societies (Accounts and Related Provisions) Order 1994 (Notes to annual accounts)—

- (a) in paragraph 18(1)(b) for “a recognised investment exchange other than an overseas investment exchange within the meaning of the Financial Services Act 1986” substitute “a recognised investment exchange within the meaning of the Financial Services and Markets Act 2000, other than an investment exchange in relation to which a recognition order under section 292(2) of that Act is in force (an overseas investment exchange)”, and
- (b) paragraph 32 is revoked.

The Insolvent Partnerships Order 1994 (S.I. 1994/2421)

Winding up of an insolvent partnership which is an authorised person

467. In article 19 of the Insolvent Partnerships Order 1994 (supplemental and transitional provisions), for paragraph (4) substitute—

“(4) Nothing in this Order is to be taken as preventing a petition being presented against an insolvent partnership under section 367 of the Financial Services and Markets Act 2000, or any other enactment.”.

Partnerships which are authorised persons: administration orders

468.—(1) In paragraph 2 of Schedule 2 to the Insolvent Partnerships Order 1994 (modified provisions of Part II of the Insolvency Act), in subsection (1)(a) of the text of section 8 of the Insolvency Act 1986 (as modified by that paragraph), after “of this Act” insert “or subsection (1A) below”.

(2) In that paragraph, after the text of section 8(1) of the Insolvency Act 1986 (as modified by that paragraph) insert—

“(1A) An authorised deposit taker which defaults on an obligation to pay any sum due and payable in respect of a relevant deposit is deemed to be unable to pay its debts.

(1B) In subsection (1A)—

- (a) “authorised deposit taker” means a person (being a partnership) which has permission under Part 4 of the Financial Services and Markets Act 2000 to accept

deposits, other than a person who has such permission only for the purpose of carrying on another regulated activity in accordance with that permission; and

- (b) “relevant deposit” must be read with—
- (i) section 22 of the Financial Services and Markets Act 2000,
 - (ii) any relevant order under that section, and
 - (iii) Schedule 2 to that Act,

but any restriction on the meaning of deposit which arises from the identity of the person making it is to be disregarded.”.

(3) In that paragraph, for the text of section 8(4) of the Insolvency Act 1986 (as modified by that paragraph) substitute—

“(4) An administration order shall not be made in relation to a partnership after an order has been made for it to be wound up by the court as an unregistered company, nor after an order has been made in relation to it by virtue of article 11 of the Insolvent Partnerships Order 1994(312).

(5) An administration order shall not be made against a partnership if—

- (a) it has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of insurance in the United Kingdom;
- (b) it continues to have a liability in respect of a deposit which was held by it in accordance with the Banking Act 1979 or the Banking Act 1987.

(6) The definition of “authorised deposit taker” in subsection (1B)(a) and subsection (5) (a) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

Authorised deposit takers and former authorised institutions: restriction on presentation of bankruptcy petition by partners

469.—(1) In paragraph 2 of Schedule 7 to the Insolvent Partnerships Order 1994 (provisions of the Insolvency Act which apply with modifications for the purposes of Article 11 where joint bankruptcy petition presented by individual members without winding up a partnership as an unregistered company), in the text of section 264(2) of the Insolvency Act 1986 as modified by that paragraph for “which is an authorised institution or former authorised institution within the meaning of the Banking Act 1987” substitute—

“if the partnership—

- (a) has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits, other than such a permission only for the purpose of carrying on another regulated activity in accordance with that permission, or
- (b) continues to have a liability in respect of a deposit which was held by it in accordance with the Banking Act 1979 or the Banking Act 1987.”.

(2) In that paragraph, in the text of section 264 of the Insolvency Act 1986 (as modified by that paragraph), after subsection (2) insert—

“(2A) Subsection (2)(a) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;

- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

Disqualification of a member of an insolvent partnership after investigation

470. In paragraph 8 of Schedule 8 to the Insolvent Partnerships Order 1994 (modified provisions of the Company Directors Disqualification Act 1986 for the purposes of Article 16), for the text of section 8(1) of the Company Directors Disqualification Act 1986 (as modified by that paragraph) substitute—

- “(1) If it appears to the Secretary of State from—
- (a) a report made by an inspector or person appointed to conduct an investigation under a provision mentioned in subsection (1A), or
 - (b) information or documents obtained under a provision mentioned in subsection (1B),

that it is expedient in the public interest that a disqualification order should be made against any person who is or has been an officer of an insolvent partnership, he may apply to the court for such an order to be made against that person.

- (1A) The provisions are—
- (a) section 437 of the Companies Act,
 - (b) section 167, 168, 169(1)(b) or 284 of the Financial Services and Markets Act 2000, or
 - (c) regulations made as a result of section 262(2)(k) of that Act.
- (1B) The provisions are—
- (a) section 447 or 448 of the Companies Act,
 - (b) section 2 of the Criminal Justice Act 1987,
 - (c) section 52 of the Criminal Justice (Scotland) Act 1987,
 - (d) section 83 of the Companies Act 1989, or
 - (e) section 171 or 173 of the Financial Services and Markets Act 2000.”.

The Insolvency Regulations 1994 (S.I. 1994/2507)

Interpretation of the 1994 Regulations

471. In paragraph (1) of regulation 3 of the Insolvency Regulations 1994 (interpretation and application) for the definition of “bank” substitute—

- ““bank” means—
- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits, or
 - (b) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) to accept deposits;”.

The British Coal Staff Superannuation Scheme (Modification) Regulations 1994 (S.I. 1994/2576)

Meaning of “securities”

472.—(1) In clause 9A(**313**) of the Schedule to the British Coal Staff Superannuation Scheme (Modification) Regulations 1994, for sub-clause (2)(b) substitute—

- “(b) “securities” means—
- (a) shares,
 - (b) instruments creating or acknowledging indebtedness,
 - (c) instruments giving entitlement to investments,
 - (d) certificates representing securities.”.

(2) After sub-clause (2) of that clause, insert—

- “(3) The definition of “securities” in sub-clause (2)(b) must be read with—
- (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that Schedule; and
 - (c) Schedule 2 to that Act.”.

The Mineworkers Pension Scheme (Modification) Regulations 1994 (S.I. 1994/2577)

Meaning of “securities”

473.—(1) In clause 8A(**314**) of the Schedule to the Mineworkers Pension Scheme (Modification) Regulations 1994, for sub-clause (2)(b) substitute—

- “(b) “securities” means—
- (a) shares,
 - (b) instruments creating or acknowledging indebtedness,
 - (c) instruments giving entitlement to investments,
 - (d) certificates representing securities.”.

(2) After sub-clause (2) of that clause, insert—

- “(3) The definition of “securities” in sub-clause (2)(b) must be read with—
- (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that Schedule; and
 - (c) Schedule 2 to that Act.”.

The Former Yugoslavia (United Nations Sanctions) Order 1994 (S.I. 1994/2673)

Assets of persons connected with Bosnian Serb controlled areas: definition of “investments”

474. In paragraph (4) of article 6 of the Former Yugoslavia (United Nations Sanctions) Order 1994 (assets of persons connected with Bosnian Serb controlled areas), for sub-paragraph (b) substitute—

(313) Clause 9A was inserted by [S.I. 1994/2576](#), regulation 4 and Schedule.

(314) Clause 8A was inserted by [S.I. 1994/2577](#), regulation 4 and Schedule.

- “(b) “investments” means any investment of a kind specified by any relevant order made under section 22 of the Financial Services and Markets Act 2000 which is not a security.”.

*The Former Yugoslavia (United Nations Sanctions)
(Channel Islands) Order 1994 (S.I. 1994/2675)*

Assets of persons connected with Bosnian Serb controlled areas: definition of “investments”

475. In paragraph (4) of article 6 of the Former Yugoslavia (United Nations Sanctions) (Channel Islands) Order 1994 (assets of persons connected with Bosnian Serb controlled areas), for subparagraph (b) substitute—

- “(b) “investments” means any investment of a kind specified by any relevant order made under section 22 of the Financial Services and Markets Act 2000 which is not a security.”.

The Former Yugoslavia (United Nations Sanctions) (Isle Of Man) Order 1994 (S.I. 1994/2676)

Assets of persons connected with Bosnian Serb controlled areas: definition of “investments”

476. In paragraph (4) of article 6 of the Former Yugoslavia (United Nations Sanctions) (Isle of Man) Order 1994 (assets of persons connected with Bosnian Serb controlled areas), for subparagraph (b) substitute—

- “(b) “investments” means any investment of a kind specified by any relevant order made under section 22 of the Financial Services and Markets Act 2000 which is not a security.”.

*The Teachers' Superannuation (Additional Voluntary
Contributions) Regulations 1994 (S.I. 1994/2924)*

Interpretation of the 1994 Regulations

477.—(1) In paragraph (3) of regulation 2 of the Teachers' Superannuation (Additional Voluntary Contributions) Regulations 1994 (interpretation) for the definition of “insurance company” substitute—

““insurance company” means—

- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of long-term insurance, or
- (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) to effect or carry out contracts of long-term insurance;”.

(2) After that paragraph insert—

- “(3A) The definition of “insurance company” in paragraph (3) must be read with—
- (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.”.

The Industry-wide Coal Staff Superannuation Scheme Regulations 1994 (S.I. 1994/2973)

Interpretation of the Trust Deed and Superannuation Scheme

478.—(1) The Industry-Wide Coal Staff Superannuation Scheme Regulations 1994 are amended as follows.

(2) In clause 15 of the Schedule (terms of Trust Deed) for sub-clause (2)(b) substitute—

- “(b) “securities” means—
- (i) shares,
 - (ii) instruments creating or acknowledging indebtedness,
 - (iii) instruments giving entitlement to investments,
 - (iv) certificates representing securities.”.

(3) After sub-clause (2) of that clause, insert—

- “(3) The definition of “securities” in sub-clause (2)(b) must be read with—
- (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that Schedule; and
 - (c) Schedule 2 to that Act.”.

(4) In rule 1.1 of the Overriding Appendix (GMP Model Rules) for the definition of “insurer” substitute—

- ““insurer” means—
- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of long-term insurance, or
 - (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) to effect or carry out contracts of long-term insurance;”.

(5) After rule 1.1 of that Appendix insert—

- “**1.1A** The definition of “insurer” in rule 1.1 must be read with—
- (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.”.

The Industry-Wide Mineworkers' Pension Scheme Regulations 1994 (S.I. 1994/2974)

Interpretation of the Appendix to the 1994 Regulations

479.—(1) In rule 1.1 of the Appendix to the Industry-Wide Mineworkers' Pension Scheme Regulations 1994 (contracting out), for the definition of “insurer” substitute—

- ““insurer” means—
- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of long-term insurance, or
 - (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) to effect or carry out contracts of long-term insurance;”.

(2) After rule 1.1 insert—

“**1.1A** The definition of “insurer” in rule 1.1 must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

The Charitable Institutions (Fund-raising) Regulations 1994 (S.I.1994/3024)

Interpretation of the 1994 Regulations: authorised deposit taker

480.—(1) The Charitable Institutions (Fund-Raising) Regulations 1994 are amended as follows.

(2) For paragraph (2) of regulation 1 (interpretation) substitute—

“(2) In these Regulations, “authorised deposit taker” means—

- (a) the Bank of England;
- (b) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits; or
- (c) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) to accept deposits.”.

(3) After paragraph (2) of that regulation insert—

“(2A) Paragraph (2) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

(4) In paragraph (2)(a)(iii) of regulation 6 (Transmission of money and other property to charitable institutions) for “a bank or building society” substitute “an authorised deposit taker”.

The Insurance Companies (Amendment) Regulations 1994 (S.I. 1994/3132)

Revocation of the 1994 Regulations

481. The Insurance Companies (Amendment) Regulations 1994 are revoked.

The Insurance Companies (Amendment No.2) Regulations 1994 (S.I. 1994/3133)

Revocation of the 1994 Regulations

482. The Insurance Companies (Amendment No.2) Regulations 1994 are revoked.

The National Health Service Pension Scheme Regulations 1995 (S.I. 1995/300)

Actionable contraventions

483.—(1) The National Health Service Pension Scheme Regulations 1995 are amended as follows.

(2) In paragraph (1)(c) of regulation B5 (opting into the scheme: mis-sold pensions)(**315**) after “section 62 of the Financial Services Act 1986” insert “or section 150 of the Financial Services and Markets Act 2000”.

(3) In paragraph (4)(f)(**316**) of regulation C1 (meaning of “pensionable pay” and “final year’s pensionable pay”), after “section 62 of the Financial Services Act 1986” insert “or section 150 of the Financial Services and Markets Act 2000”.

Meaning of “reference banks”

484.—(1) Regulation T8(**317**) of the National Health Service Pension Scheme Regulations 1995 (interest on late benefits) is amended as follows.

(2) In paragraph (4) of that regulation, for the definition of “reference banks” substitute—

““reference banks” means the four largest persons for the time being who—

- (a) have permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits;
- (b) are incorporated in the United Kingdom and carrying on there a regulated activity of accepting deposits; and
- (c) quote a base rate applicable to sterling deposits.”.

(3) After paragraph (4) of that regulation insert—

“(5) The definition of “reference banks” in paragraph (4) above must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

The Local Government Residuary Body (England) Order 1995 (S.I. 1995/401)

Interest on unpaid levies

485. The Local Government Residuary Body (England) Order 1995 is amended as follows—

(a) for paragraph (3)(a) of article 24(**318**) (interest on unpaid levies), substitute—

“(a) the reference banks are the seven largest persons for the time being who—

- (i) have permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits,
- (ii) are incorporated in the United Kingdom and carrying on there a regulated activity of accepting deposits, and
- (iii) quote a base rate in sterling.”;

(b) in paragraph (3)(b) of that regulation, for “an institution” substitute “a person” and for “its” (in both places) substitute “his”;

(c) in paragraph (4) of that article, the definition of “deposit-taking business” is revoked;

(d) in the second sub-paragraph of paragraph (4) for “an institution” substitute “a person” and for “that institution” substitute “that person”; and

(e) after paragraph (4) of that article insert—

(315) Regulation B5 was inserted by S.I. 1997/80, regulation 3.

(316) Sub-paragraph (f) was inserted into regulation CI(4) by S.I. 1997/80, regulation 4(2).

(317) Regulation T8 was inserted by S.I. 2000/605, regulations 2 and 14.

(318) Article 24(3) was amended by S.I. 1998/1129.

- “(5) Paragraph (3)(a) must be read with—
- (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.”.

The Local Government Changes For England (Property Transfer and Transitional Payments) Regulations 1995 (S.I. 1995/402)

Interest on unpaid sums

486. Regulation 18 of the Local Government Changes for England (Property Transfer and Transitional Payments) Regulations 1995 (interest) is amended as follows—

- (a) for paragraph (3)(**319**) of that regulation (interest on unpaid levies), substitute—
 - “(3) For the purposes of paragraph (2) above, the reference banks are the seven largest persons for the time being who—
 - (a) have permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits,
 - (b) are incorporated in the United Kingdom and carrying on there a regulated activity of accepting deposits, and
 - (c) quote a base rate in sterling.”; - (b) in paragraph (4) of that regulation, for “an institution” substitute “a person” and for “its” (in both places) substitute “his”;
 - (c) in paragraph (5) of that regulation—
 - (i) in the definition of “consolidated gross assets” for “an institution” substitute “a person” and for “that institution” substitute “that person”, and
 - (ii) the definition of “a deposit-taking business” is revoked;
 - (d) after paragraph (5) of that regulation insert—
 - “(6) Paragraph (3)(a) and (b) must be read with—
 - (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.”.

