



# Financial Services and Markets Act 2000

## 2000 CHAPTER 8

### PART VI

#### OFFICIAL LISTING

##### *The competent authority*

#### **72 The competent authority**

- (1) On the coming into force of this section, the functions conferred on the competent authority by this Part are to be exercised by the Authority.
- (2) Schedule 7 modifies this Act in its application to the Authority when it acts as the competent authority.
- (3) But provision is made by Schedule 8 allowing some or all of those functions to be transferred by the Treasury so as to be exercisable by another person.

#### **73 General duty of the competent authority**

- (1) In discharging its general functions the competent authority must have regard to—
  - (a) the need to use its resources in the most efficient and economic way;
  - (b) the principle that a burden or restriction which is imposed on a person should be proportionate to the benefits, considered in general terms, which are expected to arise from the imposition of that burden or restriction;
  - (c) the desirability of facilitating innovation in respect of listed securities;
  - (d) the international character of capital markets and the desirability of maintaining the competitive position of the United Kingdom;
  - (e) the need to minimise the adverse effects on competition of anything done in the discharge of those functions;
  - (f) the desirability of facilitating competition in relation to listed securities.
- (2) The competent authority's general functions are—

- (a) its function of making rules under this Part (considered as a whole);
- (b) its functions in relation to the giving of general guidance in relation to this Part (considered as a whole);
- (c) its function of determining the general policy and principles by reference to which it performs particular functions under this Part.

### *The official list*

## **74 The official list**

- (1) The competent authority must maintain the official list.
- (2) The competent authority may admit to the official list such securities and other things as it considers appropriate.
- (3) But—
  - (a) nothing may be admitted to the official list except in accordance with this Part; and
  - (b) the Treasury may by order provide that anything which falls within a description or category specified in the order may not be admitted to the official list.
- (4) The competent authority may make rules (“listing rules”) for the purposes of this Part.
- (5) In the following provisions of this Part—
  - “security” means anything which has been, or may be, admitted to the official list; and
  - “listing” means being included in the official list in accordance with this Part.

### *Listing*

## **75 Applications for listing**

- (1) Admission to the official list may be granted only on an application made to the competent authority in such manner as may be required by listing rules.
- (2) No application for listing may be entertained by the competent authority unless it is made by, or with the consent of, the issuer of the securities concerned.
- (3) No application for listing may be entertained by the competent authority in respect of securities which are to be issued by a body of a prescribed kind.
- (4) The competent authority may not grant an application for listing unless it is satisfied that—
  - (a) the requirements of listing rules (so far as they apply to the application), and
  - (b) any other requirements imposed by the authority in relation to the application, are complied with.
- (5) An application for listing may be refused if, for a reason relating to the issuer, the competent authority considers that granting it would be detrimental to the interests of investors.

- (6) An application for listing securities which are already officially listed in another EEA State may be refused if the issuer has failed to comply with any obligations to which he is subject as a result of that listing.

## **76 Decision on application**

- (1) The competent authority must notify the applicant of its decision on an application for listing—
- (a) before the end of the period of six months beginning with the date on which the application is received; or
  - (b) if within that period the authority has required the applicant to provide further information in connection with the application, before the end of the period of six months beginning with the date on which that information is provided.
- (2) If the competent authority fails to comply with subsection (1), it is to be taken to have decided to refuse the application.
- (3) If the competent authority decides to grant an application for listing, it must give the applicant written notice.
- (4) If the competent authority proposes to refuse an application for listing, it must give the applicant a warning notice.
- (5) If the competent authority decides to refuse an application for listing, it must give the applicant a decision notice.
- (6) If the competent authority decides to refuse an application for listing, the applicant may refer the matter to the Tribunal.
- (7) If securities are admitted to the official list, their admission may not be called in question on the ground that any requirement or condition for their admission has not been complied with.

## **77 Discontinuance and suspension of listing**

- (1) The competent authority may, in accordance with listing rules, discontinue the listing of any securities if satisfied that there are special circumstances which preclude normal regular dealings in them.
- (2) The competent authority may, in accordance with listing rules, suspend the listing of any securities.
- (3) If securities are suspended under subsection (2) they are to be treated, for the purposes of sections 96 and 99, as still being listed.
- (4) This section applies to securities whenever they were admitted to the official list.
- (5) If the competent authority discontinues or suspends the listing of any securities, the issuer may refer the matter to the Tribunal.

