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STATUTORY INSTRUMENTS

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**2001 No. 3629**

The Financial Services and Markets Act 2000  
(Consequential Amendments) (Taxes) Order 2001

PART 2

AMENDMENTS TO PRIMARY LEGISLATION

*The Income and Corporation Taxes Act 1988 (c. 1)*

**Introduction**

**13.** Amend the Income and Corporation Taxes Act 1988 in accordance with Articles 14 to 52.

**Transfers of insurance business**

**14.**—(1) Amend section 12 (basis of, and periods for, assessment)(1), as follows.

(2) In subsection (7A) for the words from “there” to “1982” substitute “an insurance business transfer scheme has effect to transfer from a company to another person business which consists of the effecting or carrying out of contracts of long-term insurance”.

(3) After subsection (7A) insert—

“(7B) In subsection (7A) above—

“contracts of long-term insurance” means contracts which fall within Part II of Schedule 1 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001; and

“insurance business transfer scheme” means a scheme falling within section 105 of the Financial Services and Markets Act 2000 and—

- (a) includes an excluded scheme falling within Case 2, 3 or 4 of subsection (3) of that section, but
- (b) does not include a scheme for the transfer of business carried on by one or members or former underwriting members of Lloyd's.”.

(4) This Article has effect in relation to any transfer under a scheme falling within section 105 of the Financial Services and Markets Act 2000, including an excluded scheme falling within Case 2, 3 or 4 of subsection (3) of that section.

**Insurance business: application of sections 43A to 43E of the Taxes Act**

**15.**—(1) In section 43F(1) (insurance business)(2) for “Part II of the Insurance Companies Act 1982(3)” substitute “Chapter 9 of the Prudential Sourcebook (Insurers)”.

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(1) Section 12 was relevantly amended by paragraph 3 of Schedule 9 to the Finance Act 1990 and paragraph 1(1) and (2)(a) of Schedule 9 to the Finance Act 1995.

(2) Section 43F was inserted, together with sections 43A to 43E and 43G, by section 110 of the Finance Act 2000 (c. 17).

(2) This Article has effect in relation to periods of account ending on or after 1st December 2001.

### **Tax treatment of levies and repayments**

16.—(1) Omit section 76(7) and (7A) (expenses of management: insurance companies)(4).

(2) Amend section 76A (levies and repayments under the Financial Services and Markets Act 2000)(5) in accordance with paragraphs (3) to (5) below.

(3) For subsection (2) substitute—

“(2) “Levy” means—

- (a) a payment required under rules made under section 136(2) of the Financial Services and Markets Act 2000 (“the Act of 2000”);
- (b) a levy imposed under the Financial Services Compensation Scheme;
- (c) a payment required under rules made under section 234 of the Act of 2000;
- (d) a payment required under scheme rules in accordance with paragraph 15(1) of Schedule 17 to the Act of 2000;
- (e) a payment required in accordance with the standard terms fixed under paragraph 18 of Schedule 17 to the Act of 2000 other than an award which is not an award of costs under cost rules.”.

(4) For subsection (3) substitute—

“(3) “Repayment provision” means—

- (a) any provision made by virtue of section 136(7) or 214(1)(e) of the Act of 2000;
- (b) any provision by scheme rules for fees to be refunded in specified circumstances.”.

(5) After subsection (4) add—

“(5) “Scheme rules” means the rules referred to in paragraph 14(1) of Schedule 17 to the Act of 2000.

(6) “Costs rules” means—

- (a) rules made under section 230 of the Act of 2000;
- (b) provision relating to costs contained in the standard terms fixed under paragraph 18 of Schedule 17 to the Act of 2000.”.

(6) Amend section 76B (levies and repayments under the Financial Services and Markets Act 2000: investment companies) in accordance with paragraphs (7) and (8) below.

(7) In subsection (3) for “76(7A)” substitute “76A(2)”.

(8) For subsection (4) substitute—

“(4) “Costs rules” has the meaning given in section 76A(6).”.

### **PAYE: readily convertible assets**

17.—(1) Amend section 203F (PAYE: readily convertible assets)(6) as follows.

(2) In subsection (2)(a) for “of the Financial Services Act 1986” substitute “given by section 285(1)(a) of the Financial Services and Markets Act 2000”.

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(3) 1982 c. 50.

(4) Section 76(7) and (7A) was substituted by section 411(1) of the Financial Services and Markets Act 2000.

(5) Section 76A was inserted, together with section 76B, by section 411(2) of the Financial Services and Markets Act 2000.

(6) Section 203F was inserted by section 127 of the Finance Act 1994 (c. 9) and was relevantly amended by section 65(4) of the Finance Act 1998.

(3) In subsection (5) for the words from “right” to the end substitute “investment of a kind specified in Part III of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001.”.

### **Relief on life assurance premiums**

**18.**—(1) Amend section 266 (relief on life assurance premiums)(7) as follows.

(2) In subsection (2)(a) for sub-paragraphs (i) to (iii) substitute—

- “(i) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 or under paragraph 15 of Schedule 3 to that Act (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) to effect or carry out contracts of long-term insurance; or
- (ii) a member of the Society who effects or carries out contracts of long-term insurance in accordance with Part 19 of the Financial Services and Markets Act 2000;”.

