

## SCHEDULES

### SCHEDULE 15

Section 211(3).

#### TRANSITIONAL PROVISIONS

##### *Interim authorisation*

- 1 (1) If before such day as is appointed for the purposes of this paragraph by an order made by the Secretary of State a person has applied—
- (a) for membership of any body which on that day is a recognised self-regulating organisation; or
  - (b) for authorisation by the Secretary of State,
- and the application has not been determined before the day on which section 3 of this Act comes into force, that person shall, subject to sub-paragraphs (2), (3) and (4) below, be treated until the determination of the application as if he had been granted an authorisation by the Secretary of State.
- (2) Sub-paragraph (1) above does not apply to a person who immediately before the day on which section 3 of this Act comes into force is prohibited by the Prevention of Fraud (Investments) Act 1958 (in this Schedule referred to as "the previous Act") from carrying on the business of dealing in securities—
- (a) by reason of the refusal or revocation at any time before that day of a licence under that Act; or
  - (b) by reason of the revocation at any time before that day of an order declaring him to be an exempted dealer.
- (3) If a person who has made any such application as is mentioned in sub-paragraph (1) above has before the day on which section 3 of this Act comes into force been served with a notice under section 6 or 16(3) of the previous Act (proposed refusal or revocation of licence or proposed revocation of exemption order) but the refusal or revocation to which the notice relates has not taken place before that day—
- (a) the provisions of that Act with respect to the refusal or revocation of a licence or the revocation of an order under section 16 of that Act shall continue to apply to him until the application mentioned in sub-paragraph (1) above is determined; and
  - (b) that sub-paragraph shall cease to apply to him if before the determination of the application mentioned in that sub-paragraph his application for a licence under that Act is refused, his licence under that Act is revoked or the order declaring him to be an exempted dealer under that Act is revoked.
- (4) Notwithstanding sub-paragraph (1) above section 102(1)(a) of this Act shall not apply to a person entitled to carry on investment business by virtue of that sub-paragraph but the Secretary of State may make available for public inspection the information with respect to the holders of principal's licences mentioned in section 9 of the previous Act, any information in his possession by virtue of section 15(3) or (4) of that Act and the information mentioned in section 16(4) of that Act.

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- (5) Notwithstanding subsection (2) of section 3 of the previous Act a licence granted under that section before the day on which section 3 of this Act comes into force shall, unless revoked under section 6 of that Act, continue in force until that day.

*Return of fees on pending applications*

- 2 Any fee paid in respect of an application under section 3 of the previous Act which is pending on the day on which that Act is repealed shall be repaid to the applicant.

*Deposits and undertakings*

- 3 The repeal of section 4 of the previous Act shall not affect the operation of that section in a case where—
- (a) a sum deposited in accordance with that section has become payable as provided in subsection (2) of that section before the date on which the repeal takes effect; or
  - (b) a sum has become payable before that date in pursuance of an undertaking given under subsection (4) of that section,
- but, subject as aforesaid, any sum deposited under that section may be withdrawn by the depositor on application to the Accountant General of the Supreme Court and any undertaking given under that section shall be discharged.

*Interim recognition of professional bodies*

- 4 (1) If on an application made under section 17 of this Act it appears to the Secretary of State that any of the requirements of section 18(3) of this Act or paragraphs 2 to 6 of Schedule 3 to this Act are not satisfied he may in accordance with this paragraph make a recognition order under section 18 of this Act (" an interim recognition order ") notwithstanding that all or any of those requirements are not satisfied.
- (2) The Secretary of State may, subject to sub-paragraphs (3) and (4) below, make an interim recognition order if he is satisfied—
- (a) that the applicant proposes to adopt rules and practices and to make arrangements which will satisfy such of the requirements mentioned in sub-paragraph (1) above as are not satisfied;
  - (b) that it is not practicable for those rules, practices and arrangements to be brought into effect before the date on which section 3 of this Act comes into force but that they will be brought into effect within a reasonable time thereafter ; and
  - (c) that in the meantime the applicant will enforce its existing rules in such a way, and issue such guidance, as will in respect of investment business of any kind carried on by persons certified by it (or by virtue of paragraph 5 below treated as certified by it) afford to investors protection as nearly as may be equivalent to that provided as respects investment business of that kind by the rules and regulations under Chapter V of Part I of this Act.
- (3) Where the requirements which are not satisfied consist of or include those mentioned in paragraph 2 of Schedule 3 to this Act an application for an interim recognition order shall be accompanied by—
- (a) a list of the persons to whom the applicant proposes to issue certificates for the purposes of Part I of this Act; and

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(b) particulars of the criteria adopted for determining the persons included in the list ;

and the Secretary of State shall not make the order unless it appears to him that those criteria conform as nearly as may be to the conditions mentioned in that paragraph and that the applicant will, until the requirements of that paragraph are satisfied, have arrangements for securing that no person is certified by it (or by virtue of paragraph 5 below treated as certified by it) except in accordance with those criteria and for the effective monitoring of continued compliance by those persons with those criteria.

