
STATUTORY INSTRUMENTS

2001 No. 3592

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

PART V

OTHER PROCEDURES PENDING AT COMMENCEMENT

CHAPTER I

APPROVED PERSONS

Applications for approval

49.—(1) Where an application to which this article applies was made in accordance with the procedure applicable to it and had not been decided before commencement, it is to be treated after commencement as an application made under section 60 for the Authority's approval under section 59.

(2) This article applies to any application to a recognised self-regulating organisation for its approval of the performance by a particular person of a function which is a controlled function after commencement.

(3) In relation to the application, section 61(3) has effect as if for the reference to the date on which the Authority receives an application made under section 60 there were substituted a reference to commencement.

Notices under section 60 of the Insurance Companies Act

50.—(1) Where—

- (a) a person has served a notice under section 60(1)(a) of the Insurance Companies Act⁽¹⁾;
- (b) no notice has been served before commencement objecting to or approving the appointment referred to in the notice;
- (c) the period mentioned in section 60(1)(b) of the Insurance Companies Act has not elapsed;
- (d) the appointment has not taken effect before commencement; and
- (e) the performance after commencement by the person of the functions of the post for which he is proposed would require the approval of the Authority under section 59,

the notice is to be treated as an application made by the authorised person under section 60 for the Authority's approval under section 59.

(2) In relation to an application having effect under paragraph (1), the period of consideration for the purposes of section 183—

- (a) is three months beginning with the date on which the notice served under section 60 of the Insurance Companies Act was received; but

(1) Section 60 has been amended by the 3ID Regulations and by the Transfer of Functions (Insurance) Order 1997 (S.I.1997/2781).

(b) is treated as having been extended by any period added before commencement by virtue of paragraph 1(3) of Schedule 2D to the Insurance Companies Act(2).

(3) Where, before commencement a preliminary notice was served on a person under section 60(3A) of the Insurance Companies Act(3) but no notice of objection has been served in respect of that preliminary notice, then the preliminary notice ceases to have effect on commencement and the Authority must, as soon as practicable after commencement, notify the recipients of the notice of that fact.

(4) Paragraph (3) does not affect the power of the Authority to serve a notice under section 62(2) in respect of the application (effective by virtue of paragraph (1)).

(5) Where a request for information has been made under paragraph 1(2) of Schedule 2D to the Insurance Companies Act and it has not been complied with before commencement, that request has effect after commencement as a request made under section 60(3).

Notices under section 61 of the Insurance Companies Act

51.—(1) Where—

- (a) a person has served a notice under section 61(1)(a) of the Insurance Companies Act;
- (b) no notice has been served before commencement objecting to or approving the appointment referred to in the notice;
- (c) the period mentioned in section 61(1)(b) of the Insurance Companies Act has not elapsed;
- (d) the appointment has not taken effect before commencement; and
- (e) the performance after commencement by the person of the functions of the post for which he is proposed would require the approval of the Authority under section 59,

the company mentioned in the notice is to be treated as if it had made an application in accordance with section 60 for the Authority's approval under section 59 for the performance by the person of the functions involved in the appointment.

(2) In relation to an application having effect under paragraph (1), the period of consideration for the purposes of section 183—

- (a) is three months beginning with the date on which the notice served under section 61 of the Insurance Companies Act was received; but
- (b) is treated as having been extended by any period added before commencement by virtue of paragraph 1(3) of Schedule 2D to the Insurance Companies Act.

(3) Where, before commencement a preliminary notice was served on a person under section 61(2) of the Insurance Companies Act but no notice of objection has been served in respect of that preliminary notice, then the preliminary notice ceases to have effect on commencement and the Authority must, as soon as practicable after commencement, notify the recipients of the notice of that fact.

(4) Paragraph (3) does not affect the power of the Authority to serve a notice under section 62(2) in respect of the application (effective by virtue of paragraph (1)).

Insurance Companies Act: miscellaneous provisions

52.—(1) A preliminary notice served under paragraph 2(3) or 3(4) of Schedule 2D to the Insurance Companies Act ceases to have effect on commencement and the Authority must, as soon as practicable after commencement, notify the person on whom the notice was served of that fact

(2) Schedule 2D to the Insurance Companies Act was inserted by the 3ID Regulations and has been amended by S.I. [1997/2781](#).

(3) Subsection (3A) was substituted for the original subsection (3) by the 3ID Regulations and has been amended by S.I. [1997/2781](#).

(but this is without prejudice to the power of the Authority to serve a notice under section 63 on the person).

(2) Where—

- (a) before commencement, a preliminary notice has been served under paragraph 4(2) of Schedule 2D to the Insurance Companies Act;
- (b) no notice of objection has been served under paragraph 4(1) of that Schedule in respect of the matter covered in the notice;
- (c) the person to whom the notice relates is a person who is treated as a person who has been approved by the Authority for the purposes of section 59,

the notice has effect after commencement as a warning notice served under section 63(3) giving notice of the Authority's intention to withdraw its approval.

(3) The Authority must, as soon as practicable after commencement, serve a copy of the notice on any interested party (within the meaning of section 63) who has not previously received a copy.

(4) Notwithstanding section 392(a), sections 393 and 394 do not apply to a warning notice having effect by virtue of paragraph (2).

(5) A notice having effect under paragraph (2) is to be treated as if—

- (a) it gave notice that the Authority proposes to withdraw its approval for that person;
- (b) it stated that section 394 does not apply;
- (c) it stated that representations could be made to the Authority within one month of the service of the notice;
- (d) the reference to making oral representations were omitted (without prejudice to any representations already made).

Notices in respect of bank or investment firm partners

53.—(1) Where—

- (a) a person has served a proposed partner notice before commencement;
- (b) the proposed appointment referred to in the notice has not been approved by the Regulator before commencement and is not treated as having been approved by the expiry of any period within which objection may be made;
- (c) no notice has been served before commencement objecting to the appointment of the partner proposed in the notice;
- (d) the appointment has not taken effect before commencement; and
- (e) the performance after commencement by the person of the functions of the post for which he is proposed would require the approval of the Authority under section 59,

the authorised person mentioned in the proposed partner notice is to be treated as if it had made an application under section 60 for the Authority's approval under section 59 for the performance by the proposed partner of the functions involved in the appointment.

(2) In relation to an application having effect under paragraph (1), the period of consideration for the purposes of section 61(3)—

- (a) is three months beginning with the date on which the Authority received the proposed partner notice; but
- (b) is treated as having been extended by any period added before commencement by virtue of section 21(4) of the Banking Act or regulation 41(4) of the ISD Regulations.

(3) Where, before commencement a preliminary notice was served on a person under section 22(2) of the Banking Act or regulation 42(3) of the ISD Regulations in response to a proposed

partner notice but no notice of objection has been served in respect of that preliminary notice, then the preliminary notice ceases to have effect on commencement and the Authority must, as soon as practicable after commencement, notify the recipients of the notice of that fact.

(4) Paragraph (3) does not affect the power of the Authority to serve a notice under section 62(2) in respect of the application (effective by virtue of paragraph (1)).

(5) A “proposed partner notice” means a notice served—

- (a) under section 21(1) of the Banking Act in respect of an appointment falling within section 21(2) of that Act;
- (b) under regulation 41(1) of the ISD Regulations in respect of an appointment falling within regulation 41(2) of those Regulations.

(6) The “Regulator” means—

- (a) in respect of the provisions of the Banking Act, the Authority;
- (b) in respect of the provisions of the ISD Regulations, the relevant regulator within the meaning of regulation 46(5) of those Regulations.