(3) After subsection (13) add—

“(14) In subsection (2)(a)—

“contracts of long-term insurance” means contracts which fall within Part II of Schedule 1 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001; and

“member of the society” has the same meaning as in Lloyd’s Act 1982(8).”.

### **Interest under contractual savings schemes**

**19.**—(1) Amend section 326 (interest etc. under contractual savings schemes)(9) as follows.

(2) In subsections (1)(c), (2), (4) and (6)(a) for “an institution authorised under the Banking Act 1987” substitute “a person falling within section 840A(1)(b)(10)”.

(3) In subsections (7)(a) and (8)(a) after “society” insert “, person”.

### **Tax-exempt special savings accounts**

**20.**—(1) Amend section 326A (tax-exempt special savings accounts)(11) in accordance with paragraphs (2) to (5) below.

(2) In subsection (4) for the words “an institution authorised under the Banking Act 1987” substitute “a person falling within section 840A(1)(b)”.

(3) In subsection (5) after “society” insert “, person”.

(4) In subsection (9) after “society” insert “, person”.

(5) For subsection (10) substitute—

“(10) In this section “relevant European institution” means an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to the Financial Services and Markets Act 2000 which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to accept deposits.”

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(7) Section 266 was relevantly amended by paragraph 2(3) of Schedule 9 to the Finance (No. 2) Act 1992 (c. 48).

(8) 1982 c. xiv.

(9) Section 326 was relevantly amended by section 29 of, and paragraph 5 of Schedule 14 to, the Finance Act 1990 and paragraphs 2, 3, 4 and 5 of Schedule 12 to the Finance Act 1995.

(10) Section 840A was inserted by paragraph 1(1) of Schedule 37 to the Finance Act 1996 and subsection (1)(b) of that section is relevantly amended by Article 46 of this Order.

(11) Section 326A was inserted, together with sections 326B and 326C, by section 28(1) of the Finance Act 1990 and relevantly amended by section 63(2) and (3) of the Finance Act 1995.

(6) In section 326B(3) (loss of exemption for special savings accounts) after “society” insert “, person”.

(7) In section 326C(1) (power of Board to make supplementary regulations in relation to tax-exempt special savings accounts)(12)—

- (a) in paragraphs (b), (c) and (cd) after “and other” insert “persons and”;
- (b) in paragraphs (cc) and (d) after “building society” insert “, person”.

### **Personal equity plans: tax representatives**

**21.**—(1) Amend section 333A (personal equity plans: tax representatives)(13) as follows.

(2) In subsection (11) for paragraph (a) substitute—

- “(a) “European institution” means an EEA firm of the kind mentioned in paragraph 5(a), (b) or (c) of Schedule 3 to the Financial Services and Markets Act 2000 which is an authorised person for the purposes of that Act as a result of qualifying for authorisation under paragraph 12 of that Schedule;”.

(3) In subsection (12) for the words from “a person” to the end substitute “ a firm which is an authorised person for the purposes of the Financial Services and Markets Act 2000 as a result of qualifying for authorisation under paragraph 2 of Schedule 4 to that Act.”.

### **Involvement of insurance companies with plans and accounts**

**22.** In section 333B(9) (involvement of insurance companies with plans and accounts)(14) for the definition of “insurance company” substitute—

““insurance company” means an undertaking carrying on the business of effecting or carrying out contracts of insurance and, for the purposes of this definition, “contract of insurance” has the meaning given by Article 3(1) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001;”.

### **Mortgage interest relief: qualifying lenders**

**23.**—(1) Amend section 376 (qualifying borrowers and qualifying lenders)(15) as follows.

(2) In subsection (4)—

(a) for paragraph (e) substitute—

“(e) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of long-term insurance;”;

(b) omit paragraph (g);

(c) for paragraph (p) substitute—

“(p) any body which is for the time being registered under section 376A.”.

(3) Omit subsection (4A).

### **Mortgage interest relief: register of qualifying lenders**

**24.** In section 376A (the register of qualifying lenders)(16) after subsection (1) insert—

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(12) Section 326C was relevantly amended by section 62(3) of the Finance Act 1995.

(13) Section 333A was inserted by section 64(1) of the Finance Act 1995.

(14) Section 333B was inserted by section 77 of the Finance Act 1998.

(15) Section 376 was relevantly amended by paragraph 3 of Schedule 9 to the Finance (No. 2) Act 1992 and section 142 (1)(a) of the Finance Act 1994.

(16) Section 376A was inserted by section 142(2) of the Finance Act 1994.

- “(1A) The following are entitled to be registered—
- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000—
    - (i) to accept deposits; or
    - (ii) to effect or carry out contracts of general insurance;
  - (b) a 90 per cent subsidiary of a person mentioned in—
    - (i) section 376(4)(e); or
    - (ii) paragraph (a) above;
  - (c) any other body whose activities and objects appear to the Board to qualify it for registration.”.

### **Mortgage interest relief: interpretation**

**25.** In section 379 (interpretation of sections 369 to 378) before the definition of “prescribed” insert—

““contracts of general insurance” means contracts which fall within Part I of Schedule 1 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 and “contracts of long-term insurance” means contracts which fall within Part II of that Schedule;”.

