
STATUTORY INSTRUMENTS

1986 No. 2246 (C.88)

FINANCIAL SERVICES

**The Financial Services Act 1986 (Commencement No. 3)
Order 1986**

Made - - - 17th December 1986

The Secretary of State, in exercise of his powers under section 211(1) of the Financial Services Act 1986(a), hereby makes the following Order:—

1. This Order may be cited as the Financial Services Act 1986 (Commencement No. 3) Order 1986.
2. The provisions of the Financial Services Act 1986 specified in Schedule 1 hereto shall come into force on 18th December 1986.
3. The provisions of the Financial Services Act 1986 specified in Schedule 2 hereto shall come into force on 12th January 1987.
4. The provisions of the Financial Services Act 1986 specified in Schedule 3 hereto shall come into force on 30th April 1987.
5. The provisions of Part IV of the Financial Services Act 1986, other than section 154(2), (3) and (4), and the provisions specified in Schedule 4 hereto shall come into force:
 - (a) on 12th January 1987 for all purposes relating to the admission of securities offered by or on behalf of a Minister of the Crown or a body corporate controlled by a Minister of the Crown or a subsidiary of such a body corporate to the Official List in respect of which an application is made after that date;
 - (b) on 16th February 1987 for purposes relating to the admission of securities in respect of which an application is made after that date other than those referred to in the preceding paragraph and otherwise for all purposes.

Michael Howard,
Parliamentary Under-Secretary of State,
Department of Trade and Industry.

17th December 1986.

(a) 1986 c.60.

Article 2

SCHEDULE 1

PROVISIONS COMING INTO FORCE ON 18TH DECEMBER 1986

Provisions of the Act	Subject matter of provisions
Section 1 and Schedule 1 except paragraphs 23 and 25(2) and (3) of that Schedule	Investments and investment business except dealings in the course of non-investment business and certification of periodical publications.
Section 2	Power to extend or restrict scope of the Act.
Sections 35, 42 and 45 insofar as they are relevant for the purposes of section 105	Certain exemptions.
Section 105	Investigation powers.
Section 106	Exercise of investigation powers by officer etc.
Section 174(1) and (2)	Market makers, off market dealers etc (insider dealing).
Section 179 insofar as not already in force	Restrictions on disclosure of information.
Section 182 and Schedule 13 insofar as not already in force	Disclosure of information under enactments relating to fair trading, banking insurance and companies.
Section 198(1)(b) and (2)(b)	Disqualification of director after investigation.
Section 200(1)(b) and (5) insofar as it relates to a requirement imposed by or under section 105	False and misleading statements.
Sections 201(1), 202 and 203 insofar as not already in force	Prosecution, offences and jurisdiction.
Sections 205, 207, 209 and 210 insofar as not already in force	Miscellaneous and supplemental.

Article 3

SCHEDULE 2

PROVISIONS COMING INTO FORCE ON 12TH JANUARY 1987

Provisions of the Act	Subject matter of provisions
Section 5 insofar as is necessary in order to identify agreements to which section 5(1) applies for the purposes of section 132 insofar as that section has been brought into force by this Order	Agreements made by or through unauthorised persons.
Section 114 and Schedules 7 and 8	Power to transfer functions to designated agency, qualifications of agency and principles applicable to agency's rules.
Section 115	Resumption of transferred functions.
Section 116 and Schedule 9	Status of designated agency and exercise of transferred functions.

Provisions of the Act	Subject matter of provisions
Section 117	Reports and accounts.
Section 118	Transitional and supplementary provisions.
Section 121	Designated agencies (prevention of restrictive trade practices).
Section 122 insofar as it is relevant for the purposes of section 121	Reports by Director General of Fair Trading.
Section 123 insofar as it is relevant for the purposes of any provisions brought into force by this Order	Investigations by Director General of Fair Trading.
Section 124	The Fair Trading Act 1973(a) (consequential exemption from competition law).
Section 126	The Competition Act 1980(b) (consequential exemption from competition law).
Section 128	Supplementary provisions (prevention of restrictive trade practices).
Section 129 insofar as is necessary to bring into force paragraphs 1, 3(3), 4(6), 8(6) and 10 of Schedule 10 and those paragraphs of that Schedule	Application of investment business provisions to regulated insurance companies (transfer of Secretary of State's functions).
Section 132(1) to (5)	Insurance contracts effected in contravention of Section 2 of the Insurance Companies Act 1982(c).
First part of section 132(6) (which provides that a contravention of section 2 of the Insurance Companies Act 1982 shall not make a contract of insurance illegal or invalid to any greater extent than is provided in section 132) for the purposes of any contract of insurance which is not an agreement to which section 5(1) of the Financial Services Act 1986 applies.	
Second part of section 132(6) (which provides that a contravention of section 2 of the Insurance Companies Act 1982 in respect of a contract of insurance shall not affect the validity of any re-insurance contract entered into in respect of that contract) for the purposes of any re-insurance contract entered into in respect of a contract of insurance which is not an agreement to which section 5(1) of the Financial Services Act 1986 applies.	
Section 134, for the purpose of a person who on 12th January 1987 is not entitled (either alone or with any associate or associates) to exercise, or control the exercise of, 15% or more of the voting power at any general meeting of an applicant under section 3 of the Insurance	Controllers of insurance companies.