- (4) Where the requirements which are not satisfied consist of or include that mentioned in paragraph 6 of Schedule 3 to this Act, the Secretary of State shall not make an interim recognition order unless it appears to him that the applicant will, until that requirement is satisfied, take such steps for complying with it as are reasonably practicable.
- (5) An application for an interim recognition order shall be accompanied by a copy of the rules and by particulars of the practices and arrangements referred to in sub-paragraph (2)(a) above.
- (6) An interim recognition order shall not be revocable but shall cease to be in force at the end of such period as is specified in it; and that period shall be such as will in the opinion of the Secretary of State allow a reasonable time for the rules, practices and arrangements mentioned in sub-paragraph (5) above to be brought into effect.
- (7) The Secretary of State may on the application of the body to which an interim recognition order relates extend the period specified in it if that body satisfies him—
- (a) that there are sufficient reasons why the rules, practices and arrangements mentioned in sub-paragraph (5) above cannot be brought into effect by the end of that period ; and
  - (b) that those rules, practices and arrangements, or other rules, practices and arrangements which satisfy the requirements mentioned in sub-paragraph (2) (a) above and of which copies or particulars are furnished to the Secretary of State, will be brought into effect within a reasonable time thereafter ;
- but not more than one application shall be made by a body under this sub-paragraph.
- (8) A recognition order under section 18 of this Act shall cease to be an interim recognition order if before it ceases to be in force—
- (a) the rules, practices and arrangements of which copies or particulars were furnished to the Secretary of State under subparagraph (5) or (7)(6) above are brought into effect; or
  - (b) the Secretary of State certifies that other rules, practices and arrangements which have been brought into effect comply with the requirements mentioned in sub-paragraph (1) above.
- (9) In this paragraph references to the adoption of rules or the making of arrangements include references to taking such other steps as may be necessary for bringing them into effect.

*Interim authorisation by recognised professional bodies*

- 5 (1) If at the time when an interim recognition order is made in respect of a professional body that body is unable to issue certificates for the purposes of this Act, any person who at that time is included in the list furnished by that body to the Secretary of State

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in accordance with paragraph 4(3)(a) above shall be treated for the purposes of this Act as a person certified by that body.

- (2) If at any time while an interim recognition order is in force in respect of a professional body and before the body is able to issue certificates as mentioned in sub-paragraph (1) above the body notifies the Secretary of State that a person not included in that list satisfies the criteria of which particulars were furnished by the body in accordance with paragraph 4(3)(b) above, that person shall, on receipt of the notification by the Secretary of State, be treated for the purposes of this Act as a person certified by that body.
- (3) If at any time while an interim recognition order is in force in respect of a professional body it appears to the body—
- (a) that a person treated by virtue of sub-paragraph (1) or (2) above as certified by it has ceased (after the expiration of such transitional period, if any, as appears to the body to be appropriate) to satisfy the criteria mentioned in subparagraph (2) above ; or
  - (b) that any such person should for any other reason cease to be treated as certified by it,

it shall forthwith give notice of that fact to the Secretary of State and the person in question shall, on receipt of that notification by the Secretary of State, cease to be treated as certified by that body.

- (4) Where by virtue of this paragraph a partnership is treated as certified by a recognised professional body section 15(3) of this Act shall apply as it applies where a certificate has in fact been issued to a partnership.
- (5) Where by virtue of this paragraph any persons are treated as certified by a recognised professional body the requirements of paragraph 2 of Schedule 3 to this Act so far as relating to the retention by a person of a certificate issued by that body and the requirements of paragraph 4 of that Schedule shall apply to the body as if the references to persons certified by it included references to persons treated as certified.

*Power of recognised professional body to make rules required by this Act*

- 6 (1) Where a recognised professional body regulates the practice of a profession in the exercise of statutory powers the matters in respect of which rules can be made in the exercise of those powers shall, if they would not otherwise do so, include any matter in respect of which rules are required to be made—
- (a) so that the recognition order in respect of that body can cease to be an interim recognition order ; or
  - (b) where the recognition order was not, or has ceased to be, an interim recognition order, so that the body can continue to be a recognised professional body.
- (2) Rules made by virtue of this paragraph may in particular make provision for the issue, withdrawal and suspension of certificates for the purposes of this Act and the making of charges in respect of their issue and may accordingly apply to persons who are, or are to be, certified or treated as certified by the body in question whether or not they are persons in relation to whom rules could be made apart from this paragraph.
- (3) Rules made by virtue of this paragraph may make different provision for different cases.

