
STATUTORY INSTRUMENTS

2001 No. 3592

The Financial Services and Markets Act 2000 (Transitional Provisions) (Partly Completed Procedures) Order 2001

PART II

AUTHORISATIONS AND RESTRICTIONS UNDER OLD LAW

CHAPTER II

NOTICES TO WITHDRAW, SUSPEND OR RESTRICT AUTHORISATION

Notices under the Banking Act

Notices under the Banking Act

14.—(1) Where, before commencement—

- (a) a notice has been given under section 13(1) of the Banking Act of intention to revoke an authorisation;
- (b) the Authority has not given a notice under section 13(7) of the Banking Act (and is not treated as having given such a notice by reason of subsection (10) of that section),

the notice has effect after commencement as if it were a notice given under section 53(4) that the Authority proposes to vary the authorised person's permission by imposing a requirement that he refrain from carrying on the regulated activity or activities covered by the notice.

(2) Where, before commencement—

- (a) a notice was given under section 13(1) of the Banking Act of intention to impose a restriction or to vary a restriction;
- (b) the Authority has not given a notice under section 13(7) of the Banking Act (and is not treated as having given such a notice by reason of subsection (10) of that section),

the notice has effect after commencement as if it were a notice given under section 53(4) that the Authority proposes to vary the authorised person's permission by imposing or varying a requirement having the same effect as the restriction or variation described in the notice.

(3) Where, before commencement—

- (a) a notice had been given under section 14(2) of the Banking Act imposing or varying a restriction as a matter of urgency pursuant to section 14(1)(b) of that Act;
- (b) no notice under subsection (7) of section 14 of the Banking Act has been given,

that notice has effect after commencement as if it were a notice given under section 53(4) that the Authority has varied the authorised person's permission with immediate effect by imposing a restriction or varying the restriction in the manner set out in the notice.

Effect of Banking Act notices after commencement

15.—(1) A notice having effect under article 14 has effect—

- (a) as if it informed the recipient that he may make representations to the Authority (whether or not he refers the matter to the Tribunal) within—
 - (i) the new period (if any) specified for this purpose under article 90; or
 - (ii) if there is no new period so specified, within fourteen days beginning with the day on which the notice was given;
- (b) (in the case of notices having effect under article 14(1) and (2)) as if it informed the recipient that the variation takes effect on—
 - (i) the new date (if any) specified for this purpose under article 90; or
 - (ii) if no new date is so specified, then on the date (if any) specified in the notice as the date on which the revocation would take effect or the restriction be imposed or varied (as the case may be);
- (c) as if it informed the recipient that he has a right to refer the matter to the Tribunal—
 - (i) within the new period (if any) specified for this purpose under article 90; or
 - (ii) if there is no new period so specified, within 28 days from commencement.

(2) Where a notice has effect under article 14—

- (a) the Authority must decide whether to issue a notice under section 53(7) or (8);
- (b) in taking that decision, section 41 applies to the Authority;
- (c) the Authority must have regard to any representations made before commencement in relation to the notice given under the Banking Act.

(3) Notwithstanding section 53(2)(c), where the notice having effect under article 14(1) or (2) did not specify a date on which the revocation would take effect or on which the restriction would be imposed or varied, the Authority may specify in the notice given under paragraph (2)(a) the date on which the variation takes effect (being a date not earlier than the date of that notice).

Decision notified under section 13(7) of the Banking Act

16.—(1) Where, before commencement—

- (a) the Authority has issued a decision under section 13(7) of the Banking Act to which subsection (9) of that section applies; and
 - (b) the time for making representations referred to in section 13(9) of that Act has not expired,
- the Authority must consider any representations made pursuant to section 13(9) of that Act and may give a written notice under section 53(8) altering the restrictions.

(2) Nothing in this Order affects the period within which representations may be made in respect of that decision.