
STATUTORY INSTRUMENTS

2001 No. 3649

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

PART 7

ENACTMENTS RELATING TO SCOTLAND

CHAPTER II

secondary legislation

The Local Government Pension Scheme (Management and Investment of Funds) (Scotland) Regulations 1998 (S.I. 1998/2888) (S.168)

Meaning of “investment”

257.—(1) In regulation 3 of the Local Government Pension Scheme (Management and Investment of Funds) (Scotland) Regulations 1998 (definition of “investment”), for paragraphs (5) and (6) substitute—

“(5) A contract of insurance is an investment if and only if it is a contract of a relevant class, and is entered into with a person within paragraph (6) for whom entering into the contract constitutes the carrying on of a regulated activity (within the meaning of the Financial Services and Markets Act 2000).

(6) The persons within this paragraph are—

- (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 of a relevant class;
- (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 of a relevant class; or
- (c) a person who does not fall within sub-paragraph (a) or (b) and who, because he has his head office in an EEA State (within the meaning of that Act) other than the United Kingdom, is permitted by the law of that State to effect or carry out contracts of insurance of a relevant class.

(6A) A contract of insurance is of a relevant class for the purposes of paragraphs (5) and (6) if it is—

- (a) a contract of insurance on human life or a contract to pay an annuity on human life where the benefits are wholly or partly to be determined by reference to the value of, or the income from, property of any description (whether or not specified in the contract) or by reference to fluctuations in, or in an index of, the value of property of any description (whether or not so specified); or

- (b) a contract to manage the investments of pension funds, whether or not combined with contracts of insurance covering either conservation of capital or payment of a minimum interest.”.

(2) For paragraphs (7) and (8) substitute—

“(7) A stock lending arrangement is an investment if, and only if, in respect of it, the conditions in rules 5.14.4R and 5.14.6R in the Collective Investment Scheme Sourcebook are complied with.

(8) For the purposes of paragraph (7)—

- (a) the references in rules 5.14.4R and 5.14.6R to the trustee must be read as if they were references to the administering authority; and
- (b) the “Collective Investment Scheme Sourcebook” means the Collective Investment Scheme Sourcebook made by the Financial Services Authority under Part 10 of the Financial Services and Markets Act 2000.”.