
STATUTORY INSTRUMENTS

2001 No. 544

The Financial Services and Markets Act
2000 (Regulated Activities) Order 2001

PART II

SPECIFIED ACTIVITIES

CHAPTER XIV

Funeral Plan Contracts

The activity

Funeral plan contracts

- 59.**—(1) Entering as provider into a funeral plan contract is a specified kind of activity.
- (2) A “funeral plan contract” is a contract (other than one excluded by article 60) under which—
- (a) a person (“the customer”) makes one or more payments to another person (“the provider”); and
 - (b) the provider undertakes to provide, or secure that another person provides, a funeral in the United Kingdom for the customer (or some other person who is living at the date when the contract is entered into) on his death;

unless, at the time of entering into the contract, the customer and the provider intend or expect the funeral to occur within one month.

Exclusion

Plans covered by insurance or trust arrangements

- 60.**—(1) There is excluded from article 59 any contract under which—
- (a) the provider undertakes to secure that sums paid by the customer under the contract will be applied towards a contract of whole life insurance on the life of the customer (or other person for whom the funeral is to be provided), effected and carried out by an authorised person who has permission to effect and carry out such contracts of insurance, for the purpose of providing the funeral; or
 - (b) the provider undertakes to secure that sums paid by the customer under the contract will be held on trust for the purpose of providing the funeral, and that the following requirements are or will be met with respect to the trust—
 - (i) the trust must be established by a written instrument;
 - (ii) more than half of the trustees must be unconnected with the provider;

- (iii) the trustees must appoint, or have appointed, an independent fund manager who is an authorised person who has permission to carry on an activity of the kind specified by article 37, and who is a person who is unconnected with the provider, to manage the assets of the trust;
- (iv) annual accounts must be prepared, and audited by a person who is eligible for appointment as a company auditor under section 25 of the Companies Act 1989 **(1)**, with respect to the assets and liabilities of the trust; and
- (v) the assets and liabilities of the trust must, at least once every three years, be determined, calculated and verified by an actuary who is a Fellow of the Institute of Actuaries or of the Faculty of Actuaries.

(2) For the purposes of paragraph (1)(b)(ii) and (iii), a person is unconnected with the provider if he is a person other than—

- (a) the provider;
- (b) a member of the same group as the provider;
- (c) a director, other officer or employee of the provider, or of any member of the same group as the provider;
- (d) a partner of the provider;
- (e) a close relative of a person falling within sub-paragraph (a), (c) or (d); or
- (f) an agent of any person falling within sub-paragraphs (a) to (e).