



# Financial Services Act 1986

## 1986 CHAPTER 60

### PART IX

#### RECIPROCITY

#### **183 Reciprocal facilities for financial business**

- (1) If it appears to the Secretary of State or the Treasury that by reason of—
  - (a) the law of any country outside the United Kingdom ; or
  - (b) any action taken by or the practices of the government or any other authority or body in that country,  
persons connected with the United Kingdom are unable to carry on investment, insurance or banking business in, or in relation to, that country on terms as favourable as those on which persons connected with that country are able to carry on any such business in, or in relation to, the United Kingdom, the Secretary of State or, as the case may be, the Treasury may serve a notice under this subsection on any person connected with that country who is carrying on or appears to them to intend to carry on any such business in, or in relation to, the United Kingdom.
- (2) No notice shall be served under subsection (1) above unless the Secretary of State or, as the case may be, the Treasury consider it in the national interest to serve it; and before doing so the Secretary of State or, as the case may be, the Treasury shall so far as they consider expedient consult such body or bodies as appear to them to represent the interests of persons likely to be affected.
- (3) A notice under subsection (1) above shall state the grounds on which it is given (identifying the country in relation to which those grounds are considered to exist); and any such notice shall come into force on such date as may be specified in it.
- (4) For the purposes of this section a person is connected with a country if it appears to the Secretary of State or, as the case may be, the Treasury—
  - (a) in the case of an individual, that he is a national of or resident in that country or carries on investment, insurance or banking business from a principal place of business there;

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*Status: This is the original version (as it was originally enacted).*

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- (b) in the case of a body corporate, that it is incorporated or has a principal place of business in that country or is controlled by a person or persons connected with that country;
  - (c) in the case of a partnership, that it has a principal place of business in that country or that any partner is connected with that country;
  - (d) in the case of an unincorporated association which is not a partnership, that it is formed under the law of that country, has a principal place of business there or is controlled by a person or persons connected with that country.
- (5) In this section " country " includes any territory or part of a country or territory ; and where it appears to the Secretary of State or, as the case may be, the Treasury that there are such grounds as are mentioned in subsection (1) above in the case of any part of a country or territory their powers under that subsection shall also be exercisable in respect of any person who is connected with that country or territory or any other part of it.

#### **184 Investment and insurance business**

- (1) A notice under section 183 above relating to the carrying on of investment business or insurance business shall be served by the Secretary of State and such a notice may be a disqualification notice, a restriction notice or a partial restriction notice and may relate to the carrying on of business of both kinds.
- (2) A disqualification notice as respects investment business or insurance business shall have the effect of—
- (a) cancelling any authorisation of the person concerned to carry on that business after the expiry of such period after the service of the notice as may be specified in it;
  - (b) disqualifying him from becoming authorised to carry on that business after the expiry of that period; and
  - (c) restricting any authorisation of the person concerned in respect of that business during that period to the performance of contracts entered into before the notice comes into force;
- and the period specified in such a notice shall be such period as appears to the Secretary of State to be reasonable to enable the person on whom it is served to complete the performance of those contracts and to terminate such of them as are of a continuing nature.
- (3) A restriction notice as respects investment business or insurance business shall have the effect of restricting any authorisation of the person concerned in respect of that business to the performance of contracts entered into before the notice comes into force.
- (4) A partial restriction notice as respects investment business may prohibit the person concerned from—
- (a) entering into transactions of any specified kind or entering into them except in specified circumstances or to a specified extent;
  - (b) soliciting business from persons of a specified kind or otherwise than from such persons ;
  - (c) carrying on business in a specified manner or otherwise than in a specified manner.