### **Interpretative provisions relating to insurance companies**

**26.—**(1) Amend section 431(2) (interpretative provisions relating to insurance companies)(17) as follows.

(2) After the definition of “closing liabilities” insert—

““contract of insurance” has the meaning given by Article 3(1) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 and “contract of long-term insurance” means any contract which falls within Part II of Schedule 1 to that Order;”.

(3) For the definition of “insurance company” substitute—

““insurance business transfer scheme” means a scheme falling within section 105 of the Financial Services and Markets Act 2000, including an excluded scheme falling within Case 2, 3 or 4 of subsection (3) of that section;

“insurance company” means—

- (a) a person (other than a friendly society) who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of insurance, or
- (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act or a firm qualifying for authorisation under Schedule 4 to that Act which—
  - (i) carries on business which consists of the effecting or carrying out of contracts of insurance, and
  - (ii) carries on that business through a branch or agency in the United Kingdom;”.

(4) In the definition of “liabilities” for the words from “liabilities of” to the end substitute “long-term liabilities of the company determined for the purposes of the company’s periodical return on actuarial principles in accordance with section 5.6 of the Prudential Sourcebook (Insurers) (excluding any that have been reinsured);”.

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(17) Section 431(2) was relevantly amended by paragraph 1(2)(b) of Schedule 6 to the Finance Act 1990, section 52(1) of the Finance Act 1995 and paragraph 114 of the Schedule to S.I.1997/2781.

(5) For the definition of “long term business” substitute—

““long-term business” means business which consists of the effecting or carrying out of contracts of long-term insurance;”.

(6) After the definition of “long term business fund” insert—

““long-term liabilities” means liabilities of an insurance company arising under or in connection with contracts for long-term business (including liabilities arising from deposit back arrangements within the meaning given by section 11.1 of the Prudential Sourcebook (Insurers));”.

(7) In the definition of “periodical return” for “Treasury under Part II of the Insurance Companies Act 1982” substitute “Financial Services Authority under section 9.6 of the Prudential Sourcebook (Insurers)”.

(8) After the definition of “periodical return” insert—

““the Prudential Sourcebook (Insurers)” means the Interim Prudential Sourcebook for Insurers made by the Financial Services Authority under the Financial Services and Markets Act 2000(18);”.

(9) The amendments made by paragraphs (3), (6) and (7) above have effect in relation to periods of account ending on or after 1st December 2001.

### **Power to amend the Tax Acts so far as relating to insurance companies**

**27.** In section 431A (power of Treasury to amend provisions of the Tax Acts relating to insurance companies)(19) for the “Insurance Companies Act 1982” substitute “Financial Services and Markets Act 2000, in so far as that Act relates to insurance companies,”.

### **Transfer of assets etc.**

**28.—**(1) In section 440(2) (transfer of assets of insurance company)(20) for paragraph (a) substitute—

“(a) an asset is acquired by a company as a result of an insurance business transfer scheme which has effect to transfer long-term business from any person (“the transferor”) to the company, and”.

(2) This Article has effect in relation to any transfer under a scheme falling within section 105 of the Financial Services and Markets Act 2000, including an excluded scheme falling within Case 2, 3 or 4 of subsection (3) of that section.

### **Effect of transfer of insurance business**

**29.—**(1) In section 444A (effect of transfer of long-term insurance business)(21) for subsection (1) substitute—

“(1) Subject to subsection (7) below, this section applies where an insurance business transfer scheme has effect to transfer long-term business from one person (“the transferor”) to another (“the transferee”).”.

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(18) This sourcebook is part of the FSA Handbook. The FSA Handbook may be purchased on paper and on CD Rom from the Publications Department (Sales), Financial Services Authority, 25 The North Colonnade, Canary Wharf, London E14 5HS and is available on line at [www.fsa.gov.uk](http://www.fsa.gov.uk).

(19) Section 431A was inserted by paragraph 2 of Schedule 6 to the Finance Act 1990.

(20) Section 440(2) was amended by paragraph 1(1) and (2)(b) of Schedule 9 to the Finance Act 1995.

(21) Section 444A was inserted by paragraph 4 of Schedule 9 to the Finance Act 1990 and was relevantly amended by paragraph 1(1) and (2)(b) of Schedule 9 to the Finance Act 1995.

(2) This Article has effect in relation to any transfer under a scheme falling within section 105 of the Financial Services and Markets Act 2000, including an excluded scheme falling within Case 2, 3 or 4 of subsection (3) of that section.

### **Equalisation reserves**

**30.**—(1) Except as provided in paragraph (4) below, in sections 444BA to 444BD (equalisation reserves)(**22**) for “section 34A regulations” in each place where it occurs substitute “equalisation reserve rules”.

(2) Amend section 444BA in accordance with paragraphs (3) and (4) below.

(3) In subsection (10) for “the regulations” substitute “the rules”.

(4) For subsection (11) substitute—

“(11) In this section, and in sections 444BB to 444BD, “equalisation reserves rules” means the rules in Chapter 6 of the Prudential Sourcebook (Insurers).”.

