

1988 No. 740 (C.22)

FINANCIAL SERVICES

**The Financial Services Act 1986 (Commencement)
(No. 8) Order 1988**

Made - - - - *8th April 1988*

The Secretary of State, in exercise of his powers under section 211(1) of the Financial Services Act 1986(a), hereby makes the following Order—

1. This Order may be cited as the Financial Services Act 1986 (Commencement) (No. 8) Order 1988.
2. The provisions of the Financial Services Act 1986 specified in the Schedule to this Order shall come into force on 29th April 1988.
3. Except as provided in articles 4 and 5 of this Order, section 57 of the Financial Services Act 1986 shall come into force on 29th April 1988.
4. Except as provided in article 5 of this Order, section 57 of the Financial Services Act 1986 shall come into force on —
 - (a) 6th May 1988 insofar as it relates to an advertisement not falling within sub-paragraph (b) or (c) below which is issued or caused to be issued by a person who is not an authorised person;
 - (b) 29th May 1988 insofar as it relates to an advertisement issued for valuable consideration in a newspaper, journal, magazine or other periodical publication which is published at intervals of less than 7 days; and
 - (c) 29th July 1988 insofar as it relates to an advertisement issued for valuable consideration either —
 - (i) in any newspaper, journal, magazine or other publication which does not fall within sub-paragraph (b) above; or
 - (ii) by way of sound broadcasting or television, by the exhibition of cinematographic films or by the distribution of recordings.
5. Section 57 of the Financial Services Act 1986 shall not come into force on whichever is applicable of the dates specified in article 3 or 4 of this Order insofar as it has effect in relation to an advertisement issued on or after whichever is applicable of those dates in an edition of a newspaper, magazine, journal or other publication first issued before the relevant date.
- 6.—(1) Section 76 of the Financial Services Act 1986 shall come into force on 29th April 1988 except insofar as it has effect in relation to —

- (a) a collective investment scheme which takes the form of an open-ended investment company units in which are either included in the Official List of The International Stock Exchange of the United Kingdom and the Republic of Ireland Limited or are offered on terms such that any agreement for their acquisition is conditional upon their admission to that List; or
- (b) any prospectus issued by or on behalf of an open-ended investment company which complies with Chapter II of Part III of the Companies Act 1985(a) or the corresponding provisions of the Companies (Northern Ireland) Order 1986(b) and the issue of which in the United Kingdom does not contravene section 74 or 75 of the Companies Act 1985 or the corresponding provisions of the Companies (Northern Ireland) Order 1986 as the case may be.

(2) Section 76 of the Financial Services Act 1986 shall come into force for all remaining purposes on 1st July 1988.

7. Section 212(3) of and Schedule 17 to the Financial Services Act 1986 shall come into force on 1st July 1988 insofar as is necessary to have the effect that, to the extent that they do apply, the provisions of Part III and section 693 of and Schedule 3 to the Companies Act 1985 and the corresponding provisions of the Companies (Northern Ireland) Order 1986 cease to apply to a prospectus offering for subscription, or to any application form for, units in a body corporate which is an open-ended investment company.

Alan Clark

8th April 1988

Minister of State, Department of Trade and Industry

SCHEDULE

Article 2

PROVISIONS OF FINANCIAL SERVICES ACT 1986 COMING INTO FORCE ON 29th APRIL 1988

<i>Provisions of Act</i>	<i>Subject matter of provisions</i>
Section 3.	Persons entitled to carry on investment business.
Section 4.	Offences.
Section 5 insofar as not yet in force.	Agreements made by or through unauthorised persons.
Section 6.	Injunctions and restitution orders.
Section 7.	Authorisation by membership of recognised self-regulating organisations.
Section 15 insofar as not yet in force.	Authorisation by certification by recognised professional body.
Section 22.	Authorised insurers.
Section 23.	Registered friendly societies.
Section 24 insofar as is necessary for the purposes of paragraph 10 of Schedule 15 to the Act.	Operators and trustees of recognised collective investment schemes.
Section 25.	Authorisation by the Secretary of State.
Section 31 insofar as not yet in force.	Authorisation in another member State.
Section 32.	Notice of commencement of business by person authorised by virtue of section 31.

(a) 1985 c.6. (b) S.I. 1986/1032 (N.I.6).

