
STATUTORY INSTRUMENTS

2001 No. 3649

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

PART 3

ENACTMENTS RELATING TO PENSIONS

Pensions Act 1995 (c. 26)

Occupational pension scheme under a trust: power of investment and delegation

139.—(1) Section 34 of the Pensions Act 1995 (power of investment and delegation) is amended as follows.

(2) For subsection (3) substitute—

“(3) This subsection applies to a fund manager who, in relation to the investments, may take the decisions in question without contravening the prohibition imposed by section 19 of the Financial Services and Markets Act 2000 (prohibition on carrying on regulated activities unless authorised or exempt).”.

(3) In subsection (5)(b) for the words from “carrying” to “1986)” substitute “the carrying on, in the United Kingdom, of a regulated activity (within the meaning of the Financial Services and Markets Act 2000)”.

Choice of investments by trustees of occupational pension scheme under a trust: meaning of “proper advice”

140. For paragraph (a) of section 36(6) of the Pensions Act 1995 (choice of investments: meaning of “proper advice”) substitute—

“(a) if the giving of the advice constitutes the carrying on, in the United Kingdom, of a regulated activity (within the meaning of the Financial Services and Markets Act 2000), advice given by a person who may give it without contravening the prohibition imposed by section 19 of that Act (prohibition on carrying on regulated activities unless authorised or exempt);”.

Restriction on employer-related investments

141.—(1) Section 40 of the Pensions Act 1995 (employer-related investments) is amended as follows.

(2) In subsection (2) the definition of “securities” is repealed.

(3) After that subsection, insert—

“(2A) In subsection (2)(a) “securities” does not include government or other public securities.

- (2B) Paragraph (a) of subsection (2) and subsection (2A) must be read with—
- (i) section 22 of the Financial Services and Markets Act 2000;
 - (ii) any relevant order under that section; and
 - (iii) Schedule 2 to that Act.”.

Advisers for occupational pension schemes

142.—(1) Section 47 of the Pensions Act 1995 is amended as follows.

(2) In subsection (2) the words “(within the meaning of the Financial Services Act 1986)” are repealed.

(3) After that subsection insert—

- “(2A) References in this section to investments must be read with—
- (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.”.

Receipts, record and payments: duties of pension trustees and others

143.—(1) Section 49 of the Pensions Act 1995 (receipts, record and payments: duties of pension trustees and others) is amended as follows.

(2) In subsection (1)(1), for the words from “at” to the end substitute “with a deposit-taker”.

(3) Subsection (1A)(2) is repealed.

(4) In subsection (5)(3), for the words “at a relevant institution” substitute “with a deposit-taker”.

(5) After subsection (8)(4) insert—

- “(8A) “Deposit taker” means—
- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits;
 - (b) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act 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;
 - (c) the Bank of England or the central bank of a member state other than the United Kingdom;
 - (d) the National Savings Bank; or
 - (e) a municipal bank, that is to say a company which was, immediately before the repeal of the Banking Act 1987 exempted from the prohibition in section 3 of that Act by virtue of section 4(1) of, and paragraph 4 of Schedule 2 to, that Act.

(8B) Paragraphs (a) and (b) of subsection (8A) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

(1) The words being substituted were substituted by the Welfare Reform and Pensions Act 1999 (c. 30) Sch 2 paragraph 12(1), (2).

(2) Section 49(1A) was inserted by the Welfare Reform and Pensions Act 1999 (c. 30) Sch 2 paragraph 12(1), (3).

(3) The words being substituted were substituted by the Welfare Reform and Pensions Act 1999 (c. 30) Sch 2 paragraph 12(1), (2).

(4) Subsection (8) was substituted by the Welfare Reform and Pensions Act 1999 (c. 30) s. 10(1).

Salary related occupational pension schemes: discharge of liabilities by insurance etc

144. In section 74 of the Pensions Act 1995 (discharge of liabilities by insurance etc.), in subsection (3)(c), for “insurance companies” substitute “insurers”.

Borrowing power of Compensation Board

145.—(1) Section 78 of the Pensions Act 1995 (the Compensation Board) is amended as follows.

(2) In subsection (5), for the words from “an” to “1987” substitute “a deposit-taker”.