(a) 1973 c.41.

(b) 1980 c.21.

(c) 1982 c.50.

Provisions of the Act	Subject matter of provisions
Companies Act 1982 or of an insurance company in relation to which applicant or insurance company the question of who is its controller under that Act arises, or of a body corporate of which such an applicant or such an insurance company is a subsidiary. In this paragraph, "associate" has the meaning given in section 7(8) of the Insurance Companies Act 1982 and "body corporate" and "subsidiary" have the meanings which they have for the purposes of section 7(4)(c)(ii) of that Act as set out in section 96(1) of that Act.	
Section 137	Regulations in respect of linked long term policies.
Section 138(3) and (5)	Insurance brokers.
Section 139(1)(b)	Industrial assurance.
Section 139(5) insofar as is necessary to bring into effect the substitution for the reference to section 5 of the Industrial Assurance Act 1923(a) of a reference to article 20 of the Industrial Assurance (Northern Ireland) Order 1979(b).	
Section 140 insofar as is necessary to bring into force Parts I and IV, and paragraphs 40, 41, 44 and 45, Schedule 11 and those Parts and those paragraphs of that Schedule.	Friendly societies (transfer of Registrar's functions).
Section 141	Indemnity schemes for friendly societies.
Section 173	Information obtained in official capacity, public bodies etc (insider dealing).
Section 176	Contracts for differences by reference to securities (insider dealing).
Section 178(10)	Transferability of functions under section 178.
Section 181	Directions restricting disclosure of information overseas.
Section 187(3) and (4)	Exemption from liability for damages (designated agency, transferee body and competent authority).
Section 188	Jurisdiction as respects actions concerning designated agency etc.
Section 189 and Schedule 14 insofar as those provisions, that section and that Schedule make provision as to application of:	Restriction of Rehabilitation of Offenders Act 1974 for the purposes of Part IV of the Financial Services Act 1986.

(a) 1923 c.8.

(b) 1979/1574 (N.I. 13).

Provisions of the Act	Subject matter of provisions
<p>(a) section 4(1) of the Rehabilitation of Offenders Act 1974(a) in relation to the determination of proceedings of the kind described in paragraph 4 of Part I of that Schedule;</p> <p>(b) section 4(2) of the Rehabilitation of Offenders Act 1974 to a question put by or on behalf of a person specified in paragraph 5 of the first column of Part II of that Schedule; and</p> <p>(c) section 4(3)(b) of the Rehabilitation of Offenders Act 1974 to action taken by the competent authority or by a person specified in paragraph 3 in the first column of Part III of that Schedule</p>	
<p>Section 192 Section 199(7)</p>	<p>International obligations. Ability of Secretary of State to transfer functions under section 199 (powers of entry) and to make transfer subject to reservation, conditions and restrictions. False and misleading statements.</p>
<p>Section 200(1)(b) and (5) insofar as it relates to a requirement imposed by or under any provision brought into force by Article 3 of this Order Section 201(4)</p>	<p>Ability of Secretary of State to transfer functions under section 201 (Prosecutions) necessity for transfer to be subject to reservation and ability to impose conditions and restrictions on transfer. Service of notices. Transitional provisions (delegation orders).</p>
<p>Section 204 Section 211(3) insofar as is necessary to bring into force paragraph 12 of Schedule 15 and that paragraph of that Schedule Section 212(2) and paragraphs 17, 28(a) and (b) and 32 of Schedule 16 insofar as they provide for the amendment of the following provisions:</p> <p>(a) section 163(2)(a) of the Companies Act 1985(b);</p> <p>(b) section 16 of the Company Securities (Insider Dealing) Act 1985(c);</p> <p>(c) article 173(2)(a) of the Companies (Northern Ireland) Order 1986(d).</p>	<p>Consequential amendments.</p>
<p>Section 212(3) and Schedule 17 insofar as they provide for the repeal of, or of words in, the following provisions:</p> <p>(a) paragraph 9 of Schedule 1 to the Banking Act 1979(e)</p> <p>(b) section 3(1) of the Company Securities (Insider Dealing) Act 1985.</p>	<p>Repeals.</p>

(a) 1974 c.53.

(d) 1986/1032 (N.I. 6).

(b) 1985 c.6.

(e) 1979 c.37.

(c) 1985 c.8.