Section 33.	Termination and suspension of authorisation by virtue of section 31.
Section 34.	Notice of proposed termination or suspension of authorisation by virtue of section 31.
Section 35 insofar as not yet in force.	The Bank of England.
Section 36 insofar as not yet in force.	Investment exchanges.
Section 38 insofar as not yet in force.	Clearing houses.
Section 42 insofar as not yet in force.	Lloyd's.
Section 44 insofar as not yet in force.	Appointed representatives.
Section 45 insofar as not yet in force.	Miscellaneous exemptions.
Section 47.	Misleading statements and practices.
Section 56 insofar as not yet in force.	Unsolicited calls.
Section 58, except section 58(1)(d)(ii) insofar as it relates to an advertisement required or permitted to be published by an approved exchange under Part V of the Act, and except section 58(2).	Exceptions from restrictions on advertising.
Section 59.	Employment of prohibited persons.
Section 60.	Public statement as to person's misconduct.
Section 61.	Injunctions and restitution orders.
Section 64.	Powers of intervention – scope of powers.
Section 65.	Restriction of business.
Section 66.	Restriction on dealing with assets.
Section 67	Vesting of assets in trustee.
Section 68.	Maintenance of assets in United Kingdom.
Section 69.	Rescission and variation.
Section 70.	Notices.
Section 71.	Breach of prohibition or requirement.
Section 72.	Winding up orders.
Section 73.	Winding up orders: Northern Ireland.
Section 74.	Administration orders.
Section 75.	Collective investment schemes: interpretation.
Section 77.	Applications for authorisation.
Section 78	Authorisation orders.
Section 79.	Revocation of authorisation.
Section 80.	Representations against refusal or revocation.
Section 81.	Constitution and management.
Section 82.	Alteration of schemes and changes of manager or trustee.
Section 83.	Restrictions on activities of manager.
Section 84.	Avoidance of exclusion clauses.
Section 85.	Publication of scheme particulars.
Section 86 insofar as is necessary for the purposes of paragraph 10 of Schedule 15 to the Act.	Schemes constituted in other member States.
Section 87.	Schemes authorised in designated countries or territories.
Section 88.	Other overseas schemes.

SCHEDULE *continued*

<i>Provisions of Act</i>	<i>Subject matter of provisions</i>
Section 89.	Refusal and revocation of recognition.
Section 90.	Facilities and information in the United Kingdom.
Section 91.	Directions.
Section 92.	Notice of directions.
Section 93.	Applications to the court.
Section 94.	Investigations.
Section 95.	Contraventions.
Section 97.	References to the Tribunal.
Section 98.	Decisions on references by applicant or authorised person etc.
Section 99.	Decisions on references by third party.
Section 100.	Withdrawal of references.
Section 101.	Reports.
Section 104 insofar as not yet in force.	Power to call for information.
Section 108.	Power to call for second audit.
Section 109.	Communication by auditor with supervisory authorities.
Section 111.	Offences and enforcement.
Section 112 insofar as not yet in force.	Application fees.
Section 113 insofar as not yet in force.	Periodical fees.
Section 129 except insofar as it relates to paragraph 5(3) and (4) of Schedule 10 to the Act and, except as aforesaid, the provisions of that Schedule not yet in force.	Application of investment business provisions to regulated insurance companies.
Section 130.	Restriction on promotion of contracts of insurance.
Section 131.	Contracts made after contravention of section 130.
Section 132 insofar as not yet in force.	Insurance contracts effected in contravention of the Insurance Companies Act 1982(a).
Section 133.	Misleading statements as to insurance contracts.
Section 135.	Communication by auditor with Secretary of State.
Section 136.	Arrangements to avoid unfairness between separate insurance funds etc.
Section 138 insofar as not yet in force.	Insurance brokers.
Section 139 insofar as not yet in force.	Industrial assurance.
Section 140 insofar as not yet in force, but not insofar as it relates to paragraph 17 of Schedule 11 to the Act or to the provisions of Schedule 11 coming into force on 3rd October 1988 and, except as aforesaid, the provisions of that Schedule not yet in force.	Friendly societies.

(a) 1982 c.50.

