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STATUTORY INSTRUMENTS

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**2001 No. 3649**

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

PART 2

AMENDMENTS TO THE COMPANIES LEGISLATION

*The Companies' Act 1989 (c. 40)*

**Repeal of spent or unnecessary provisions**

**75.** The following provisions of the Companies Act 1989 are repealed—

- (a) sections 72 to 77;
- (b) section 79;
- (c) section 81;
- (d) section 119(3);
- (e) section 156;
- (f) section 168;
- (g) section 169(1) and (4);
- (h) section 171;
- (i) sections 192 to 197;
- (j) section 200(1);
- (k) sections 201 to 206;
- (l) in section 213, subsections (5)(b) and (6);
- (m) section 214;
- (n) in Schedule 10, paragraphs 36 and 37;
- (o) in Schedule 20, paragraph 26;
- (p) Schedule 21;
- (q) Schedule 22; and
- (r) Schedule 23.

**Requests for assistance by overseas regulatory authorities**

**76.—**(1) Section 82 of the Companies Act 1989 (requests for assistance by overseas regulatory authorities) is amended as follows.

- (2) In subsection (2), for paragraph (a)(1) substitute—
- “(a) any function corresponding to—
- (i) any function of the Secretary of State under the Companies Act 1985;
  - (ii) any function of the Financial Services Authority under the Financial Services and Markets Act 2000;
  - (iii) any function exercised by the competent authority under Part VI of that Act in relation to the listing of shares;”.
- (3) In subsection (3), for “he is” substitute “he and the Financial Services Authority are”.
- (4) In subsection (5)(2), in the definition of “banking supervisor”, for “under the Banking Act 1987” substitute “in relation to authorised persons with permission under the Financial Services and Markets Act 2000 to accept deposits”.
- (5) After that subsection, insert—
- “(5A) In subsection (5), “authorised person” has the meaning given in the Financial Services and Markets Act 2000 and the references to deposits and their acceptance must be read with—
- (a) section 22 of that Act;
  - (b) any relevant order under that section; and
  - (c) Schedule 2 to that Act.”.

### **Exceptions from restrictions on disclosure of information**

77.—(1) Section 87 of the Companies Act 1989 (exceptions from restrictions on disclosure of information) is amended as follows.

- (2) In subsection (2), for paragraph (b) substitute—
- “(b) civil proceedings arising under or by virtue of the Financial Services and Markets Act 2000 and proceedings before the Financial Services and Markets Tribunal;”.
- (3) In subsection (4), the table is amended in accordance with paragraphs (4) to (11).
- (4) The entries relating to the following are repealed—
- A designated agency within the meaning of the Financial Services Act 1986;
- A transferee body or the competent authority within the meaning of the Financial Services Act 1986;
- The body administering a scheme under section 54 of the Financial Services Act 1986;
- A recognised self-regulating organisation, recognised professional body, recognised investment exchange, recognised clearing house or recognised self-regulating organisation for friendly societies (within the meaning of the Financial Services Act 1986);
- The Chief Registrar of friendly societies, and the Assistant Registrar of Friendly Societies for Scotland;
- The Friendly Societies Commission(3);
- The Deposit Protection Board;
- The Industrial Assurance Commissioner and the Industrial Assurance Commissioner for Northern Ireland; and

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(1) Amended by the Bank of England Act 1998 (c. 11) Schedule 5 paragraph 66(2)(a).

(2) Amended by the Bank of England Act 1998 (c. 11) Schedule 5 paragraph 66(2)(b)(i).

(3) The entry relating to the Friendly Societies Commission was inserted by the Friendly Societies Act 1992, Schedule 21 paragraph 11.

The Building Societies Commission.

(5) For the entry relating to the Secretary of State substitute—

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“The Secretary of State	Functions under—
	(a) the enactments relating to companies or insolvency;
	(b) Part 2, this Part or Part 7 of this Act;
	(c) the Financial Services and Markets Act 2000.”.

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(6) For the entry relating to the Treasury(4) substitute—

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“The Treasury.	Functions under—
	(a) this Part or Part 7 of this Act;
	(b) the Financial Services and Markets Act 2000.”.

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(7) For the entry relating to an inspector substitute—

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“An inspector appointed under Part 14 of the Companies Act 1985.	Functions under that Part.”
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(8) For the entry which begins “A person authorised to exercise powers”(5) substitute—

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“A person authorised to exercise powers under section 447 of the Companies Act 1985 or section 84 of this Act.	Functions under that section.
A person appointed under—	Functions in relation to the investigation.”.
(a) section 167 of the Financial Services and Markets Act 2000 (general investigations),	
(b) section 168 of that Act (investigations in particular cases),	
(c) section 169(1)(b) of that Act (investigation in support of overseas regulator),	
(d) section 284 of that Act (investigations into affairs of certain collective investment schemes), or	
(e) regulations made as a result of section 262(2) (k) of that Act (investigations into open-ended investment companies),	
to conduct an investigation.	

