
STATUTORY INSTRUMENTS

2001 No. 3649

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

PART 2

AMENDMENTS TO THE COMPANIES LEGISLATION

Companies (Northern Ireland) Order 1986 (S.I. 1986/1032 (N.I. 6))

Interpretation of the 1986 Order

40. In Article 2(3) of the Companies (Northern Ireland) Order 1986 (“the 1986 Order”) (interpretation)(1)—

- (a) the definitions of “banking company” and “insurance company” are revoked; and
- (b) after the definition of “the insider dealing legislation” insert—
 - ““insurance market activity” has the meaning given in section 316(3) of the Financial Services and Markets Act 2000;”
- (c) before the definition of “the registrar of companies” insert—
 - “regulated activity has the meaning given in section 22 of the Financial Services and Markets Act 2000;”.

Table of defined expressions

41. In the Table in Article 2A of the 1986 Order (index of defined expressions)(2)—

- (a) after the entry relating to “articles” insert—

| | |
|-------------------------------|--------------|
| “authorised insurance company | Article 10C” |
|-------------------------------|--------------|

- (b) in the second column of the entry relating to “banking company”, for “Article 2(3)” substitute “Article 10B”;
- (c) in the second column of the entry relating to “insurance company”, for “Article 2(3)” substitute “Article 10C”;
- (d) after the entry relating to “insurance company” insert—

| | |
|----------------------------|----------------|
| “insurance market activity | Article 2(3)”; |
|----------------------------|----------------|

- (e) after the entry relating to “registrar and registrar of companies” insert—

(1) Relevant amendments made by the Companies (Northern Ireland) Order 1990 (S.I. 1990/593 (NI 5)), Schedule 10, paragraph 2 and the Criminal Justice Act 1993 (c. 36) section 79(13), Schedule 5, paragraph 18(1).
(2) Inserted by the Companies (No.2) (Northern Ireland) Order 1990 (S.I. 1990/1504 (N.I. 10)), Article 78, Schedule 5, paragraph 1.

“regulated activity

Article 2(3)”.

References to the Companies Orders in certain provisions to include references to the Financial Services and Markets Act 2000

42. In Article 2B of the 1986 Order (construction of certain references to the Companies Orders)(3) for “Parts IV and V of the Financial Services Act 1986” substitute “Part 6 of the Financial Services and Markets Act 2000”.

Meaning of “offer to the public”, “banking company”, “insurance company” and “authorised insurance company”

43. After Article 10(4) of the 1986 Order, insert—

“Meaning of “offer to the public”

10A.—(1) Any reference in Part V (allotment of shares and debentures) or Part VIII (accounts) to offering shares or debentures to the public is to be read as including a reference to offering them to any section of the public, however selected.

(2) This Article does not require an offer to be treated as made to the public if it can properly be regarded, in all the circumstances—

- (a) as not being calculated to result, directly or indirectly, in the shares or debentures becoming available for subscription or purchase by persons other than those receiving the offer; or
- (b) as being a domestic concern of the persons receiving and making it.

(3) An offer of shares in or debentures of a private company (other than an offer to which paragraph (5) applies) is to be regarded (unless the contrary is proved) as being a domestic concern of the persons making and receiving it if—

- (a) it is made to—
 - (i) an existing member of the company making the offer;
 - (ii) an existing employee of that company;
 - (iii) the widow or widower of a person who was a member or employee of that company;
 - (iv) a member of the family of a person who is or was a member or employee of that company; or
 - (v) an existing debenture holder; or
- (b) it is an offer to subscribe for shares or debentures to be held under an employee’s share scheme.

(4) Paragraph (5) applies to an offer—

- (a) which falls within sub-paragraph (a) or (b) of paragraph (3); but
- (b) which is made on terms which permit the person to whom it is made to renounce his right to the allotment of shares or issue of debentures.

(3) Inserted by the [Companies \(No. 2\) \(NI\) Order 1990 \(NI 10\)](#), article 62(1).

(4) Article 10 was substituted by the [Companies \(Northern Ireland\) Order 1990 \(S.I. 1990/593 \(N.I. 5\)\)](#), Article 25, Schedule 10, Part I.