(5) In section 444BC(1) for “17 of the Insurance Companies Act 1982” substitute “9.3 of the Prudential Sourcebook (Insurers)”.

(6) Amend section 444BD in accordance with paragraphs (7) and (8) below.

(7) In subsection (2)(a) for sub-paragraphs (i) and (ii) substitute—

“(i) by an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to the Financial Services and Markets Act 2000 which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) to effect or carry out contracts of insurance in the United Kingdom, or

(ii) by a firm which has permission under paragraph 4 of Schedule 4 to that Act (as a result of qualifying for authorisation under paragraph 2 of that Schedule) to effect or carry out contracts of insurance in the United Kingdom, or

(iii) in respect of any business which consists of the effecting or carrying out of contracts of insurance and which is carried on outside the United Kingdom by a company resident in the United Kingdom;”.

(8) In subsection (7)—

(a) for the definition of “credit insurance business” substitute—

““credit insurance business” means business which consists of the effecting or carrying out of contracts of insurance against risks of loss to the persons insured arising from—

(a) the insolvency of debtors of theirs, or

(b) from the failure (otherwise than through insolvency) of debtors of theirs to pay their debts when due;”;

(b) omit the definition of “EC company” and the word “and” immediately before it.

(9) This Article has effect in relation to periods of account ending on or after 1st December 2001.

### **Capital redemption business**

**31.** In section 458(3) (capital redemption business)(**23**) for paragraphs (a) and (b) substitute—

“(a) consists of the effecting on the basis of actuarial calculations, and the carrying out, of contracts of insurance under which, in return for one or more fixed payments,

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(22) Sections 444BA to 444BD were inserted by paragraph 1 of Schedule 32 to the Finance Act 1996.

(23) Section 458(3) was amended by paragraph 2 of Schedule 33 to the Finance Act 1996.

a sum or series of sums of a specified amount become payable at a future time or over a period; and

(b) is not life assurance business.”.

### **Friendly societies: exemption from tax in respect of life or endowment business**

**32.**—(1) Amend section 460 (friendly societies: exemption from tax in respect of life or endowment business)(**24**) as follows.

(2) In subsection (10A) for the words from the beginning to “1982” substitute “Where at any time an insurance business transfer scheme has effect to transfer to a friendly society long-term business,”.

(3) After subsection (10A) insert—

“(10B) In subsection (10A) “insurance business transfer scheme” means a scheme falling within section 105 of the Financial Services and Markets Act 2000, including an excluded scheme falling within Case 2, 3 or 4 of subsection (3) of that section.”.

(4) In subsection (11)—

(a) omit “by virtue of section 84 of the Friendly Societies Act 1974(**25**) or”;

(b) for “either of those Acts” substitute “that Act”.

(5) The amendments made by paragraphs (2) and (3) above have effect in relation to any scheme falling within section 105 of the Financial Services and Markets Act 2000, including an excluded scheme falling within Case 2, 3 or 4 of subsection (3) of that section.

### **Taxation in respect of other business**

**33.**—(1) Amend section 461 (taxation in respect of other business)(**26**) as follows.

(2) In subsection (2)—

(a) in paragraphs (a) and (b) for “registrar” substitute “Board”;

(b) for “(8)” substitute “(7)”.

(3) In subsection (4)(a)—

(a) omit “by virtue of section 84 of the Friendly Societies Act 1974 or”;

(b) for “either of those Acts” substitute “that Act”.

(4) In subsection (6)—

(a) in paragraphs (a) and (b) for “the Commission” substitute “the Board”;

(b) for the words immediately after paragraph (b) substitute “the Board may give a direction to the society under subsection (7) below.”.

(5) For subsections (7) to (9) substitute—

“(7) A direction under this subsection is that (and has the effect that) the society to which it is given is to be treated for the purposes of this Act as a society registered after 31st May 1973 with respect to business carried on after the date of the direction.

(8) A society to which a direction is given may, within 30 days of the date on which it is given, appeal against the direction to the Special Commissioners on the ground that—

(a) it has not begun to carry on business as mentioned in subsection (6)(a) above; or

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(24) Section 460 was relevantly amended by paragraph 6 of Schedule 9 to the Finance Act 1990, paragraph 5(5) of Schedule 9 to the Finance (No. 2) Act 1992 and paragraph 1(1) and (2)(c) of Schedule 9 to the Finance Act 1995.

(25) 1974 c. 46.

(26) Section 461 was amended by paragraph 10 of Schedule 21, and Part 1 of Schedule 22, to the Friendly Societies Act 1992 and paragraph 6 of Schedule 9 to the Finance (No. 2) Act 1992.



(b) the direction is not necessary for the protection of the revenue.

(9) If a registered friendly society in respect of which a direction is in force under subsection (7) above becomes an incorporated friendly society, the direction shall continue to have effect, so that the incorporated friendly society shall be treated for the purposes of this Act as a society registered after 31st May 1973.”.