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(9) For the entry relating to the Financial Services Authority(6) substitute—

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(4) The entry relating to the Treasury was inserted by [S.I. 1992/1315](#), Schedule 4 paragraph 12 and amended by [S.I. 1997/2781](#) Schedule, paragraph 116.

(5) This entry was amended by [S.I. 1994/1696](#), Schedule 8 paragraph 18.

(6) The entry relating to the Financial Services Authority was inserted by the Bank of England Act 1998, Schedule 5 paragraph 66(3).

“The Financial Services Authority.	Functions under the enactments relating to friendly societies, under the Building Societies Act 1986 and under the Financial Services and Markets Act 2000.”.
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(10) After that entry insert—

“A body corporate established in accordance with section 212(1) of that Act.	Functions under the Financial Services Compensation Scheme, established in accordance with section 213 of that Act.
A recognised investment exchange or a recognised clearing house (as defined by section 285 of that Act).	Functions in its capacity as an exchange or clearing house recognised under that Act.
A body designated under section 326(1) of the Financial Services and Markets Act 2000.	Functions in its capacity as a body designated under that section.”.

(11) In the entry relating to the Director General of Fair Trading, for “Financial Services Act 1986” substitute “Financial Services and Markets Act 2000”.

#### **Exercise of powers in relation to Northern Ireland**

**78.** In section 88 of the Companies Act 1989 (exercise of powers in relation to Northern Ireland), in subsection (3), for paragraph (b) substitute—

“(b) section 449 of the Companies Act 1985 and sections 86 and 87 above (restrictions on disclosure of information);”.

#### **Change in default rules of recognised investment exchange and clearing house**

**79.** In section 157(1) of the Companies Act 1989 (notification of change in default rules), for “Secretary of State”, in both places, substitute “Authority”.

#### **Duty to report on completion of default proceedings**

**80.**—(1) Section 162 of the Companies Act 1989 (duty to report on completion of default proceedings) is amended as follows.

(2) In subsection (1)(7), for “Secretary of State” substitute “Authority”.

(3) In subsection (1A)(8), for “Secretary of State” substitute “Authority”.

(4) In subsection (4)—

(a) for “Secretary of State, he” substitute “Authority, it”;

(b) for “he”, in the second place where it occurs, substitute “it”; and

(c) for “it” substitute “the report”.

#### **Power to give directions**

**81.**—(1) Section 166 of the Companies Act 1989 (power to give directions to recognised investment exchanges and recognised clearing houses with head offices in the UK) is amended as follows.

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(7) Amended by S.I. 1991/880 regulation 6(2).

(8) Inserted by S.I. 1991/880 regulation 6(3).

- (2) In subsection (2), in each of paragraphs (a) and (b)—
  - (a) for “Secretary of State” substitute “Authority”;
  - (b) for “he” substitute “the Authority”.
- (3) In subsection (3)—
  - (a) for “Secretary of State” substitute “Authority”; and
  - (b) for “he”, in both places, substitute “it”.
- (4) In subsection (7)—
  - (a) for “Secretary of State”, in both places, substitute “Authority”; and
  - (b) for “he is satisfied that it” substitute “it is satisfied that the direction”.
- (5) In subsection (8) for “Secretary of State” substitute “Authority”.

#### **Application to determine whether default proceedings to be taken**

**82.**—(1) Section 167 of the Companies Act 1989 (application to determine whether default proceedings to be taken) is amended as follows.

- (2) In subsection (1) for “Secretary of State” substitute “Authority”.
- (3) In subsection (3), for “Secretary of State”, in both places, substitute “Authority”.
- (4) In subsection (4) for “Secretary of State” substitute “Authority”.
- (5) In subsection (5) for “Secretary of State”, in both places, substitute “Authority”.

#### **Application of certain provisions for purposes of Part 7**

**83.**—(1) Section 169 of the Companies Act 1989 (Part 7: supplementary provisions) is amended as follows.

(2) In subsection (2) for the words from the beginning to “apply” substitute “Sections 296 and 297 of the Financial Services and Markets Act 2000 apply”.

- (3) In subsection (3)—
  - (a) for “Financial Services Act 1986, the Secretary of State” substitute “Financial Services and Markets Act 2000, the appropriate authority”; and
  - (b) for “he” substitute “it”.

(4) After that subsection insert—

“(3A) “The appropriate authority” means—

- (a) in the case of an overseas investment exchange or clearing house, the Treasury;  
and
- (b) in the case of a UK investment exchange or clearing house, the Authority.”.

(5) In subsection (5)—

- (a) for the words from the beginning to “applies” substitute “Regulations under section 414 of the Financial Services and Markets Act 2000 (service of notices) may make provision”;  
and
- (b) for “Secretary of State” substitute “Treasury or the Authority”.

