
STATUTORY INSTRUMENTS

2001 No. 3650

The Financial Services and Markets Act 2000 (Miscellaneous Provisions) Order 2001

PART II

AMENDMENTS TO ORDERS MADE UNDER THE ACT

The Financial Services and Markets Act 2000 (Transitional Provisions) (Authorised Persons etc.) Order 2001 (S.I.2001/2636)

Persons authorised under the Banking Act 1987

6. In article 11 of the Financial Services and Markets Act 2000 (Transitional Provisions) (Authorised Persons etc.) Order 2001 (persons authorised under the Banking Act), after paragraph (3) insert—

“(4) A person who has a Part IV permission by virtue of paragraph (1) is also to be treated as having, at commencement, a Part IV permission to carry on any regulated activities which he was able, by virtue of section 2(4) of the Insurance Companies Act, to carry on in the United Kingdom without contravening section 2(1) of that Act and which he was, immediately before commencement, so carrying on.

(5) A person who has a Part IV permission by virtue of paragraph (1) and who was not, immediately before commencement, authorised under the Financial Services Act, is also to be treated as having, at commencement, a Part IV permission to carry on regulated activities—

- (a) of the kind specified by article 14 of the Regulated Activities Order (dealing in investments as principal) in so far as it consists of his entering into a transaction of the kind mentioned in article 16 of that Order (dealing in contractually based investments); and
- (b) of the kind specified by article 64 of that Order (agreeing to carry on specified kinds of activity) in so far as it relates to the activity mentioned in sub-paragraph (a).”

Companies authorised under the Insurance Companies Act 1982

7. In article 14 of the Financial Services and Markets Act 2000 (Transitional Provisions) (Authorised Persons etc.) Order 2001 (companies authorised under the Insurance Companies Act) after paragraph (4) insert—

“(4A) If a person to whom this article applies was not, immediately before commencement, authorised under the Financial Services Act, any Part IV permission which he is to be treated under this article as having includes permission to carry on regulated activities—

- (a) of the kind specified by article 14 of the Regulated Activities Order (dealing in investments as principal) in so far as it consists of his entering into a transaction of the kind mentioned in article 16 of that Order (dealing in contractually based investments); and
- (b) of the kind specified by article 64 of that Order (agreeing to carry on specified kinds of activity) in so far as the activity relates to the activity mentioned in subparagraph (a),

in so far as those activities are carried on in connection with or for the purposes of the regulated activities referred to in paragraph (2).”

Friendly societies authorised under the Friendly Societies Act 1992

8. In article 19 of the Financial Services and Markets Act 2000 (Transitional Provisions) (Authorised Persons etc.) Order 2001 (friendly societies: other permissions) after paragraph (2) insert—

“(2A) Any friendly society which was not, immediately before commencement, authorised under the Financial Services Act is to be treated as having, at commencement a Part IV permission to carry on regulated activities—

- (a) of the kind specified by article 14 of the Regulated Activities Order (dealing in investments as principal) in so far as it consists of the society entering into a transaction of the kind mentioned in article 16 of that Order (dealing in contractually based investments); and
- (b) of the kind specified by article 64 of that Order (agreeing to carry on specified kinds of activity) in so far as the activity relates to the activity mentioned in subparagraph (a),

in so far as those activities are carried on for or in connection with the regulated activities referred to in article 18(2)(a).”.

Building societies authorised under the Building Societies Act 1986

9. In article 22 of the Financial Services and Markets Act 2000 (Transitional Provisions) (Authorised Persons etc.) Order 2001 (building societies authorised under the Building Societies Act), after paragraph (3) insert—

“(4) A society having a Part IV permission by virtue of paragraph (1) is also to be treated as having, at commencement, a Part IV permission to carry on any regulated activities which it was able, by virtue of section 2(4) of the Insurance Companies Act, to carry on in the United Kingdom without contravening section 2(1) of that Act and which it was, immediately before commencement, so carrying on.

(5) A society having a Part IV permission by virtue of paragraph (1) and which was not, immediately before commencement, authorised under the Financial Services Act, is also to be treated as having, at commencement, a Part IV permission to carry on regulated activities—

- (a) of the kind specified by article 14 of the Regulated Activities Order (dealing in investments as principal) in so far as it consists of the society entering into a transaction of the kind mentioned in article 16 of that Order (dealing in contractually based investments); and
- (b) of the kind specified by article 64 of that Order (agreeing to carry on specified kinds of activity) in so far as the activity relates to the activity mentioned in subparagraph (a).”.

Disqualification directions on the public record

10. In article 79 of the Financial Services and Markets Act 2000 (Transitional Provisions) (Authorised Persons etc.) Order 2001 (employment of prohibited persons: disqualification directions), after paragraph (2) insert—

“(3) Paragraph (4) applies where—

- (a) a person (“I”) is subject to a prohibition order having effect under paragraph (1); and
- (b) information about I has been placed on the record maintained in accordance with section 347(1)(g) as required by section 347(2) (“transitional information”).

(4) Subsections (5) and (6) of section 347 apply to the record to the extent that it comprises transitional information—

- (a) as if subsection (5)(a) required the Authority to exclude the transitional information from the record made available for inspection unless—
 - (i) the person seeking to inspect the record has asked the Authority whether I is subject to a prohibition order; or
 - (ii) the Authority is otherwise satisfied that the person has a good reason for seeking to inspect the transitional information;
- (b) as if subsection (5)(b) required the Authority to exclude the transitional information from any certified copy of the record provided in accordance with that subsection;
- (c) as if subsection (5)(b) further provided that the Authority may only provide a certified copy of the part of the record containing the transitional information if—
 - (i) the person requesting the copy of that part has asked the Authority whether I is subject to a prohibition order; or
 - (ii) the Authority is otherwise satisfied that the person has good reason for requesting a copy of the part of the record which includes the transitional information;
- (d) as if subsection (6) did not apply to the record in so far as it contains the transitional information.

(5) Paragraph (4) applies to transitional information until 18 January 2002 or, if on or before that date, I applies to the Authority under section 58 for the revocation of the prohibition order, then until that application is determined and there is no possibility (or no further possibility) of the determination being reversed or varied on a reference to the Tribunal or an appeal.”