## **78 Discontinuance or suspension: procedure**

- (1) A discontinuance or suspension takes effect—
- (a) immediately, if the notice under subsection (2) states that that is the case;

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*Status: This is the original version (as it was originally enacted).*

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- (b) in any other case, on such date as may be specified in that notice.
- (2) If the competent authority—
    - (a) proposes to discontinue or suspend the listing of securities, or
    - (b) discontinues or suspends the listing of securities with immediate effect,it must give the issuer of the securities written notice.
  - (3) The notice must—
    - (a) give details of the discontinuance or suspension;
    - (b) state the competent authority's reasons for the discontinuance or suspension and for choosing the date on which it took effect or takes effect;
    - (c) inform the issuer of the securities that he may make representations to the competent authority within such period as may be specified in the notice (whether or not he has referred the matter to the Tribunal);
    - (d) inform him of the date on which the discontinuance or suspension took effect or will take effect; and
    - (e) inform him of his right to refer the matter to the Tribunal.
  - (4) The competent authority may extend the period within which representations may be made to it.
  - (5) If, having considered any representations made by the issuer of the securities, the competent authority decides—
    - (a) to discontinue or suspend the listing of the securities, or
    - (b) if the discontinuance or suspension has taken effect, not to cancel it,the competent authority must give the issuer of the securities written notice.
  - (6) A notice given under subsection (5) must inform the issuer of the securities of his right to refer the matter to the Tribunal.
  - (7) If a notice informs a person of his right to refer a matter to the Tribunal, it must give an indication of the procedure on such a reference.
  - (8) If the competent authority decides—
    - (a) not to discontinue or suspend the listing of the securities, or
    - (b) if the discontinuance or suspension has taken effect, to cancel it,the competent authority must give the issuer of the securities written notice.
  - (9) The effect of cancelling a discontinuance is that the securities concerned are to be readmitted, without more, to the official list.
  - (10) If the competent authority has suspended the listing of securities and proposes to refuse an application by the issuer of the securities for the cancellation of the suspension, it must give him a warning notice.
  - (11) The competent authority must, having considered any representations made in response to the warning notice—
    - (a) if it decides to refuse the application, give the issuer of the securities a decision notice;
    - (b) if it grants the application, give him written notice of its decision.
  - (12) If the competent authority decides to refuse an application for the cancellation of the suspension of listed securities, the applicant may refer the matter to the Tribunal.

(13) “Discontinuance” means a discontinuance of listing under section 77(1).

(14) “Suspension” means a suspension of listing under section 77(2).

### *Listing particulars*

## **79 Listing particulars and other documents**

- (1) Listing rules may provide that securities (other than new securities) of a kind specified in the rules may not be admitted to the official list unless—
  - (a) listing particulars have been submitted to, and approved by, the competent authority and published; or
  - (b) in such cases as may be specified by listing rules, such document (other than listing particulars or a prospectus of a kind required by listing rules) as may be so specified has been published.
- (2) “Listing particulars” means a document in such form and containing such information as may be specified in listing rules.
- (3) For the purposes of this Part, the persons responsible for listing particulars are to be determined in accordance with regulations made by the Treasury.
- (4) Nothing in this section affects the competent authority’s general power to make listing rules.

## **80 General duty of disclosure in listing particulars**

- (1) Listing particulars submitted to the competent authority under section 79 must contain all such information as investors and their professional advisers would reasonably require, and reasonably expect to find there, for the purpose of making an informed assessment of—
  - (a) the assets and liabilities, financial position, profits and losses, and prospects of the issuer of the securities; and
  - (b) the rights attaching to the securities.
- (2) That information is required in addition to any information required by—
  - (a) listing rules, or
  - (b) the competent authority,as a condition of the admission of the securities to the official list.
- (3) Subsection (1) applies only to information—
  - (a) within the knowledge of any person responsible for the listing particulars; or
  - (b) which it would be reasonable for him to obtain by making enquiries.
- (4) In determining what information subsection (1) requires to be included in listing particulars, regard must be had (in particular) to—
  - (a) the nature of the securities and their issuer;
  - (b) the nature of the persons likely to consider acquiring them;
  - (c) the fact that certain matters may reasonably be expected to be within the knowledge of professional advisers of a kind which persons likely to acquire the securities may reasonably be expected to consult; and

- (d) any information available to investors or their professional advisers as a result of requirements imposed on the issuer of the securities by a recognised investment exchange, by listing rules or by or under any other enactment.

