

SCHEDULE 6

Regulation 3(6)

CONSEQUENTIAL AMENDMENTS OF OTHER ENACTMENTS

PART 1

AMENDMENTS OF PRIMARY LEGISLATION

Amendment of the Judicial Pensions Act (Northern Ireland) 1951

1. In section 11A of the Judicial Pensions Act (Northern Ireland) 1951(1) (voluntary contributions), in subsection (7B)(a), for “C of the Annex to the Investment Services Directive” substitute “B of Annex I to the Markets in Financial Instruments Directive”.

Amendment of the County Courts Act (Northern Ireland) 1959

2. In section 127A of the County Courts Act (Northern Ireland) 1959(2) (voluntary contributions), in subsection (7B)(a), for “C of the Annex to the Investment Services Directive” substitute “B of Annex I to the Markets in Financial Instruments Directive”.

Amendment of the Resident Magistrates’ Pensions Act (Northern Ireland) 1960

3. In section 9A of the Resident Magistrates’ Pensions Act (Northern Ireland) 1960(3) (voluntary contributions), in subsection (7B)(a), for “C of the Annex to the Investment Services Directive” substitute “B of Annex I to the Markets in Financial Instruments Directive”.

Amendment of the Superannuation Act 1972

4. In section 1 of the Superannuation Act 1972(4) (superannuation schemes as respects civil servants, etc.), in subsection (9B)(a), for “C of the Annex to the Investment Services Directive” substitute “B of Annex I to the markets in financial instruments directive”.

Amendment of the Consumer Credit Act 1974

5. In section 25 of the Consumer Credit Act 1974(5) (licensee to be a fit person), in subsection (1C), for “the Annex to the investment services directive (93/22/EEC)” substitute “Annex I to the markets in financial instruments directive (2004/39/EC)”.

Amendment of the Judicial Pensions Act 1981

6. In section 33A of the Judicial Pensions Act 1981(6)(voluntary contributions), in subsection (9B)(a), for “C of the Annex to the Investment Services Directive” substitute “B of Annex I to the markets in financial instruments directive”.

(1) 1951 c.20 (N.I.); section 11A was inserted by SI 1991/2631 (N.I.24) and subsection (7B) was inserted by S.I. 2001/3649.

(2) 1959 c.25 (N.I.); section 127A was inserted by S.I. 1991/2631 (N.I.24) and subsection (7B) was inserted by S.I. 2001/3649.

(3) 1960 c. 2 (N.I.); section 9A was inserted by S.I. 1991/2631 (N.I.24) and subsection (7B) was inserted by S.I. 2001/3649.

(4) 1972 c.11; section 1(9B) was inserted by S.I. 2001/3649.

(5) 1974 c.39; section 25(1C) was inserted by S.I. 2001/3649 and amended by S.I. 2006/3221.

(6) 1981 c.20; section 33A was inserted by section 82 of the Courts and Legal Services Act 1990 (c.41), and subsection (9B) was inserted by S.I. 2001/3649.

Amendment of the Companies Act 1985

7.—(1) The Companies Act 1985(7) is amended as follows.

(2) In section 23(8)(membership of holding company), in subsection (3B)(c), for “Article 16 of Council Directive 93/22/EEC on investment services in the securities field” substitute “Article 47 of Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments”.

(3) In section 162(9) (power of company to purchase own shares), in subsection (4)(d), for “for the purposes of Article 16 of Council Directive 93/22/EEC on investment services in the securities field” substitute “which appears on the list drawn up by that State pursuant to Article 47 of Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments.”.

(4) In section 162E(10) (Treasury shares: mandatory cancellation), in subsection (3), for “is a regulated market for the purposes of Article 16 of Council Directive 93/22/EEC on investment services in the securities field” substitute “appears on the list drawn up by an EEA State pursuant to Article 47 of Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments”.

(5) In section 226(11) (duty to prepare individual accounts), in subsection (5), for “Council Directive 93/22/EEC on investment services in the securities field” substitute “Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments”.

(6) In section 227(12) (duty to prepare group accounts), in subsection (6), for “Council Directive 93/22/EEC on investment services in the securities field” substitute “Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments”.

(7) In section 228(13) (exemption for parent companies included in accounts of larger group), in subsection (3), for “Council Directive 93/22/EEC on investment services in the securities field” substitute “Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments”.