(5) The offer is to be regarded (unless the contrary is proved) as being a domestic concern of the persons making and receiving it if the terms are such that the right may be renounced only in favour—

- (a) of any person mentioned in paragraph (3)(a); or
 - (b) in the case of an employee’s share scheme, of a person entitled to hold shares or debentures under the scheme.
- (6) For the purposes of paragraph (3)(a)(iv), the members of a person’s family are—
- (a) the person’s spouse and children (including step-children) and their descendants, and
 - (b) any trustee (acting in his capacity as such) of a trust the principal beneficiary of which is the person him or herself or of any of those relatives.

(7) Where an application has been made to the competent authority in any EEA State for the admission of any securities to official listing, then an offer of those securities for subscription or sale to a person whose ordinary business it is to buy or sell shares or debentures (whether as principal or agent) is not to be regarded as an offer to the public for the purposes of this Part.

- (8) For the purposes of paragraph (7)—
- (a) “competent authority” means a competent authority appointed for the purposes of the Council Directive of 28 May 2001 on the admission of securities to official stock exchange listing and on information to be published on those securities; and
 - (b) “official listing” means official listing pursuant to that directive.

Meaning of “banking company”

10B.—(1) Subject to paragraph (2), “banking company” means a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits.

- (2) A banking company does not include—
- (a) a person who is not a company, and
 - (b) a person who has permission to accept deposits only for the purpose of carrying on another regulated activity in accordance with that permission.
- (3) This Article must be read with—
- (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.

Meaning of “insurance company” and “authorised insurance company”

10C.—(1) For the purposes of this Order, “insurance company” has the meaning given in paragraph (2) and “authorised insurance company” has the meaning given in paragraph (4).

- (2) Subject to paragraph (3), “insurance company” means a person (whether incorporated or not)—
- (a) who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of insurance;
 - (b) who carries on insurance market activity; or

(c) who may effect or carry out contracts of insurance under which the benefits provided by that person are exclusively or primarily benefits in kind in the event of accident to or breakdown of a vehicle, and does not fall within sub-paragraph (a).

(3) An insurance company does not include a friendly society, within the meaning of section 116 of the Friendly Societies Act 1992.

(4) An “authorised insurance company” means a person falling within sub-paragraph (a) of paragraph (2).

(5) References in this Article to contracts of insurance and the effecting or carrying out of such contracts must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

Membership of holding company

44.—(1) Article 33 of the 1986 Order (membership of holding company)(**5**) is amended as follows.

(2) In paragraph (3)(a) the words “(within the meaning of the Financial Services Act 1986)” are repealed.

(3) After paragraph (3) insert—

“(3A) In paragraph (3)(a) “recognised investment exchange” and “overseas investment exchange” have the same meaning as in Part 18 of the Financial Services and Markets Act 2000.”.

Repeal of unnecessary provisions

45. Articles 69 and 70 of the 1986 Order (so far as those Articles continue to have effect) are repealed.

Purchase by company of its own shares: definition of “off-market” and “market” purchase

46.—(1) Article 173 of the 1986 Order (meaning of “off-market” and “market” purchase) is amended as follows.

(2) In paragraph (2)(a)(**6**) for “Part IV of the Financial Services Act 1986” substitute “Part 6 of the Financial Services and Markets Act 2000”.

(3) For paragraph (4)(**7**) substitute—

“(4) “Recognised investment exchange” means a recognised investment exchange other than an overseas investment exchange.

(5) Expressions used in the definition contained in paragraph (4) have the same meaning as in Part 18 of the Financial Services and Markets Act 2000.”.

Duty of company as to issue of certificates

47. For paragraph (4) of Article 195 of the 1986 Order (duty of company to issue certificates in relation to shares allotted or transferred)(**8**) substitute—

(5) Substituted by the [Companies \(No. 2\) \(NI\) Order 1990 \(NI 10\)](#), Article 64(1).
(6) Amended by the [Financial Services Act 1986 \(c. 60\)](#), Schedule 16 paragraph 32.
(7) Inserted by the [Financial Services Act 1986 \(c. 60\)](#), Schedule 16 paragraph 32.
(8) Amended by the [Financial Services Act 1986 \(c. 60\)](#) section 194(6).