## **81 Supplementary listing particulars**

- (1) If at any time after the preparation of listing particulars which have been submitted to the competent authority under section 79 and before the commencement of dealings in the securities concerned following their admission to the official list—

- (a) there is a significant change affecting any matter contained in those particulars the inclusion of which was required by—

- (i) section 80,
- (ii) listing rules, or
- (iii) the competent authority, or

- (b) a significant new matter arises, the inclusion of information in respect of which would have been so required if it had arisen when the particulars were prepared,

the issuer must, in accordance with listing rules, submit supplementary listing particulars of the change or new matter to the competent authority, for its approval and, if they are approved, publish them.

- (2) “Significant” means significant for the purpose of making an informed assessment of the kind mentioned in section 80(1).
- (3) If the issuer of the securities is not aware of the change or new matter in question, he is not under a duty to comply with subsection (1) unless he is notified of the change or new matter by a person responsible for the listing particulars.
- (4) But it is the duty of any person responsible for those particulars who is aware of such a change or new matter to give notice of it to the issuer.
- (5) Subsection (1) applies also as respects matters contained in any supplementary listing particulars previously published under this section in respect of the securities in question.

## **82 Exemptions from disclosure**

- (1) The competent authority may authorise the omission from listing particulars of any information, the inclusion of which would otherwise be required by section 80 or 81, on the ground—

- (a) that its disclosure would be contrary to the public interest;
- (b) that its disclosure would be seriously detrimental to the issuer; or
- (c) in the case of securities of a kind specified in listing rules, that its disclosure is unnecessary for persons of the kind who may be expected normally to buy or deal in securities of that kind.

- (2) But—

- (a) no authority may be granted under subsection (1)(b) in respect of essential information; and
- (b) no authority granted under subsection (1)(b) extends to any such information.

- (3) The Secretary of State or the Treasury may issue a certificate to the effect that the disclosure of any information (including information that would otherwise have to be included in listing particulars for which they are themselves responsible) would be contrary to the public interest.
- (4) The competent authority is entitled to act on any such certificate in exercising its powers under subsection (1)(a).
- (5) This section does not affect any powers of the competent authority under listing rules made as a result of section 101(2).
- (6) “Essential information” means information which a person considering acquiring securities of the kind in question would be likely to need in order not to be misled about any facts which it is essential for him to know in order to make an informed assessment.
- (7) “Listing particulars” includes supplementary listing particulars.

### **83 Registration of listing particulars**

- (1) On or before the date on which listing particulars are published as required by listing rules, a copy of the particulars must be delivered for registration to the registrar of companies.
- (2) A statement that a copy has been delivered to the registrar must be included in the listing particulars when they are published.
- (3) If there has been a failure to comply with subsection (1) in relation to listing particulars which have been published—
  - (a) the issuer of the securities in question, and
  - (b) any person who is a party to the publication and aware of the failure,is guilty of an offence.
- (4) A person guilty of an offence under subsection (3) is liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to a fine.
- (5) “Listing particulars” includes supplementary listing particulars.
- (6) “The registrar of companies” means—
  - (a) if the securities are, or are to be, issued by a company incorporated in Great Britain whose registered office is in England and Wales, the registrar of companies in England and Wales;
  - (b) if the securities are, or are to be, issued by a company incorporated in Great Britain whose registered office is in Scotland, the registrar of companies in Scotland;
  - (c) if the securities are, or are to be, issued by a company incorporated in Northern Ireland, the registrar of companies for Northern Ireland; and
  - (d) in any other case, any of those registrars.