(8) In section 228A(14) (exemption for parent companies included in non-EEA group accounts), in subsection (3), for “Council Directive 93/22/EEC on investment services in the securities field” substitute “Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments”.

Amendment of the Finance Act 1986

8.—(1) The Finance Act 1986(15) is amended as follows.

(2) In section 80B(16) (intermediaries: supplementary), in subsection (2), in the definition of “EEA exchange”, for “Article 16 of European Communities Council Directive No.93/22/EEC on investment services in the securities field” substitute “Article 47 of Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments”.

(7) 1985 c.6.

(8) Section 23 was substituted by section 129 of the Companies Act 1989 (c.40), and subsection (3B) was inserted by S.I. 1997/2306. Section 23 is prospectively repealed by the Companies Act 2006 (c. 46).

(9) Subsection (4) of section 162 was inserted by S.I. 2003/1116 and section 162 is prospectively repealed by the Companies Act 2006, Schedule 16.

(10) Section 162E was inserted by S.I. 2003/1116 and is prospectively repealed by the Companies Act 2006, Schedule 16.

(11) Section 226 was inserted by S.I. 2004/2947, and is prospectively repealed by the Companies Act 2006, Schedule 16.

(12) Section 227 was inserted by S.I. 2004/2947, and is prospectively repealed by the Companies Act 2006, Schedule 16.

(13) Section 228 is prospectively repealed by the Companies Act 2006, Schedule 16.

(14) Section 228A was inserted by S.I. 2004/2947, and is prospectively repealed by the Companies Act 2006, Schedule 16.

(15) 1986 c.41.

(16) Section 80B was inserted by section 97 of the Finance Act 1997 (c.16), and is prospectively repealed by section 113 of, and Part VII of Schedule 18 to, that Act.

(3) In section 88B(17) (intermediaries: supplementary), in subsection (2), in the definition of “EEA exchange”, for “Article 16 of European Communities Council Directive No. 93/22/EEC on investment services in the securities field” substitute “Article 47 of Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments”.

Amendment of the Building Societies Act 1986

9. In section 81B of the Building Societies Act 1986(18) (interpretation of Part 8), in subsection (1), for the definition of “regulated market” substitute—

““regulated market” has the meaning given in Article 4.1.14 of Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments.”.

Amendment of the Friendly Societies Act 1992

10.—(1) The Friendly Societies Act 1992(19) is amended as follows.

(2) In section 69A(20) (duty to prepare individual accounts), in subsection (4), for “Council Directive 93/22/EEC on investment services in the securities field” substitute “Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments”.

(3) In section 69E(21) (duty to prepare group accounts), in subsection (5), for “Council Directive 93/22/EEC on investment services in the securities field” substitute “Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments”.

Amendment of the Judicial Pensions and Retirement Act 1993

11. In section 10 of the Judicial Pensions and Retirement Act 1993(22) (additional benefits from voluntary contributions), in subsection (8B), for “C of the Annex to the Investment Services Directive” substitute “B of Annex I to the markets in financial instruments directive”.

Amendment of the Data Protection Act 1998

12. In Schedule 7 to the Data Protection Act 1998(23) (miscellaneous exemptions), in paragraph 6(3), in the definition of “instrument”, for “section B of the Annex to the Council Directive on investment services in the securities field (93/22/EEC)” substitute “section C of Annex I to Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments”.

Amendment of the Competition Act 1998

13. In Schedule 3 to the Competition Act 1998(24) (general exclusions), in paragraph 3(5), in paragraph (a) of the definition of “EEA regulated market”, for “article 16 of Council Directive 93/22/EEC of 10th May 1993 on investment services in the securities field” substitute “Article 47 of Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments”.

(17) Section 88B was inserted by section 102 of the Finance Act 1997, and is prospectively repealed by section 132 of, and Part VII of Schedule 19 to, the Finance Act 1990 (c. 29).

(18) 1986 c.53; section 81B was inserted by S.I. 2004/3380.

(19) 1992 c.40.

(20) Section 69A was inserted by S.I. 2005/2211.

(21) Section 69E was inserted by S.I. 2005/2211.

(22) 1993 c.8; section 10(8B) was inserted by S.I. 2001/3649.