(6) After subsection (10) add—

“(11) For the purposes of this section and section 461C—

- (a) any group of persons which was approved for the purposes of this section (as mentioned in subsection (2)(a) above) immediately before 1st December 2001 shall be treated as having been approved for the purposes of this section by the Board on that date;
- (b) any greater amount which was authorised for the purposes of this section (as mentioned in subsection (2)(b) above) immediately before 1st December 2001 shall be treated as having been authorised for the purposes of this section by the Board on that date; and
- (c) where a direction that subsection (2) above applies to a society was in force immediately before 1st December 2001, a direction in relation to that society shall be treated as having been made under subsection (7) above by the Board on that date.”.

#### **Taxation in respect of other business: incorporated friendly societies qualifying for exemption**

**34.**—(1) Amend section 461A (taxation in respect of other business: incorporated friendly societies qualifying for exemption)(27) as follows.

(2) In subsection (2) for “Friendly Societies Commission” substitute “Board”.

(3) After subsection (3) add—

“(4) For the purposes of this section and section 461C, any group of persons which was approved for the purposes of this section (as mentioned in subsection (2) above) by the Friendly Societies Commission immediately before 1st December 2001 shall be treated as having been approved for the purposes of this section by the Board on that date.”.

#### **Taxation in respect of other business: incorporated friendly societies etc.**

**35.** In section 461B(4)(b) (taxation in respect of other business: incorporated friendly societies etc.) for “(8)” substitute “(7)”.

#### **Taxation in respect of other business: withdrawal of “qualifying” status from incorporated friendly society**

**36.**—(1) Amend section 461C (taxation in respect of other business: withdrawal of “qualifying” status from incorporated friendly society) as follows.

(2) In subsection (1)—

- (a) for “to (5)” substitute “and (4)”;
- (b) in paragraph (b) for “Friendly Societies Commission” substitute “Board”.

(3) In subsection (2)—

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(27) Sections 461A was inserted, together with sections 461B and 461C, by paragraph 7 of Schedule 22 to the Finance (No. 2) Act 1992.

- (a) for “to (5)” substitute “and (4)”;
  - (b) in paragraph (a) for “Friendly Societies Commission” substitute “Board”.
- (4) In subsection (3)—
- (a) for “Commission” in the first two places where it occurs substitute “Board”;
  - (b) for the words from “serve a notice” to the end substitute “give a direction to the society under subsection (4) below.”.
- (5) For subsections (4) to (7) substitute—
- “(4) A direction under this subsection is that (and has the effect that) the society to which it is given shall cease to be a qualifying society as from the date of the direction.
- (5) A society to which a direction is given may, within 30 days of the date on which it is given, appeal against the direction to the Special Commissioners on the ground that—
- (a) it has not begun to carry on business as mentioned in subsection (1) above;
  - (b) subsections (3) and (4) above do not apply to it by reason of subsection (2) above;
  - or
  - (c) the direction is not necessary for the protection of the revenue.”.

### **Interpretation of Chapter 2 of Part 12**

- 37.** In section 466(1) (interpretation of Chapter 2)(**28**)—
- (a) in paragraph (a) for the words from “within Class I” to the end substitute “of effecting or carrying out contracts of insurance which fall within paragraphs I, II or III of Part II of Schedule 1 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001;”;
  - (b) in paragraph (d)—
    - (i) for “Class IV of Head A” substitute “paragraph IV of Part II”;
    - (ii) in sub-paragraph (ii) for “Class I, II or III of Head A” substitute “paragraphs I, II or III of Part II”.

### **Authorised unit trusts: interest distributions**

- 38.**—(1) Amend section 468L (interest distributions)(**29**) as follows.
- (2) In subsection (12C)—
- (a) in the definition of “collective investment scheme” for “75 of the Financial Services Act 1986” substitute “235 of the Financial Services and Markets Act 2000”;
  - (b) in the definition of “open-ended investment company” for “75(8) of the Financial Services Act 1986” substitute “236 of the Financial Services and Markets Act 2000”.
- (3) In subsection (12F)—
- (a) in paragraph (a) for “75(8) of the Financial Services Act 1986” substitute “236 of the Financial Services and Markets Act 2000”;
  - (b) in paragraph (c) for “75(3)(a)” substitute “235(3)(a)”.

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(28) Section 466(1) was substituted by section 171(1) of the Finance Act 1996.

(29) Section 468L was inserted, together with sections 468H to 468K and sections 468M and 468N, by paragraph 2 of Schedule 14 to the Finance Act 1994 and was relevantly amended by Article 4 of S.I. [1997/212](#).

### Interest payments: meaning of deposit-taker

**39.**—(1) Amend section 481 (meaning of deposit-taker etc.) as follows.

(2) In subsection (2) for paragraph (b) substitute—

“(b) any person falling within section 840A(1)(b) whose permission under Part 4 of the Financial Services and Markets Act 2000 includes permission to accept deposits which are relevant deposits;

(ba) any company within the meaning of the Companies Act 1985**(30)**—

(i) in respect of which a resolution has been passed by a local authority under section 48(3) of the Banking Act 1979**(31)** or section 103(3) of the Banking Act 1987; and

(ii) which is exempt from the prohibition imposed by section 19 of the Financial Services and Markets Act 2000 in relation to the acceptance of deposits which are relevant deposits;”.

(3) Omit subsection (5)(g).