The European Parliamentary (United Kingdom Representatives) Pensions (Additional Voluntary Contributions Scheme) (No 2) Order 1995 (S.I. 1995/739)

Investment of additional voluntary contributions

487.—(1) Article 6 of the European Parliamentary (United Kingdom Representatives) Pensions (Additional Voluntary Contributions Scheme) (No 2) Order 1995 (investment of contributions) is amended as follows.

- (2) For paragraph (2)(a) of that article substitute—
 - “(a) in an insurance policy or policies taken out with an authorised insurer, being either—

- (i) a United Kingdom office or branch of a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of long-term insurance; or
- (ii) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) to effect or carry out contracts of long-term insurance; or”.

(3) For paragraph (2)(b) of that article, for “authorised by virtue of Part II of the Building Societies Act 1986” substitute “within the meaning of the Building Societies Act 1986, which has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits.”.

(4) After paragraph (2) of that article insert—

“(2A) Sub-paragraphs (a) and (b) of paragraph (2) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

Purchase of retirement benefits from an authorised insurer

488.—(1) Article 9 of the European Parliamentary (United Kingdom Representatives) Pensions (Additional Voluntary Contributions Scheme) (No 2) Order 1995 (purchase of pensions on retirement) is amended as follows.

(2) In paragraph (2)(**320**) of that article, for “an institution” (each time it appears) substitute “a person”.

(3) In that paragraph for “being either” substitute “being an office or branch in the United Kingdom of either”.

(4) For sub-paragraphs (a), (b) and (c) of that paragraph substitute—

- “(a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of long-term insurance; or
- (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) to effect or carry out contracts of long-term insurance.”.

(5) After paragraph (2) insert—

“(3) Sub-paragraphs (a) and (b) of paragraph (2) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

The Local Authorities (Companies) Order 1995 (S.I. 1995/849)

Interpretation of the 1995 Order

489.—(1) Article 12 of the Local Authorities (Companies) Order 1995 (interpretation) is amended as follows.

(320) An amendment to paragraph (2) not relevant to this Order was made by [S.I. 1995/2995](#), article 2(2).

- (2) In paragraph (2) of that article for the definition of “relevant lender”**(321)** substitute—
- ““relevant lender” means—
- (a) the Public Works Loan Board,
 - (b) the Bank of England,
 - (c) the European Investment Bank,
 - (d) a body mentioned in any of paragraphs 1 to 17, or in paragraph 28 or 29, of Part II of the Schedule to the Local Authorities (Capital Finance) (Approved Investments) Regulations 1990,
 - (e) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits, or
 - (f) an EEA firm or the kind mentioned in paragraph 5(b) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to accept deposits.”
- (3) After paragraph (2) of that article insert—
- “(3) Sub-paragraphs (e) and (f) of the definition of “relevant lender” in paragraph (2) must be read with—
- (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.”

*The Contracting Out (Functions in Relation to the
Registration of Companies) Order 1995 (S.I. 1995/1013)*

Revocation of spent provision

490. In Schedule 1 to the Contracting Out (Functions in relation to the Registration of Companies) Order 1995 (functions of the Registrar of Companies for England and Wales enabled to be contracted out), paragraph 6 is revoked.

The Local Government Pension Scheme Regulations 1995 (S.I. 1995/1019)

Meaning of “the reference banks”

491.—(1) Schedule AI**(322)** to the Local Government Pension Scheme Regulations 1995 (general definitions) is amended as follows.

(2) The existing text is numbered paragraph (1).

(3) In paragraph (1), for the definition of “the reference banks”**(323)** substitute—

““The reference banks” means the seven largest persons for the time being who—

- (a) have permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits,
- (b) are incorporated in the United Kingdom and carrying on there a regulated activity of accepting deposits, and

(321) The definition of “relevant lender” was inserted into paragraph (2) of article 12 by [S.I. 1996/621](#), article 3.

(322) Schedule A1 was revoked by virtue of [S.I. 1997/1613](#), regulation 3(1), insofar as it applies to the “active” members of a scheme as defined in these Regulations and by Pensions Act 1995, section 124(1).

(323) The definition of “the reference banks” was amended by [S.I. 1998/1129](#), article 3, Schedule 2.

(c) quote a base rate in sterling,

and for the purpose of this definition the size of a person at any time is to be determined by reference to the gross assets denominated in sterling of that person, together with any subsidiary (as defined in section 736 of the Companies Act 1985), as shown in the audited end-of-year accounts last published before that time;”.

(4) After paragraph (1) insert—

“(2) The definition of “the reference banks” in paragraph (1) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

Meaning of “insurance company”

492.—(1) Schedule C4(**324**) to the Local Government Pension Scheme Regulations 1995 is amended as follows.

(2) In paragraph 23 of that Schedule (supplemental) for the definition of “insurance company” substitute—

““insurance company” means—

- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of long-term insurance, or
- (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of long-term insurance;”.

(3) After paragraph 23 insert—

“**24.** The definition of “insurance company” in paragraph 23 must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

Actionable loss

493. In Schedule C5(**325**) to the Local Government Pension Scheme Regulations 1995, in paragraph 1(6)(e)(**326**), after “section 62 of the Financial Services Act 1986” insert “or section 150 of the Financial Services and Markets Act 2000, as the case may be”.

The Credit Institutions (Protection of Depositors) Regulations 1995 (S.I. 1995/1442)

Interpretation of the 1995 Regulations

494.—(1) In regulation 2(1) of the Credit Institutions (Protection of Depositors) Regulations 1995—

(**324**) Schedule C4 was revoked by virtue of [S.I. 1997/1613](#), regulation 3(1), insofar as it applies to the “active” members of a scheme as defined in these Regulations and by Pensions Act 1995, section 124(1).

(**325**) Schedule C5 was revoked by virtue of [S.I. 1997/1613](#), regulation 3(1), insofar as it applies to the “active” members of a scheme as defined in these Regulations and by Pensions Act 1995, section 124(1).

(**326**) Sub-paragraph (6)(e) was inserted into paragraph 1 by [S.I. 1997/954](#), regulation 5.

- (a) the definitions of “the 1987 Act”, “the 1992 Regulations”, “the commencement date”, “the Commission”, “the Deposit Protection Board”, “the deposit protection scheme”, “the Investor Protection Board”, “the investor protection scheme”, “non-EEA institution” and “UK scheme” are revoked;
- (b) after the definition of “the 1986 Act”, insert—
““the 2000 Act” means the Financial Services and Markets Act 2000(327);”;
- (c) after the definition of “the Authority”, insert—
““the Banking Consolidation Directive” has the same meaning as in the 2000 Act;”;
- (d) for the definition of “EEA institution”, substitute—
““EEA institution” means an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to the 2000 Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) to accept deposits;”;
- (e) after the definition of “EEA State”, insert—
““Financial Services Compensation Scheme” means the Financial Services Compensation Scheme referred to in section 213(2) of the 2000 Act;
“Electing Participants Regulations” means the Financial Services and Markets Act 2000 (Compensation Scheme: Electing Participants) Regulations 2001(328);”;
- (f) in the definition of “home State”, the words “or a non-EEA institution” are revoked;
- (g) for the definition of “home State scheme”, substitute—
““home State scheme” in relation to an EEA institution, means a scheme for the protection of depositors which is in force in the institution’s home State and in which the institution participates;”;
- (h) in the definition of “investment”, for “Chapter I or Part II of these Regulations”, substitute “the Electing Participants Regulations”;
- (i) after the definition of “Irish building society”, insert—
““scheme manager” means a body corporate established in accordance with section 212(1) of the 2000 Act;”;
- (j) for the definition of “UK institution”, substitute—
““UK institution” means a body corporate or partnership incorporated or formed under the law of any part of the United Kingdom, and which has permission under Part IV of the 2000 Act to accept deposits;”.

Information to be supplied on request

- 495.** In regulation 46 of the Credit Institutions (Protection of Depositors) Regulations 1995—
- (a) in paragraph (1), for “, an EEA institution and a non-EEA institution”, substitute “and an EEA institution”;
 - (b) in paragraph (4)(a)(i), for “relevant UK scheme”, substitute “Financial Services Compensation Scheme”;
 - (c) in paragraphs (4)(b)(ii) and (10)(b), for “a UK scheme”, substitute “the Financial Services Compensation Scheme”;
 - (d) paragraphs (4)(c) and (d) are revoked;

- (e) in paragraph (8), for “relevant authority”, substitute “Authority”;
- (f) paragraph (9) is revoked;
- (g) in paragraph (10)(b), for “Chapter I or Part II of these Regulations”, substitute “section 214(5) of the 2000 Act and the Electing Participants Regulations”;
- (h) paragraphs (10)(c) and (d) are revoked.

Information in explanatory literature

- 496.** In regulation 47 of the Credit Institutions (Protection of Depositors) Regulations 1995—
- (a) in paragraph (1), for “, an EEA institution and a non-EEA institution”, substitute “and an EEA institution”;
 - (b) in paragraph (2)(a)(i), for “relevant UK scheme”, substitute “Financial Services Compensation Scheme”;
 - (c) in paragraph (2)(b)(ii), for “a UK scheme”, substitute “the Financial Services Compensation Scheme”;
 - (d) paragraphs (2)(c) and (2)(d) are revoked;
 - (e) in paragraph (6)—
 - (i) in the definition of “relevant deposit”, for “, an EEA institution or non-EEA institution”, substitute “or an EEA institution”;
 - (ii) the definition of “the relevant UK scheme” is revoked.

Information in advertisements

- 497.** In regulation 48 of the Credit Institutions (Protection of Depositors) Regulations 1995—
- (a) in paragraph (2)—
 - (i) for “, an EEA institution and a non-EEA institution”, substitute “and an EEA institution”;
 - (ii) in sub-paragraph (2)(a), for “relevant UK scheme”, substitute “Financial Services Compensation Scheme”;
 - (b) in paragraph (3)(b)(ii), for “a UK scheme”, substitute “the Financial Services Compensation Scheme”;
 - (c) paragraphs (3)(c) and (3)(d) are revoked;
 - (d) in paragraph (6), the definition of “the relevant UK scheme” is revoked;
 - (e) for paragraph (7), substitute—
 - “(7) For the purposes of this regulation—
 - (a) an advertisement issued or caused to be issued by any person by way of display or exhibition in a public place shall be treated as issued or caused to be issued by him on every day on which he causes or permits it to be displayed or exhibited;
 - (b) an advertisement inviting deposits with a person specified in the advertisement shall be presumed, unless the contrary is proved, to have been issued to the order of that person;
 - (c) an advertisement issued outside the United Kingdom shall be treated as issued in the United Kingdom if it is directed to persons in the United Kingdom or is made available to them otherwise than in a newspaper, journal, magazine or other periodical publication published and circulating principally outside the

United Kingdom or in a sound or television broadcast transmitted principally for reception outside the United Kingdom.”.

Enforcement

498. In regulation 49 of the Credit Institutions (Protection of Depositors) Regulations 1995—

- (a) in paragraph (2)—
 - (i) for “participating non-EEA institution”, substitute “building society”;
 - (ii) for “subsection (2) of section 12 of the 1987 Act (restriction of authorisation)”, substitute “subsection (1) of section 45 of the 2000 Act (Variation etc. on the Authority’s own initiative)”;
 - (iii) for “(b) to the protection of the institution’s depositors or potential depositors”, substitute “(c) to the interests of consumers or potential consumers”;
 - (iv) in sub-paragraph (a), after “institution”, insert “or building society”;
- (b) in paragraph (3)—
 - (i) for “the Deposit Protection Board” and “that Board”, substitute “the scheme manager”;
 - (ii) for “participating non-EEA institution”, substitute “building society”;
 - (iii) for “11 or 12 of the 1987 Act”, substitute “45 of the 2000 Act”;
- (c) for paragraph (4), substitute—

“(4) In this regulation, “unpaid contribution”, in relation to an institution or building society, means any amount required to be paid by the institution or society by way of a levy imposed in accordance with the Financial Services Compensation Scheme, and which remains unpaid after the last day on which payment falls due, as determined by or in accordance with that Scheme.”.

Other provisions

499. Regulations 51 and 52 of the Credit Institutions (Protection of Depositors) Regulations 1995 are revoked.

The Value Added Tax (Special Provisions) Order 1995 (S.I. 1995/1268)

Interpretation of the 1995 Order: meaning of “insurer”

500. Article 2 of the Value Added Tax (Special Provisions) Order 1995 (interpretation) is amended as follows—

- (a) the existing text of that article is numbered paragraph (1);
- (b) in paragraph (1), for the definition of “insurer” substitute—

““insurer” means a person who may, in the United Kingdom, lawfully effect and carry out contracts of insurance against risks arising from loss of or damage to goods without contravening the prohibition imposed by section 19 of the Financial Services and Markets Act 2000;”;
- (c) after paragraph (1) insert—

“(2) The definition of “insurer” in paragraph (1) must be read with—

 - (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and

- (c) Schedule 2 to that Act.”.

The Public Offers of Securities Regulations 1995 (S.I. 1995/1537)

Interpretation of the 1995 Regulations

501.—(1) Regulation 2 of the Public Offers of Securities Regulations 1995 (interpretation) is amended as follows.

(2) In paragraph (1) of that regulation—

- (a) in the definition of “the Act” for “Financial Services Act 1986” substitute “Financial Services and Markets Act 2000”;
- (b) in the definition of “body corporate” for “section 207(1)” substitute “section 417(1)”;
- (c) in the definition of “convertible securities” for sub-paragraphs (i) and (ii) substitute—
 - “(i) instruments creating or acknowledging indebtedness of a kind which can be converted into or exchanged for, or which confer rights to acquire, securities;
 - (ii) instruments giving entitlements to securities; or
 - (iii) certificates representing securities;”;
- (d) for the definition of “credit institution” substitute—
 - ““credit institution” means a credit institution as defined in Article 1 of Directive [2000/12/EC](#) of the European Parliament and of the Council;”;
- (e) in the definition of “director” for “section 207(1)” substitute “section 417(1)”;
- (f) the definition of “ecu”**(329)** is revoked;
- (g) the definition of “European institution” is revoked;
- (h) for the definition of “financial institution” substitute—
 - ““financial institution” means a financial institution as defined in Article 1 of the Directive [2000/12/EC](#) of the European Parliament and of the Council;”;
- (i) for the definition of “group” substitute—
 - ““group”, in relation to a body corporate (“A”) means A and any other body corporate which is—
 - (i) a subsidiary of A,
 - (ii) a holding company of A, or
 - (iii) a subsidiary of such a holding company;”;
- (j) the definition of “home-regulated investment business” is revoked; and
- (k) in the definition of “recognised investment exchange” for “section 207(1)” substitute “section 285”.