## *Prospectuses*

### **84 Prospectuses**

- (1) Listing rules must provide that no new securities for which an application for listing has been made may be admitted to the official list unless a prospectus has been submitted to, and approved by, the competent authority and published.
- (2) “New securities” means securities which are to be offered to the public in the United Kingdom for the first time before admission to the official list.
- (3) “Prospectus” means a prospectus in such form and containing such information as may be specified in listing rules.
- (4) Nothing in this section affects the competent authority’s general power to make listing rules.

### **85 Publication of prospectus**

- (1) If listing rules made under section 84 require a prospectus to be published before particular new securities are admitted to the official list, it is unlawful for any of those securities to be offered to the public in the United Kingdom before the required prospectus is published.
- (2) A person who contravenes subsection (1) is guilty of an offence and liable—
  - (a) on summary conviction, to imprisonment for a term not exceeding three months or a fine not exceeding level 5 on the standard scale;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.
- (3) A person is not to be regarded as contravening subsection (1) merely because a prospectus does not fully comply with the requirements of listing rules as to its form or content.
- (4) But subsection (3) does not affect the question whether any person is liable to pay compensation under section 90.
- (5) Any contravention of subsection (1) is actionable, at the suit of a person who suffers loss as a result of the contravention, subject to the defences and other incidents applying to actions for breach of statutory duty.

### **86 Application of this Part to prospectuses**

- (1) The provisions of this Part apply in relation to a prospectus required by listing rules as they apply in relation to listing particulars.
- (2) In this Part—
  - (a) any reference to listing particulars is to be read as including a reference to a prospectus; and
  - (b) any reference to supplementary listing particulars is to be read as including a reference to a supplementary prospectus.



## **87 Approval of prospectus where no application for listing**

- (1) Listing rules may provide for a prospectus to be submitted to and approved by the competent authority if—
  - (a) securities are to be offered to the public in the United Kingdom for the first time;
  - (b) no application for listing of the securities has been made under this Part; and
  - (c) the prospectus is submitted by, or with the consent of, the issuer of the securities.
- (2) “Non-listing prospectus” means a prospectus submitted to the competent authority as a result of any listing rules made under subsection (1).
- (3) Listing rules made under subsection (1) may make provision—
  - (a) as to the information to be contained in, and the form of, a non-listing prospectus; and
  - (b) as to the timing and manner of publication of a non-listing prospectus.
- (4) The power conferred by subsection (3)(b) is subject to such provision made by or under any other enactment as the Treasury may by order specify.
- (5) Schedule 9 modifies provisions of this Part as they apply in relation to non-listing prospectuses.

### *Sponsors*

## **88 Sponsors**

- (1) Listing rules may require a person to make arrangements with a sponsor for the performance by the sponsor of such services in relation to him as may be specified in the rules.
- (2) “Sponsor” means a person approved by the competent authority for the purposes of the rules.
- (3) Listing rules made by virtue of subsection (1) may—
  - (a) provide for the competent authority to maintain a list of sponsors;
  - (b) specify services which must be performed by a sponsor;
  - (c) impose requirements on a sponsor in relation to the provision of services or specified services;
  - (d) specify the circumstances in which a person is qualified for being approved as a sponsor.
- (4) If the competent authority proposes—
  - (a) to refuse a person’s application for approval as a sponsor, or
  - (b) to cancel a person’s approval as a sponsor,it must give him a warning notice.
- (5) If, after considering any representations made in response to the warning notice, the competent authority decides—
  - (a) to grant the application for approval, or
  - (b) not to cancel the approval,

it must give the person concerned, and any person to whom a copy of the warning notice was given, written notice of its decision.

- (6) If, after considering any representations made in response to the warning notice, the competent authority decides—
- (a) to refuse to grant the application for approval, or
  - (b) to cancel the approval,
- it must give the person concerned a decision notice.
- (7) A person to whom a decision notice is given under this section may refer the matter to the Tribunal.