“(4) Paragraph (4A) applies in relation to a company—

- (a) of which shares or debentures are allotted to a financial institution,
- (b) of which debenture stock is allotted to a financial institution, or
- (c) with which a transfer for transferring shares, debentures or debenture stock to a financial institution is lodged.

(4A) The company is not required, in consequence of that allotment or transfer, to comply with paragraph (1).

(4B) “Financial institution” means—

- (a) a recognised clearing house acting in relation to a recognised investment exchange; or
- (b) a nominee of—
 - (i) a recognised clearing house acting in that way; or
 - (ii) a recognised investment exchange.

(4C) No person may be a nominee for the purposes of this Article unless he is a person designated for those purposes in the rules of the recognised investment exchange in question.

(4D) Expressions used in paragraphs (4B) and (4C) have the same meaning as in Part 18 of the Financial Services and Markets Act 2000.”.

Disclosure of interests in shares: interests to be disclosed

48.—(1) Article 207 of the 1986 Order (interests in shares required to be disclosed) is amended as follows.

- (2) In paragraph (2A)(**9**), in sub-paragraph (a) for “authorised to” substitute “who may lawfully”.
- (3) In that paragraph, in sub-paragraph (b), for paragraphs (ii) and (iii) substitute—

“or

- (ii) a recognised scheme;”.

(4) For paragraphs (6) and (7)(**10**) substitute—

“(6) For the purposes of paragraph (2A), a person (“A”) may lawfully manage investments belonging to another if—

- (a) A can manage those investments in accordance with the permission which A has under Part 4 of the Financial Services and Markets Act 2000;
- (b) A is an EEA firm of the kind mentioned in sub-paragraph (a) or (b) of paragraph 5 of Schedule 3 to that Act, and can manage those investments in accordance with its EEA authorisation;
- (c) A can, in accordance with section 327 of that Act, manage those investments without contravening the prohibition contained in section 19 of that Act; or
- (d) A can lawfully manage those investments in another Member State and would, if he were to manage those investments in the United Kingdom, require permission under Part 4 of that Act.

(7) References in this Article to the management of investments must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;

(9) Inserted by [SR \(NI\) 1997/251](#).

(10) Paragraphs (6) and (7) inserted by [SR \(NI\) 1994/2](#).

- (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.”.
- (5) In paragraph (8)—
- (a) in sub-paragraph (b) for the words from the beginning to “conferred” substitute “is certified by the competent authority in that member State as complying with the conditions imposed”; and
 - (b) for “subsection (8) of section 86 of the Financial Services Act 1986” substitute “subsection (5) of section 264 of the Financial Services and Markets Act 2000”.

Disclosure of interests in shares: interests to be disregarded

49. For paragraph (2) of Article 217(11) of the 1986 Order (interests in shares to be disregarded for purposes of disclosure requirements) substitute—

- “(2) An interest in shares is an exempt security interest for the purposes of paragraph (1)
- (c) if the condition mentioned in paragraph (2A) is satisfied and the interest is held by—
- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits;
 - (b) an EEA firm of the kind mentioned in paragraph 5(b) 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 accept deposits;
 - (c) a person authorised under the law of a member State other than the United Kingdom to accept deposits who—
 - (i) would not qualify for authorisation under paragraph 12 of Schedule 3 to that Act, and
 - (ii) would require permission under another provision of that Act to accept such deposits in the United Kingdom;
 - (d) an authorised insurance undertaking;
 - (e) a person authorised under the law of a member State to deal in securities or derivatives, who deals in securities or derivatives on a relevant stock exchange or a relevant investment exchange, whether as a member or otherwise;
 - (f) a relevant stock exchange;
 - (g) a relevant investment exchange;
 - (h) a recognised clearing house;
 - (i) the Bank of England; or
 - (j) the central bank of a member State other than the United Kingdom.