(3) After paragraph (1) of that regulation insert—

“(1A) Paragraphs (i), (ii) and (iii) of the definition of “convertible securities” in paragraph (1) above, together with regulations 3(2) and (5), 7(2)(f),(n), 8(4) and (5), and 9(4) must be read with—

(329) This definition of “Ecu” (which refers to a definition of the term in the Financial Services Act 1986) is redundant, by virtue of Article 2 of Council Regulation 947/98/EC which replaces the Ecu with the euro. Article 1 of Council Regulation 1103/97/EC has the effect that every reference in a legal instrument to the Ecu is replaced by a reference to the Euro, at the rate of one euro to one Ecu. Where “Ecu” is not defined in any such instrument, it is presumed to mean “Ecu” as defined in Regulation 3320/94/EC.

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

Investments to which Part II of the 1995 Regulations applies

502. For regulation 3 of the Public Offers of Securities Regulations 1995 (investments to which this Part applies) substitute—

“Investments to which this Part applies

- 3.—**(1) This Part of these Regulations applies to any investment which—
- (a) is not admitted to official listing, nor is the subject of an application for listing, in accordance with Part VI of the Act; and
 - (b) is of a kind specified in paragraph (2).
- (2) Subject to paragraphs (3) to (5) below, the kinds of investments specified for the purposes of paragraph (1)(b) are—
- (a) shares, including for those purposes deferred shares of a building society, within the meaning of section 119 of the Building Societies Act 1986;
 - (b) instruments creating or acknowledging indebtedness;
 - (c) instruments giving entitlements to securities, including warrants and other instruments entitling the holder to acquire any share or instrument creating or acknowledging indebtedness; and
 - (d) certificates representing securities.
- (3) For the purposes of paragraph (1)(b), investments of the kind specified in paragraph (2)(a) (shares) do not include transferable shares in a body incorporated under the law relating to industrial and provident societies.
- (4) For the purposes of paragraph (1)(b), investments of the kind specified in paragraph (2)(b) (instruments creating or acknowledging indebtedness) do not include—
- (a) debentures having a maturity of less than one year from their date of issue, and
 - (b) bills of exchange accepted by a banker.
- (5) For the purposes of paragraph (1)(b)—
- (a) investments of the kind specified in sub-paragraph (c) of paragraph (2) do not include instruments giving entitlements in connection with government and public securities; and
 - (b) investments of the kind specified in sub-paragraph (d) of paragraph (2) do not include investments and certificates representing government or public securities.”

Listing rules

503. In paragraph (3) of regulation 4 of the Public Offers of Securities Regulations 1995, for “section 156A” substitute “section 87”.

Exemptions

504.—(1) Regulation 7 of the Public Offers of Securities Regulations 1995 (exemptions) is amended as follows.

- (2) For sub-paragraph (f)(iii) of paragraph (2) substitute—
“(iii) persons holding instruments creating or acknowledging indebtedness issued by the company;”.
- (3) In sub-paragraph (g) of that paragraph the words “as defined in paragraph 3 of Schedule 1 to the Act” are revoked.
- (4) In sub-paragraph (n) of that paragraph for “the securities are shares, or investments falling within paragraph 4 or 5 of Schedule 1 to the Act relating to shares,” substitute
“the securities are—
(i) shares,
(ii) instruments giving entitlements to subscribe for shares, or
(iii) certificates representing shares;”.
- (5) In sub-paragraph (o)(i)(**330**) of regulation 7(2), for “a body corporate connected with the issuer” substitute “a member of the same group as the issuer”.
- (6) In sub-paragraphs (p) and (t) of regulation 7(2) for “Part IV” substitute “Part VI”.
- (7) In sub-paragraph (s)(**331**) of regulation 7(2)—
(a) for “issued in the United Kingdom (within the meaning of the Act), or is caused to be so issued,” substitute “issued in, or directed at persons in, the United Kingdom (or is caused to be so issued or so directed),”, and
(b) for paragraphs (i) and (ii) substitute—
“(i) a advertisement which is an exempt communication falling within article 19 of the Financial Services and Markets Act 2000 (Financial Promotion) Order 2001(**332**) (Investment professionals); or
(ii) an advertisement which would be an exempt communication falling within article 19 of that Order if the meaning of “investment professionals” in paragraph (5) of that article included a person with or for whom any credit institution or other financial institution through which the Euro-securities may be acquired pursuant to the offer has effected or arranged for the effecting of a transaction within the period of twelve months ending with the date on which the offer is first made;”.
- (8) In paragraph (5) of regulation 7, for “means investments falling within paragraph 1 of Schedule 1 to the Act” substitute—
“must be read with—
(a) section 22 to the Financial Services and Markets Act 2000,
(b) any relevant order under that section; and
(c) Schedule 2 to that Act.”.
- (9) After paragraph (8) of regulation 7 insert—
“(8A) for the purposes of paragraph (2)(g), a government, local authority or public authority means—
(a) the government of the United Kingdom;
(b) the Scottish Administration;
(c) the Executive Committee of the Northern Ireland Assembly;
(d) the National Assembly for Wales;

(330) Paragraph (i) of sub-paragraph (2)(o) was amended by [S.I. 1999/734](#), regulation 2(d).

(331) Sub-paragraph (s) was substituted by [S.I. 1999/1146](#), regulation 2.

(332) [S.I. 2001/1335](#).

- (e) the government of any country or territory outside the United Kingdom;
- (f) a local authority in the United Kingdom or elsewhere; or
- (g) a body the members of which comprise—
 - (i) states including the United Kingdom or another EEA State, or
 - (ii) bodies whose members comprise states including the United Kingdom or another EEA State.”.

(10) In paragraph 12 of that regulation for “within the meaning of Schedule 1 to the Act” substitute “within the meaning of section 421 of the Act”.

(11) For paragraph (13) of that regulation substitute—

“(13) In paragraph (2)(o)—

“group” has the same meaning as in section 421 of the Act, and

“a relevant trustee” has the same meaning as in article 71(6)(b) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001(333) (Activities carried on in connection with employee share schemes).”.

Specified kinds of investments

505.—(1) In paragraphs (4) and (5) of regulation 8 of the Public Offers of Securities Regulations 1995 (form and content of prospectus)—

- (a) for “securities falling within paragraph 1 of Schedule 1 to the Act” substitute “shares”, and
- (b) for “securities”, in both places, substitute “shares”.

(2) In paragraph (4) of regulation 9 to those Regulations (general duty of disclosure in prospectus) for “a certificate or other instrument falling within paragraph 5 of Schedule 1 to the Act” substitute “a certificate or other instrument representing securities”.

Exceptions

506. In regulation 11 of the Public Offers of Securities Regulations 1995—

- (a) in paragraph (3) for “Part IV” substitute “Part VI”; and
- (b) in paragraph (6) for “Section 156” substitute “Section 101”.

Contraventions by an authorised person

507. In regulation 16 of the Public Offers of Securities Regulations 1995 (contraventions)—

(a) for paragraph (1) substitute—

“(1) An authorised person who contravenes regulation 4(1) or, where it applies, regulation 4(2), or who contravenes regulation 12, or who assists another person to contravene any of those provisions, shall be treated as having contravened rules under Part X of the Act.”;

(b) for paragraph (5) substitute—

“(5) In this regulation—

“authorised person” means a person who is authorised for the purposes of the Act; and

“exempt regulated activity” has the same meaning as in section 325(2) of the Act.”; and

- (c) paragraph (6) is revoked.

Maximum penalties

508. In regulation 18 (penalties) of the Public Offers of Securities Regulations 1995, for “Part IV” substitute “Part VI”.

Miscellaneous and Supplementary

509. In regulation 23 of the Public Offers of Securities Regulations 1995—

- (a) for the sub-title to that regulation (“Application of Part X of the Act”) substitute “Miscellaneous and Supplementary”;
- (b) in paragraph (1)—
 - (i) for “section 187(4) of the Act” substitute “paragraph 19(1) of Schedule 1 to the Act”, and
 - (ii) for “Part IV” substitute “Part VI”;
- (c) in paragraph (2) for “section 188” substitute “section 415”;
- (d) in paragraph (3) for “section 192” substitute “section 410”;
- (e) for paragraph (4) substitute—

“(4) Section 176 of the Act shall have effect, in relation to these Regulations, as if for the purposes of subsection (4) of section 176 the offences mentioned in section 168 of the Act included an offence under these Regulations.”;
- (f) for paragraph (5) substitute—

“(5) Subsections (1) and (3) of section 398 of the Act shall apply in relation to information given to the competent authority—

 - (a) for the purposes of or in connection with an application under these Regulations, or
 - (b) in purported compliance with requirements imposed by or under these Regulations,

as they apply in relation to information given in purported compliance with any requirement imposed by or under the Act.”;
- (g) in paragraph (6) for “Sections 201(1), 202 and 203” substitute “Sections 400, 401 and 403”.

Interpretation of Schedule 1

510. In Schedule 1 to the Public Offers of Securities Regulations 1995 (Form and content of the Prospectus)—

- (a) in paragraph 1 in the definition of “debentures” for “securities falling within paragraph 2 of Schedule 1 to the Act” substitute “instruments creating or acknowledging indebtedness”;
- (b) after paragraph 1 insert—

“**1A** The definition of “debentures” in paragraph 1 must be read with—

 - (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.”; and

- (c) in Part II in paragraph 8 for “authorised under the Financial Services Act 1986” substitute “authorised for the purposes of the Financial Services and Markets Act 2000”.

Application of Part VI of the Financial Services and Markets Act 2000 to a recognised European document

511. In Schedule 4 to the Public Offers of Securities Regulations 1995 (Recognition for the purposes of Part IV of the Financial Services Act 1986 of Prospectuses and Listing Particulars approved in Other Member States)—

- (a) in the heading to Part I for “Part IV of the Financial Services Act 1986” substitute “Part VI of the Financial Services and Markets Act 2000”;
- (b) in paragraph 2 for “section 143” substitute “section 75”;
- (c) in paragraph 3—
 - (i) for “Part IV” substitute “Part VI”;
 - (ii) in sub-paragraph (a) for “section 144(2)” substitute “section 79(2)”; and
 - (iii) in sub-paragraph (b) for “to which section 144 of the Act applies” substitute “required by listing rules made under section 84 of the Act”;
- (d) in paragraph 4—
 - (i) for “Part IV” substitute “Part VI” in each place where it occurs;
 - (ii) in sub-paragraph (b) for “sections 146, 147(1)(a) and 150(2)” substitute “sections 80, 81(1)(a) and 90(3)”; and
 - (iii) in sub-paragraph (c) for “section 147” substitute “section 81”; and
- (e) in paragraph 5 for “Part IV” substitute “Part VI”.

Revocation of spent provision

512. The following provisions of the Public Offers of Securities Regulations 1995 are revoked—

- (a) regulation 17 and Schedule 2 (amendments to the Financial Services Act 1986 and minor consequential amendments and repeals);
- (b) regulation 24 and Schedule 5 (amendments to regulations made under the Banking Act 1987);
- (c) Schedule 3 (offers of securities to the public in the United Kingdom).

The Financial Markets and Insolvency (Money Market) Regulations 1995 (S.I. 1995/2049)

Revocation of the 1995 Regulations

513. The Financial Markets and Insolvency (Money Market) Regulations 1995 are revoked.

The Acquisition of Land (Rate of Interest After Entry) Regulations 1995 (S.I. 1995/2262)

Meaning of “reference banks”

514. Regulation 2 of the Acquisition of Land (Rate of Interest after Entry) Regulations 1995 (rate of interest) is amended as follows—

- (a) for sub-paragraph (a)(334) of paragraph (5) of that regulation, substitute—

(334) Regulation 18(3)(a) was amended by [S.I. 1998/1129](#).

- “(a) the reference banks, in relation to any reference day, are the seven largest persons who—
 - (i) have permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits,
 - (ii) are incorporated in the United Kingdom and carrying on there a regulated activity of accepting deposits, and
 - (iii) quote a base rate in sterling effective as mentioned in paragraphs (2), (3) and (4); and”;
- (b) in sub-paragraph (b) of that paragraph, for “an institution” substitute “a person” and for “its” (in both places) substitute “his”;
- (c) in paragraph (6) of that regulation, for “an institution” substitute “a person” and for “that institution” substitute “that person”;
- (d) after paragraph (7) of that regulation insert—
 - “(8) Paragraph (5)(a) must be read with—
 - (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.”.

The Local Authorities (Precepts) (Wales) Regulations 1995 (S.I. 1995/2562)

Meaning of “the reference banks”

515. Regulation 8 of the Local Authorities (Precepts) (Wales) Regulations 1995 (Calculation of interest on amounts of instalments) is amended as follows—

- (a) for paragraph (3)(**335**) of that regulation, substitute—
 - “(3) For the purposes of paragraph (1), the reference banks are the seven largest persons for the time being who—
 - (a) have permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits,
 - (b) are incorporated in the United Kingdom and carrying on there a regulated activity of accepting deposits, and
 - (c) quote a base rate in sterling.”;
- (b) in paragraph (4) of that regulation, for “an institution” substitute “a person” and for “its” (in both places) substitute “his”;
- (c) in paragraph (5) of that regulation—
 - (i) in the definition of “consolidated gross assets” for “an institution” substitute “a person” and for “that institution” substitute “that person”;
 - (ii) in paragraph (5) of that regulation the definition of “a deposit-taking business” is revoked;
- (d) after paragraph (5) of that regulation insert—
 - “(6) Paragraph (3)(a) must be read with—
 - (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and

(c) Schedule 2 to that Act.”.

The Charities (Accounts and Reports) Regulations 1995 (S.I. 1995/2724)

Meaning of “collective investment scheme”

516. In Part IV of Schedule 1 to the Charities (Accounts and Reports) Regulations 1995 (Form and content of statements of accounts—Notes to accounts), in paragraph 1(1)(ii)(C) for “section 75 of the Financial Services Act 1986” substitute “section 235 of the Financial Services and Markets Act 2000”.

Information to be provided in the case of a common deposit fund

517.—(1) Schedule 2 to the Charities (Accounts and Reports) Regulations 1995 (Form and content of statement of accounts: Common investment funds and common deposit funds) is amended as follows.

- (2) In Part III (Balance sheet), for sub-paragraph (c)(i) and (ii) of paragraph 3, substitute—
- “(i) deposits at the Bank of England;
 - (ii) deposits with a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits;”.
- (3) In Part VI (Interpretation) after paragraph 3 insert—
- “4 In Part III of this Schedule, paragraph (3)(c)(ii) must be read with—
 - (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.”.

The Local Government Changes for England (Payments to Designated Authorities) (Minimum Revenue Provision) Regulations 1995 (S.I. 1995/2895)

Meaning of “the reference banks”

518. Regulation 7 of the Local Government Changes for England (Payments to Designated Authorities) (Minimum Revenue Provision) Regulations 1995 (Interest) is amended as follows—

- (a) for paragraph (3)(336) of that regulation, substitute—
- “(3) For the purposes of paragraph (1), the reference banks are the seven largest persons for the time being who—
 - (a) have permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits,
 - (b) are incorporated in the United Kingdom and carrying on there a regulated activity of accepting deposits, and
 - (c) quote a base rate in sterling.”;
 - (b) in paragraph (4) of that regulation, for “an institution” substitute “a person” and for “its” (in both places) substitute “his”;
 - (c) in paragraph (5) of that regulation—

(336) Paragraph (3) was amended by S.I. 1998/1129, article 3, Schedule 2.

