



# Companies Act 1989

## 1989 CHAPTER 40

### PART III

#### INVESTIGATIONS AND POWERS TO OBTAIN INFORMATION

##### *Amendments of the Financial Services Act 1986*

#### **72 Investigations into collective investment schemes**

(1) Section 94 of the Financial Services Act 1986 (investigations into collective investment schemes) is amended as follows.

(2) For subsection (7) (privilege on grounds of banker's duty of confidentiality) substitute—

“(7) Nothing in this section requires a person (except as mentioned in subsection (7A) below) to disclose any information or produce any document in respect of which he owes an obligation of confidence by virtue of carrying on the business of banking unless—

- (a) the person to whom the obligation of confidence is owed consents to the disclosure or production, or
- (b) the making of the requirement was authorised by the Secretary of State.

(7A) Subsection (7) does not apply where the person owing the obligation of confidence or the person to whom it is owed is—

- (a) the manager, operator or trustee of the scheme under investigation, or
- (b) a manager, operator or trustee whose own affairs are under investigation.”.

(3) After subsection (8) (duty of inspectors to report) insert—

“(8A) If it appears to the Secretary of State that matters have come to light in the course of the inspectors' investigation which suggest that a criminal offence has been committed, and those matters have been referred to the appropriate

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*Status: This is the original version (as it was originally enacted).*

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prosecuting authority, he may direct the inspectors to take no further steps in the investigation or to take only such further steps as are specified in the direction.

(8B) Where an investigation is the subject of a direction under subsection (8A), the inspectors shall make a final report to the Secretary of State only where the Secretary of State directs them to do so.”.

(4) After subsection (9) add—

“(10) A person who is convicted on a prosecution instituted as a result of an investigation under this section may in the same proceedings be ordered to pay the expenses of the investigation to such extent as may be specified in the order.

There shall be treated as expenses of the investigation, in particular, such reasonable sums as the Secretary of State may determine in respect of general staff costs and overheads.”.