- (5) A partial restriction notice as respects insurance business may direct that the person concerned shall cease to be authorised under section 3 or 4 of the Insurance Companies Act 1982 to effect contracts of insurance of any description specified in the notice.
- (6) If it appears to the Secretary of State that a person on whom he serves a notice under section 183 above as respects investment business is an authorised person by virtue of an authorisation granted by a designated agency or by virtue of membership of a recognised self-regulating organisation or certification by a recognised professional body he shall serve a copy of the notice on that agency, organisation or body.
- (7) If it appears to the Secretary of State—
  - (a) that any person on whom a partial restriction notice has been served by him has contravened any provision of that notice or, in the case of a notice under subsection (5) above, effected a contract of insurance of a description specified in the notice; and
  - (b) that any such grounds as are mentioned in subsection (1) of section 183 above still exist in the case of the country concerned,he may serve a disqualification notice or a restriction notice on him under that section.
- (8) Sections 28, 33, 60, 61 and 62 above shall have effect in relation to a contravention of such a notice as is mentioned in subsection (4) above as they have effect in relation to any such contravention as is mentioned in those sections.

## **185 Banking business**

- (1) A notice under section 183 above relating to the carrying on of a deposit-taking business as a recognised bank or licensed institution within the meaning of the Banking Act 1979 shall be served by the Treasury and may be either a disqualification notice or a partial restriction notice.
- (2) A disqualification notice relating to such business shall have the effect of—
  - (a) cancelling any recognition or licence granted to the person concerned under the Banking Act 1979 ; and
  - (b) disqualifying him from becoming a recognised bank or licensed institution within the meaning of that Act
- (3) A partial restriction notice relating to such business may—
  - (a) prohibit the person concerned from dealing with or disposing of his assets in any manner specified in the direction;
  - (b) impose limitations on the acceptance by him of deposits ;
  - (c) prohibit him from soliciting deposits either generally or from persons who are not already depositors;
  - (d) prohibit him from entering into any other transaction or class of transactions;
  - (e) require him to take certain steps, to pursue or refrain from pursuing a particular course of activities or to restrict the scope of his business in a particular way.
- (4) The Treasury shall serve on the Bank of England a copy of any notice served by them under section 183 above.
- (5) Any person who contravenes any provision of a partial restriction notice served on him by the Treasury under this section shall be guilty of an offence and liable—
  - (a) on conviction on indictment, to a fine ;

- (b) on summary conviction, to a fine not exceeding the statutory maximum.
- (6) Any such contravention shall be actionable at the suit of a person who suffers loss as a result of the contravention subject to the defences and other incidents applying to actions for breach of statutory duty, but no such contravention shall invalidate any transaction.
- (7) At the end of subsection (1) of section 8 of the Banking Act 1979 (power to give directions in connection with termination of deposit-taking authority) there shall be inserted—
  - “(d) at any time after a disqualification notice has been served on the institution by the Treasury under section 183 of the Financial Services Act 1986.”.

## **186 Variation and revocation of notices**

- (1) The Secretary of State or the Treasury may vary a partial restriction notice served under section 183 above by a notice in writing served on the person concerned ; and any such notice shall come into force on such date as is specified in the notice.
- (2) A notice under section 183 above may be revoked at any time by the Secretary of State or, as the case may be, the Treasury by serving a revocation notice on the person concerned; and the Secretary of State or, as the case may be, the Treasury shall revoke a notice if it appears to them that there are no longer any such grounds as are mentioned in subsection (1) of that section in the case of the country concerned.
- (3) The revocation of a disqualification notice as respects investment business or insurance business shall not have the effect of reviving the authorisation which was cancelled by the notice except where the notice relates to investment business and the person concerned would (apart from the disqualification notice) at the time of the revocation be an authorised person as respects the investment business in question by virtue of his membership of a recognised self-regulating organisation or certification by a recognised professional body.
- (4) The revocation of a disqualification notice as respects banking business shall not have the effect of reviving the recognition or licence which was cancelled by the notice.
- (5) Nothing in subsection (3) or (4) above shall be construed as preventing any person who has been subject to a disqualification notice as respects any business from again becoming authorised or, as the case may be, becoming a recognised bank or licensed institution within the meaning of the Banking Act 1979 after the revocation of the notice.
- (6) If it appears to the Secretary of State that a person on whom he serves a notice under this section as respects investment business was an authorised person by virtue of an authorisation granted by a designated agency or by virtue of membership of a recognised self-regulating organisation or certification by a recognised professional body at the time that the notice which is being varied or revoked was served, he shall serve a copy of the notice on that agency, organisation or body.
- (7) The Treasury shall serve on the Bank of England a copy of any notice served by them under this section.