- (i) in the definition of “consolidated gross assets”, for “an institution” substitute “a person” and for “that institution” substitute “that person”; and
- (ii) the definition of “deposit-taking business” is revoked;
- (d) after paragraph (5) of that regulation insert—
 - “(6) Paragraph (3) must be read with—
 - (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.”.

The National Parks Authorities (Levies) (Wales) Regulations 1995 (S.I. 1995/3019)

Meaning of “the reference banks”

519. Regulation 9 of the National Parks Authorities (Levies) (Wales) Regulations 1995 (Interest on unpaid levies) is amended as follows—

- (a) for sub-paragraph (a)(337) of paragraph (3) of that regulation, substitute—
 - “(a) the reference banks are the seven largest persons for the time being who—
 - (i) have permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits,
 - (ii) are incorporated in the United Kingdom and carrying on there a regulated activity of accepting deposits, and
 - (iii) quote a base rate in sterling.”;
- (b) in sub-paragraph (b) of that paragraph, for “an institution” substitute “a person” and for “its” (in both places) substitute “his”;
- (c) in paragraph (4) of that regulation—
 - (i) the definition of “a deposit-taking business” is revoked; and
 - (ii) in the paragraph beginning “the reference to the consolidated gross assets”, for “an institution” substitute “a person” and for “that institution” substitute “that person”; and
- (d) after paragraph (4) of that regulation insert—
 - “(5) Paragraph (3)(a) must be read with—
 - (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.”.

The Lloyd’s Underwriters (Gilt-Edged Securities) (Periodic Accounting for Tax on Interest) Regulations 1995 (S.I. 1995/3225)

Interpretation of the 1995 Regulations

520. In paragraph (1) of regulation 2 of the Lloyd’s Underwriters (Gilt-edged Securities) (Periodic Accounting for Tax on Interest) Regulations 1995 (Interpretation), for the definition of “premiums trust fund” substitute—

(337) Sub-paragraph (3)(a) was amended by S.I. 1998/1129, article 3, Schedule 2.

““premiums trust fund” means any trust fund to which an underwriter is required, by rules made by the Financial Services Authority under Part X of the Financial Services and Markets Act 2000, to carry premiums received by him or on his behalf in respect of the carrying on of any insurance market activity, within the meaning of section 316(3) of that Act;”.

The Occupational Pension Schemes (Discharge of Protected Rights on Winding up) Regulations 1996 (S.I. 1996/775)

Prescribed requirements applying to insurers

521 For regulation 3 of the Occupational Pension Schemes (Discharge of Protected Rights on Winding Up) Regulations 1996 (Requirements applying to insurance companies) substitute—

“Requirements applying to insurers

3.—(1) The requirements referred to in section 32A(2)(a)(ii) of the Act (policy of insurance appropriate if the insurer satisfies prescribed requirements) are that the insurer—

- (a) is a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect and carry out contracts of long-term insurance; or
- (b) is an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of long-term insurance in the United Kingdom.

(2) References to contracts of long-term insurance in paragraph (1) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; or
- (c) Schedule 2 to that Act.”.

The Insurance Companies (Amendment No. 2) Regulations 1996 (S.I. 1996/944)

Revocation of the 1996 Regulations

522. The Insurance Companies (Amendment No. 2) Regulations 1996 are revoked.

The Insurance Companies (Reserves) Regulations 1996 (S.I. 1996/946)

Revocation of the 1996 Regulations

523. The Insurance Companies (Reserves) Regulations 1996 are revoked.

The Occupational Pension Schemes (Member-nominated Trustees and Directors) Regulations 1996 (S.I. 1996/1216)

Interpretation of the 1996 Regulations

524.—(1) Regulation 2 of the Occupational Pension Schemes (Member-Nominated Trustees and Directors) Regulations 1996 (General interpretation) is amended as follows.

(2) In paragraph (1) of that regulation—

- (a) after the definition of “independently selected” insert—
 - ““insurer” means—
 - (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of long-term insurance, or
 - (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of long-term insurance;”;
 - (b) in the definition of “relevant wholly insured scheme”(338) for “an insurance company (as defined in section 96(1) of the Insurance Companies Act 1982)” substitute “an insurer”.
- (3) After paragraph (1) of that regulation insert—
 - “(1A) The definition of “insurer” in paragraph (1) must be read with—
 - (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; or
 - (c) Schedule 2 to that Act.”.

The Occupational Pension Schemes (Minimum Funding Requirements and Actuarial Valuations) Regulations 1996 (S.I. 1996/1536)

Interpretation of the 1996 Regulations

525.—(1) The Occupational Pension Schemes (Minimum Funding Requirement and Actuarial Valuations) Regulations 1996 are amended as follows.

- (2) In paragraph (1) of regulation 2 (Interpretation)—
 - (a) for the definition of “equities” substitute—
 - ““equities” means investments of the following kinds—
 - (a) shares,
 - (b) instruments creating or acknowledging indebtedness,
 - (c) instruments giving entitlements to investments of the kind mentioned in (a) or (b) above,
 - (d) certificates representing such investments;”;
 - (b) for the definition of “gilt-edged securities” substitute—
 - ““gilt-edged securities” means investments of the following kinds—
 - (a) government and public securities,
 - (b) contracts of long term insurance;”.
 - (3) After paragraph (1) of regulation 2 insert—
 - “(1A) The definitions of “equities” and “gilt-edged securities” in paragraph (1) must be read with—
 - (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.”.

(338) The definition of “relevant wholly insured scheme” was inserted by S.I. 1997/786, regulation 3, Schedule 1, paragraph 5(2)(d).

(4) In paragraph 1(1) of Schedule 4 to those Regulations (Methods of securing shortfall in cases of serious underprovision), for the definition of “relevant institution” substitute—

““relevant institution” means—

- (a) a person with permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits, or
- (b) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) to accept deposits;”.

(5) After sub-paragraph (1) of paragraph 1 insert—

“(1A) The definition of “relevant institution” in sub-paragraph (1) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

*The Personal and Occupational Pension Schemes
(Protected Rights) Regulations 1996 (S.I. 1996/1537)*

Prescribed conditions relating to an insurer

526. Regulation 11 of the Personal and Occupational Pension Schemes (Protected Rights) Regulations 1996 (Insurance companies that may provide protected rights by way of annuities) is amended as follows—

- (a) in the sub-title of that regulation, for “Insurance companies” substitute “Insurers”;
- (b) the existing text of that regulation is numbered paragraph (1);
- (c) in paragraph (1) for “insurance company” (in both places) substitute “insurer”;
- (d) for paragraph (1)(a) of that regulation substitute—
 - “(a) (i) is a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect and carry out contracts of long-term insurance; or
 - (ii) is an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect and carry out contracts of long-term insurance;”;

(e) after paragraph (1) insert—

“(2) Paragraph (1)(a) of this regulation must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

The Financial Institutions (Prudential Supervision) Regulations 1996 (S.I.1996/1669)

Revocation of the 1996 Regulations

527. The Financial Institutions (Prudential Supervision) Regulations 1996 are revoked.

The Occupational Pension Schemes (Scheme Administration) Regulations 1996 (S.I. 1996/1715)

Relevant occupational pension schemes

528. In paragraph (3) of regulation 3 of the Occupational Pension Schemes (Scheme Administration) Regulations 1996 (Exemptions from the professional advisers requirements)—

- (a) the words “(within the meaning of the Financial Services Act 1986)” are revoked; and
- (b) for sub-paragraph (a) substitute—

“(a) relevant schemes of a kind mentioned in paragraph (4) of regulation 4 of the Financial Services and Markets Act 2000 (Carrying on Regulated Activities by Way of Business) Order 2001(**339**) (Managing investments: occupational pension schemes);”.

Notification by fund managers of any conflict of interest

529. In regulation 5 of the Occupational Pension Schemes (Scheme Administration) Regulations 1996 (Manner and terms of appointment and removal of professional advisers), for paragraph (2)(b)(i)(**340**) substitute—

“(i) in the case of a fund manager, or a person carrying out functions referred to in regulation 2(c), who is subject to rules made under section 138 of the Financial Services and Markets Act 2000 (General rule making power) which impose requirements in relation to conflicts of interest, confirm in writing that he will notify the trustees or managers of any conflicts of interest to which he is or may be subject in relation to the scheme, in accordance with those requirements, and—”.

Prescribed circumstances: accounts with exempt deposit-takers

530.—(1) Regulation 11 of the Occupational Pension Schemes (Scheme Administration) Regulations 1996 (Exemption from the requirement for money to be kept by the trustees) is amended as follows.

(2) In paragraph (1) of that regulation, for “at an institution authorised under the Banking Act 1987” substitute “with a deposit-taker”.

(3) For paragraph (1)(b)(i)(**341**) of that regulation substitute—

“(i) kept by them with any of the persons specified in paragraph (3);”.

(4) After paragraph (2) of that regulation insert—

“(3) The persons referred to in paragraph (1)(b)(i) are—

- (a) the Bank of England or the central bank of another EEA State;
- (b) the National Savings Bank; or
- (c) a municipal bank.

(4) In paragraph (3)—

- (a) “EEA State” means a State which is a contracting party to the agreement on the European Economic Area signed at Oporto on 2 May 1992 as it has effect for the time being; and

(339) S.I. 2001/1177.

(340) Sub-paragraph 2(b) was substituted by S.I. 1997/819, regulation 5(a), and paragraph (i) of sub-paragraph (2)(b) was amended by S.I. 1997/3038, regulation 7(a) and (b).

(341) Paragraph (1)(a) and (b) was amended by S.I. 1999/3198, regulation 10(1) and (3).

- (b) “municipal bank” means a company within the meaning of the Companies Act 1985(342)—
 - (i) in respect of which a resolution has been passed by a local authority under section 48(3) of the Banking Act 1979 or section 103(3) of the Banking Act 1987; and
 - (ii) is exempt from the prohibition imposed by section 19 of the Financial Services and Markets Act 2000 in relation to the acceptance of deposits;
- (c) the definition of “municipal bank” above must be read with—
 - (i) section 22 of the Financial Services and Markets Act 2000,
 - (ii) any relevant order under that section, and
 - (iii) Schedule 2 to that Act.”.

Meaning of “deposit-taker”

531.—(1) Regulation 15 of the Occupational Pension Schemes (Scheme Administration) Regulations 1996 (Employer to make payments of benefits into a separate account), is amended as follows.

- (2) The existing text of that regulation is numbered paragraph (1).
- (3) In paragraph (1) for “institution authorised under the Banking Act 1987” substitute “deposit taker”.
- (4) After paragraph (1) insert—
 - (a) “(2) In this regulation “deposit taker” means—
 - (i) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits; or
 - (ii) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of having qualified for authorisation under paragraph 12(1) of that Schedule) to accept deposits;
 - (b) sub-paragraph (a) must be read with—
 - (i) section 22 of the Financial Services and Markets Act 2000,
 - (ii) any relevant order under that section, and
 - (iii) Schedule 2 to that Act.”.

The Disability Discrimination (Services and Premises) Regulations 1996 (S.I. 1996/1836)

Interpretation of the 1996 Regulations

532.—(1) Regulation 1 of the Disability Discrimination (Services and Premises) Regulations 1996 (Citation, commencement and interpretation) is amended as follows.

- (2) In paragraph (2) of that regulation—
 - (a) for the definition of “insurance business” substitute—

““insurance business” means business which consists of effecting or carrying out contracts of insurance;”;

and
 - (b) for the definition of “insurer” substitute—

““insurer” means a person who may carry on insurance business without contravening the prohibition imposed by section 19 of the Financial Services and Markets Act 2000.”.

(3) After paragraph (2) of that regulation insert—

“(2A) The definition of “insurance business” in paragraph (2) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

The Local Authorities (Contracting Out of Investment Functions) Order 1996 (S.I. 1996/1883)

Qualifications of contractors

533. For article 9 of the Local Authorities (Contracting Out of Investment Functions) Order 1996 (qualifications of contractors) substitute—

“**9** In relation to any function which a contractor is authorised to exercise by the authority, the contractor shall ensure that he and his employees are suitably qualified to make investment decisions on the authority’s behalf and have practical experience of financial matters, including making investments, and, without prejudice to the generality of this condition, shall ensure that he is—

- (a) an authorised person within the meaning of the Financial Services and Markets Act 2000 (“the 2000 Act”); or
- (b) a person—
 - (i) who does not carry on regulated activities (within the meaning of the 2000 Act) from a permanent place of business maintained by him in the United Kingdom;
 - (ii) whose head office is situated in an EEA State other than the United Kingdom;
 - (iii) who is recognised by the law of that EEA State as a national of that or another EEA State; and
 - (iv) who is for the time being authorised under that law to carry on one or more regulated activities (within the meaning of the 2000 Act), and is not precluded by that law from managing assets belonging to another person.”.

The Deregulation (Insurance Companies Act 1982) Order 1996 (S.I. 1996/2102)

Revocation of the 1996 Order

534. The Deregulation (Insurance Companies Act 1982) Order 1996 is revoked.

The Social Landlords (Permissible Additional Purposes or Objects) Order 1996 (S.I. 1996/2256)

Interpretation of the 1996 Order

535. Article 2 of the Social Landlords (Permissible Additional Purposes or Objects) Order 1996 (interpretation) is amended as follows—

- (a) the existing provision becomes paragraph (1);

- (b) the definitions of “bank” and “insurance company” are revoked;
- (c) for the definition of “qualifying lending institution” substitute—
 - ““qualifying lending institution” means—
 - (a) the Corporation;
 - (b) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits or to effect or carry out contracts of insurance; or
 - (c) an EEA firm of the kind mentioned in paragraph 5(b) or (d) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) either—
 - (i) to accept deposits; or
 - (ii) to effect or carry out contracts of insurance;”;
- (d) after paragraph (1) insert—
 - “(2) The definition of “qualifying lending institution” in paragraph (1) must be read with—
 - (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.”.

The Teachers' Superannuation (Provision of Information and Administrative Expenses etc) Regulations 1996 (S.I. 1996/2282)

Provision of information

536. The Teachers' Superannuation (Provision of Information and Administrative Expenses etc) Regulations 1996 are amended as follows—

- (a) in regulation 1 (citation, commencement and interpretation), the definition of “the 1986 Act” is revoked;
- (b) in paragraph (2) of regulation 3 (provision of information)—
 - (i) in sub-paragraph (a), for “the 1986 Act” substitute “the Financial Services and Markets Act 2000”;
 - (ii) in sub-paragraph (b), for “section 44 of the 1986 Act” substitute “that Act”;
 - (iii) sub-paragraph (c) is revoked;
 - (iv) for sub-paragraphs (d) to (f) substitute—
 - “(d) a designated professional body within the meaning of Part XX of that Act;
 - (e) the scheme manager within the meaning of that Act;
 - (f) the Financial Services Authority;”.

The Housing Act 1996 (Consequential Provisions) Order 1996 (S.I. 1996/2325)

Revocation of spent provision

537. In Schedule 1 to the Housing Act 1996 (Consequential Provisions) Order 1996 (repeals), the entry relating to the Banking Act 1987 is revoked.