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- (4) The Secretary of State may at the request of a recognised professional body by order extend, modify or exclude any statutory provision relating to the regulation of the conduct, practice, or discipline of members of that body to such extent as he thinks necessary or expedient in consequence of the provisions of this paragraph ; and any order made by virtue of this sub-paragraph shall be subject to annulment in pursuance of a resolution of either House of Parliament.

*Notice of commencement of business*

- 7 In the case of a person who is carrying on investment business in the United Kingdom on the day on which section 31 of this Act comes into force, section 32 of this Act shall have effect as if it required him to give the notice referred to in that section forthwith.

*Advertisements*

- 8 (1) So long as Part III of the Companies Act 1985 remains in force section 57 of this Act shall not apply—
- (a) in relation to any distribution of a prospectus to which section 56 of that Act applies or would apply if not excluded by subsection (5)(6) of that section or to which section 72 of that Act applies or would apply if not excluded by subsection (6)(6) of that section or by section 76 of that Act, or in relation to any distribution of a document relating to securities of a corporation incorporated in Great Britain which is not a registered company, being a document which—
- (i) would, if the corporation were a registered company, be a prospectus to which section 56 of that Act applies or would apply if not excluded as aforesaid, and
- (ii) contains all the matters and is issued with the consents which, by virtue of sections 72 to 75 of that Act, it would have to contain and be issued with if the corporation were a company incorporated outside Great Britain and the document were a prospectus issued by that company;
- (b) in relation to any issue of a form of application for shares in, or debentures of, a corporation, together with—
- (i) a prospectus which complies with the requirements of section 56 of that Act or is not required to comply with them because excluded by subsection (5)(b) of that section, or complies with the requirements of Chapter II of Part III of that Act relating to prospectuses and is not issued in contravention of sections 74 and 75 of that Act, or
- (ii) in the case of a corporation incorporated in Great Britain which is not a registered company, a document containing all the matters and issued with the consents mentioned in sub-paragraph (a)(ii) of this paragraph, or in connection with a bona fide invitation to a person to enter into an underwriting agreement with respect to the shares or debentures.
- (2) The provisions of this paragraph shall apply to Northern Ireland with the substitution for the references to Part III and Chapter II of Part III of the Companies Act 1985 of references to Part IV and Chapter II of Part IV of the Companies (Northern Ireland) Order 1986, for the references to sections 56, 56(5)(b), 72, 72(6)(b), 74,

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76 and 72 to 75 of the Companies Act 1985 of references to Articles 66, 66(5)(b), 82, 82(6)(b), 84, 86 and 82 to 85 of the Companies (Northern Ireland) Order 1986, for the references to a corporation incorporated in Great Britain of references to a corporation incorporated in Northern Ireland and for the reference to a company incorporated outside Great Britain of a reference to a company incorporated outside the United Kingdom.

*Authorised unit trust schemes*

- 9 (1) Where an order under section 17 of the previous Act (authorisation of unit trust schemes) is in force in respect of a unit trust scheme immediately before the coming into force of Chapter VIII of Part I of this Act the scheme shall be treated as an authorised unit trust scheme under that Part and the order as an order under section 78 of this Act.
- (2) In relation to any such authorised unit trust scheme the reference in section 79(1)(a) of this Act to the requirements for the making of the order shall be construed as a reference to the requirements for the making of an order under section 78, but the scheme shall not be regarded as failing to comply with those requirements by reason of the manager or trustee not being an authorised person if he is treated as such a person by virtue of paragraph 1 above.
- (3) If before the day on which Chapter VIII of Part I comes into force a notice in respect of a scheme has been served under subsection (2) of section 17 of the previous Act (proposed revocation of authorisation of unit trust scheme) but the revocation has not taken place before that day, the provisions of that subsection shall continue to apply in relation to the scheme and sub-paragraph (1) above shall cease to apply to it if the authorisation is revoked under that subsection.

*Recognised collective investment schemes*

- 10 (1) If at any time before the coming into force of section 86 of this Act it appears to the Secretary of State that the law of a member State other than the United Kingdom confers rights on the managers and trustees of authorised unit trust schemes entitling them to carry on in that State on terms equivalent to those of that section—
- (a) investment business which consists in operating or acting as trustee in relation to such schemes ; and
  - (b) any investment business which is carried on by them in connection with or for the purposes of such schemes,
- he may by order direct that schemes constituted in that State which satisfy such requirements as are specified in the order shall be recognised schemes for the purposes of this Act.
- (2) Subsections (2) to (9) of section 86 of this Act shall have effect in relation to any scheme recognised by virtue of this paragraph; and the references in section 24 and 207(1) of this Act to a scheme recognised under section 86, and in section 76(1) of this Act to a scheme recognised under Chapter VIII of Part I of this Act, shall include references to any scheme recognised by virtue of this paragraph.
- (3) In section 86(3)(a) as applied by sub-paragraph (2) above the reference to the rights conferred by any relevant Community instrument shall be construed as a reference to the rights conferred by virtue of an order made under this paragraph.