(23) 1998 c. 29; the definition of “instrument” in paragraph 6(3) of Schedule 7 was amended by S.I. 2002/1555.

(24) 1998 c.41.

PART 2

AMENDMENTS OF SECONDARY LEGISLATION

Amendment of the Financial Markets and Insolvency (Settlement Finality) Regulations 1999

14. In regulation 2 of the Financial Markets and Insolvency (Settlement Finality) Regulations 1999⁽²⁵⁾—

- (a) in paragraph (b) of the definition of “institution” for “point 2 of Article 1 of Council Directive [93/22/EEC](#) excluding the bodies set out in the list in Article 2(2)(a) to (k)” substitute “Article 4.1.1 of Directive [2004/39/EC](#) of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments, other than a person to whom Article 2 applies”;
- (b) in the definition of “securities” for “B of the Annex to Council Directive [93/22/EEC](#)” substitute “C of Annex I to Directive [2004/39/EC](#) of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments”.

Amendment of the Financial Services and Markets Act 2000 (Prescribed Markets and Qualifying Investments) Order 2001

15. In article 3 of the Financial Services and Markets Act 2000 (Prescribed Markets and Qualifying Investments) Order 2001⁽²⁶⁾, in the definition of “regulated market”, for “Article 1(13) of the investment services directive” substitute “Article 4.1.14 of the markets in financial instruments directive”.

Amendment of the Financial Services and Markets Act 2000 (Consultation with Competent Authorities) Regulations 2001

16. In regulation 7 of the Financial Services and Markets Act 2000 (Consultation with Competent Authorities) Regulations 2001⁽²⁷⁾, in paragraphs (3)(b)(iii) and (4)(b)(iii), for “investment services directive” substitute “markets in financial instruments directive”.

Amendment of the Insurers (Reorganisation and Winding Up) Regulations 2004

17. In regulation 44 of the Insurers (Reorganisation and Winding Up) Regulations 2004⁽²⁸⁾, in paragraph (3), for “Council Directive ([93/22/EEC](#)) of 10th May 1993 in investment services in the securities field” substitute “Article 4.1.14 of Directive [2004/39/EC](#) of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments”.

Amendment of the Credit Institutions (Reorganisation and Winding up) Regulations 2004

18.—(1) The Credit Institutions (Reorganisation and Winding up) Regulations 2004⁽²⁹⁾ are amended as follows.

(2) In regulation 29(2) for “Council Directive of 10th May 1993 on investment services in the securities field (No [93/22/EEC](#))” substitute “Article 4.1.14 of Directive [2004/39/EC](#) of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments”.

⁽²⁵⁾ [S.I. 1999/2979](#).

⁽²⁶⁾ [S.I. 2001/996](#); the definition of “regulated market” was inserted by [S.I. 2005/381](#).

⁽²⁷⁾ [S.I. 2001/2509](#); regulation 7 was inserted by [S.I. 2004/1862](#).

⁽²⁸⁾ [S.I. 2004/353](#).

⁽²⁹⁾ [S.I. 2004/1045](#).

(3) In regulation 31(3) for “Section B of the Annex to the Council Directive of 10th May 1993 on investment services in the securities field (No [93/22/EEC](#))” substitute “Section C of Annex I to Directive [2004/39/EC](#) of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments”.

Amendment of the Financial Conglomerates and Other Financial Groups Regulations 2004

19.—(1) The Financial Conglomerates and Other Financial Groups Regulations 2004(**30**) are amended as follows.

(2) In regulation 1(2), in paragraph (d) of the definition of “regulated entity”, for “Article 1(2) of the investment services directive” substitute “Article 4.1.1 of the markets in financial instruments directive”.

(3) In regulation 7(1), in paragraph (b) of the definition of “investment firm”, for “investment services directive” substitute “markets in financial instruments directive”.

Amendment of the Investment Recommendation (Media) Regulations 2005

20. In regulation 2 of the Investment Recommendation (Media) Regulations 2005(**31**), in the definition of “financial instrument”, for “1(13) of Council Directive [93/22/EEC](#) on investment services in the securities field” substitute “4.1.14 of Directive [2004/39/EC](#) of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments”.

(30) [S.I. 2004/1862](#); the definition of “regulated entity” in regulation 1(2) was amended by [S.I. 2006/3221](#).

(31) [S.I. 2005/382](#).