The National Health Service Pension Scheme (Provision of Information and Administrative Expenses etc) Regulations 1996 (S.I. 1996/2424)

Provision of information

538. The National Health Service Pension Scheme (Provision of Information and Administrative Expenses etc) Regulations 1996 are amended as follows—

- (a) in regulation 2 (interpretation), for the definition of “the Financial Services Act” substitute—
 - ““the FSM Act” means the Financial Services and Markets Act 2000;”;
- (b) in paragraph (2) of regulation 3 (application of the 1996 Regulations), for “section 62 of the Financial Services Act” substitute “section 71 or 150 of the FSM Act”;
- (c) in regulation 5 (provision of information to prescribed persons)—
 - (i) in paragraph (a), for “the Financial Services Act” substitute “the FSM Act”;
 - (ii) in paragraph (b), for “section 44 of the Financial Services Act” substitute “the FSM Act”;
 - (iii) paragraph (c) is revoked;
 - (iv) for paragraphs (d) to (f) substitute—
 - “(d) a designated professional body within the meaning of Part XX of the FSM Act;
 - (e) the Financial Services Authority;
 - (f) the scheme manager within the meaning of the FSM Act;”.

The Personal and Occupational Pension Schemes (Pensions Ombudsman) Regulations 1996 (S.I. 1996/2475)

Exclusions from jurisdiction

539. In the Personal and Occupational Pension Schemes (Pensions Ombudsman) Regulations 1996, for paragraph (1) of regulation 4 (exclusions from jurisdiction) substitute—

“(1) The Pensions Ombudsman shall not investigate or determine any complaint or dispute which can be dealt with under the compulsory jurisdiction of the ombudsman scheme provided for by Part 16 of the Financial Services and Markets Act 2000, other than a complaint or dispute relating to the management of a personal pension scheme.”.

Payment of interest on late paid benefit

540.—(1) For paragraph (2)(b) of regulation 6(343) of the Personal and Occupational Pension Schemes (Pensions Ombudsman) Regulations 1996 (payment of interest on late paid benefit), substitute—

- “(b) “reference banks” means the four largest persons for the time being who—
 - (i) have permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits,
 - (ii) are incorporated in the United Kingdom and carrying on there a regulated activity of accepting deposits, and
 - (iii) quote a base rate applicable to sterling deposits.”.

(343) Regulation 6(2) was amended by [S.I. 1998/1129](#).

- (2) After paragraph (2) of that regulation insert—
- “(3) Paragraph (2)(b) must be read with—
- (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.”.

The National Park Authorities (Levies) (England) Regulations 1996 (S.I. 1996/2794)

Interest on unpaid levies

541. The National Park Authorities (Levies) (England) Regulations 1996 are amended as follows—

- (a) for paragraph (3)(a) of regulation 8(344) (interest on unpaid levies) substitute—
- “(a) the reference banks are the seven largest persons who-
- (i) have permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits,
 - (ii) are incorporated in the United Kingdom and carrying on there a regulated activity of accepting deposits, and;
 - (iii) quote a base rate in sterling, and”;
- (b) in paragraph (3)(b) of regulation 8, for “an institution” substitute “a person” and for “its” (in both places) substitute “his”;
- (c) paragraph (4)(a) of regulation 8 is revoked;
- (d) in paragraph (4)(b) of regulation 8, for “that institution” the first time it appears substitute “a person” and the second time it appears substitute “that person”;
- (e) after paragraph (4) of regulation 8 insert—
- “(5) Paragraph (3)(a) must be read with—
- (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.”.

The Insurance (Lloyd's) Regulations 1996 (S.I. 1996/3011)

Revocation of the 1996 Regulations

542. The Insurance (Lloyd's) Regulations 1996 are revoked.

The Industrial and Provident Societies (Forms and Procedure) Regulations 1996 (S.I. 1996/3121)

Maintenance of files for registered societies

543. In paragraph (2) of regulation 12 of the Industrial and Provident Societies (Forms and Procedure) Regulations 1996 (duties and functions), the words from “together with documents” to the end are revoked.

(344) Regulation 8(3) was amended by [S.I. 1998/1129](#).

The Occupational Pension Schemes (Investment) Regulations 1996 (S.I. 1996/3127)

Interpretation of the 1996 Regulations

544. Regulation 1 of the Occupational Pension Schemes (Investment) Regulations 1996 (citation, commencement and interpretation) is amended as follows—

- (a) in paragraph (2)—
 - (i) for the definition of “collective investment scheme” substitute—

““collective investment scheme” has the same meaning as in Part 17 of the Financial Services and Markets Act 2000, but includes arrangements of the type described in paragraphs 4 and 9 of the Schedule to the Financial Services and Markets Act 2000 (Collective Investment Schemes) Order 2001;”;
 - (ii) for the definition of “insurance company” substitute—

““insurance company” means a person carrying on the business of effecting or carrying out contracts of insurance;”;
 - (iii) for the definition of “policy of insurance” substitute—

““policy of insurance” means a contract of long-term insurance the effecting or carrying out of which, by way of business, constitutes the carrying on of a regulated activity within the meaning of the Financial Services and Markets Act 2000;”;
- (b) for paragraph (3) substitute—

“(3) The definitions of “insurance company” and “policy of insurance” in paragraph (2), together with regulations 5(3)(b), 6(2) and (4) and 8(1), must be read with—

 - (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.”.

Restrictions on employer-related investments

545. For paragraph (3)(b) of regulation 5 of the Occupational Pension Schemes (Investment) Regulations 1996 (restrictions on employer-related investments) substitute—

- (b) “(3) a security mentioned in section 40(2)(a) of the 1995 Act which is an instrument creating or acknowledging indebtedness, except any such security which is listed on a recognised stock exchange;”.

Investments to which restrictions on employer-related investments do not apply

546. Regulation 6 of the Occupational Pension Schemes (Investment) Regulations 1996 (investments to which restrictions do not apply)(**345**) is amended as follows—

- (a) for sub-paragraphs (a) and (b) of paragraph (2) substitute—
 - “(a) the policy is a contract of insurance on human life or a contract to pay an annuity on a human life, and is treated as a contract of long-term insurance for the purposes of any relevant order under section 22 of the Financial Services and Markets Act 2000 (but excluding a contract which is so treated solely by virtue of being a contract to manage the investments of pension funds); and

- (b) the policy of insurance is issued by an insurance company which is the employer and is—
 - (i) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of long-term insurance, or
 - (ii) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of long-term insurance.”;
- (b) paragraph (3) is revoked;
- (c) in paragraph (4), for the words from “with a building society” to the end substitute—
 - “with—
 - (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits; or
 - (b) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to accept deposits.”;
- (d) in paragraphs (8)(c) and (8A)(c), for “paragraph (2)(b)(i), (ii) or (iii)” substitute “paragraph (2)(b)(i) or (ii)”.

Loans that become employer-related

547. In paragraph (1) of regulation 8 of the Occupational Pension Schemes (Investment) Regulations 1996 (loans that become employer-related), for “a security falling within paragraph 2 of Schedule 1 to the Financial Services Act 1986” substitute “a security which is an instrument creating or acknowledging indebtedness”.

Exemptions from section 35 of the 1995 Act

548.—(1) Regulation 10 of the Occupational Pension Schemes (Investment) Regulations 1996 (exemptions from section 35 of the 1995 Act)(**346**) is amended as follows.

(2) In paragraph (1), for the words “the effecting of which” to the end substitute “of a kind mentioned in regulation 6(2)(a)”.

(3) In paragraph (4)(a), for “regulation 6(2)(b)(i), (ii) or (iii)” substitute “regulation 6(2)(b)(i) or (ii)”.

The Local Authorities (Capital Finance) Regulations 1997 (S.I. 1997/319)

Capital receipts of debt-free authorities

549.—(1) Regulation 65 of the Local Authorities (Capital Finance) Regulations 1997(**347**) is amended as follows.

(2) In paragraph (1), for sub-paragraphs (e) and (f) of the definition of “relevant lender” substitute—

- “(e) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits; or

(346) Regulation 10 was amended by S.I. 2000/1403 and S.I. 2000/3128.

(347) Regulation 65 was amended by S.I. 1998/1937.

- (f) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) to accept deposits.”.
- (3) After paragraph (1) insert—
- “(1A) Sub-paragraphs (e) and (f) of the definition of “relevant lender” in paragraph (1) must be read with—
- (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.”.

The Personal Pension Schemes (Appropriate Schemes) Regulations 1997 (S.I. 1997/470)

Forms of scheme which may be appropriate schemes

550.—(1) The Personal Pension Schemes (Appropriate Schemes) Regulations 1997 are amended as follows.

(2) In paragraph (2) of regulation 1 (citation, commencement and interpretation), the definition of “investment business” is revoked.

(3) For paragraph (2)(b) of regulation 2 (forms of scheme which may be appropriate schemes)(**348**) substitute—

“(b) a unit trust scheme of a kind mentioned in Part I of Schedule 1 to these Regulations which is the subject of an authorisation order made (or treated as made) under section 243 of the Financial Services and Markets Act 2000;”.

(4) In regulation 3 (persons who and bodies which may establish schemes), for paragraph (2) substitute—

“(2) This paragraph applies to a Friendly Society which has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of insurance.”.

(5) Paragraph (3)(a) of regulation 3 is revoked.

(6) For paragraph (3)(c) of regulation 3 substitute—

“(c) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits;

(ca) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to accept deposits;”.

(7) In paragraph (3)(d) of regulation 3, for “an institution”, in both places, substitute “a person or firm”, and after “sub-paragraph (c)” insert “or (ca)”.

(8) In paragraph (4) of that regulation, for “an institution” substitute “a person or firm”, and after “paragraph (3)(c)” insert “or (ca)”.

(9) After paragraph 4 of that regulation insert—

“(5) Sub-paragraphs (c) and (ca) of paragraph (3) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

- (10) In Schedule 1 (kinds of unit trust scheme that may be an appropriate scheme)—
- (a) in Part I (kinds of unit trust scheme), for “investment company with a variable capital”, in both places, substitute “open-ended investment company”;
 - (b) in Part II (definitions)—
 - (i) in the definition of “authorised unit trust scheme”, for “the Financial Services Act 1986” substitute “Part 17 of the Financial Services and Markets Act 2000”;
 - (ii) in the definition of “feeder fund”, for “investment company with variable capital” substitute “open-ended investment company”;
 - (iii) in the definition of “fund of funds”, for “investment companies with a variable capital” substitute “open-ended investment companies”;
 - (iv) the definition of “investment company with variable capital” is revoked;
 - (v) after the definition of “money market fund” insert—

““open-ended investment company” has the same meaning as in the Open-Ended Investment Companies Regulations 2001;”;
 - (vi) for the definition of “transferable security” substitute—

““transferable security” means any investment which is treated as a security for the purposes of any relevant order made under section 22 of the Financial Services and Markets Act 2000, other than an investment which either cannot be transferred or can be transferred only with the consent of a third party.”.

The Residuary Body for Wales (Dyffryn House and Gardens) Order 1997 (S.I. 1997/540)

Interpretation of the 1997 Order

551.—(1) In paragraph (1) of article 2 of the Residuary Body for Wales (Dyffryn House and Gardens) Order 1997 (interpretation and general provisions)—

- (a) for the definition of “contract for banking services” substitute—

““contract for banking services” means a contract for the provision of services for the Residuary Body by—

 - (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits; or
 - (b) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to accept deposits;”;
 - (b) the definition of “contract of insurance” is revoked.
- (2) After paragraph (4) of that article insert—
- “(5) The definition of “contract for banking services” in paragraph (1), and references in this Order to contracts of insurance, must be read with—
- (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.”.

The Occupational Pension Schemes (Pensions Compensation Provisions) Regulations 1997 (S.I. 1997/665)

Interpretation of the 1997 Regulations

552.—(1) In paragraph (2) of regulation 1 of the Occupational Pension Schemes (Pensions Compensation Provisions) Regulations 1997 (citation, commencement and interpretation)(**349**), for the definition of “reference banks” substitute—

““reference banks” means the four largest persons for the time being who—

- (a) have permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits,
- (b) are incorporated in the United Kingdom and carrying on there a regulated activity of accepting deposits, and
- (c) quote a base rate applicable to sterling deposits;”.

(2) After that paragraph insert—

“(2A) The definition of “reference banks” in paragraph (2) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

The Occupational Pension Schemes (Discharge of Liability) Regulations 1997 (S.I. 1997/784)

Requirements applying to policies of insurance and annuity contracts

553.—(1) In paragraph (1) of regulation 2 of the Occupational Pension Schemes (Discharge of Liability) Regulations 1997 (requirements applying to policies of insurance and annuity contracts), for the words “an insurance company” to the end, substitute—

- “(a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of long-term insurance; or
- (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of long-term insurance.”.

(2) For paragraph (2) of that regulation, substitute—

“(2) Sub-paragraphs (a) and (b) of paragraph (1) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

(349) The definition of “reference banks” in regulation 1(2) was amended by [S.I. 1998/1129](#).

The Social Security (Recovery of Benefits) (Northern Ireland) Order 1997 (S.I. 1997/1183 (N.I. 12))

Payments by insurers

554.—(1) Paragraph 5 of Schedule 1 to the Social Security (Recovery of Benefits) (Northern Ireland) Order 1997 is amended as follows.

- (2) The existing provision becomes sub-paragraph (1).
- (3) In that sub-paragraph—
 - (a) for “insurance company within the meaning of the Insurance Companies Act 1982” substitute “insurer”; and
 - (b) for “the company” substitute “the insurer”.
- (4) After that sub-paragraph, insert—
 - “(2) “Insurer” means—
 - (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of insurance; or
 - (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of insurance.
 - (3) Sub-paragraph (2) must be read with—
 - (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.”.

The Local Government Pension Scheme Regulations 1997 (S.I. 1997/1612)

Interpretation of the 1997 Regulations

555.—(1) In regulation 2 of the Local Government Pension Scheme Regulations 1997 (interpretation)(**350**), after paragraph (2) insert—

- “(3) The definitions of “AVC insurance company” and “Reference banks” in Schedule 1 must be read with—
 - (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.”.
- (2) In Schedule 1 to those Regulations (interpretation)(**351**)—
 - (a) for the definition of “AVC insurance company” substitute—
 - ““AVC insurance company” means—
 - (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of long-term insurance; or
 - (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of

(350) Amended by [S.I. 2000/3025](#).

(351) Relevant amendment made (to the definition of “Reference banks”) by [S.I. 1998/1129](#).

qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of long-term insurance;”;

(b) for the definition of “Reference banks” substitute—

““Reference banks” means the seven largest persons for the time being who—

- (a) have permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits,
- (b) are incorporated in the United Kingdom and carrying on there a regulated activity of accepting deposits, and
- (c) quote a base rate in sterling;

and for the purpose of this definition the size of a person at any time is to be determined by reference to the gross assets denominated in sterling of that person, together with any subsidiary (as defined in section 736 of the Companies Act 1985), as shown in the audited end-of-year accounts last published before that time;”.

Interpretation of regulations 5 and 6 of, and Schedule 2A to, the 1997 Regulations

556.—(1) Regulation 5(352) of the Local Government Pension Scheme Regulations 1997 (Agreements to enable employees of non-Scheme employers to be members (“admission agreements”)) is amended as follows.