### Gifts of shares and securities to charities etc.

**40.** In section 587B(9) (gifts of shares and securities to charities etc.)**(32)** in the definition of “offshore fund” for “of the Financial Services Act 1986” substitute “given by section 235 of the Financial Services and Markets Act 2000”.

### Establishment of schemes

**41.**—(1) Amend section 632 (establishment of schemes)**(33)** as follows.

(2) In subsection (1)(a) for the words from “is authorised” to the end substitute “has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of long-term insurance or to manage unit trust schemes authorised under section 243 of that Act;”.

(3) In subsection (1) for paragraph (aa) substitute—

“(aa) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to the Financial Services and Markets Act 2000 which—

(i) has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of long-term insurance; and

(ii) fulfils any one of the requirements under subsections (5), (6) or (7) of section 659B**(34)**;

(ab) a firm which has permission under paragraph 4 of Schedule 4 to the Financial Services and Markets Act 2000 (as a result of qualifying for authorisation under paragraph 2 of that Schedule) to manage unit trust schemes authorised under section 243 of that Act;

(ac) a person who qualifies for authorisation under Schedule 5 to the Financial Services and Markets Act 2000;”.

(4) Omit subsection (1)(bb).

(5) In subsection (1) for paragraph (c) substitute—

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**(30)** 1985 c. 6.

**(31)** 1979 c. 37; section 48(3) was repealed, together with other sections, by section 108(2) of, and Part 1 of Schedule 7 to, the Banking Act 1987 (c. 22).

**(32)** Section 587B was inserted by section 43(1) of the Finance Act 2000.

**(33)** Section 632 was relevantly amended by S.I. 1988/993 and S.I. 1997/2388.

**(34)** Section 659B was inserted by section 59(5) of the Finance Act 1995.

- “(c) a person falling within section 840A(1)(b);”.
- (6) In subsection (1)(cc)—
- (a) for “an institution authorised under the Banking Act 1987” substitute “a person falling within section 840A(1)(b);”;
  - (b) for “such an institution” substitute “such a person”.
- (7) Omit subsection (1)(d).
- (8) In subsection (1)(e) for sub-paragraphs (i) and (ii) substitute—
- “(i) is an EEA firm of the kind mentioned in paragraph 5(a), (b) or (c) of Schedule 3 to the Financial Services and Markets Act 2000,
  - (ii) qualifies for authorisation under paragraph 12(1) or (2) of that Schedule, and
  - (iii) has permission under that Act to manage portfolios of investments.”.
- (9) For subsection (2) and (2ZA) substitute—
- “(2) In subsection (1)(a) above “contracts of long-term insurance” means contracts which fall within Part II of Schedule 1 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001.”.
- (10) Omit subsection (2B).

#### **Pension schemes etc.: meaning of insurance company**

- 42.**—(1) Amend section 659B (definition of insurance company) as follows.
- (2) For subsection (1) substitute—
- “(1) in sections 591(2)(g)(**35**) and 599(7) “insurance company” means one of the following—
    - (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of long-term insurance;
    - (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act which—
      - (i) has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of long-term insurance; and
      - (ii) fulfils the requirement under subsection (5), (6) or (7) below.

(1A) In subsection (1) above “contracts of long-term insurance” means contracts which fall within Part II of Schedule 1 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001.”.
- (3) Omit subsections (3), (4) and (10).

#### **Power to modify section 735 to take account of recognised investment exchanges**

- 43.** In section 738(5) (power to modify section 735 to take account of recognised investment exchanges) for “means a recognised investment exchange within the meaning of the Financial Services Act 1986” substitute “has the meaning given by section 285(1)(a) of the Financial Services and Markets Act 2000”.

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(35) Section 591(2)(g) was amended by section 107(2) of, and Part 5(12) of Schedule 26 to, the Finance Act 1994.

### **Amendment of return where general insurance business of foreign company accounted for on a non-annual basis**

44. In section 755B (meaning of general insurance business)(36) for subsection (6) substitute—
- “(6) In this section “general insurance business” means business which consists of the effecting or carrying out of contracts which fall within Part I of Schedule 1 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001.”.

### **Material interests in offshore funds**

45. In section 759(1A) (meaning of collective investment scheme)(37) for “same meaning as in the Financial Services Act 1986” substitute “meaning given by section 235 of the Financial Services and Markets Act 2000”.

### **Interpretation: meaning of “bank”**

- 46.—(1) Amend section 840A (meaning of bank) as follows.
- (2) In subsection (1) for paragraphs (b) and (c) substitute—
- “(b) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits other than—
- (i) a building society within the meaning of the Building Societies Act 1986,
  - (ii) a friendly society within the meaning of section 116 of the Friendly Societies Act 1992(38),
  - (iii) a society registered as a credit union under the Industrial and Provident Societies Act 1965(39) or the Credit Unions (Northern Ireland) Order 1985(40), or
  - (iv) an insurance company within the meaning of section 659B(1);
- (c) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to the Financial Services and Markets Act 2000 which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) to accept deposits;”.
- (3) Omit subsection (2).