## **89 Public censure of sponsor**

- (1) Listing rules may make provision for the competent authority, if it considers that a sponsor has contravened a requirement imposed on him by rules made as a result of section 88(3)(c), to publish a statement to that effect.
- (2) If the competent authority proposes to publish a statement it must give the sponsor a warning notice setting out the terms of the proposed statement.
- (3) If, after considering any representations made in response to the warning notice, the competent authority decides to make the proposed statement, it must give the sponsor a decision notice setting out the terms of the statement.
- (4) A sponsor to whom a decision notice is given under this section may refer the matter to the Tribunal.

## *Compensation*

## **90 Compensation for false or misleading particulars**

- (1) Any person responsible for listing particulars is liable to pay compensation to a person who has—
- (a) acquired securities to which the particulars apply; and
  - (b) suffered loss in respect of them as a result of—
    - (i) any untrue or misleading statement in the particulars; or
    - (ii) the omission from the particulars of any matter required to be included by section 80 or 81.
- (2) Subsection (1) is subject to exemptions provided by Schedule 10.
- (3) If listing particulars are required to include information about the absence of a particular matter, the omission from the particulars of that information is to be treated as a statement in the listing particulars that there is no such matter.
- (4) Any person who fails to comply with section 81 is liable to pay compensation to any person who has—
- (a) acquired securities of the kind in question; and
  - (b) suffered loss in respect of them as a result of the failure.
- (5) Subsection (4) is subject to exemptions provided by Schedule 10.

- (6) This section does not affect any liability which may be incurred apart from this section.
- (7) References in this section to the acquisition by a person of securities include references to his contracting to acquire them or any interest in them.
- (8) No person shall, by reason of being a promoter of a company or otherwise, incur any liability for failing to disclose information which he would not be required to disclose in listing particulars in respect of a company's securities—
  - (a) if he were responsible for those particulars; or
  - (b) if he is responsible for them, which he is entitled to omit by virtue of section 82.
- (9) The reference in subsection (8) to a person incurring liability includes a reference to any other person being entitled as against that person to be granted any civil remedy or to rescind or repudiate an agreement.
- (10) "Listing particulars", in subsection (1) and Schedule 10, includes supplementary listing particulars.

### *Penalties*

## **91 Penalties for breach of listing rules**

- (1) If the competent authority considers that—
  - (a) an issuer of listed securities, or
  - (b) an applicant for listing,has contravened any provision of listing rules, it may impose on him a penalty of such amount as it considers appropriate.
- (2) If, in such a case, the competent authority considers that a person who was at the material time a director of the issuer or applicant was knowingly concerned in the contravention, it may impose on him a penalty of such amount as it considers appropriate.
- (3) If the competent authority is entitled to impose a penalty on a person under this section in respect of a particular matter it may, instead of imposing a penalty on him in respect of that matter, publish a statement censuring him.
- (4) Nothing in this section prevents the competent authority from taking any other steps which it has power to take under this Part.
- (5) A penalty under this section is payable to the competent authority.
- (6) The competent authority may not take action against a person under this section after the end of the period of two years beginning with the first day on which it knew of the contravention unless proceedings against that person, in respect of the contravention, were begun before the end of that period.
- (7) For the purposes of subsection (6)—
  - (a) the competent authority is to be treated as knowing of a contravention if it has information from which the contravention can reasonably be inferred; and
  - (b) proceedings against a person in respect of a contravention are to be treated as begun when a warning notice is given to him under section 92.

**92 Procedure**

- (1) If the competent authority proposes to take action against a person under section 91, it must give him a warning notice.
- (2) A warning notice about a proposal to impose a penalty must state the amount of the proposed penalty.
- (3) A warning notice about a proposal to publish a statement must set out the terms of the proposed statement.
- (4) If the competent authority decides to take action against a person under section 91, it must give him a decision notice.
- (5) A decision notice about the imposition of a penalty must state the amount of the penalty.
- (6) A decision notice about the publication of a statement must set out the terms of the statement.
- (7) If the competent authority decides to take action against a person under section 91, he may refer the matter to the Tribunal.

