



## 2002 CHAPTER 13

### **Open-ended investment companies**

- 1.—(1) The Department may by regulations make provision for—
  - (a) facilitating the carrying on of collective investment by means of open-ended investment companies;
  - (b) regulating such companies.
- (2) The regulations may, in particular, make provision—
  - (a) for the incorporation in Northern Ireland of bodies corporate and for their registration by the Authority;
  - (b) for a body incorporated by virtue of the regulations to take such form as may be determined in accordance with the regulations;
  - (c) as to the purposes for which such a body may exist, the investments which it may issue and otherwise as to its constitution;
  - (d) as to the management and operation of such a body and the management of its property;
  - (e) as to the powers, duties, rights and liabilities of such a body and of other persons, including—
    - (i) the directors or sole director of such a body;
    - (ii) its depositary (if any);
    - (iii) its shareholders, and persons who hold the beneficial title to shares in it without holding the legal title;
    - (iv) its auditor; and
    - (v) any persons who act or purport to act on its behalf;
  - (f) as to the merger of one or more such bodies and the division of such a body;
  - (g) for the appointment and removal of an auditor for such a body;

- (h) as to the winding up and dissolution of such a body;
  - (i) for such a body, or any director or depositary of such a body, to be required to comply with directions given by the Authority;
  - (j) enabling the Authority to apply to a court for an order removing and replacing any director or depositary of such a body;
  - (k) for the carrying out of investigations by persons appointed by the Authority or the Department;
  - (l) corresponding to any provision made in relation to unit trust schemes by Chapter III of Part XVII of the Financial Services and Markets Act 2000 (c. 8).
- (3) Regulations under this section may—
- (a) impose criminal liability;
  - (b) confer functions on the Authority and provide that any of the functions so conferred shall be treated, for such purposes as the regulations may specify, as conferred by the Financial Services and Markets Act 2000;
  - (c) in the case of provision made by virtue of subsection (2)(l), authorise the making of rules by the Authority;
  - (d) confer jurisdiction on any court or on the Financial Services and Markets Tribunal;
  - (e) provide for fees to be charged by the Authority in connection with the carrying out of any of its functions under the regulations (including fees payable on a periodical basis);
  - (f) modify, exclude or apply (with or without modifications)—
    - (i) any provision made by or under the Financial Services and Markets Act 2000, or
    - (ii) any other statutory provision;
  - (g) make consequential amendments, repeals and revocations of any such provision;
  - (h) modify or exclude any rule of law.
- (4) The provision that may be made by virtue of subsection (3)(f) includes provision extending or adapting any power to make subordinate legislation.
- (5) Regulations under this section may, in particular—
- (a) revoke the Open-Ended Investment Companies (Investment Companies with Variable Capital) Regulations (Northern Ireland) 1997 (S.R. 1997 No. 251); and
  - (b) provide for things done under or in accordance with those regulations to be treated as if they had been done under or in accordance with regulations under this section.

(6) Regulations made under this section may contain such incidental, supplemental, consequential and transitional provision as the Department considers appropriate.

(7) No regulations shall be made under this section unless a draft of the regulations has been laid before, and approved by a resolution of, the Assembly.

### **Meaning of expressions used in section 1**

2. In section 1—

“the Authority” means the Financial Services Authority;

“the Department” means the Department of Enterprise, Trade and Investment;

“depository”, in relation to a collective investment scheme which is constituted by a body incorporated by virtue of regulations under section 1, means any person to whom the property subject to the scheme is entrusted for safekeeping;

“open-ended investment company” has the meaning given in section 236 of the Financial Services and Markets Act 2000 (c. 8);

“statutory provision” has the meaning given in section 1(f) of the Interpretation Act (Northern Ireland) 1954 (c. 33).

### **Amendment of Article 665 of the Companies (Northern Ireland) Order 1986**

3. In Article 665 of the [Companies \(Northern Ireland\) Order 1986 \(NI 6\)](#) (prohibition on formation of partnerships with more than 20 members unless registered under the Order, etc.), after the words “this Order” there shall be inserted “is incorporated by virtue of regulations made under section 1 of the Open-Ended Investment Companies Act (Northern Ireland) 2002”.

### **Commencement**

4. The preceding provisions of this Act shall come into operation on such day as the Department of Enterprise, Trade and Investment may by order appoint.

### **Short title**

5. This Act may be cited as the Open-Ended Investment Companies Act (Northern Ireland) 2002.