
STATUTORY INSTRUMENTS

2001 No. 3649

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

PART 9

AMENDMENTS TO SECONDARY LEGISLATION

The Stakeholder Pension Schemes Regulations 2000 (S.I. 2000/1403)

Interpretation of the 2000 Regulations: general

595.—(1) In paragraph (3) of regulation 1 of the Stakeholder Pension Schemes Regulations 2000 (Citation, commencement and interpretation)—

(a) the definition of “insurance company” is revoked, and in the same place insert—

““insurer” means—

- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of insurance, or
- (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of insurance;”;

(b) for the definition of “securities” substitute—

““securities” means investments of the following kinds—

- (a) shares,
- (b) instruments creating or acknowledging indebtedness,
- (c) government and public securities,
- (d) instruments giving entitlements to investments,
- (e) certificates representing securities,

but does not include shares in a unit trust;”.

(2) After paragraph (3) of that regulation insert—

“(3A) The definitions of “insurer” and “securities” in paragraph (3) 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.”.

(3) In regulation 8(5) of those Regulations for “insurance company” substitute “insurer”.

(4) In regulation 15(3) of those Regulations for “insurance company” substitute “insurer”.

Interpretation of regulation 8

596.—(1) In paragraph (4) of regulation 8 of the Stakeholder Pension Schemes Regulations 2000 (Requirement applying to all stakeholder pension schemes as regards investments), for “section 75 of the Financial Services Act 1986” substitute “section 235 of the Financial Services and Markets Act 2000”.

(2) In paragraph (6) of that regulation—

(a) for the definition of “contract of insurance”⁽¹⁾ substitute—

““contract of insurance” means a contract—

(a) which, or any part of which, is of one or more of the following kinds—

- (i) life and annuity,
- (ii) linked long term,
- (iii) pension fund management, and
- (iv) which is carried out by an insurer who has permission, as the case may be, under—
- (v) Part 4 of the Financial Services and Markets Act 2000, or
- (ii) paragraph 15 of Schedule 3 to that Act,

to effect or carry out contracts of insurance of that kind;”;

(b) the definition of “deposit” is revoked; and

(c) for the definition of “reference banks” substitute—

““reference banks” means the seven largest persons for the time being who—

- (a) have permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits,
- (b) are incorporated in the United Kingdom and carrying on there a regulated activity of accepting deposits; and
- (c) quote a base rate applicable to sterling deposits,

and for the purpose of this definition the size of a person at any time is to be determined by reference to the gross assets denominated in sterling of that person, together with any subsidiary (as defined in section 736 of the Companies Act 1985), as shown in the audited end of year accounts last published before that time.”.

(3) After paragraph (6) of that regulation insert—

“(7) References to a “deposit” in this regulation, together with the definitions of “contract of insurance” and “reference banks” in paragraph (6) 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.”.

Meaning of “proper advice”

597.—(1) In regulation 10 of the Stakeholder Pension Schemes Regulations 2000 (Requirement for manager of schemes not established under a trust to have regard to certain matters, and to take advice, relating to investment), for sub-paragraph (a) of paragraph (5) substitute—

“(a) where the giving of advice constitutes a regulated activity of advising on investments (or would constitute such a regulated activity but for the identity of the person carrying on

(1) The definition of “contract of insurance” was substituted by [S.I. 2001/934](#), regulation 5.

that activity), advice given by a person who may give that advice without contravening the prohibition imposed by section 19 of the Financial Services and Markets Act 2000;”.

(2) After paragraph (5) of that regulation insert—

“(5A) Paragraph (5)(a) 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.”.