

*Status: Point in time view as at 01/02/1991.*

**Changes to legislation:** Financial Services Act 1986 (Repealed), SCHEDULE 9 is up to date with all changes known to be in force on or before 05 June 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

## SCHEDULES

### SCHEDULE 9

Section 116.

#### DESIGNATED AGENCIES: STATUS AND EXERCISE OF TRANSFERRED FUNCTIONS

##### *Status*

- 1 (1) A designated agency shall not be regarded as acting on behalf of the Crown and its members, officers and servants shall not be regarded as Crown servants.
- (2) In Part III of Schedule 1 to the <sup>M1</sup>House of Commons Disqualification Act 1975 (disqualifying offices) there shall be inserted at the appropriate place—  
“Chairman of a designated agency within the meaning of the Financial Services Act 1986 if he is in receipt of remuneration”.
- (3) An amendment corresponding to that in sub-paragraph (2) above shall be made in Part III of Schedule 1 to the <sup>M2</sup>Northern Ireland Assembly Disqualification Act 1975.

##### **Marginal Citations**

**M1** 1975 c. 24.

**M2** 1975 c. 25.

##### *Exemption from requirement of “limited” in name of designated agency*

- 2 (1) A company is exempt from the requirements of the <sup>M3</sup>Companies Act 1985 relating to the use of “limited” as part of the company name if—
  - (a) it is a designated agency; and
  - (b) its memorandum or articles comply with the requirements specified in paragraph (b) of subsection (3) of section 30 of that Act.
- (2) In subsection (4) of that section (statutory declaration of compliance with requirements entitling company to exemption) the reference to the requirements of subsection (3) of that section shall include a reference to the requirements of sub-paragraph (1) above.
- (3) In section 31 of that Act (provisions applicable to exempted companies) the reference to a company which is exempt under section 30 of that Act shall include a reference to a company that is exempt under this paragraph and, in relation to such a company, the power conferred by subsection (2) of that section (direction to include “limited” in company name) shall be exercisable on the ground that the company has ceased to be a designated agency instead of the ground mentioned in paragraph (a) of that subsection.

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- (4) In this paragraph references to the said Act of 1985 and sections 30 and 31 of that Act include references to the corresponding provisions in force in Northern Ireland.

**Marginal Citations**

**M3** 1985 c. 6.

*The Tribunal*

- 3 (1) Where a case is referred to the Tribunal by a designated agency the Tribunal shall send the Secretary of State a copy of any report made by it to the agency in respect of that case.
- (2) Where the powers which the Tribunal could, apart from any delegation order, require the Secretary of State to exercise are, by virtue of such an order or of an order resuming any function transferred by it, exercisable partly by the Secretary of State and partly by a designated agency or designated agencies the Tribunal may require any of them to exercise such of those powers as are exercisable by them respectively.

*Legislative functions*

- 4 (1) A designated agency shall send the Secretary of State a copy of [<sup>F1</sup> any statements of principles, rules, regulations, or codes of practice issued or made] by it by virtue of functions transferred to it by a delegation order and give him written notice of any amendment or revocation of or addition to any such rules or regulations.
- (2) A designated agency shall—
- (a) send the Secretary of State a copy of any guidance issued by the agency which is intended to have continuing effect and is issued in writing or other legible form; and
  - (b) give him written notice of any amendment, revocation of or addition to guidance issued by it;
- but notice need not be given of the revocation of guidance other than such as is mentioned in paragraph (a) above or of any amendment or addition which does not result in or consist of such guidance as is there mentioned.

**Textual Amendments**

**F1** Words substituted by [Companies Act 1989 \(c. 40, SIF 27\)](#), s. 206(1), [Sch. 23 para. 24\(2\)](#)

- [<sup>F25</sup> Paragraphs 6 to 9 below have effect instead of section 205A of this Act in relation to statements of principle, rules, regulations and codes of practice issued or made by a designated agency in the exercise of powers transferred to it by a delegation order.]

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#### Textual Amendments

**F2** Sch. 9 paras. 5, 6 substituted by Companies Act 1989 (c. 40, SIF 27), s. 206(1), Sch. 23 para. 24(3)

- 6 Any such power is exercisable by instrument in writing and includes power to make different provision for different cases.
- 7 The instrument shall specify the provision of this Act under which it is made.
- 8 (1) Immediately after an instrument [<sup>F3</sup>is issued or made] it shall be printed and made available to the public with or without payment.
- (2) A person shall not be taken to have contravened any [<sup>F4</sup>statement of principle, rule, regulation or code of practice] if he shows that at the time of the alleged contravention the instrument containing the [<sup>F4</sup>statement of principle, rule, regulation or code of practice] had not been made available as required by this paragraph.