(2A) The condition is that the interest in the shares must be held by way of security only for the purposes of a transaction entered into in the ordinary course of his or its business as a person or other body falling within any of sub-paragraphs (a) to (j) of paragraph (2).

- (2B) Sub-paragraphs (a) to (c) of paragraph (2) must be read with—
- (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.

- (2C) But sub-paragraph (a) of paragraph (2) does not include—
- (a) a building society incorporated, or deemed to be incorporated, under the Building Societies Act 1986; or
 - (b) a credit union, within the meaning of the Credit Unions Act 1979 or the Credit Unions (Northern Ireland) Order 1985.”.

Disclosure of interests in shares: interpretation

50.—(1) Paragraph (1) of Article 228(**12**) of the 1986 Order (interpretation of Part 7) is amended in accordance with sub-paragraphs (2) to (8).

(2) The definitions of “authorised credit institution” and “designated agency” are repealed.

(3) In the definition of “authorised unit trust scheme” for “Chapter VIII of Part I of the Financial Services Act 1986” substitute “Part 17 of the Financial Services and Markets Act 2000”.

(4) For the definition of “derivatives” substitute—

““derivatives” means options and futures in relation to shares;”.

(5) After the definition of “derivatives” insert—

““EEA authorisation” has the meaning given in paragraph 6 of Schedule 3 to the Financial Services and Markets Act 2000;”

(6) In the definition of “operator” for “section 75(8) of the Financial Services Act 1986” substitute “section 237(2) of the Financial Services and Markets Act 2000”.

(7) For the definition which begins ““recognised clearing house”, substitute—

““recognised clearing house” has the same meaning as in the Financial Services and Markets Act 2000;

“recognised scheme” has the same meaning as in Part 17 of the Financial Services and Markets Act 2000;”.

(8) In the definition of “units” for “section 75 of the Financial Services Act 1986” substitute “section 237(2) of the Financial Services and Markets Act 2000”.

(9) After paragraph (1) of Article 228 of the 1986 Order insert—

“(1A) References in paragraph (1) to contracts of insurance (of any description), options and futures must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

Limitations on exemptions for small and medium-sized companies in relation to accounts etc.

51.—(1) Article 255A of the 1986 Order (limitations on exemptions for small and medium-sized companies in relation to accounts etc.)(**13**) is amended as follows.

(2) In paragraph (1), for sub-paragraph (a) substitute—

“(a) the company is, or was at any time within the financial year to which the accounts relate—

- (i) a public company,

(12) Substituted by [SR \(NI\) 1994/2](#).

(13) Article 255A was inserted by [SR \(N.I.\) 1997/436](#).

- (ii) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to carry on one or more regulated activities, or
 - (iii) a person who carries on insurance market activity;”.
- (3) In paragraph (2), for sub-paragraphs (b) to (d) substitute—
- “(b) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to carry on a regulated activity, or
 - (c) a person who carries on insurance market activity.”.

Limitations on exemptions for small and medium-sized groups

52. In paragraph (2) of Article 256 of the 1986 Order (exemption for small and medium-sized groups)(**14**), for sub-paragraphs (b) to (d) substitute—

- “(b) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to carry on a regulated activity,
- (c) a person who carries on insurance market activity.”.

Limitations on exemptions for dormant companies

53. In paragraph (3) of Article 257AA of the 1986 Order (dormant companies)(**15**), for sub-paragraphs (a) and (b) substitute—

- “(a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to carry on one or more regulated activities;
- (b) a person who carries on insurance market activity.”.

Cases where exemptions not available

54.—(1) Paragraph (1) of Article 257B of the 1986 Order (cases where exemptions not available)(**16**) is amended as follows.

- (2) For sub-paragraph (b) substitute—
 - “(b) it was a person who had permission under Part 4 of the Financial Services and Markets Act 2000 to carry on a regulated activity;”.
- (3) After sub-paragraph (b) insert—
 - “(bb) it carried on an insurance market activity;”.
- (4) For sub-paragraph (d) substitute—
 - “(d) it was an appointed representative, within the meaning of section 39 of the Financial Services and Markets Act 2000;”.