**93 Statement of policy**

- (1) The competent authority must prepare and issue a statement (“its policy statement”) of its policy with respect to—
  - (a) the imposition of penalties under section 91; and
  - (b) the amount of penalties under that section.
- (2) The competent authority’s policy in determining what the amount of a penalty should be must include having regard to—
  - (a) the seriousness of the contravention in question in relation to the nature of the requirement contravened;
  - (b) the extent to which that contravention was deliberate or reckless; and
  - (c) whether the person on whom the penalty is to be imposed is an individual.
- (3) The competent authority may at any time alter or replace its policy statement.
- (4) If its policy statement is altered or replaced, the competent authority must issue the altered or replacement statement.
- (5) In exercising, or deciding whether to exercise, its power under section 91 in the case of any particular contravention, the competent authority must have regard to any policy statement published under this section and in force at the time when the contravention in question occurred.
- (6) The competent authority must publish a statement issued under this section in the way appearing to the competent authority to be best calculated to bring it to the attention of the public.
- (7) The competent authority may charge a reasonable fee for providing a person with a copy of the statement.
- (8) The competent authority must, without delay, give the Treasury a copy of any policy statement which it publishes under this section.

## **94 Statements of policy: procedure**

- (1) Before issuing a statement under section 93, the competent authority must publish a draft of the proposed statement in the way appearing to the competent authority to be best calculated to bring it to the attention of the public.
- (2) The draft must be accompanied by notice that representations about the proposal may be made to the competent authority within a specified time.
- (3) Before issuing the proposed statement, the competent authority must have regard to any representations made to it in accordance with subsection (2).
- (4) If the competent authority issues the proposed statement it must publish an account, in general terms, of—
  - (a) the representations made to it in accordance with subsection (2); and
  - (b) its response to them.
- (5) If the statement differs from the draft published under subsection (1) in a way which is, in the opinion of the competent authority, significant, the competent authority must (in addition to complying with subsection (4)) publish details of the difference.
- (6) The competent authority may charge a reasonable fee for providing a person with a copy of a draft published under subsection (1).
- (7) This section also applies to a proposal to alter or replace a statement.

### *Competition*

## **95 Competition scrutiny**

- (1) The Treasury may by order provide for—
  - (a) regulating provisions, and
  - (b) the practices of the competent authority in exercising its functions under this Part (“practices”),to be kept under review.
- (2) Provision made as a result of subsection (1) must require the person responsible for keeping regulating provisions and practices under review to consider—
  - (a) whether any regulating provision or practice has a significantly adverse effect on competition; or
  - (b) whether two or more regulating provisions or practices taken together have, or a particular combination of regulating provisions and practices has, such an effect.
- (3) An order under this section may include provision corresponding to that made by any provision of Chapter III of Part X.
- (4) Subsection (3) is not to be read as in any way restricting the power conferred by subsection (1).
- (5) Subsections (6) to (8) apply for the purposes of provision made by or under this section.
- (6) Regulating provisions or practices have a significantly adverse effect on competition if—

- (a) they have, or are intended or likely to have, that effect; or
  - (b) the effect that they have, or are intended or likely to have, is to require or encourage behaviour which has, or is intended or likely to have, a significantly adverse effect on competition.
- (7) If regulating provisions or practices have, or are intended or likely to have, the effect of requiring or encouraging exploitation of the strength of a market position they are to be taken to have, or be intended or be likely to have, an adverse effect on competition.
- (8) In determining whether any of the regulating provisions or practices have, or are intended or likely to have, a particular effect, it may be assumed that the persons to whom the provisions concerned are addressed will act in accordance with them.
- (9) “Regulating provisions” means—
- (a) listing rules,
  - (b) general guidance given by the competent authority in connection with its functions under this Part.

*Miscellaneous***96 Obligations of issuers of listed securities**

- (1) Listing rules may—
- (a) specify requirements to be complied with by issuers of listed securities; and
  - (b) make provision with respect to the action that may be taken by the competent authority in the event of non-compliance.
- (2) If the rules require an issuer to publish information, they may include provision authorising the competent authority to publish it in the event of his failure to do so.
- (3) This section applies whenever the listed securities were admitted to the official list.