#### Textual Amendments

**F3** Words substituted by Companies Act 1989 (c. 40, SIF 27), s. 206(1), Sch. 23 para. 24(4)(a)

**F4** Words substituted by Companies Act 1989 (c. 40, SIF 27), s. 206(1), Sch. 23 para. 24(4)(b)

- 9 (1) The production of a printed copy of an instrument purporting to be [<sup>F5</sup>made or issued by the agency] on which is endorsed a certificate signed by an officer of the agency authorised by it for that purpose and stating—
- (a) that the instrument was [<sup>F5</sup>made or issued by the agency];
  - (b) that the copy is a true copy of the instrument; and
  - (c) that on a specified date the instrument was made available to the public as required by paragraph 8 above,
- shall be prima facie evidence, or, in Scotland, sufficient evidence of the facts stated in the certificate.
- (2) Any certificate purporting to be signed as mentioned in sub-paragraph (1) above shall be deemed to have been duly signed unless the contrary is shown.
- (3) Any person wishing in any legal proceedings to cite an instrument made by the agency may require the agency to cause a copy of it to be endorsed with such a certificate as is mentioned in this paragraph.

#### Textual Amendments

**F5** Words substituted by Companies Act 1989 (c. 40, SIF 27), s. 206(1), Sch. 23 para. 24(5)

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**Modifications etc. (not altering text)**

- C1** By **Companies Act 1989 (c. 40, SIF 27)**, s. 206(1), **Sch. 23 para. 24(5)** it is provided that in paragraph 9 for “made by the agency” (twice) there is substituted “made or issued by the agency”

*Fees*

- 10 (1) A designated agency may retain any fees payable to it by virtue of the delegation order.
- (2) Any such fees shall be applicable for meeting the expenses of the agency in discharging its functions under the order and for any purposes incidental thereto.
- (3) Any fees payable to a designated agency by virtue of a delegation order made before the coming into force of section 3 of this Act may also be applied for repaying the principal of, and paying interest on, any money borrowed by the agency (or by any other person whose liabilities in respect of the money are assumed by the agency) which has been used for the purpose of defraying expenses incurred before the making of the order (whether before or after the passing of this Act) in making preparations for the agency becoming a designated agency.
- 11 If the function of prescribing the amount of any fee, or of making a scheme under section 112 above, is exercisable by a designated agency it may prescribe or make provision for such fees as will enable it to defray any such expenses as are mentioned in paragraph 10 above.

*Consultation*

- [<sup>F6</sup>12 (1) Where a designated agency proposes, in the exercise of powers transferred to it by a delegation order, to issue or make any statements of principle, rules, regulations or codes of practice, it shall publish the proposed instrument in such manner as appears to it best calculated to bring the proposals to the attention of the public, together with a statement that representations about the proposals (and, in particular, representations as to the cost of complying with the proposed provisions) can be made to the agency within a specified time.
- (2) Before issuing or making the instrument the agency shall have regard to any representations duly made in accordance with that statement.
- (3) The above requirements do not apply—
- (a) where the agency considers that the delay involved in complying with them would be prejudicial to the interests of investors;
- (b) to the issuing or making of an instrument in the same, or substantially the same, terms as a proposed instrument which was furnished by the agency to the Secretary of State for the purposes of section 114(9) of this Act.]

**Textual Amendments**

- F6** Sch. 9 para. 12 substituted by **Companies Act 1989 (c. 40, SIF 27)**, s. 206(1), **Sch. 23 para. 24(6)**

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### *Exchange of information*

- 13 (1) The Secretary of State may communicate to a designated agency any information in his possession of which he could have availed himself for the purpose of exercising any function which by virtue of a delegation order is for the time being exercisable by the agency.
- (2) A designated agency may in the exercise of any function which by virtue of a delegation order is for the time being exercisable by it communicate to any other person any information which has been communicated to the agency by the Secretary of State and which the Secretary of State could have communicated to that person in the exercise of that function.
- (3) No communication of information under sub-paragraph (1) above shall constitute publication for the purposes of the law of defamation.

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**Modifications etc. (not altering text)**

- C2** [Sch. 9 para. 13](#): certain functions of the Secretary of State made exercisable concurrently by the Secretary of State and the Treasury (7.6.1992) by [S.I. 1992/1315](#), [art. 5](#), [Sch. 3 para.2](#).

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