(3) After that subsection, insert—

“(5A) “Deposit taker” means—

- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits; or
- (b) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act 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.

(5B) Sub-paragraph (5A) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

Disclosure of information by the Occupational Pensions Regulatory Authority

146.—(1) The table set out in section 107(1) of the Pensions Act 1995 (power of the Authority to disclose pension information for certain purposes) is amended as follows.

(2) The entries relating to the following persons are repealed—

The Treasury~~(5)~~;

The Policyholders Protection Board;

The Deposit Protection Board;

The Investor Protection Board;

The Friendly Societies Commission;

The Building Societies Commission;

A person authorised to exercise powers under section 106 of the Financial Services Act 1986;

A designated agency or transferee body or the competent authority (within the meaning of the Financial Services Act 1986);

A recognised self-regulating organisation, recognised professional body, recognised investment exchange or recognised clearing house (within the meaning of the Financial Services Act 1986); and

A person administering a scheme for the compensation of investors under section 54 of the Financial Services Act 1986.

(3) In the entry relating to the Secretary of State, in the second column—

- (a) the words “Insurance Companies Act 1982,” and “the Financial Services Act 1986,” are repealed; and

(5) The entry relating to the Treasury was amended by [S.I. 1997/2781](#), Schedule paragraph 125.

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(b) for “or Part III of the Pension Schemes Act 1993” substitute “, Part 3 of the Pension Schemes Act 1993 or the Financial Services and Markets Act 2000”.

(4) In the entry relating to the Financial Services Authority⁽⁶⁾, for the second column, substitute—

“Functions under the legislation relating to friendly societies, under the Building Societies Act 1986 or under the Financial Services and Markets Act 2000.”.

(5) In the entry relating to an inspector appointed by the Secretary of State, the words “or section 94 or 177 of the Financial Services Act 1986” are repealed.

(6) For the entry beginning “A person authorised to exercise powers” substitute—

“A person authorised to exercise powers under section 447 of the Companies Act 1985, Article 440 of the Companies (Northern Ireland) Order 1986 or section 84 of the Companies Act 1989.	Functions under those sections or that Article.
A person appointed under—	Functions in relation to that investigation.
(a) section 167 of the Financial Services and Markets Act 2000,	
(b) subsection (3) or (5) of section 168 of that Act, or	
(c) section 284 of that Act, to conduct an investigation.	
A body designated under section 326(1) of the Financial Services and Markets Act 2000.	Functions in its capacity as a body designated under that section.
A recognised investment exchange or a recognised clearing house (as defined by section 285 of that Act).	Functions in its capacity as an exchange or clearing house recognised under that Act.
A body corporate established in accordance with section 212(1) of that Act.	Functions under the Financial Services Compensation Scheme, established in accordance with section 213 of that Act.”.

Disclosure of information to Compensation Board

147. In section 114(7) of the Pensions Act 1995 (bodies which may disclose information to the Compensation Board)—

(a) paragraphs (f) and (j) are repealed;

(b) after paragraph (l), insert—

“(la) the Financial Services Authority;

(lb) a body corporate established in accordance with section 212(1) of the Financial Services and Markets Act 2000 (Financial Services Compensation Scheme: the scheme manager);”.

⁽⁶⁾ The entry relating to the Financial Services Authority was inserted by the Bank of England Act 1998 (c. 11) Schedule 5 paragraph 71.

Disclosure of information concerning public service pension schemes

148. In section 172 of the Pensions Act 1995 (information in connection with public service pensions), in subsection (1)(a), after “section 62 of the Financial Services Act 1986” insert “or under section 150 of the Financial Services and Markets Act 2000”.

Repeal of spent amendments by Pensions Act 1995 to other legislation

149. The following provisions of the Pensions Act 1995 (amendments to other legislation spent as a result of the coming into force of the Financial Services and Markets Act 2000) are repealed—

- (a) in Schedule 3, paragraphs 11, 17, 18 and 19;
- (b) in Schedule 5, paragraph 11; and
- (c) in Schedule 7, in Part 1, the entries relating to the Insurance Companies Act 1982 and the Banking Act 1987 and, in Part 2, the entries relating to the Insurance Companies Act 1982.