
STATUTORY INSTRUMENTS

2001 No. 3592

The Financial Services and Markets Act 2000 (Transitional Provisions) (Partly Completed Procedures) Order 2001

PART VII

SUPPLEMENTAL

Adaptation of dates and duration of periods in notices continued in effect

90.—(1) A notice given before commencement may specify a new date by or on which, or a new period within or for which—

- (a) representations may be made to the Authority;
- (b) action will be taken by the Authority;
- (c) a requirement will be imposed or a condition take effect;
- (d) action must be taken by the recipient of the notice; or
- (e) certain conduct on the part of the recipient must cease,

if commencement occurs before the corresponding original date occurs or the corresponding original period elapses.

(2) Where a notice provides a new date or period as mentioned in paragraph (1), then if—

- (a) commencement occurs before the corresponding original date occurs or period elapses; and
- (b) the notice has effect after commencement as a notice given under the Act,

that new date or period takes effect and replaces the original date or original period (if any).

(3) For the purposes of this article, an “original date” or “original period” is the relevant date or period which would have applied but for the repeal or revocation of the provision under which the notice was originally given.

(4) When specifying a new period for the purposes of this article, the person giving the notice must specify a period starting with commencement.

Explanation of notices continued in effect

91. A notice shall not have effect, pursuant to any provision of this Order, as a notice under the Act unless the person giving the notice also gave the recipient (either at the same time as the notice or after giving the notice but allowing a reasonable time before commencement) an explanation of the effect that this Order will have on the notice if commencement occurs before the matters referred to in the notice are decided.

Validity of notices continued in effect

92. Where, by virtue of any provision in this Order, a notice has effect as a notice given under the Act, its validity is not affected by—

- (a) the omission from the notice of any matter which is required by the Act but which was not required by the provision under which the notice was originally given; or
- (b) a failure to follow any procedure which is required by the Act but which was not required by the provision under which the notice was originally given,

and that omission or failure may not be taken into account by the Tribunal in considering any matter referred to it.

Effect of lapsed notices

93. Where a notice given before commencement does not take effect, by virtue of this Order, as a notice given under the Act, that fact does not of itself preclude the Authority from taking into account, when exercising its powers under the Act, the matters which were the subject of the notice.

Right of third party to receive notice of post commencement decision

94.—(1) Where a notice served before commencement has effect by virtue of this Order as if it were a notice served under section 53(4) or section 197(3), a third party recipient of that notice must be given a copy of any notice issued by the Authority under section 53(7) or (8), or under section 197(6) or (7) (as the case may be) in relation to the matter covered by that notice.

(2) For the purposes of this article a “third party recipient” is a person who was given a copy of the notice pursuant to—

- (a) section 29(3) or 34(3) of the Financial Services Act;
- (b) section 13(4) of the Banking Act;
- (c) section 12(2), 12A(4) or 46(1) of the Insurance Companies Act;
- (d) paragraph 1(3) of Schedule 4 to the 2BCD Regulations;
- (e) paragraph 1(3) of Schedule 4 to the ISD Regulations;
- (f) paragraph 2(4) of Schedule 3 to the 2BCD Regulations;
- (g) paragraph 7(2), 8(3) or 10(2) of Schedule 13 to the Friendly Societies Act;
- (h) paragraph 4(2), 5(3) or 6(2) of Schedule 3 to the Building Societies Act;
- (i) section 42A(5) of the Building Societies Act.

Right of third party to refer matter to the Tribunal

95.—(1) This article applies where—

- (a) a notice served before commencement has effect by virtue of article 10, 12 or 20 of this Order as if it were a notice served under section 53(4) or section 197(3);
- (b) a person (“the third party”) was given a copy of that notice pursuant to—
 - (i) section 29(3) or 34(3) of the Financial Services Act;
 - (ii) paragraph 1(3) of Schedule 4 to the 2BCD Regulations; or
 - (iii) paragraph 1(3) of Schedule 4 to the ISD Regulations;
- (c) the third party had immediately before commencement a right to refer that notice to the Financial Services Tribunal under section 97 of the Financial Services Act but had not exercised that right; and

- (d) the Authority, after commencement, gives a notice under section 53(7) or (8)(b) or section 197(6) or (7)(b) in respect of the matter covered by the notice mentioned in subparagraph (a) above.
- (2) In a case where this article applies, the third party may refer to the Financial Services and Markets Tribunal the question whether the reasons stated in the notice mentioned in paragraph (1) (b) above are substantiated.
- (3) The Schedule to this Order has effect for the purposes of modifying the Financial Services and Markets Tribunal Rules 2001 as they apply to references made under paragraph (2).