(2) In paragraph (17) of that regulation, for sub-paragraph (a)(353) substitute—

“(a) “authorised insurer” means—

- (i) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect and carry out contracts of general insurance, or
- (ii) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect and carry out contracts of general insurance;”.

(3) In paragraph (17), for sub-paragraph (f) substitute—

“(f) “relevant institution” means—

- (i) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits,
- (ii) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) to accept deposits, or
- (iii) a person who does not require permission under that Act to accept deposits, by way of business, in the United Kingdom;”.

(4) After paragraph (17) insert—

“(18) In paragraph (17), the definitions of “authorised insurer” and “relevant institution” must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section;
- (c) Schedule 2 to that Act.”.

(352) Regulation 5 was substituted by S.I. 1999/3438, regulations 2 and 3.

(353) Sub-paragraph (a) was amended by S.I. 2000/1005, regulation 1(1).

Revenue restrictions

557. In paragraph 1(1) of Schedule 4 to the Local Government Pension Scheme Regulations 1997 (Revenue restrictions), in sub-paragraph (e) of the definition of “continuity conditions”**(354)**, after “section 62 of the Financial Services Act 1986” insert “or section 71 or 150 of the Financial Services and Markets Act 2000”.

Prescribed persons to whom information may be provided

558. Paragraph 1 of Schedule 5A**(355)** (mis-sold pensions) to the Local Government Pension Scheme Regulations 1997 is amended as follows—

- (a) in sub-paragraph (a)—
 - (i) after “a person who is” insert “an authorised person within the meaning of the Financial Services and Markets Act 2000 (“the 2000 Act”),”,
 - (ii) before “has been an authorised person” insert “who”, and
 - (iii) the words “(“the 1986 Act”)” are revoked;
- (b) in sub-paragraph (b) for “section 44 of the 1986 Act” substitute “section 39 of the 2000 Act”;
- (c) sub-paragraph (c) is revoked;
- (d) for sub-paragraph (d) substitute—
 - “(d) a designated professional body within the meaning of section 326 of the 2000 Act;”
- (e) for sub-paragraph (e) substitute—
 - “(e) the Financial Services Authority;”, and
- (f) for sub-paragraph (f) substitute—
 - “(f) the scheme manager (within the meaning of section 212(1) of the 2000 Act);”.

The Firemen’s Pensions (Provision of Information) Regulations 1997 (S.I. 1997/1829)

Persons to whom information may be supplied

559. In paragraph (2) of regulation 3 of the Firemen’s Pensions (Provision of Information) Regulations 1997 (persons to whom information may be supplied)—

- (a) in sub-paragraph (a), for “the Financial Services Act 1986” substitute “the Financial Services and Markets Act 2000”;
- (b) in sub-paragraph (b), for “section 44 of the Financial Services Act 1986” substitute “that Act”;
- (c) sub-paragraph (c) is revoked;
- (d) for sub-paragraphs (d) to (f) substitute—
 - “(d) a designated professional body within the meaning of Part XX of that Act;
 - (e) the scheme manager within the meaning of that Act;
 - (f) the Financial Services Authority;”.

(354) The definition was amended by [S.I. 1997/954](#) and [S.I. 1997/1613](#).

(355) Schedule 5A was inserted by [S.I. 1997/954](#), regulation 6 (as amended by [S.I. 1997/1613](#), regulations 2(1), 27, Schedule 3, paragraph 62(1), (6)).

The Police Pensions (Provision of Information) Regulations 1997 (S.I. 1997/1912)

Persons to whom information may be provided

560. In paragraph (2) of regulation 3 of the Police Pensions (Provision of Information) Regulations 1997 (persons to whom information may be supplied)—

- (a) in sub-paragraph (a), for “the Financial Services Act 1986” substitute “the Financial Services and Markets Act 2000”;
- (b) in sub-paragraph (b), for “section 44 of the Financial Services Act 1986” substitute “that Act”;
- (c) sub-paragraph (c) is revoked;
- (d) for sub-paragraphs (d) to (f) substitute—
 - “(d) a designated professional body within the meaning of Part XX of that Act;
 - (e) the scheme manager within the meaning of that Act;
 - (f) the Financial Services Authority;”.

The National Crime Squad Service Authority (Levying) Order 1997 (S.I. 1997/2283)

Interest on unpaid levies

561. In article 14 of the National Crime Squad Service Authority (Levying) Order 1997 (interest on unpaid levies)(**356**), for paragraphs (2) and (3) substitute—

- “(2) For the purposes of paragraph (1) above—
 - (a) the reference banks are the seven largest persons who—
 - (i) have permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits;
 - (ii) are incorporated in the United Kingdom and carrying on there a regulated activity of accepting deposits; and
 - (iii) quote a base rate in sterling;
 - (b) the size of a person is to be determined by reference to his total consolidated gross assets denominated in sterling, as shown in his audited end-year accounts last published before the beginning of the period for which interest is payable.
- (3) In this article, “consolidated gross assets” of a person is a reference to the gross assets of that person together with any subsidiary within the meaning of section 736 of the Companies Act 1985.
- (4) Paragraph (2)(a) above must be read with—
 - (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.”.

The NCIS Service Authority (Levying) Order 1997 (S.I. 1997/2284)

Interest on unpaid levies

562. In article 14 of the NCIS Service Authority (Levying) Order 1997 (interest on unpaid levies)(**357**), for paragraphs (2) and (3) substitute—

“(2) For the purposes of paragraph (1) above—

(a) the reference banks are the seven largest persons who—

(i) have permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits;

(ii) are incorporated in the United Kingdom and carrying on there a regulated activity of accepting deposits; and

(iii) quote a base rate in sterling;

(b) the size of a person is to be determined by reference to his total consolidated gross assets denominated in sterling, as shown in his audited end-year accounts last published before the beginning of the period for which interest is payable.

(3) In this article, “consolidated gross assets” of a person is a reference to the gross assets of that person together with any subsidiary within the meaning of section 736 of the Companies Act 1985.

(4) Paragraph (2)(a) above must be read with—

(a) section 22 of the Financial Services and Markets Act 2000;

(b) any relevant order under that section; and

(c) Schedule 2 to that Act.”.

The Teachers' Pensions Regulations 1997 (S.I. 1997/3001)

Interest on late payment of certain benefits

563.—(1) In regulation E34 of the Teachers' Pensions Regulations 1997(**358**), for paragraph (5) (b) substitute—

“(b) “the reference banks” means the four largest persons for the time being who—

(i) have permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits;

(ii) are incorporated in the United Kingdom and carrying on there a regulated activity of accepting deposits;

(iii) quote a base rate applicable to sterling deposits.”.

(2) After paragraph (5) of that regulation insert—

“(6) Paragraph (5)(b) must be read with—

(a) section 22 of the Financial Services and Markets Act 2000;

(b) any relevant order under that section; and

(c) Schedule 2 to that Act.”.

(357) Article 14 was amended by S.I. 1998/1129.

(358) Regulation E34 was amended by S.I. 1998/1129.

The Building Societies (Transfer of Business) Regulations 1998 (S.I. 1998/212)

Transfer of business: prescribed matters for transfer statements and transfer notification statements

564.—(1) In paragraph 10 of Part II of Schedule 1 to the Building Societies (Transfer of Business) Regulations 1998 (matters of which particulars are to be included in the case of a transfer to an existing company)—

- (a) the existing text becomes sub-paragraph (1);
- (b) in that sub-paragraph, for the words from “become” to the end substitute “have relevant permission”;
- (c) after that sub-paragraph insert—

“(2) “Relevant permission” means—

- (a) such permission under Part 4 of the Financial Services and Markets Act 2000, or
- (b) such permission under paragraph 15 of Schedule 3 to that Act (as a result of qualifying for authorisation under paragraph 12 of that Schedule),

as will enable the successor company to carry on the business which it will have as a result of the transfer without being taken (by virtue of section 20 of that Act) to have contravened a requirement imposed on it by the Authority under that Act.”

(2) In paragraph 4 of Part III of that Schedule (matters of which particulars are to be included in the case of a transfer to a specially formed company)—

- (a) the existing text becomes sub-paragraph (1);
- (b) in that sub-paragraph, for the words from “become” to the end substitute “have relevant permission”;
- (c) after that sub-paragraph insert—

“(2) “Relevant permission” has the meaning given by paragraph 10(2) of Part II of this Schedule.”

(3) In paragraph 4 of Schedule 3 to those Regulations (prescribed matters for transfer notification statements)—

- (a) the existing text becomes sub-paragraph (1);
- (b) in that sub-paragraph for the words from “become” to the end substitute “have relevant permission”;
- (c) after that sub-paragraph insert—

“(2) “Relevant permission” has the meaning given by paragraph 10(2) of Part II of Schedule 1 to these Regulations.”

The Building Societies (Accounts and Related Provisions) Regulations 1998 (S.I. 1998/504)

Group accounts: subsidiary undertakings

565.—(1) In paragraph (7) of regulation 4 of the Building Societies (Accounts and Related Provisions) Regulations 1998 (group accounts: supplementary provisions), for the words from “means” to the end substitute “means the carrying on of a regulated activity (within the meaning of the Financial Services and Markets Act 2000) of accepting deposits”.

(2) After that paragraph insert—

“(7A) The reference in paragraph (7) to accepting deposits must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

Interpretation of Schedules to the 1998 Regulations

566. In Schedule 11 to the Building Societies (Accounts and Related Provisions) Regulations 1998 (interpretation of Schedules)—

- (a) in paragraph 5 (definition of “listed securities”) for “which meets the criteria agreed between the Financial Services Authority and the Stock Exchange and is included in a list maintained by the Stock Exchange for the purposes of the rules of the Stock Exchange” substitute “which meets the criteria established by the competent authority (within the meaning of section 72 of the Financial Services and Markets Act 2000) and is included in a list maintained by that authority”;
- (b) in paragraph 13 (other definitions), for the definition of “credit institution” substitute—
““credit institution” means an undertaking carrying on (whether in the United Kingdom or elsewhere) a regulated activity (within the meaning of the Financial Services and Markets Act 2000) of accepting deposits, and authorised by the competent authorities of an EEA State or any other State (the reference to accepting deposits being read with section 22 of that Act, any relevant order under that section and Schedule 2 to that Act);”.

*The Police Act 1997 (Provisions in Relation to the
NCIS Service Authority) Order 1998 (S.I. 1998/633)*

Meaning of “securities”

567. In paragraph (1) of article E5 of the Police Act 1997 (Provisions in Relation to the NCIS Service Authority) Order 1998 (interpretation of articles E2 and E4), for sub-paragraph (a) substitute—

- “(a) investments treated as securities for the purposes of any relevant order made under section 22 of the Financial Services and Markets Act 2000;”.

Borrowing powers

568.—(1) In paragraph (2) of article G5 of the Police Act 1997 (Provisions in Relation to the NCIS Service Authority) Order 1998 (borrowing powers), for sub-paragraph (a) substitute—

- “(a) by overdraft or short term from the Bank of England or from a person who, at the time the borrowing is undertaken, is—
 - (i) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits; or
 - (ii) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to accept deposits; or”.
- (2) After paragraph (2) insert—
 - “(2A) Paragraph (2)(a) above must be read with—
 - (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and

(c) Schedule 2 to that Act.”.

Insurance by the NCIS Service Authority against accidents to members

569.—(1) In paragraph (1) of article K4 of the Police Act 1997 (Provisions in Relation to the NCIS Service Authority) Order 1998 (insurance by the NCIS Service Authority against accidents to members), the words “of Class 1 in Part 1 of Schedule 2 to the Insurance Companies Act 1982” are revoked.

(2) After paragraph (4) of that article insert—

“(5) Paragraph (1) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

The Bank of England (Information Powers) Order 1998 (S.I. 1998/1270)

Interpretation of the 1998 Order

570. In paragraph (2) of article 1 of the Bank of England (Information Powers) Order 1998 (citation, commencement and interpretation), in the definition of “securities”—

- (a) the word “relevant” is revoked; and
- (b) for “the Financial Services Act 1986” substitute “Part 17 of the Financial Services and Markets Act 2000”.

The Angola (United Nations Sanctions) Order 1998 (S.I. 1998/1752)

Assets of UNITA or persons connected with UNITA: definition of “investments”

571. In paragraph (4) of article 7 of the Angola (United Nations Sanctions) Order 1998 (assets of UNITA or persons connected with UNITA)(**359**), for sub-paragraph (b) substitute—

- “(b) “investment” means any investment of a kind specified by any relevant order made under section 22 of the Financial Services and Markets Act 2000 which is not a security;”.

The Angola (United Nations Sanctions) (Channel Islands) Order 1998 (S.I. 1998/1756)

Assets of UNITA or persons connected with UNITA: definition of “investments”

572. In paragraph (4) of article 8 of the Angola (United Nations Sanctions) (Channel Islands) Order 1998 (assets of UNITA or persons connected with UNITA)(a), for sub-paragraph (b) substitute—

- “(b) “investment” means any investment of a kind specified by any relevant order made under section 22 of the Financial Services and Markets Act 2000 which is not a security;”.

The Angola (United Nations Sanctions) (Isle of Man) Order 1998 (S.I. 1998/1757)

Assets of UNITA or persons connected with UNITA: definition of “investments”

573. In paragraph (4) of article 7 of the Angola (United Nations Sanctions) (Isle of Man) Order 1998 (assets of UNITA or persons connected with UNITA)(a), for sub-paragraph (b) substitute—

- “(b) “investment” means any investment of a kind specified by any relevant order made under section 22 of the Financial Services and Markets Act 2000 which is not a security;”.

The Local Government Pension Scheme (Management and Investment of Funds) Regulations 1998 (S.I. 1998/1831)

Interpretation of the 1998 Regulations: general

574. In regulation 2 of the Local Government Pension Scheme (Management and Investment of Funds) Regulations 1998 (general definitions)(**360**)—

- (a) the existing provision becomes paragraph (1);
- (b) the definitions of “European authorised institution” and “European institution” are revoked;
- (c) the definition of “home-regulated investment business” is revoked;
- (d) for the definition of “relevant institution” substitute—
 - ““relevant institution” means—
 - (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits;
 - (b) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) to accept deposits; or
 - (c) a person who is an exempt person in respect of accepting deposits as a result of an order made under section 38(1) of that Act;”;
- (e) after paragraph (1) insert—

“(2) The definition of “relevant institution” in paragraph (1), together with regulations 3(5) to (6A) and 4(2) and paragraph 4 of Part I of Schedule 1, must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

Definition of “investment”

575.—(1) Regulation 3 of the Local Government Pension Scheme (Management and Investment of Funds) Regulations 1998 (definition of “investment”)(**361**) is amended as follows.

- (2) For paragraphs (5) and (6) substitute—

(360) Amended by S.I. 1999/3259.

(361) Amended by S.I. 2000/2552.

“(5) A contract of insurance is an investment if and only if it is a contract of a relevant class, and is entered into with a person within paragraph (6) for whom entering into the contract constitutes the carrying on of a regulated activity (within the meaning of the Financial Services and Markets Act 2000).