Article 4

SCHEDULE 3

PROVISIONS COMING INTO FORCE ON 30TH APRIL 1987

Provisions of the Act	Subject matter of provisions
Section 172	Takeover offers.
Section 212(2) and Schedule 16 insofar as they provide for the amendment of the following provisions: (a) section 3(5) of the Aircraft and Shipbuilding Industries Act 1977(a) (b) paragraph 10(1)(c) of Part II of Schedule 10 to the Finance Act 1980(b)	Consequential amendments.
Section 212(3) and Schedule 17 insofar as they provide for the repeal of, or of words in, the following provisions: (a) paragraph 19 of Schedule 1 to the Industry Act 1975(c); (b) paragraph 19 of Schedule 1 to the Scottish Development Agency Act 1975(d); (c) paragraph 22 of Schedule 1 to the Welsh Development Agency Act 1975(e); (d) section 3(5) of the Aircraft and Shipbuilding Industries Act 1977.	Repeals.
Schedule 12	Takeover offers; provisions substituted for sections 428, 429 and 430 of Companies Act 1985.

Article 5

SCHEDULE 4

PROVISIONS COMING INTO FORCE ON 12TH JANUARY 1987 FOR THE PURPOSES SPECIFIED IN ARTICLE 5(a) AND ON 16TH FEBRUARY 1987 FOR ALL OTHER PURPOSES

Provisions	Subject matter of provisions
Section 212(3) and Schedule 17 insofar as they provide for the repeal of, or of words in, the following provisions: (a) the Stock Exchange (Listing) Regulations 1984(f); (b) Part III, sections 81 to 87, 97, 693 and 709 of, and Schedules 3, 22 and 24 to, the Companies Act 1985 and the corresponding provisions of the Companies (Northern Ireland) Order 1986 to the extent to which they would apply in relation to any investment which is listed or the subject of an application for listing in accordance with Part IV of the Act.	Repeals.

(a) 1977 c.3. (b) 1980 c.48. (c) 1975 c.68.
(d) 1975 c.69. (e) 1975 c.70. (f) S.I. 1984/716.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order brings into force on 18th December 1986 those provisions of the Financial Services Act 1986 which enable the Secretary of State to investigate the affairs of a person who is or was or who appears to him to be or to have been carrying on investment business and certain ancillary provisions. It also brings into force on the same date those provisions of the Act not yet in force concerning disclosure of information obtained under certain other enactments and certain provisions concerning action which may be taken by a market maker in possession of unpublished price sensitive information.

The Order also brings certain provisions of the Act into force on 12th January 1987. In addition to the provisions of Part IV of the Act mentioned in the next paragraph, the provisions in question are:—

- (a) the provisions necessary to enable the Secretary of State, the Chief Registrar of friendly societies and the Registrar of Friendly Societies for Northern Ireland to transfer functions under the Act;
- (b) for certain purposes, those provisions of the Act which set out the consequences of entering into insurance contracts in the course of carrying on unauthorised insurance business or which amend the definition of a controller of an insurance company;
- (c) provision enabling the Secretary of State to make further regulations in respect of linked long term insurance policies;
- (d) an amendment relating to industrial assurance contracts and amendments to the Insurance Brokers (Registration) Act 1977 (c.46) relating to the making of professional indemnity rules and co-operation with other bodies;
- (e) provision enabling registered friendly societies to participate in approved indemnity schemes;
- (f) provisions extending section 2 of the Company Securities (Insider Dealing) Act 1985 (abuse of information obtained by Crown Servant in official capacity) to certain other persons who exercise public functions and section 13 of that Act to dealings in contracts for differences by reference to securities; and
- (g) certain related transitional and ancillary provisions and certain consequential amendments and repeals.

The Order also brings into force on 12th January 1987 most of the provisions of Part IV of the Financial Services Act 1986 which relate to the Official Listing of securities for the purposes of the admission to the Official List of securities offered by or on behalf of a Minister of the Crown or a body corporate controlled by a Minister of the Crown or a subsidiary of such a body corporate. The same provisions are brought into force for all remaining purposes on 16th February 1987.

The Order brings the provisions of section 172 of, and Schedule 12 to, the Act and certain consequential amendments and repeals into force on 30th April 1987. These provisions have effect in place of the provisions of sections 428, 429 and 430 of the Companies Act 1985.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This Note is not part of the Order.)

The following provisions of the Financial Services Act 1986 have been brought into force by commencement orders made before the date of this Order:—

<i>Provision</i>	<i>Dated of Commencement</i>	<i>S.I. No.</i>
s.177	15.10.86	1986/1940
ss.178 and 179 (partially)	15.10.86	1986/1940
s.180	15.10.86	1986/1940
s.182 (partially)	15.10.86 27.10.86	1986/1940 1986/2031
ss.198 to 203 (partially)	15.10.86	1986/1940
ss.205, 207, 209, and 210 (partially)	15.10.86	1986/1940
ss.211 and 212 (partially)	27.10.86	1986/2031
Schedule 13 (partially)	15.10.86 27.10.86	1986/1940 1986/2031
Schedules 15 and 17 (partially)	27.10.86	1986/2031

The word (“partially”) is used where the provision has been brought into force in part, or for a limited purpose or for a limited area.

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