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- 11 (1) Subsection (7) of section 88 of this Act shall not apply to a scheme which is in existence on the date on which this Act is passed if—
- (a) the units under the scheme are included in the Official List of The Stock Exchange and have been so included throughout the period of five years ending on the date on which this paragraph comes into force ;
  - (b) the law of the country or territory in which the scheme is established precludes the participants being entitled or the operator, being required as mentioned in that subsection; and
  - (c) throughout the period of five years ending on the date on which the application is made under that section, units under the scheme have in fact been regularly redeemed as mentioned in that subsection or the operator has in fact regularly ensured that participants were able to sell their units as there mentioned.
- (2) The grounds for revoking an order made under section 88 of this Act by virtue of this paragraph shall include the ground that it appears to the Secretary of State that since the making of the order units under the scheme have ceased to be regularly redeemed or the operator has ceased regularly to ensure their sale as mentioned in sub-paragraph (1)(c) above.

#### *Delegation orders*

- 12 (1) A delegation order may transfer a function notwithstanding that the provision conferring it has not yet come into force but no such function shall be exercisable by virtue of the order until the coming into force of that provision.
- (2) Sub-paragraph (1) above applies also to a transfer order under paragraph 28(1) of Schedule 11 to this Act.

#### *Disclosure of information*

- 13 In determining for the purposes of section 180(6) of this Act and the enactments amended by paragraphs 3(2), 9(2) and 13(2) of Schedule 13 to this Act whether the functions of an authority in a country or territory outside the United Kingdom correspond to functions conferred by any of the provisions of this Act regard shall be had to those provisions whether or not they have already come into force.

#### *Temporary exemptions for friendly societies*

- 14 (1) A registered friendly society which transacts no investment business after the date on which section 3 of this Act comes into force except for the purpose of making or carrying out relevant existing members' contracts shall be treated for the purposes of that section as if it were an exempted person under Chapter IV of Part I of this Act.
- (2) Subject to sub-paragraph (3) below, for the purposes of this paragraph " relevant existing members' contracts ", in relation to any society, means—
- (a) contracts made by the society before that date ; and
  - (b) in the case of a small income society—
    - (i) during the period of three years beginning with that date, tax exempt investment agreements made by it with persons who were members of the society before that date ; and
    - (ii) after the expiry of that period, tax exempt investment agreements made by it with such persons before the expiry of that period.

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- (3) Paragraph (b) of sub-paragraph (2) above shall not apply to a registered friendly society after the expiry of the period of two years beginning with that date unless before the expiry of that period it has by special resolution (within the meaning of the Friendly Societies Act 1974 or, as the case may be, the Friendly Societies Act (Northern Ireland) 1970) determined—
- (a) to transact no further investment business except for the purpose of carrying out contracts entered into before the expiry of the said period of three years ;
  - or
  - (b) to take such action as is necessary to procure the transfer of its engagements to another such society or a company or the amalgamation of the society with another such society under section 82 of the said Act of 1974 or, as the case may be, section 70 of the said Act of 1970,
- and a copy of that resolution has been registered in accordance with section 86 of the said Act of 1974 or, as the case may be, section 75 of the said Act of 1970.
- (4) For the purpose of sub-paragraph (2) above a society is a small income society if its income in 1985 from members' contributions did not exceed £50,000.
- (5) For the purposes of sub-paragraph (2) above an investment agreement is a tax exempt investment agreement if the society by which it is made may obtain exemption from income and corporation tax on the profits from it under section 332 of the Income and Corporation Taxes Act 1970.
- (6) A society to which sub-paragraph (1) or (2) above applies shall not be an authorised person for the purposes of this Act nor a regulated friendly society for the purposes of the provisions of Schedule 11 to this Act.

*Dealings in course of non-investment business*

- 15 If before the day on which section 3 of this Act comes into force a person has applied for permission under paragraph 23 of Schedule 1 to this Act and the application has not been determined before that day, that person shall, until the determination of the application and subject to his complying with such requirements as the Secretary of State may impose, be treated as if he had been granted a permission under that paragraph

*Northern Ireland*

- 16 The foregoing provisions shall apply to Northern Ireland with the substitution for references to the previous Act or any provision of that Act of references to the Prevention of Fraud (Investments) Act (Northern Ireland) 1940 and the corresponding provision of that Act.