(6) The persons within this paragraph are—

- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of insurance of a relevant class;
- (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of insurance of a relevant class; or
- (c) a person who does not fall within sub-paragraph (a) or (b) and who, because he has his head office in an EEA State (within the meaning of that Act) other than the United Kingdom, is permitted by the law of that State to effect or carry out contracts of insurance of a relevant class.

(6A) A contract of insurance is of a relevant class for the purposes of paragraphs (5) and (6) if it is—

- (a) a contract of insurance on human life or a contract to pay an annuity on human life where the benefits are wholly or partly to be determined by reference to the value of, or the income from, property of any description (whether or not specified in the contract) or by reference to fluctuations in, or in an index of, the value of property of any description (whether or not so specified); or
- (b) a contract to manage the investments of pension funds, whether or not combined with contracts of insurance covering either conservation of capital or payment of a minimum interest.”.

(3) For paragraphs (7) and (8) substitute—

“(7) A stock lending arrangement is an investment if and only if, in respect of it, the conditions in rules 5.14.4R and 5.14.6R in the Collective Investment Scheme Sourcebook are complied with.

(8) For the purposes of paragraph (7)—

- (a) references in rules 5.14.4R and 5.14.6R to the trustee must be read as if they were references to the administering authority, and
- (b) the “Collective Investment Scheme Sourcebook” means the Collective Investment Scheme Sourcebook made by the Financial Services Authority under Part 10 of the Financial Services and Markets Act 2000.”.

Definition of “investment manager”

576. In regulation 4 of the Local Government Pension Scheme (Management and Investment of Funds) Regulations 1998 (definition of “investment manager”), for paragraphs (2) to (4) substitute—

“(2) A person is an investment manager if—

- (a) he has permission under Part 4 of the Financial Services and Markets Act 2000 to manage investments and may lawfully manage the assets of occupational pension schemes;
- (b) he is an EEA firm of the kind mentioned in sub-paragraph (a), (b) or (c) of paragraph 5 of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12

of that Schedule) to manage investments and may lawfully manage the assets of occupational pension schemes; or

- (c) he is a person—
- (i) who does not carry on regulated activities (within the meaning of that Act) from a permanent place of business maintained by him in the United Kingdom;
 - (ii) whose head office is situated in an EEA State (within the meaning of that Act) other than the United Kingdom;
 - (iii) who is recognised by the law of that EEA State as a national of that or another EEA State;
 - (iv) who is authorised under that law to carry on one or more regulated activities (within the meaning of that Act); and
 - (v) who is not prevented by that law from managing the assets of occupational pension schemes or assets belonging to another person.”.

Limits on investments

577. For paragraph 4 of Part I of Schedule 1 to the Local Government Pension Scheme (Management and Investment of Funds) Regulations 1998 (limits on investments)(**362**) substitute—

“4. All deposits with—

- (a) any local authority, or
- (b) any body with power to issue a precept or requisition to a local authority, or to the expenses of which a local authority can be required to contribute,

which is an exempt person (within the meaning of the Financial Services and Markets Act 2000) in respect of accepting deposits as a result of an order made under section 38(1) of that Act, and all loans (but see paragraph 12).”.

Definition of “open-ended investment company”

578. In Part III of the Schedule to the Local Government Pension Scheme (Management and Investment of Funds) Regulations 1998 (Interpretation), in the definition of “open-ended investment company”(b363) for “section 78(5) of the Financial Services Act 1986” substitute “section 236 of the Financial Services and Markets Act 2000”.

The Investor Compensation Scheme Regulations 1998 (S.I. 1998/2169)

Revocation of the 1998 Regulations

579. The Investor Compensation Scheme Regulations 1998 are revoked.

The Residuary Body for Wales (Winding Up) Order 1998 (S.I. 1998/2859)

Interpretation of the 1998 Order

580.—(1) In paragraph (1) of article 2 of the Residuary Body for Wales (Winding Up Order) 1998 (interpretation and general provisions)—

(b362) Amended by S.I. 1999/3259.

(b363) The definition of “open-ended investment company” was substituted by S.I. 1999/3259.

- (a) for the definition of “contract for banking services” substitute—
- ““contract for banking services” means a contract for the provision of services for the Residuary Body by—
- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits; or
 - (b) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to accept deposits;”;
- (b) the definition of “contract of insurance” is revoked.
- (2) After paragraph (3) of that article insert—
- “(4) The definition of “contract for banking services” in paragraph (1), and references in this Order to contracts of insurance, must be read with—
- (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.”.

The Social Landlords (Additional Purposes or Objects) Order 1999 (S.I. 1999/985)

Meaning of “qualifying lending institution”

581.—(1) Article 3 of the Social Landlords (Additional Purposes or Objects) Order 1999 (priority of mortgages) is amended as follows.

- (2) In paragraph (3), for the definition of “qualifying lending institution” substitute—
- ““qualifying lending institution” means—
- (a) the Corporation;
 - (b) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits or to effect or carry out contracts of insurance; or
 - (c) an EEA firm of the kind mentioned in paragraph 5(b) or (d) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) either—
 - (i) to accept deposits; or
 - (ii) to effect or carry out contracts of insurance;”;
- (3) after paragraph (3) insert—
- “(4) The definition of “qualifying lending institution” in paragraph (3) must be read with—
- (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.”.

The Scotland Act 1998 (Functions Exercisable in or as regards Scotland) Order 1999 (S.I. 1999/1748)

Revocation of references to former tribunals

582. In Schedule 1 to the Scotland Act 1998 (Functions Exercisable in or as Regards Scotland) Order 1999—

- (a) paragraphs 8 and 23 (which relate to the tribunal established under section 47 of the Building Societies Act 1986⁽³⁶⁴⁾), and
- (b) paragraph 9 (which relates to the Financial Services Tribunal),

are revoked.

Unfair Terms in Consumer Contracts Regulations 1999 (S.I. 1999/2083)

Functions of the Financial Services Authority

583. In article 16⁽³⁶⁵⁾ of the Unfair Terms in Consumer Contracts Regulations 1999 (the functions of the Financial Services Authority), for “Financial Services Act 1986” substitute “Financial Services and Markets Act 2000”.

The Banking (Gibraltar) Regulations 1999 (S.I. 1999/2094)

Revocation of the 1999 Regulations

584. The Banking (Gibraltar) Regulations 1999 are revoked.

The Education (School Government) (England) Regulations 1999 (S.I. 1999/2163)

Restrictions on persons taking part in proceedings of the governing body or their committees

585. In paragraph 2 of Schedule 6 to the Education (School Government) (England) Regulations 1999 (pecuniary interests), for sub-paragraph (8) substitute—

“(8) In this paragraph, “securities” means any investments which are treated as securities for the purposes of any relevant order made under section 22 of the Financial Services and Markets Act 2000.”.

The Education (School Government) (Wales) Regulations 1999 (S.I. 1999/2242)

Restrictions on persons taking part in proceedings of the governing body or their committees

586. In paragraph 2 of Schedule 7 to the Education (School Government) (Wales) Regulations 1999 (pecuniary interests), for sub-paragraph (8) substitute—

“(8) In this paragraph, “securities” means any investments which are treated as securities for the purposes of any relevant order made under section 22 of the Financial Services and Markets Act 2000.”.

⁽³⁶⁴⁾1986 c. 53. Section 47 is superseded by provisions inserted by S.I. 2001/2617 and the tribunal established under that section abolished.

⁽³⁶⁵⁾Article 16 was inserted by S.I. 2001/1186, regulation 2(a).

The Data Protection (Processing of Sensitive Personal Data) Order 2000 (S.I. 2000/417)

Interpretation of the 2000 Order: Insurance business

587.—(1) The Schedule to the Data Protection (Processing of Sensitive Personal Data) Order 2000 (Circumstances in which sensitive personal data may be processed) is amended as follows.

- (2) In sub-paragraph (2) of paragraph 5 of that Schedule, for paragraph (a) substitute—
- “(a) “insurance business” means business which consists of effecting or carrying out contracts of insurance of the following kind—
- (i) life and annuity,
 - (ii) linked long term,
 - (iii) permanent health,
 - (iv) accident, or
 - (v) sickness; and”.
- (3) After sub-paragraph (2) of paragraph 5 insert—
- “(2A) The definition of “insurance business” in sub-paragraph (2) above must be read with—
- (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.”.
- (4) In paragraph 6(b) of that Schedule for paragraph (i) substitute—
- “(i) effecting or carrying out contracts of long-term insurance of the kind mentioned in sub-paragraph (2)(a)(i), (ii) or (iii) of paragraph 5 above.”.

The Community Legal Service (Costs) Regulations 2000 (S.I. 2000/441)

Interpretation of regulation 24 of the 2000 Regulations

588.—(1) Regulation 24 of the Community Legal Service (Costs) Regulations 2000 (interest on damages) is amended as follows.

- (2) In paragraph (2) of that regulation for “a bank or building society” substitute “a deposit-taker”.
- (3) In paragraph (6) of that regulation—
- (a) the definitions of “bank” and “building society” are revoked; and
 - (b) after the definition of “business day” insert—
 - ““deposit taker” means the Bank of England, or the branch, situated in England or Wales, of either—
 - (a) a person with permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits, or
 - (b) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) to accept deposits;”.
- (4) After paragraph (6) of that Regulation insert—
- “(7) The definition of “deposit taker” in paragraph (6) must be read with—
- (a) section 22 of the Financial Services and Markets Act 2000;

- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

The National Health Service Pension Scheme (Additional Voluntary Contributions) Regulations 2000 (S.I. 2000/619)

Interpretation of the 2000 Regulations

589.—(1) The National Health Service Pension Scheme (Additional Voluntary Contributions) Regulations 2000 are amended as follows.

(2) In paragraph (1) of regulation 2 (Interpretation) the definition of “insurance company” is revoked, and in the same place insert—

““insurer” means—

- (a) a person with permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of long-term insurance, or
- (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) to effect or carry out contracts of long-term insurance;”.

(3) After paragraph (2) of regulation 2 insert—

“(3) The definition of “insurer” in paragraph (1) above must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

(4) In regulations 7(2) and 11(1) and (6), and paragraphs 1(1) and 4(8) of Schedule 2 to those Regulations, for “insurance company” substitute “insurer”.

The Pension Sharing (Implementation and Discharge of Liability) Regulations 2000 (S.I. 2000/1053)

Interpretation of the 2000 Regulations

590.—(1) In paragraph (2) of regulation 1 of the Pension Sharing (Implementation and Discharge of Liability) Regulations 2000 (Citation, commencement and interpretation), for the definition of “the reference banks”(366) substitute—

““the reference banks” means the seven largest persons for the time being who—

- (a) have permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits,
- (b) are incorporated in the United Kingdom and carrying on there the regulated activity of accepting deposits, and
- (c) quote a base rate in sterling;

and for the purpose of this definition the size of a person at any time is to be determined by the gross assets denominated in sterling of that person, together with any subsidiary (as defined in section 736 of the Companies Act 1985), as shown in the end of year accounts last published before that time;”.

(366) The definition of “the reference banks” was amended by [S.I. 2000/2691](#), regulation 11(1), (2)(e).

- (2) After paragraph (2) of that regulation insert—
- “(3) The definition of “the reference banks” in paragraph (2) must be read with—
- (a) section 22 of the Financial Services and Markets Act;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.”.

Qualifying arrangements

591.—(1) In paragraph (1) of regulation 11 of the Pension Sharing (Implementation and Discharge of Liability) Regulations 2000 (qualifying arrangements), for sub-paragraphs (a) to (c) substitute—

- “(a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of long-term insurance; or
- (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of long-term insurance.”.
- (2) For paragraph (2) of that regulation substitute—
- “(2) Paragraph (1)(a) and (b) must be read with—
- (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.”.

The Pension Sharing (Pension Credit Benefit) Regulations 2000 (S.I. 2000/1054)

Interpretation of the 2000 Regulations

592.—(1) In paragraph (2) of regulation 1 of the Pension Sharing (Pension Credit Benefit) Regulations 2000 (Citation, commencement and interpretation), for the definition of “the reference banks”**(367)** substitute—

- ““the reference banks” means the seven largest persons for the time being who—
- (a) have permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits;
 - (b) are incorporated in the United Kingdom and carrying on there a regulated activity of accepting deposits; and
 - (c) quote a base rate in sterling;

and for the purpose of this definition the size of a person at any time is to be determined by reference to the gross assets denominated in sterling of that person, together with any subsidiary (as defined in section 736 of the Companies Act 1985), as shown in the audited end of year accounts last published before that time.”.

- (2) After paragraph (2) of that regulation insert—
- “(3) The definition of “the reference banks” in paragraph (2) must be read with—
- (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and

(367) The definition of “the reference banks” was amended by [S.I. 2000/2691](#), regulation 12(1),(2).

(c) Schedule 2 to that Act.”.

Means of assuring pension credit benefit

593.—(1) In paragraph (3) of regulation 5 of the Pension Sharing (Pension Credit Benefit) Regulations 2000 (means of assuring pension credit benefit), for sub-paragraphs (a) to (c) substitute—

- “(a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of long-term insurance; or
- (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of long-term insurance.”.

(2) For paragraph (4) of that regulation substitute—

- “(4) Paragraph (3)(a) and (b) must be read with—
 - (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.”.

The Pension Sharing (Safeguarded Rights) Regulations 2000 (S.I. 2000/1055)

Insurance companies that may provide safeguarded rights by way of annuities

594.—(1) In regulation 8 of the Pension Sharing (Safeguarded Rights) Regulations 2000 (insurance companies that may provide safeguarded rights by way of annuities), for paragraph (2) substitute—

- “(2) The insurance company must be—
 - (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of long-term insurance; or
 - (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of long-term insurance.”.

(2) In paragraph (4) of that regulation, for the words from the beginning of that paragraph to “as described in paragraph (2)(b),” substitute “Where the annuities are issued by an insurance company which is a friendly society, within the meaning given by section 116 of the Friendly Societies Act 1992,”.

(3) After that paragraph insert—

- “(5) Paragraph (2) must be read with—
 - (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.”.

The Stakeholder Pension Schemes Regulations 2000 (S.I. 2000/1403)

Interpretation of the 2000 Regulations: general

595.—(1) In paragraph (3) of regulation 1 of the Stakeholder Pension Schemes Regulations 2000 (Citation, commencement and interpretation)—

(a) the definition of “insurance company” is revoked, and in the same place insert—

““insurer” means—

- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of insurance, or
- (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of insurance;” and

(b) for the definition of “securities” substitute—

““securities” means investments of the following kinds—

- (a) shares,
- (b) instruments creating or acknowledging indebtedness,
- (c) government and public securities,
- (d) instruments giving entitlements to investments,
- (e) certificates representing securities,

but does not include shares in a unit trust;”.

(2) After paragraph (3) of that regulation insert—

“(3A) The definitions of “insurer” and “securities” in paragraph (3) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

(3) In regulation 8(5) of those Regulations for “insurance company” substitute “insurer”.

(4) In regulation 15(3) of those Regulations for “insurance company” substitute “insurer”.

Interpretation of regulation 8

596.—(1) In paragraph (4) of regulation 8 of the Stakeholder Pension Schemes Regulations 2000 (Requirement applying to all stakeholder pension schemes as regards investments), for “section 75 of the Financial Services Act 1986” substitute “section 235 of the Financial Services and Markets Act 2000”.