### **Qualifying policies**

- 47.—(1) Amend Schedule 15 (qualifying policies)(41) as follows.
- (2) In paragraph 4(3)(b)(i) for “business within class VI of Head A or class I of Head B of Schedule 2 to the Friendly Societies Act 1992” substitute “the business of effecting or carrying out contracts of insurance which fall within paragraph 1 of Part I or paragraph VI of Part II of Schedule 1 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001”.
- (3) In paragraph 11(1) for the words from “a contract falling” to the end substitute
- (a) “a contract of insurance on human life; or
  - (b) a contract to pay annuities on human life.”.

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(36) Section 755B was inserted by paragraph 14 of Schedule 17 to the Finance Act 1998.

(37) Section 759(1A) was inserted by section 134(3) of the Finance Act 1995.

(38) 1992 c. 40.

(39) 1965 c. 12.

(40) S.I. 1985/1205 (N.I. 12).

(41) Schedule 15 was relevantly amended by paragraph 19(6) of Schedule 9 to the Finance (No. 2) Act 1992.

(4) In paragraph 14(3) for the words from “effected” to “1982” substitute “evidencing a contract of long-term insurance”.

(5) In paragraph 14 after sub-paragraph (3) insert—

“(3A) In sub-paragraph (3) “contract of long-term insurance” means a contract which falls within Part II of Schedule 1 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001.”.

### **Contractual savings schemes: relevant European institutions**

**48.** In paragraph 3 of Schedule 15A (contractual savings schemes: relevant European institutions)(**42**) for the words from “an institution which” to the end substitute “an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to the Financial Services and Markets Act 2000 which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to accept deposits.”.

### **Overseas life insurance companies**

**49.**—(1) Amend Schedule 19AC (modifications of Act in application to overseas life insurance companies)(**43**) as follows.

(2) In sub-paragraph (1) of paragraph 4 in section 11B(5) treated as inserted by that sub-paragraph—

- (a) in paragraph (b) for “39 of the Insurance Companies Act 1982” to the end substitute “43 of the Financial Services and Markets Act 2000 other than an asset not treated as so maintained under that requirement;”;
- (b) in paragraph (c) for the words “by virtue of” to the end substitute “under that requirement;”;
- (c) in paragraph (d) for “an order under section 68 of the Insurance Companies Act 1982” substitute “a direction under section 148 of the Financial Services and Markets Act 2000”.

(3) In paragraph 4A—

- (a) in sub-paragraph (1) for the words from “a transfer” to “1982” substitute “an insurance business transfer scheme”;
- (b) in sub-paragraph (2) for “long term insurance” substitute “life insurance”;
- (c) for sub-paragraph (3) substitute—

“(3) In sub-paragraph (2) above, “the third life insurance directive” means the Council Directive of 10th November 1992 on the co-ordination of laws, regulations and administrative provisions relating to direct life assurance and amending Directives [79/267/EEC](#) and [90/619/EEC](#) (No. [92/96/EEC](#))(**44**).”.

(4) In paragraphs 10AA and 11C for the words from “a transfer” to “1982” substitute “an insurance business transfer scheme”.

(5) The amendments made by paragraph (2) above have effect for the purposes of determining whether an asset is a qualifying asset at any time on or after 1st December 2001.

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(42) Schedule 15A was inserted by paragraph 6(2) of Schedule 12 to the Finance Act 1995.

(43) Schedule 19AC was inserted by paragraph 1 of Schedule 9 to the Finance Act 1993 (c. 34) and relevantly amended by paragraph 2 of Schedule 9 to the Finance Act 1995.

(44) O.J. No. L360, 9.12.1992, pp. 1-27.

### Charities: qualifying investments

**50.** In paragraph 6 of Schedule 20 (qualifying investments) for “of the Financial Services Act 1986” substitute “given by section 237(1) of the Financial Services and Markets Act 2000”.

### Apportionment in relation to foreign controlled company: exempt activities

**51.**—(1) Amend paragraph 11 of Schedule 25 (apportionment in relation to foreign controlled company: cases where section 747(3) does not apply) as follows.

(2) In sub-paragraph (1) for paragraph (g) substitute—

“(g) the effecting or carrying out of contracts of insurance; and”.

(3) After sub-paragraph (1) add—

“(1A) For the purposes of sub-paragraph (1)(g) above “contract of insurance” has the meaning given by Article 3(1) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001.”.

### Miscellaneous amendments

**52.**—(1) In the following provisions for “long term business fund” substitute “long-term insurance fund”—

- (a) section 333B(1), (2)(b), (3) and (9) (in the definition of “long term business fund”);
- (b) section 431(2) (in the definition of “long term business fund”);
- (c) section 432A(1)(a) and (9B) (in paragraph (b) in the definition of “investment reserve”)(**45**);
- (d) section 432AA(2), (3) and (5)(**46**);
- (e) section 438(1)(**47**);
- (f) section 438B(1)(**48**);
- (g) section 440(4)(e)(**49**);
- (h) section 440A(2)(d)(**50**);
- (i) section 440B(3)(a)(**51**);
- (j) section 755A(1)(c), (5), (7) and (12) (in the definition of “long term business fund”)(**52**);
- (k) the following paragraphs of Schedule 19AA(**53**)—
  - (i) paragraph 2(1)(b), (2) (twice) and (3) (four times);
  - (ii) paragraph 3(1)(a), (2)(a) and (3)(a);
  - (iii) paragraph 4(1), (2) and (5) (in paragraph (b) in the definition of “investment reserve”);

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(45) Section 432A was inserted, together with sections 432B to 432E, by paragraph 4 of Schedule 6 to the Finance Act 1990 and relevantly amended by paragraph 13(2) of Schedule 8 to the Finance Act 1995 and section 109(5) and (6) of the Finance Act 2000.

