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SCHEDULE

EDINBURGH ASSAY OFFICE

Provisional Order to amend section 16 of the Hallmarking Act 1973 in its application to the Edinburgh Assay Office; to extend the functions of the Office; and for other purposes incidental thereto.

[29-02-1996]

WHEREAS—

- (1) The Edinburgh Assay Office (hereinafter referred to as “the Incorporation”), of which the full name is The Incorporation of Goldsmiths of the City of Edinburgh, has been in existence for more than four hundred years:
- (2) The Hallmarking Act 1973 (hereinafter referred to as “the Act of 1973”) made fresh provision as to assay offices, and their powers and duties:
- (3) Section 16 of the Act of 1973 gave the Secretary of State power to make orders (inter alia) for constituting and conferring powers on assay offices:
- (4) In exercise of that power, the Secretary of State made the Edinburgh Assay Office Order 1979 (hereinafter referred to as “the Order of 1979”), altering the constitution of the Incorporation, conferring further powers upon it, repealing certain enactments affecting it, and making other provisions in relation to it:
- (5) In further exercise of that power, the Secretary of State made the Edinburgh Assay Office (Amendment) Order 1993 (hereinafter referred to as “the Order of 1993”), amending the Order of 1979 and conferring a new power upon the Incorporation:
- (6) The assaying of precious metals is believed to have been the earliest and, for a long time, the only form of consumer protection in the United Kingdom:
- (7) It would be of public advantage if the Incorporation could extend its activities to the independent and objective testing, examination, investigation and evaluation of materials and articles of any kind, and of firms, corporations, systems, programmes and procedures, and to the purchase and sale of metals and other materials:
- (8) For those reasons, and in order that it may respond to changed market conditions resulting from the Single European Market, the Incorporation wishes to have power to carry on, in addition to the business of an assay office, the other activities described in this Order, and to have, in relation to those activities, the ancillary powers so described:
- (9) Doubts have arisen as to the extent to which the making of the Order of 1979 and the Order of 1993 was within the powers conferred upon the Secretary of State by section 16 of the Act of 1973, and it is desirable to set those doubts at rest, and to clarify the position for the future, by means of a retrospective amendment of that section in its application to the Incorporation:
- (10) The purposes aforesaid cannot be effected without an Order confirmed by Parliament under the provisions of the Private Legislation Procedure (Scotland) Act 1936:

Now, therefore, in pursuance of the powers contained in the last-mentioned Act, the Secretary of State orders as follows:—

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Short title

- 1 This Order may be cited as the Edinburgh Assay Office Order 1996.

Interpretation

- 2 In this Order, unless the subject or context otherwise requires—
- “the Act of 1973” means the Hallmarking Act 1973;
 - “the Incorporation” means the Edinburgh Assay Office, of which the full name is The Incorporation of Goldsmiths of the City of Edinburgh;
 - “materials” includes liquids, gases, dusts, wastes and tangible and intangible substances of any kind;
 - “the Order of 1979” means the Edinburgh Assay Office Order 1979; and
 - “the Order of 1993” means the Edinburgh Assay Office (Amendment) Order 1993.

Section 16 of Hallmarking Act 1973

- 3 In its application to the Incorporation, the Act of 1973 shall have effect, and be deemed always to have had effect, as if in section 16 (1) (c)—
- (a) “confer” were omitted;
 - (b) for “under” there were substituted “by”; and
 - (c) there were added at the end thereof—
 - “; or, on such an application, impose new duties or confer new powers on, or make alterations or additions to or omissions from the constitution of, the assay office.”.

Additional activities of Incorporation

- 4 (1) In addition to the functions which it has from time to time as an assay office, the Incorporation shall have power, in any part of the world—
- (a) to undertake the provision of analytical services in relation to materials or articles of any kind, by means of chemical analysis or physical examination or testing or by any other method which is appropriate in the circumstances;
 - (b) to undertake investigation of the properties of materials or articles of any kind, their behaviour or likely behaviour under particular conditions, and their suitability for particular purposes;
 - (c) to undertake the examination of articles of any kind for the purpose of discovering whether and to what extent they comply with standards or other criteria which are published or have been made known to the Incorporation;
 - (d) to undertake the investigation of firms, corporate bodies or other persons, or of systems, documentation, programmes or procedures, for the purpose of discovering whether and to what extent they comply with standards or other criteria which are published or have been made known to the Incorporation;
 - (e) to undertake the valuation, on any basis and for any purpose, of materials or articles of any kind;
 - (f) to undertake the purchase or other acquisition, and the selling or other disposal, of metals or other materials;