#### **Application of Part 7 in relation to overseas investment exchanges and clearing houses**

**84.**—(1) Section 170 of the Companies Act 1989 (power to make provision in relation to certain overseas investment exchanges and clearing houses) is amended as follows.

- (2) In subsection (1)—
  - (a) after “Secretary of State” insert “and the Treasury”; and
  - (b) for “him” substitute “the Treasury”.
- (3) In subsection (2)—
  - (a) for “Secretary of State” substitute “Treasury”; and
  - (b) for “he is” substitute “they are”.
- (4) In subsections (4), (5)(a) and (6) for “Financial Services Act 1986” substitute “Financial Services and Markets Act 2000”.

### **Power to make provision about certain charges other than market charges**

**85.**—(1) Section 176 of the Companies Act 1989 (power to make provision about certain other charges) is amended as follows.

- (2) In paragraph (b) of subsection (2)—
  - (a) the words “Financial Services” are repealed<sup>(9)</sup>; and
  - (b) for “section 171” substitute “section 301 of the Financial Services and Markets Act 2000”.
- (3) For paragraphs (d) and (e) of that subsection substitute—
  - “(d) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to carry on a relevant regulated activity, or
  - (e) an international securities self-regulating organisation approved for the purposes of an order made under section 22 of the Financial Services and Markets Act 2000.”.
- (4) In subsection (6)<sup>(10)</sup>—
  - (a) the words “Financial Services” are repealed; and
  - (b) for “section 171” substitute “section 301 of the Financial Services and Markets Act 2000”.
- (5) After subsection (7) insert—
  - “(8) For the purposes of subsection (2)(d), “relevant regulated activity” means—
    - (a) dealing in investments as principal or as agent;
    - (b) arranging deals in investments;
    - (c) managing investments;
    - (d) safeguarding and administering investments;
    - (e) sending dematerialised instructions; or
    - (f) establishing etc. a collective investment scheme.
  - (9) Subsection (8) must be read with—
    - (a) section 22 of the Financial Services and Markets Act 2000;
    - (b) any relevant order under that section; and
    - (c) Schedule 2 to that Act.”.

### **Power to apply sections 177 to 180 to other cases**

**86.**—(1) Section 181 of the Companies Act 1989 (power to apply sections 177 to 180 to other cases) is amended as follows.

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<sup>(9)</sup> The words repealed were substituted by the Bank of England Act 1998 (c. 11), Schedule 5 paragraph 48(2).

<sup>(10)</sup> Subsection (6) was substituted by the Bank of England Act 1998 (c. 11), Schedule 5 paragraph 48(3).

(2) In subsection (1), for the words from the beginning to “includes” substitute “A power to which this subsection applies includes the”.

(3) After subsection (2) insert—

“(3) Subsection (1) applies to the powers of the Secretary of State and the Treasury to act jointly under—

(a) sections 170, 172 and 176 of this Act; and

(b) section 301 of the Financial Services and Markets Act 2000 (supervision of certain contracts).”.

### **Indemnity for certain acts**

**87.** In section 184(5) of the Companies Act 1989 (indemnity for certain acts), for the words from “exercising” to “procedures” substitute “to whom the exercise of any function of a recognised investment exchange or recognised clearing house is delegated under its default rules”.

### **Power of Treasury and Secretary of State to make further provision for purposes of Part 7**

**88.** After subsection (3) of section 185 of the Companies Act 1989 (power of Treasury and Secretary of State to make further provision for purposes of Part 7) insert—

“(4) References in this section to the provisions of this Part include any provision made under section 301 of the Financial Services and Markets Act 2000.”.

### **Definitions for purposes of Part 7**

**89.—**(1) Section 190 of the Companies Act 1989 (definitions for purposes of Part 7) is amended in accordance with paragraphs (2) to (6).

(2) In subsection (1), after the definition of “administrative receiver”, insert—

““the Authority” means the Financial Services Authority;”.

(3) In that subsection, the definitions of “clearing house”, of “investment” and “investment exchange” and of “recognised” are repealed.

(4) In that subsection, after the definition of “overseas”, insert—

““recognised clearing house” and “recognised investment exchange” have the same meaning as in the Financial Services and Markets Act 2000;”.

(5) In that subsection, for the definition of “The Stock Exchange” substitute—

““The Stock Exchange” means the London Stock Exchange Limited;”.

(6) Subsection (4) is repealed.

(7) In the table in section 191 of that Act (table of defined expressions)—

(a) the entries relating to the following expressions are repealed—

clearing house;

ensuring the performance of a transaction;

investment;

investment exchange; and

recognised; and

(b) insert the following in the appropriate places—

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“the Authority

section 190(1)”; and

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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“recognised clearing house and recognised investment exchange      section 190(1)”.

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**Transfer of securities**

**90.** In section 207(1) of the Companies Act 1989 (transfer of securities), in paragraph (a), for “Financial Services Act 1986” substitute “Financial Services and Markets Act 2000”.