**97 Appointment by competent authority of persons to carry out investigations**

- (1) Subsection (2) applies if it appears to the competent authority that there are circumstances suggesting that—
- (a) there may have been a breach of listing rules;
  - (b) a person who was at the material time a director of an issuer of listed securities has been knowingly concerned in a breach of listing rules by that issuer;
  - (c) a person who was at the material time a director of a person applying for the admission of securities to the official list has been knowingly concerned in a breach of listing rules by that applicant;
  - (d) there may have been a contravention of section 83, 85 or 98.
- (2) The competent authority may appoint one or more competent persons to conduct an investigation on its behalf.
- (3) Part XI applies to an investigation under subsection (2) as if—
- (a) the investigator were appointed under section 167(1);
  - (b) references to the investigating authority in relation to him were to the competent authority;

- (c) references to the offences mentioned in section 168 were to those mentioned in subsection (1)(d);
- (d) references to an authorised person were references to the person under investigation.

## **98 Advertisements etc. in connection with listing applications**

- (1) If listing particulars are, or are to be, published in connection with an application for listing, no advertisement or other information of a kind specified by listing rules may be issued in the United Kingdom unless the contents of the advertisement or other information have been submitted to the competent authority and that authority has—
  - (a) approved those contents; or
  - (b) authorised the issue of the advertisement or information without such approval.
- (2) A person who contravenes subsection (1) is guilty of an offence and liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.
- (3) A person who issues an advertisement or other information to the order of another person is not guilty of an offence under subsection (2) if he shows that he believed on reasonable grounds that the advertisement or information had been approved, or its issue authorised, by the competent authority.
- (4) If information has been approved, or its issue has been authorised, under this section, neither the person issuing it nor any person responsible for, or for any part of, the listing particulars incurs any civil liability by reason of any statement in or omission from the information if that information and the listing particulars, taken together, would not be likely to mislead persons of the kind likely to consider acquiring the securities in question.
- (5) The reference in subsection (4) to a person incurring civil liability includes a reference to any other person being entitled as against that person to be granted any civil remedy or to rescind or repudiate an agreement.

## **99 Fees**

- (1) Listing rules may require the payment of fees to the competent authority in respect of—
  - (a) applications for listing;
  - (b) the continued inclusion of securities in the official list;
  - (c) applications under section 88 for approval as a sponsor; and
  - (d) continued inclusion of sponsors in the list of sponsors.
- (2) In exercising its powers under subsection (1), the competent authority may set such fees as it considers will (taking account of the income it expects as the competent authority) enable it—
  - (a) to meet expenses incurred in carrying out its functions under this Part or for any incidental purpose;
  - (b) to maintain adequate reserves; and

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*Status: This is the original version (as it was originally enacted).*

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- (c) in the case of the Authority, to repay the principal of, and pay any interest on, any money which it has borrowed and which has been used for the purpose of meeting expenses incurred in relation to—
  - (i) its assumption of functions from the London Stock Exchange Limited in relation to the official list; and
  - (ii) its assumption of functions under this Part.
- (3) In fixing the amount of any fee which is to be payable to the competent authority, no account is to be taken of any sums which it receives, or expects to receive, by way of penalties imposed by it under this Part.
- (4) Subsection (2)(c) applies whether expenses were incurred before or after the coming into force of this Part.
- (5) Any fee which is owed to the competent authority under any provision made by or under this Part may be recovered as a debt due to it.

## **100 Penalties**

- (1) In determining its policy with respect to the amount of penalties to be imposed by it under this Part, the competent authority must take no account of the expenses which it incurs, or expects to incur, in discharging its functions under this Part.
- (2) The competent authority must prepare and operate a scheme for ensuring that the amounts paid to it by way of penalties imposed under this Part are applied for the benefit of issuers of securities admitted to the official list.
- (3) The scheme may, in particular, make different provision with respect to different classes of issuer.
- (4) Up to date details of the scheme must be set out in a document (“the scheme details”).
- (5) The scheme details must be published by the competent authority in the way appearing to it to be best calculated to bring them to the attention of the public.
- (6) Before making the scheme, the competent authority must publish a draft of the proposed scheme in the way appearing to it to be best calculated to bring it to the attention of the public.
- (7) The draft must be accompanied by notice that representations about the proposals may be made to the competent authority within a specified time.
- (8) Before making the scheme, the competent authority must have regard to any representations made to it under subsection (7).
- (9) If the competent authority makes the proposed scheme, it must publish an account, in general terms, of—
  - (a) the representations made to it in accordance with subsection (7); and
  - (b) its response to them.
- (10) If the scheme differs from the draft published under subsection (6) in a way which is, in the opinion of the competent authority, significant the competent authority must (in addition to complying with subsection (9)) publish details of the difference.
- (11) The competent authority must, without delay, give the Treasury a copy of any scheme details published by it.