(2) In paragraph (6) of that regulation—

(a) for the definition of “contract of insurance”(368) substitute—

““contract of insurance” means a contract—

- (a) which, or any part of which, is of one or more of the following kinds—
 - (i) life and annuity,
 - (ii) linked long term,
 - (iii) pension fund management, and

(368) The definition of “contract of insurance” was substituted by [S.I. 2001/934](#), regulation 5.

- (iv) which is carried out by an insurer who has permission, as the case may be, under—
 - (v) Part 4 of the Financial Services and Markets Act 2000, or
 - (ii) paragraph 15 of Schedule 3 to that Act,to effect or carry out contracts of insurance of that kind;”;
- (b) the definition of “deposit” is revoked; and
- (c) for the definition of “reference banks” substitute—
 - ““reference banks” means the seven largest persons for the time being who—
 - (a) have permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits,
 - (b) are incorporated in the United Kingdom and carrying on there a regulated activity of accepting deposits; and
 - (c) quote a base rate applicable to sterling deposits,and for the purpose of this definition the size of a person at any time is to be determined by reference to the gross assets denominated in sterling of that person, together with any subsidiary (as defined in section 736 of the Companies Act 1985), as shown in the audited end of year accounts last published before that time.”.
- (3) After paragraph (6) of that regulation insert—
 - “(7) References to a “deposit” in this regulation, together with the definitions of “contract of insurance” and “reference banks” in paragraph (6) must be read with—
 - (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.”.

Meaning of “proper advice”

597.—(1) In regulation 10 of the Stakeholder Pension Schemes Regulations 2000 (Requirement for manager of schemes not established under a trust to have regard to certain matters, and to take advice, relating to investment), for sub-paragraph (a) of paragraph (5) substitute—

- “(a) where the giving of advice constitutes a regulated activity of advising on investments (or would constitute such a regulated activity but for the identity of the person carrying on that activity), advice given by a person who may give that advice without contravening the prohibition imposed by section 19 of the Financial Services and Markets Act 2000;”.
- (2) After paragraph (5) of that regulation insert—
 - “(5A) Paragraph (5)(a) must be read with—
 - (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.”.

The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000 (S.I. 2000/1410)

Interpretation of the 2000 Regulations: “reference banks”

598.—(1) In Schedule 1 to the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000 (interpretation), in paragraph 1 for the definition of “reference banks” substitute—

““reference banks” means the seven largest persons for the time being who—

- (a) have permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits;
- (b) are incorporated in the United Kingdom and carrying on there a regulated activity of accepting deposits; and
- (c) quote a base rate in sterling;

and for the purpose of this definition the size of a person at any time is to be determined by reference to the gross assets denominated in sterling of that person, together with any subsidiary (as defined in section 736 of the Companies Act 1985), as shown in the audited end of year accounts last published before that time.”

(2) After paragraph 1 of that Schedule insert—

“2. The definition of “the reference banks” in paragraph 1 must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”

The Iraq (United Nations Sanctions) Order 2000 (S.I. 2000/3241)

Construction of the 2000 Order—“relevant institution”

599.—(1) Article 2 of the Iraq (United Nations Sanctions) Order 2000 (interpretation) is amended as follows.

(2) The existing text is numbered paragraph (1).

(3) In paragraph (1), for the definition of “relevant institution” substitute—

““relevant institution” means—

- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits; or
- (b) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) to accept deposits,

but does not include a person of the kind mentioned in paragraph (a) who has permission to accept deposits for the purpose of effecting or carrying out contracts of insurance.”

(4) After paragraph (1) insert—

“(2) The definition of “relevant institution” in paragraph (1) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”

The Iraq (United Nations Sanctions) (Overseas Territories) Order 2000 (S.I. 2000/3242)

Construction of the 2000 Order—“relevant institution”

600.—(1) Article 2 of the Iraq (United Nations Sanctions) (Overseas Territories) Order 2000 (interpretation) is amended as follows.

- (2) The existing text is numbered paragraph (1).
- (3) In paragraph (1), in the definition of “relevant institution”—
 - (a) for paragraph (b) substitute—

“(b) a person who may lawfully accept deposits in or from within the Territory by way of business;”;
 - (b) for paragraph (c) substitute—

“(c) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to the Financial Services and Markets Act 2000, which has lawfully established a branch in Gibraltar for the purpose of accepting deposits;”.
- (4) After paragraph (1) insert—
 - “(2) For the purpose of the definition of “relevant institution” in paragraph (1)—
 - (a) the activity of accepting deposits has the meaning given in any relevant order under section 22 of the Financial Services and Markets Act 2000; and
 - (b) a person is not regarded as accepting deposits by way of business if—
 - (i) he does not hold himself out as accepting deposits on a day to day basis, and
 - (ii) any deposits which he accepts are accepted only on particular occasions, whether or not involving the issue of any securities.
 - (3) In determining for the purposes of paragraph (2)(b)(ii) whether deposits are accepted only on particular occasions, regard is to be had to the frequency of those occasions and to any characteristics distinguishing them from each other.”.

The Iraq (United Nations Sanctions) (Isle of Man) Order 2000 (S.I. 2000/3245)

Construction of the 2000 Order—“relevant institution”

601.—(1) Article 2 of the Iraq (United Nations Sanctions) (Isle of Man) Order 2000 (interpretation) is amended as follows.

- (2) The existing text is numbered paragraph (1).
- (3) In paragraph (1), in the definition of “relevant institution” for paragraph (d) substitute—

“(d) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to the Financial Services and Markets Act 2000, which has lawfully established a branch in the Isle of Man for the purpose of accepting deposits or other repayable funds from the public;”.
- (4) After paragraph (1) insert—
 - “(2) For the purpose of paragraph (d) of the definition of “relevant institution” in paragraph (1) the activity of accepting deposits has the meaning given in any relevant order under section 22 of the Financial Services and Markets Act 2000.”.

The Whole of Government Accounts (Designation of Bodies) Order 2000 (S.I. 2000/3357)

Revocation of reference to Policyholders Protection Board

602. In the Schedule to the Whole of Government Accounts (Designation of Bodies) Order 2000, the words “Policyholders Protection Board” are revoked.

The Terrorism Act 2000 (Crown Servants and Regulators) Regulations 2001 (S.I. 2001/192)

Revocation of references to person no longer performing regulatory functions

603 In regulation 4(1) of the Terrorism Act 2000 (Crown Servants and Regulators) Regulations 2001 (Disapplication of section 19 in relation to persons performing functions of a public nature)—

- (a) sub-paragraphs (b), (c), (d), (f), (g), (i), (j), (k) and (l) are revoked; and
- (b) for sub-paragraph (e) substitute—
 - “(e) a designated professional body within the meaning of section 326(2) of the Financial Services and Markets Act 2000;”.

The Pig Industry Restructuring (Capital Grant) Scheme 2001 (S.I. 2001/251)

Meaning of “bank”

604.—(1) Paragraph 2 of the Pig Industry Restructuring (Capital Grant) Scheme 2001 (interpretation) is amended as follows.

- (2) In sub-paragraph (1), for the definition of “bank” substitute—
 - ““bank” means—
 - (i) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits,
 - (ii) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to accept deposits,
 - (iii) the National Savings Bank,
 - (iv) a municipal bank, that is to say a company which was, immediately before the repeal of the Banking Act 1987, exempted from the prohibition in section 3 of that Act by virtue of section 4(1) of, and paragraph 4 of Schedule 2 to, that Act, or
 - (v) a credit union within the meaning of the Credit Unions Act 1979;”.
- (3) After sub-paragraph (1) insert—
 - “(1A) The definition of “bank” in sub-paragraph (1) must be read with—
 - (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order made under that section; and
 - (c) Schedule 2 to that Act.”.

The Pig Industry Restructuring Grant (Non-capital Grant) Scheme 2001 (S.I. 2001/252)

Meaning of “bank”

605.—(1) Paragraph 2 of the Pig Industry Restructuring (Non-Capital Grant) Scheme 2001 (interpretation) is amended as follows.

(2) In sub-paragraph (1), for the definition of “bank” substitute—

““bank” means—

- (i) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits,
- (ii) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to accept deposits,
- (iii) the National Savings Bank,
- (iv) a municipal bank, that is to say a company which was, immediately before the repeal of the Banking Act 1987 exempted from the prohibition in section 3 of that Act by virtue of section 4(1) of, and paragraph 4 of Schedule 2 to, that Act, or
- (v) a credit union within the meaning of the Credit Unions Act 1979;”.

(3) After sub-paragraph (1) insert—

“(1A) The definition of “bank” in sub-paragraph (1) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order made under that section; and
- (c) Schedule 2 to that Act.”.

The Afghanistan (United Nations Sanctions) (Overseas Territories) Order 2001 (S.I. 2001/392)

Construction of the 2001 Order—“relevant institution”

606.—(1) Article 2 of the Afghanistan (United Nations Sanctions) (Overseas Territories) Order 2001 (interpretation) is amended as follows.

(2) The existing text is numbered paragraph (1).

(3) In paragraph (1), in the definition of “relevant institution”—

(a) for paragraph (b) substitute—

“(b) a person who may lawfully accept deposits in or from within the Territory by way of business;”;

(b) for paragraph (c) substitute—

“(c) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to the Financial Services and Markets Act 2000, which has lawfully established a branch in Gibraltar for the purpose of accepting deposits;”.

(4) After paragraph (1) insert—

“(2) For the purpose of the definition of “relevant institution” in paragraph (1)—

- (a) the activity of accepting deposits has the meaning given in any relevant order under section 22 of the Financial Services and Markets Act 2000; and
- (b) a person is not regarded as accepting deposits by way of business if—
 - (i) he does not hold himself out as accepting deposits on a day to day basis, and

(ii) any deposits which he accepts are accepted only on particular occasions, whether or not involving the issue of any securities.

(3) In determining for the purposes of paragraph (2)(b)(ii) whether deposits are accepted only on particular occasions, regard is to be had to the frequency of those occasions and to any characteristics distinguishing them from each other.”.

The Afghanistan (United Nations Sanctions) (Isle of Man) Order 2001 (S.I. 2001/394)

Construction of the 2001 Order—“relevant institution”

607.—(1) Article 2 of the Afghanistan (United Nations Sanctions) (Isle of Man) Order 2001 (interpretation) is amended as follows.

(2) The existing text is numbered paragraph (1).

(3) In paragraph (1), in the definition of “relevant institution” for paragraph (d) substitute—

“(d) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to the Financial Services and Markets Act 2000, which has lawfully established a branch in the Isle of Man for the purpose of accepting deposits or other repayable funds from the public;”.

(4) After paragraph (1) insert—

“(2) For the purpose of paragraph (d) of the definition of “relevant institution” in paragraph (1) the activity of accepting deposits has the meaning given in any relevant order under section 22 of the Financial Services and Markets Act 2000.”.

The Afghanistan (United Nations Sanctions) Order 2001 (S.I. 2001/396)

Construction of the 2001 Order—“relevant institution”

608.—(1) Article 2 of the Afghanistan (United Nations Sanctions) Order 2001 (interpretation) is amended as follows.

(2) The existing text is numbered paragraph (1).

(3) In paragraph (1), for the definition of “relevant institution” substitute—

““relevant institution” means—

- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits;
- (b) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) to accept deposits; or
- (c) an institution, not falling within paragraph (a), which continues to have a liability in respect of a deposit which was held by it in accordance with the Banking Act 1979 or the Banking Act 1987,

but does not include a person of the kind mentioned in paragraph (a) who has permission to accept deposits for the purpose of effecting or carrying out contracts of insurance.”.

(4) After paragraph (1) insert—

“(2) The definition of “relevant institution” in paragraph (1) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

The Justices' Chief Executives (Accounts) Regulations 2001 (S.I. 2001/463)

Meaning of “bank”

609.—(1) Regulation 6 of the Justices' Chief Executives (Accounts) Regulations 2001 (bank accounts) is amended as follows.

(2) For paragraph (3) substitute—

“(3) In paragraph (1) “bank” means—

- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits;
- (b) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to accept deposits.”.

(3) After paragraph (3) insert—

“(3A) But where a person of the kind mentioned in paragraph (3)(a) is a building society within the meaning of the Building Societies Act 1986, it is not a bank for the purposes of paragraph (1) unless it may lawfully provide corporate banking services.

(3B) Paragraph (3) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

(4) In paragraph (4), for “subsection (3)(c)” substitute “paragraph (3)(b)”.

The Transport Act 2000 (Civil Aviation Authority Pension Scheme) Order 2001 (S.I. 2001/853)

Interpretation of the Trust Deed—meaning of “authorised insurance company”

610. In Appendix 1 to the Transport Act 2000 (Civil Aviation Authority Pension Scheme) Order 2001 (Definitions)(**369**), for the definition of “Authorised Insurance Company” substitute—

“Authorised Insurance Company means:

(1) a person with permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of long-term insurance;

(2) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of long-term insurance; or

(3) any other insurer acceptable for the purposes of section 19 of the Pension Schemes Act 1993:

and for the purposes of this definition “contract of long-term insurance” must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order made under that section; and

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(c) Schedule 2 to that Act.”.

9th November 2001

John Heppell
Tony McNulty
Two of the Lords Commissioners of Her
Majesty’s Treasury

EXPLANATORY NOTE

(This Note does not form part of the Order)

This Order sets out the amendments to primary and secondary legislation consequential on the coming into force of the Financial Services and Markets Act 2000 (c. 8) (“FSMA”). The large majority of the amendments are needed as a result of the principal repeals and revocations made by article 3. All references in other legislation to the enactments repealed here, or to expressions used in those enactments, have been amended in the subsequent provisions of the Order so that they refer to the appropriate provision or expression under FSMA.

Part 1 of the Order provides for the Order to come into force on 1st December 2001, the date on which the main provisions of FSMA come into force in accordance with the Financial Services and Markets Act 2000 (Commencement No. 7) Order 2001 (S.I. 2001/3528 (C. 115)). Article 3 repeals the legislation which established the regulatory regimes which are replaced by FSMA.

Part 2 of the Order makes amendments to the Companies Acts and the corresponding Northern Ireland Orders. Part 3 amends enactments relating to pensions and the corresponding Northern Ireland provisions. Parts 4 and 5 amend the Bank of England Act 1998 (c. 11) and the Consumer Credit Act 1974 (c. 39) respectively.

Part 6 amends primary and secondary legislation relating to mutuals societies. Some of these provisions are consequent upon the dissolution of the bodies referred to in Part III of the Financial Services and Markets Act 2000 (Mutual Societies) Order 2001 (S.I. 2001/2617) and the transfer of their functions to the Financial Services Authority. Schedule 3 to that Order made most of the amendments needed as a result of the dissolution of those bodies but further amendments are included here. A small number of the articles in this Part replaces provisions in Schedule 3 to the Mutual Societies Order by amending provisions which are amended by Schedule 3 and revoking the relevant provisions in that Schedule.

Part 7 of the Order amends primary and secondary legislation in Scotland.

Part 8 amends other primary legislation not covered elsewhere in the Order and Part 9 amends secondary legislation. Amendments to enactments dealing with taxation are made by the Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629) which also comes into effect on 1 December 2001.