Section 154 insofar as not yet in force.	Advertisements etc. issued in connection with listing particulars.
Section 160 insofar as is necessary to enable the Secretary of State to make an order under that section.	Other offers of securities.
Section 162 insofar as is necessary to enable the Secretary of State to make rules under that section and insofar as is necessary for the purposes of section 169.	Form and content of prospectus.
Section 169.	Terms and implementation of offer.
Section 170 insofar as is necessary to enable the Secretary of State to make an Order under that section.	Advertisements by private companies and old public companies.
The remaining provisions of section 174 except section 174(4)(a).	Market makers, off-market dealers etc.
Section 175.	Price stabilisation.
Section 178 insofar as not yet in force.	Penalties for failure to co-operate with section 177 investigations.
Section 183 insofar as not yet in force.	Reciprocal facilities for financial business.
Section 184 insofar as not yet in force.	Investment and insurance business.
Section 186 insofar as not yet in force.	Variation and revocation of notices.
Section 194.	Transfers to and from recognised clearing houses.
Section 197.	Disclosure of interests in shares: interest held by market maker.
Section 198 insofar as not yet in force.	Power to petition for winding up etc on information obtained under the Act.
Section 199 insofar as not yet in force.	Powers of entry.
Section 200 insofar as not yet in force.	False and misleading statements.
Section 201 insofar as not yet in force.	Prosecutions.
Section 208 insofar as it has effect in relation to the application of section 130.	Gibraltar.
Section 211 of and Schedule 15 to the Act insofar as not yet in force.	Transitional provisions.
Section 212(2) except insofar as it relates to paragraphs 16 and 31 of Schedule 16 to the Act and, except as aforesaid, the provisions of that Schedule not yet in force.	Consequential amendments.
Section 212(3) of and Schedule 17 to the Act except insofar as they provide for the repeal of, or of words in, the following provisions:	

SCHEDULE *continued*

Provisions of Act

Subject matter of provisions

- (a) such provisions of the Prevention of Fraud (Investments) Act (Northern Ireland) 1940(a) as are necessary for the purposes of paragraph 1(3) of Schedule 15 to the Act as it applies by virtue of paragraph 16 of that Schedule;
 - (b) such provisions of the Prevention of Fraud (Investments) Act 1958(b) as are necessary for the purposes of paragraph 1(3) of Schedule 15 to the Act;
 - (c) the Tribunals and Inquiries Act 1971(c);
 - (d) The House of Commons Disqualification Act 1975(d);
 - (e) The Restrictive Trade Practices (Stock Exchange) Act 1984(e);
 - (f) section 13 of the Company Securities (Insider Dealing) Act 1985(f);
 - (g) to the extent not yet repealed, and except insofar as is necessary to have the effect that those provisions cease to apply to a prospectus offering for subscription, or to any form of application for, units in a body corporate which is a recognised scheme, the provisions of Part III, sections 81 to 87, 97, 449(1)(d), 693, 707 and 744, insofar as it relates to the definition of "prospectus issued generally", of and Schedules 3, 22 and 24 to the Companies Act 1985(g) and the corresponding provisions of the Companies (Northern Ireland) Order 1986(h); and
 - (h) Section 195 of the Act.
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(a) 1940 c.9 (N.I.). (b) 1958 c.45. (c) 1971 c.62. (d) 1975 c.24. (e) 1984 c.2. (f) 1985 c.8. (g) 1985 c.6. (h) S.I. 1986/1032 (N.I.6).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force on 29th April 1988 provisions of the Financial Services Act 1986 concerning the criminal and civil sanctions applicable if a person carries on investment business in the United Kingdom without authorisation or exemption under the Act. The Order also brings into force on the same date certain provisions of the Act concerning the regulation of investment business and of persons authorised to carry on that business.

Article 3 of the Order brings the provisions of the Act concerning the issue of certain investment advertisements into force on 29th April 1988 except insofar as those provisions concern certain advertisements which are contained in newspapers, journals, magazines and other periodical publications or are broadcast, televised or distributed through films or recordings. Depending upon the nature of the advertisement Article 4 brings the relevant provisions into force on either 6th May 1988, 29th May 1988 or 29th July 1988. Article 5 of the Order contains provisions concerning advertisements contained in a publication first issued before whichever is relevant of the dates mentioned above.

Article 6 of the Order brings the provisions of the Financial Services Act 1986 concerning the promotion of collective investment schemes into force on 29th April 1988 except insofar as those provisions concern units which are listed or issued on terms conditional upon their being listed on The International Stock Exchange or are the subject of a prospectus which complies with relevant companies legislation. The relevant provisions come into force for all remaining purposes on 1st July 1988.

The Order brings into force on 29th April 1988 provisions of the Act concerning the authorisation and recognition of collective investment schemes and concerning the subsequent regulation of such schemes. Provisions concerning –

- (a) the application of the provisions of the Act to insurance companies and friendly societies;
- (b) the promotion of certain insurance contracts;
- (c) the audit of investment businesses; and
- (d) reciprocity.

are also brought into force on 29th April 1988.

The Order brings certain transitional and consequential provisions and repeals into force on 29th April 1988 including the repeal of the major part of the Prevention of Fraud (Investments) Act 1958 and the corresponding Northern Irish legislation.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions of the Financial Services Act 1986 have been brought into force by commencement orders made before the date of this Order.