- (12) The competent authority may charge a reasonable fee for providing a person with a copy of—
- (a) a draft published under subsection (6);
  - (b) scheme details.
- (13) Subsections (6) to (10) and (12) apply also to a proposal to alter or replace the scheme.

### **101 Listing rules: general provisions**

- (1) Listing rules may make different provision for different cases.
- (2) Listing rules may authorise the competent authority to dispense with or modify the application of the rules in particular cases and by reference to any circumstances.
- (3) Listing rules must be made by an instrument in writing.
- (4) Immediately after an instrument containing listing rules is made, it must be printed and made available to the public with or without payment.
- (5) A person is not to be taken to have contravened any listing rule if he shows that at the time of the alleged contravention the instrument containing the rule had not been made available as required by subsection (4).
- (6) The production of a printed copy of an instrument purporting to be made by the competent authority on which is endorsed a certificate signed by an officer of the authority authorised by it for that purpose and stating—
  - (a) that the instrument was made by the authority,
  - (b) that the copy is a true copy of the instrument, and
  - (c) that on a specified date the instrument was made available to the public as required by subsection (4),is evidence (or in Scotland sufficient evidence) of the facts stated in the certificate.
- (7) A certificate purporting to be signed as mentioned in subsection (6) is to be treated as having been properly signed unless the contrary is shown.
- (8) A person who wishes in any legal proceedings to rely on a rule-making instrument may require the Authority to endorse a copy of the instrument with a certificate of the kind mentioned in subsection (6).

### **102 Exemption from liability in damages**

- (1) Neither the competent authority nor any person who is, or is acting as, a member, officer or member of staff of the competent authority is to be liable in damages for anything done or omitted in the discharge, or purported discharge, of the authority's functions.
- (2) Subsection (1) does not apply—
  - (a) if the act or omission is shown to have been in bad faith; or
  - (b) so as to prevent an award of damages made in respect of an act or omission on the ground that the act or omission was unlawful as a result of section 6(1) of the Human Rights Act 1998.

### 103 Interpretation of this Part

- (1) In this Part—
- “application” means an application made under section 75;
  - “issuer”, in relation to anything which is or may be admitted to the official list, has such meaning as may be prescribed by the Treasury;
  - “listing” has the meaning given in section 74(5);
  - “listing particulars” has the meaning given in section 79(2);
  - “listing rules” has the meaning given in section 74(4);
  - “new securities” has the meaning given in section 84(2);
  - “the official list” means the list maintained as the official list by the Authority immediately before the coming into force of section 74, as that list has effect for the time being;
  - “security” (except in section 74(2)) has the meaning given in section 74(5).
- (2) In relation to any function conferred on the competent authority by this Part, any reference in this Part to the competent authority is to be read as a reference to the person by whom that function is for the time being exercisable.
- (3) If, as a result of an order under Schedule 8, different functions conferred on the competent authority by this Part are exercisable by different persons, the powers conferred by section 91 are exercisable by such person as may be determined in accordance with the provisions of the order.
- (4) For the purposes of this Part, a person offers securities if, and only if, as principal—
- (a) he makes an offer which, if accepted, would give rise to a contract for their issue or sale by him or by another person with whom he has made arrangements for their issue or sale; or
  - (b) he invites a person to make such an offer.
- (5) “Offer” and “offeror” are to be read accordingly.
- (6) For the purposes of this Part, the question whether a person offers securities to the public in the United Kingdom is to be determined in accordance with Schedule 11.
- (7) For the purposes of subsection (4) “sale” includes any disposal for valuable consideration.