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- (g) to undertake any other activities of a kind which the Incorporation may consider similar to, or suitable to be carried on with, the activities mentioned in paragraphs (a) to (f) above;
 - (h) to undertake or instigate, or join in undertaking or instigating, and to meet or contribute towards the cost of, research into, and the provision (including manufacture) and development of, plant, equipment, technology, methodology (including systems, procedures and computer and other programmes) and materials for use in, or in connection with, any of the foregoing activities; and
 - (i) to undertake, or join in undertaking, the marketing of, and the provision of maintenance, advisory, technical or other services in relation to, any plant, equipment, technology, methodology (including systems, procedures and computer and other programmes) and materials or articles of any kind used or capable of use in, or in connection with—
 - (i) any of the activities mentioned in paragraphs (a) to (g) above, or
 - (ii) any of the activities carried on in the course of the business of an assay office.
- (2) The Incorporation may do anything which is calculated to facilitate or is incidental or conducive to the activities mentioned in subsection (1) above and (without prejudice to that generality) shall in particular have power—
- (a) to issue certificates as to the results of any analysis, examination, test or investigation carried out under subsection (1) above;
 - (b) to provide advisory and supervisory services and to provide expert evidence for the purpose of legal or other proceedings;
 - (c) to make members of its staff available to advise on, or participate in, the formulation of standards or criteria of the kind referred to in paragraphs (c) and (d) of subsection (1) above;
 - (d) to register, maintain, protect and enforce in any part of the world intellectual property rights, including patents, trade marks and other marks, and to authorise the use of such intellectual property on such lawful terms and conditions as it sees fit;
 - (e) to promote or establish, or join in promoting or establishing, or to acquire interests in and take part in the management of, bodies corporate or unincorporate in any part of the world, having as their object, or as a main object, the carrying on of any or all of the activities mentioned in subsection (1) above;
 - (f) out of the income or other monies derived from such activities, to remunerate all or any of the members who for the time being constitute the Incorporation for work done or time spent in that capacity in connection with those activities (this power being without prejudice to the power given by article 8 (9) of the Order of 1979, and extended by section 5 (2) (Application of existing enactments) of this Order, to pay any member who may also be the Deacon or another of the wardens for services rendered in his capacity as such); and
 - (g) to receive grants and to accept gifts of money or other property to be used in meeting its expenses in connection with, or in furthering, any or all of such activities.

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Application of existing enactments

- 5 (1) In this section references to the Incorporation's other activities are references to the additional activities authorised by section 4 (Additional activities of Incorporation) of this Order or other the activities which the Incorporation is for the time being authorised to undertake in addition to its business of an assay office.
- (2) Subject to the provisions of subsections (3) and (4) below, all the provisions of the Order of 1979 and the Order of 1993, and of any other enactments which relate to the Incorporation and to its business of an assay office, shall apply equally (so far as they are capable of doing so) to and in relation to its other activities, and to and in relation to the Incorporation in so far as its undertaking includes them (but, save as respects the reference in article 9(3) of the Order of 1979, specific references to articles brought to be assayed shall not extend to articles received by the Incorporation in the course of its other activities).
- (3) The Incorporation shall keep accounts in respect of its other activities separate from the accounts kept in respect of its business of an assay office and (notwithstanding the provisions of paragraph (8) thereof) article 12 of the Order of 1979 shall apply in relation to the former accounts as it applies in relation to the latter, except that paragraph (5) of that Order shall not apply to the accounts kept in respect of the Incorporation's other activities; but references in this subsection to accounts do not include balance sheets and nothing in this subsection shall prevent the Incorporation from preparing a single balance sheet in respect of the whole of its undertaking.
- (4) In so far as the business of the Incorporation consists of its other activities, the words in article 19 of the Order of 1979, "if so authorised by the British Hallmarking Council", shall not apply.
- (5) Notwithstanding section 22 (2) of the Act of 1973, an order under section 16 (1) (c) of that Act in relation to the Incorporation shall, except so far as it provides otherwise or the contrary otherwise appears, apply in relation to its other activities as well as to its business of an assay office; and such an order may consist of or include provisions which apply only to the Incorporation's other activities.