<i>Provisions of the Act</i>	<i>S.I. No.</i>
s.1	1986/2246 1987/1997 1987/2158
s.2	1986/2246
s.5 (partially)	1986/2246
ss.8 to 11	1987/907
s.12	1987/1997
s.13	1987/907
s.14	1987/907
s.15 (partially)	1987/907
ss.16 to 19	1987/907
s.20	1987/1997
s.21	1987/907
ss.26 to 30	1987/2158
s.31 (partially)	1987/2158
s.35 (partially)	1986/2246
s.36 (partially)	1987/907
s.37	1987/907 1987/1997
s.38 (partially)	1987/907
s.39	1987/907 1987/1997
s.40	1987/1997
s.41	1987/907
s.42 (partially)	1986/2246
s.43	1987/2158
s.45 (partially)	1986/2246
s.46	1987/907
ss.48 to 52	1987/907
ss.54 and 55	1987/907
s.56 (partially)	1987/907
s.62 (partially)	1987/1997
s.63	1987/623
s.96	1987/1997
ss.102 and 103	1987/907
s.104 (partially)	1987/907

ss.105 and 106	1986/2246
ss.107 and 110	1987/907
s.112 (partially)	1987/907 1987/2158
s.113 (partially)	1987/907
ss.114 to 118	1986/2246
ss.119 and 120	1987/907
s.121	1986/2246
ss.122 and 123	1986/2246 1987/907
s.124	1986/2246
s.125 (partially)	1987/907
s.126	1986/2246
s.127	1987/907
s.128	1986/2246
s.129 (partially)	1986/2246 1987/907
s.132 (partially)	1986/2246
s.134 (partially)	1986/2246
s.137	1986/2246
s.138 (partially)	1986/2246 1987/907
s.139 (partially)	1986/2246
s.140 (partially)	1986/2246 1987/907 1987/1997 1987/2158
ss.141 to 153	1986/2246
s.154 (partially)	1986/2246
ss.155 to 157	1986/2246
ss.172 and 173	1986/2246
s.174 (partially)	1986/2246
s.176	1986/2246
s.177	1986/1940
s.178 (partially)	1986/1940 1986/2246
s.179	1986/1940 1986/2246
s.180	1986/1940
s.181	1986/2246
s.182	1986/1940 1986/2031 1986/2246

SCHEDULE *continued*

<i>Provisions of Act</i>	<i>S.I. No.</i>
ss.183 and 184 (partially)	1987/623
s.185	1987/623
s.186 (partially)	1987/623
s.187	1986/2246 1987/907
s.188	1986/2246
s.189 (partially)	1986/2246 1987/1997 1987/2158
s.190	1987/907
s.191	1987/907
s.192	1986/2246
s.195	Royal Assent
s.196	1987/1997
s.198 (partially)	1986/1940 1986/2246 1987/907
s.199 (partially)	1986/1940 1986/2246
s.200 (partially)	1986/1940 1986/2246 1987/907 1987/2158
s.201 (partially)	1986/1940 1986/2246 1987/623
ss.202 and 203	1986/1940 1986/2246
s.204	1986/2246
s.205	1986/1940 1986/2246
s.206	1987/907
ss.207, 209 and 210	1986/1940 1986/2246
s.211 (partially)	1986/2031 1986/2246 1987/907 1987/2158
s.212 (partially)	1986/2031 1986/2246 1987/907
Schedule 1	1986/2246 1987/1997 1987/2158
Schedules 2 to 4	1987/907

Schedule 5	1987/2158
Schedule 6	1987/1997
Schedules 7,8 and 9	1986/2246
Schedule 10 (partially)	1986/2246 1987/907
Schedule 11 (partially)	1986/2246 1987/907 1987/1997 1987/2158
Schedule 12	1986/2246
Schedule 13	1986/1940 1986/2031 1986/2246
Schedule 14 (partially)	1986/2246 1987/1997 1987/2158
Schedule 15 (partially)	1986/2031 1986/2246 1987/907 1987/2158
Schedule 16 (partially)	1986/2246 1987/907
Schedule 17 (partially)	1986/2031 1986/2246

The following provisions of the Financial Services Act 1986 will come into force on 3rd October 1988 by virtue of commencement order made before the date of this Order:

<i>Provisions of the Act</i>	<i>S.I. No.</i>
s.62 (insofar as not already in force)	1987/1997
s.140 and Schedule 11 (partially)	1987/1997

The word ("partially") is used where the provision has been brought into force in part, or for a limited purpose or for a limited area.