
STATUTORY INSTRUMENTS

2001 No. 3629

The Financial Services and Markets Act 2000
(Consequential Amendments) (Taxes) Order 2001

PART 2

AMENDMENTS TO PRIMARY LEGISLATION

The Taxation of Chargeable Gains Act 1992 (c. 12)

Introduction

61. Amend the Taxation of Chargeable Gains Act 1992 in accordance with Articles 62 to 73.

Unit trust schemes

62.—(1) In section 99(2)(a) (application of Act to unit trust schemes) for “same meaning as in the Financial Services Act 1986” substitute “meaning given by section 237(1) of the Financial Services and Markets Act 2000”.

(2) In section 102(3) (collective investment schemes with property divided into separate parts) for “the Financial Services Act 1986” substitute “section 235 of the Financial Services and Markets Act 2000”.

Qualifying corporate bonds: meaning of permanent interest bearing share

63.—(1) In section 117(11) (meaning of permanent interest bearing share) for paragraph (b) substitute—

“(b) “permanent interest bearing share” means a share which is a permanent interest bearing share within the meaning of, and is eligible for inclusion in the calculation for capital adequacy in accordance with, the Prudential Sourcebook (Building Societies) as that Sourcebook applies in relation to shares issued on the date that the share is issued, and in paragraph (b) above “the Prudential Sourcebook (Building Societies)” means the Interim Prudential Sourcebook for Building Societies made by the Financial Services Authority under the Financial Services and Markets Act 2000(1).”.

(2) This Article has effect in relation to shares in a building society issued on or after 1st December 2001.

(1) This sourcebook is part of the FSA Handbook. The FSA Handbook may be purchased on paper and on CD Rom from the Publications Department (Sales), Financial Services Authority, 25 The North Colonnade, Canary Wharf, London E14 5HS and is available on line at www.fsa.gov.uk.

Commodity and financial futures etc.

- 64.**—(1) Amend section 143 (commodity and financial futures etc.)(2) as follows.
- (2) In subsections (3)(a) and (b) and (7)(b) omit “or listed institution”.
- (3) For subsection (8) substitute—
- “(8) In this section “authorised person” means a person who—
- (a) falls within section 31(1)(a), (b) or (c) of the Financial Services and Markets Act 2000, and
- (b) has permission under that Act to carry on one or more of the activities specified in Article 14 and, in so far as it applies to that Article, Article 64 of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001.”.

Options and forfeited deposits

- 65.** In section 144(8)(c) (options and forfeited deposits)—
- (a) in sub-paragraph (i) for the words from “authorised” to “that Act” substitute “authorised person within the meaning given by section 143(8)”;
- (b) in sub-paragraph (iii) omit “or institution” (twice).

Transfer of insurance business

- 66.**—(1) In section 211 (transfer of long-term business)(3) for subsection (1) substitute—
- “(1) This section applies where an insurance business transfer scheme has effect to transfer business which consists of the effecting or carrying out of contracts of long-term insurance from one person (“the transferor”) to another (“the transferee”).
- (1A) In subsection (1)—
- “insurance business transfer scheme” means a scheme falling within section 105 of the Financial Services and Markets Act 2000, including an excluded scheme falling within Case 2, 3 or 4 of subsection (3) of that section;
- “contracts of long-term insurance” means contracts which fall within Part II of Schedule 1 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001.”.
- (2) This Article has effect in relation to any transfer under a scheme falling within section 105 of the Financial Services and Markets Act 2000, including an excluded scheme falling within Case 2, 3 or 4 of subsection (3) of that section.

Spreading of gains and losses accruing as a result of deemed disposal under section 212

- 67.**—(1) In section 213(5) (spreading of gains and losses accruing as a result of deemed disposal under section 212)(4) for the words from “there” to “1982” substitute “an insurance business transfer scheme has effect to transfer business which consists of the effecting or carrying out of contracts of long-term insurance from one person (“the transferor”) to another (“the transferee”)”.
- (2) This Article has effect in relation to any transfer under a scheme falling within section 105 of the Financial Services and Markets Act 2000, including an excluded scheme falling within Case 2, 3 or 4 of subsection (3) of that section.

(2) Section 143 was relevantly amended by section 95 of the Finance Act 1995.

(3) Section 211(1) was amended by paragraph 1(2)(d) of Schedule 9 to the Finance Act 1995.

(4) Section 213(5) was amended by paragraphs 1(2)(d) and 4 of Schedule 9 to the Finance Act 1995.

Gains not eligible for taper relief

68.—(1) In section 214C(3) (gains not eligible for taper relief)⁽⁵⁾ for the definition of “insurance company” substitute—

““insurance company” means an undertaking carrying on the business of effecting or carrying out contracts of insurance and, for the purposes of this definition, “contract of insurance” has the meaning given by Article 3(1) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001;”.

(2) This Article has effect for the purposes of determining whether, at any time on or after 1st December 2001, a company is a mutual company within the meaning of section 214C(3) of the Taxation of Chargeable Gains Act 1992.

Application of Act to recognised investment exchanges

69. In section 285 (power to provide for provisions referring to The Stock Exchange to have effect in relation to recognised investment exchanges) for “of the Financial Services Act 1986” substitute “given by section 285(1)(a) of the Financial Services and Markets Act 2000”.

Interpretation

70. In section 288(1) (interpretation) in the definition of “collective investment scheme” for “same meaning as in the Financial Services Act 1986” substitute “meaning given by section 235 of the Financial Services and Markets Act 2000”.

Application of taper relief: special rules for assets acquired in the reconstruction of mutual businesses etc.

71.—(1) In paragraph 18(3) of Schedule A1 (application of taper relief: special rules for assets acquired in the reconstruction of mutual businesses etc.)⁽⁶⁾ for the definition of “insurance company” substitute—

““insurance company” means an undertaking carrying on the business of effecting or carrying out contracts of insurance and, for the purposes of this definition, “contract of insurance” has the meaning given by Article 3(1) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001;”.

(2) This Article has effect for the purposes of determining whether, at any time on or after 1st December 2001, a company is a mutual company within the meaning of paragraph 18 of Schedule A1 to the Taxation of Chargeable Gains Act 1992.

Overseas life insurance companies

72.—(1) In paragraphs 9A and 11(1A) of Schedule 7B (modification of Act in relation to overseas life insurance companies)⁽⁷⁾ for the words from “a transfer” to “1982” substitute “an insurance business transfer scheme”.

(2) This Article has effect in relation to any transfer under a scheme falling within section 105 of the Financial Services and Markets Act 2000, including an excluded scheme falling within Case 2, 3 or 4 of subsection (3) of that section.

⁽⁵⁾ Section 214C was inserted by paragraph 7 of Schedule 21 to the Finance Act 1998.

⁽⁶⁾ Schedule A1 was inserted by Schedule 20 to the Finance Act 1998.

⁽⁷⁾ Schedule 7B was inserted by Schedule 11 to the Finance Act 1993 and paragraphs 9A and 11(1A) were inserted in that Schedule by paragraph 6(2) and (3) of Schedule 9 to the Finance Act 1995.

Miscellaneous amendments

73.—(1) In the following provisions for “long term business” substitute “long-term insurance”—

- (a) section 212(1);
- (b) paragraph 8(2) (in section 185(4A)(a) and (b) treated as inserted) and (3) (in section 185(5) (ba) treated as inserted) of Schedule 7B;

(2) In the following provisions for “long term” substitute “long-term”—

- (a) section 213(4) and (7);
- (b) paragraph 11(1) of Schedule 7B.