(46) Section 432AA was inserted by paragraph 39 of Schedule 5 to the Finance Act 1998.

(47) Section 438(1) was amended by paragraph 4(2) of Schedule 8 to the Finance Act 1995.

(48) Section 438B was inserted by paragraph 5 of Schedule 25 to the Finance Act 2001 (c. 9).

(49) Section 440(4) was substituted by paragraph 5(3) of Schedule 8 to the Finance Act 1995.

(50) Section 440A was substituted, together with section 440, for section 440 by paragraph 8 of Schedule 6 to the Finance Act 1990.

(51) Section 440B was inserted by paragraph 28(1) of Schedule 8 to the Finance Act 1995.

(52) Section 755A was inserted by paragraph 13 of Schedule 17 to the Finance Act 1998.

(53) Schedule 19AA was inserted by paragraph 6 of Schedule 7 to the Finance Act 1990 and relevantly amended by Articles 3 and 4 of S.I. 1994/3278 and Article 3 of S.I. 2000/2188.

- (l) the following paragraphs of Schedule 19AC**(54)**—
  - (i) paragraph 3(2) (in section 11(2)(c) treated as inserted) and (3) (in section 11(2A)(b) treated as inserted);
  - (ii) paragraph 6(1) (in paragraph (a) in the definition of “investment reserve” treated as substituted in section 431(2));
  - (iii) paragraph 10C(1) (in section 440B(3)(a) treated as substituted);
  - (iv) paragraph 14A(2) (in paragraph 6(a) and (c) treated as inserted in Schedule 19AA).
- (2) In the following provisions for “long term” substitute “long-term”—
  - (a) section 431(2) (in the definition of “long term business fund”);
  - (b) section 432ZA(2)(a) and (b), (3) and (7) (twice)**(55)**;
  - (c) section 432A(2)(f), (8)(a) (twice) and (b) and (9B) (in the first place where it occurs in the definition of “investment reserve”);
  - (d) section 432AA(4)(d);
  - (e) section 432C(1)**(56)**;
  - (f) section 432D(1)**(57)**;
  - (g) section 440B(4) (in section 440A(2)(a) treated as substituted);
  - (h) section 444A(5)**(58)**;
  - (i) section 463(1), (2) and (3)**(59)**;
  - (j) section 466(2) (in the definition of “long term business”)**(60)**;
  - (k) section 804B(4)(b) and (5)(b)**(61)**;
  - (l) section 804C(13)(b)**(62)**;
  - (m) the following paragraphs of Schedule 19AA—
    - (i) paragraph 2(3)(d) (in the second place where it occurs);
    - (ii) paragraph 4(2)(a) and (b), (4)(b) and (5) (in the first place where it occurs in the definition of “investment reserve”);
  - (n) paragraph 5(5)(a) and (b) of Schedule 19AB**(63)**;
  - (o) the following paragraphs of Schedule 19AC—
    - (i) paragraph 6(1) (in paragraph (b) in the definition of “investment reserve” treated as substituted in section 431(2));
    - (ii) paragraph 7(2)(a), (3)(a) and (b);
    - (iii) paragraph 10C(2) (in section 440B(4)(a) treated as substituted);
    - (iv) paragraph 14A(2) (in paragraph 6(b) treated as inserted in Schedule 19AA).

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**(54)** Schedule 19AC was relevantly amended by paragraphs 39, 44 and 48 of Schedule 8 to the Finance Act 1995, section 109(9)(c)(i) of the Finance Act 2000 and Article 5 of S.I. 2000/2188.

**(55)** Section 432ZA was inserted by paragraph 11(2) of Schedule 8 to the Finance Act 1995.

**(56)** Section 432C(1) was amended by paragraphs 12(1)(a) and 14(2) of Schedule 8 to the Finance Act 1995.

**(57)** Section 432D(1) was amended by paragraphs 12(1)(a) and 15(2) of Schedule 8 to the Finance Act 1995.

**(58)** Section 444A(5) was amended by paragraph 17(5) of Schedule 8 to the Finance Act 1995.

**(59)** Section 463 was amended by section 50 of the Finance Act 1990, paragraph 10 of Schedule 9 to the Finance (No. 2) Act 1992 and section 171(5) of the Finance Act 1996.

**(60)** Section 466(2) was relevantly amended by section 171(2)(b) of the Finance Act 1996.

**(61)** Section 804B was inserted by paragraph 17 of Schedule 30 to the Finance Act 2000.

**(62)** Section 804C was inserted by paragraph 18(1) of Schedule 30 to the Finance Act 2000.

**(63)** Schedule 19AB was inserted by Schedule 8 to the Finance Act 1991 and is repealed by Part 2(12) of Schedule 33 to the Finance Act 2001 with effect in accordance with section 87 of that Act.



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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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