
STATUTORY INSTRUMENTS

2001 No. 3646

The Financial Services and Markets Act 2000
(Transitional Provisions and Savings) (Information
Requirements and Investigations) Order 2001

PART 3

INVESTIGATIONS

Saving of section 42 of the Banking Act

13.—(1) Any repeal of section 42 of the Banking Act⁽¹⁾ does not affect—

- (a) any outstanding requirement imposed under subsection (1) of section 42 of the Banking Act (subject to subsection (6) of that section);
- (b) any power of a person under subsection (2) of that section in relation to a document produced pursuant to such an outstanding requirement;
- (c) the application of subsection (4) of that section in relation to a failure to comply with such an outstanding requirement;
- (d) any authorisation granted to any person for the purposes of subsection (2) of that section; or
- (e) the application of section 94 of the Banking Act (false and misleading information) in relation to any information furnished in purported compliance with an outstanding requirement to which sub-paragraph (a) applies.

(2) Any outstanding requirement imposed under section 42(1)(a) or (b) of the Banking Act is to be treated as an information requirement for the purposes of section 176(2) of the Act.

(3) Sections 400 (offences by bodies corporate), 401 (proceedings for offences) and 403 of the Act (jurisdiction and procedure in respect of offences) have effect as if any offence committed under section 42(4) or 94 of the Banking Act after commencement were an offence under the Act.

(4) In proceedings for any such offence, it is a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the failure to comply (or purported compliance) by himself or any person under his control.

(1) Amended by the Bank of England Act 1998 (c. 11), paragraph 11, Schedule 5; and by the Youth Justice and Criminal Evidence Act 1999 (c. 23), paragraph 19, Schedule 3.