



# Financial Services and Markets Act 2000

## 2000 CHAPTER 8

### PART XVII

#### COLLECTIVE INVESTMENT SCHEMES

#### CHAPTER III

#### AUTHORISED UNIT TRUST SCHEMES

#### *Rules*

#### 247 Trust scheme rules.

- (1) The Authority may make rules (“trust scheme rules”) as to—
  - (a) the constitution, management and operation of authorised unit trust schemes;
  - (b) the powers, duties, rights and liabilities of the manager and trustee of any such scheme;
  - (c) the rights and duties of the participants in any such scheme; and
  - (d) the winding up of any such scheme.
- (2) Trust scheme rules may, in particular, make provision—
  - (a) as to the issue and redemption of the units under the scheme;
  - (b) as to the expenses of the scheme and the means of meeting them;
  - (c) for the appointment, removal, powers and duties of an auditor for the scheme;
  - (d) for restricting or regulating the investment and borrowing powers exercisable in relation to the scheme;
  - (e) requiring the keeping of records with respect to the transactions and financial position of the scheme and for the inspection of those records;
  - (f) requiring the preparation of periodical reports with respect to the scheme and the provision of those reports to the participants and to the Authority; and
  - (g) with respect to the amendment of the scheme.

*Status: Point in time view as at 01/04/2002.*

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- (3) Trust scheme rules may make provision as to the contents of the trust deed, including provision requiring any of the matters mentioned in subsection (2) to be dealt with in the deed.
- (4) But trust scheme rules are binding on the manager, trustee and participants independently of the contents of the trust deed and, in the case of the participants, have effect as if contained in it.
- (5) If—
  - (a) a modification is made of the statutory provisions in force in Great Britain or Northern Ireland relating to companies,
  - (b) the modification relates to the rights and duties of persons who hold the beneficial title to any shares in a company without also holding the legal title, and
  - (c) it appears to the Treasury that, for the purpose of assimilating the law relating to authorised unit trust schemes to the law relating to companies as so modified, it is expedient to modify the rule-making powers conferred on the Authority by this section,
 the Treasury may by order make such modifications of those powers as they consider appropriate.

## **248 Scheme particulars rules.**

- (1) The Authority may make rules (“scheme particulars rules”) requiring the manager of an authorised unit trust scheme—
  - (a) to submit scheme particulars to the Authority; and
  - (b) to publish scheme particulars or make them available to the public on request.
- (2) “Scheme particulars” means particulars in such form, containing such information about the scheme and complying with such requirements, as are specified in scheme particulars rules.
- (3) Scheme particulars rules may require the manager of an authorised unit trust scheme to submit, and to publish or make available, revised or further scheme particulars if there is a significant change affecting any matter—
  - (a) which is contained in scheme particulars previously published or made available; and
  - (b) whose inclusion in those particulars was required by the rules.
- (4) Scheme particulars rules may require the manager of an authorised unit trust scheme to submit, and to publish or make available, revised or further scheme particulars if—
  - (a) a significant new matter arises; and
  - (b) the inclusion of information in respect of that matter would have been required in previous particulars if it had arisen when those particulars were prepared.
- (5) Scheme particulars rules may provide for the payment, by the person or persons who in accordance with the rules are treated as responsible for any scheme particulars, of compensation to any qualifying person who has suffered loss as a result of—
  - (a) any untrue or misleading statement in the particulars; or
  - (b) the omission from them of any matter required by the rules to be included.
- (6) “Qualifying person” means a person who—

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- (a) has become or agreed to become a participant in the scheme; or
  - (b) although not being a participant, has a beneficial interest in units in the scheme.
- (7) Scheme particulars rules do not affect any liability which any person may incur apart from the rules.

#### **249 Disqualification of auditor for breach of trust scheme rules.**

- (1) If it appears to the Authority that an auditor has failed to comply with a duty imposed on him by trust scheme rules, it may disqualify him from being the auditor for any authorised unit trust scheme or authorised open-ended investment company.
- (2) Subsections (2) to (5) of section 345 have effect in relation to disqualification under subsection (1) as they have effect in relation to disqualification under subsection (1) of that section.

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

- C1** S. 249(1) applied (with modifications) (N.I.) (1.11.2004) by Open-Ended Investment Companies Regulations (Northern Ireland) (S.R. 2004/335), regs. 1(1)(b), 69, {Sch. 5 para. 20} (with reg. 1(2))

#### **250 Modification or waiver of rules.**

- (1) In this section “rules” means—
- (a) trust scheme rules; or
  - (b) scheme particulars rules.
- (2) The Authority may, on the application or with the consent of any person to whom any rules apply, direct that all or any of the rules—
- (a) are not to apply to him as respects a particular scheme; or
  - (b) are to apply to him, as respects a particular scheme, with such modifications as may be specified in the direction.
- (3) The Authority may, on the application or with the consent of the manager and trustee of a particular scheme acting jointly, direct that all or any of the rules—
- (a) are not to apply to the scheme; or
  - (b) are to apply to the scheme with such modifications as may be specified in the direction.
- (4) Subsections (3) to (9) and (11) of section 148 have effect in relation to a direction under subsection (2) as they have effect in relation to a direction under section 148(2) but with the following modifications—
- (a) subsection (4)(a) is to be read as if the words “by the authorised person” were omitted;
  - (b) any reference to the authorised person (except in subsection (4)(a)) is to be read as a reference to the person mentioned in subsection (2); and
  - (c) subsection (7)(b) is to be read, in relation to a participant of the scheme, as if the word “commercial” were omitted.

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- (5) Subsections (3) to (9) and (11) of section 148 have effect in relation to a direction under subsection (3) as they have effect in relation to a direction under section 148(2) but with the following modifications—
- (a) subsection (4)(a) is to be read as if the words “by the authorised person” were omitted;
  - (b) subsections (7)(b) and (11) are to be read as if references to the authorised person were references to each of the manager and the trustee of the scheme;
  - (c) subsection (7)(b) is to be read, in relation to a participant of the scheme, as if the word “commercial” were omitted;
  - (d) subsection (8) is to be read as if the reference to the authorised person concerned were a reference to the scheme concerned and to its manager and trustee; and
  - (e) subsection (9) is to be read as if the reference to the authorised person were a reference to the manager and trustee of the scheme acting jointly.

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

- C2** S. 250(2) amended (*temp.* from 3.9.2001 to 1.12.2001) by S.I. 2001/2659, **arts. 1(2), 3(6)**; S.I. 2001/3538, **art. 2(1)**

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