
STATUTORY INSTRUMENTS

1990 No. 354

**The Companies Act 1989 (Commencement No. 3,
Transitional Provisions and Transfer of Functions
under the Financial Services Act 1986) Order 1990**

Transitional provisions and savings

6.—(1) For a transitional period as mentioned in subsection (3) of section 203 of the 1989 Act beginning on 15th March 1990, a self-regulating organisation or professional body may elect whether to comply with the new requirement having effect by virtue of subsection

(1) or (2) of that section or with the requirement which it replaces (“the equivalence test”).

(2) For the transitional period referred to above: —

(a) statements of principle, rules, regulations and codes of practice to which (in the case of a self-regulating organisation) its members or (in the case of a professional body) persons certified by it are subject under Chapter V of Part I of the 1986 Act (as amended by those provisions of the 1989 Act brought into force by this Order) shall be taken into account for the purposes of the equivalence test, so that —

(i) in the case of a self-regulating organisation the requirement is for the rules of the organisation governing the carrying on of investment business of any kind by its members, together with any relevant statements of principle, rules, regulations or codes of practice as mentioned above, to afford investors protection at least equivalent to that afforded in respect of investment business of that kind by the statements of principle, rules, regulations and codes of practice for the time being in force under Chapter V of Part I of the 1986 Act (as amended by those provisions of the 1989 Act brought into force by this Order);

(ii) in the case of a professional body the requirement is for the rules regulating the carrying on of investment business of any kind by persons certified by it, together with any relevant statements of principle, rules, regulations or codes of practice as mentioned above, to afford to investors protection at least equivalent to that afforded in respect of investment business of that kind by the statements of principle, rules, regulations and codes of practice for the time being in force under Chapter V of Part I of the 1986 Act (as amended by those provisions of the 1989 Act brought into force by this Order);

(b) the amendments made to section 13 of the 1986 Act by paragraph 1 of Schedule 23 to the 1989 Act and the omission of paragraph 7 of Schedule 11 to the 1986 Act by paragraph 29 of Schedule 23 to the 1989 Act shall not have effect in any case where the equivalence test applies.

(3) Any election under this article shall be notified in writing to SIB which shall send a copy of the notice to the Secretary of State and, where the election is made by a self-regulating organisation for friendly societies, to the Registrar (within the meaning of Schedule 11 to the 1986 Act); the Secretary of State shall send a copy of any notice received by him to the Director General of Fair Trading.

(4) The amendments made to section 55 of the 1986 Act by paragraph 6 of Schedule 23 to the 1989 Act and to paragraph 19 of Schedule 11 to the 1986 Act by paragraph 34 of the said Schedule 23

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and the related repeals under Schedule 24 to the 1989 Act shall not affect the validity or application of any regulations which have been made under the said section 55 or the said paragraph 19.