Summary financial statements by listed public companies

55. In Article 259(1) of the 1986 Order (summary financial statements by listed public companies)(**17**), for the definition of “listed”, and the word “and” preceding it, substitute—

““listed” means included in the official list by the competent authority for the purposes of Part 6 of the Financial Services and Markets Act 2000 (official listing); and

(14) Article 256 was inserted by the Companies (Northern Ireland) Order 1990 (S.I. 1990/593 (N.I. 5)), Articles 3(a), 15(3).

(15) Article 257AA was inserted by SR (N.I.) 2001/154.

(16) Article 257B was inserted by SR (N.I.) 1995/128.

(17) Article 259 was inserted by the Companies (Northern Ireland) Order 1990 (S.I. 1990/593 (NI 5)), Articles 3(a), 17; paragraph (1) amended by S.R.(N.I.) 1993/220.

“the official list” has the meaning given in section 103(1) of that Act.”.

Meaning of “banking partnership”

56.—(1) For paragraph (2) of Article 263D of the 1986 Order (power to apply provisions to banking)(**18**) substitute—

“(2) A “banking partnership” means a partnership which has permission under Part 4 of the Financial Services and Markets Act 2000.

(2A) But a partnership is not a banking partnership if it has permission to accept deposits only for the purpose of carrying on another regulated activity in accordance with that permission.”.

(2) After paragraph (4) of that Article insert—

“(5) Paragraphs (2) and (2A) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

Other distributions by investment companies

57.—(1) Article 273 of the 1986 Order (other distributions by investment companies) is amended as follows.

(2) In paragraph (4)(a) the words “within the meaning of the Financial Services Act 1986” are repealed.

(3) After paragraph (4)(**19**) insert—

“(4A) In paragraph (4)(a) “recognised investment exchange” and “overseas investment exchange” have the same meaning as in Part 18 of the Financial Services and Markets Act 2000.”.

Realised profits of an insurance company with long term business

58.—(1) Article 276 of the 1986 Order (realised profits of insurance company with long term business) is amended as follows.

(2) In paragraph (1)—

- (a) for “an insurance company to which Part II of the Insurance Companies Act 1982 applies” substitute “an authorised insurance company”; and
- (b) in sub-paragraph (a), for “in accordance with section 30(1) of that Act or carried forward unappropriated as mentioned in section 30(7) of that Act” substitute “or, as the case may be, carried forward unappropriated, in accordance with asset identification rules made under section 142(2) of the Financial Services and Markets Act 2000”.

(3) In paragraph (3)—

(a) for sub-paragraph (a) substitute—

“(a) “actuarial investigation” means—

- (i) an investigation made into the financial condition of an authorised insurance company in respect of its long term business, carried out once in every period of twelve months in accordance with rules made under Part 10 of

(18) Article 263D was inserted by the Companies (Northern Ireland) Order 1990 (S.I. 1990/593 (NI 5)), Articles 3(a), 20(2).

(19) Amended by the Financial Services Act 1986 (c. 60), Schedule 16 paragraph 34.

the Financial Services and Markets Act 2000 by an actuary appointed as actuary to that company; or

- (ii) an investigation made into the financial condition of an authorised insurance company in respect of its long term business carried out in accordance with a requirement imposed by the Financial Services Authority under section 166 of that Act by an actuary appointed as actuary to that company;”

(b) for sub-paragraph (b) substitute—

“(b) “long term business” means business which consists of effecting or carrying out contracts of long term insurance.”.

(4) After paragraph (3) insert—

“(4) The definition of “long term business” in paragraph (3) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

Exceptions to rules relating to substantial property transactions involving directors

59. In Article 329(4)(20) of the 1986 Order (exceptions to rules in Article 328: transactions through independent broker on recognised investment exchange), for “Financial Services Act 1986” substitute “Financial Services and Markets Act 2000.”.

Duty of company to notify recognised investment exchange of certain matters concerning directors notified to the company

60. In Article 337 of the 1986 Order (duty of company to notify recognised investment exchange of matters notified to it under Articles 332 or 336), after paragraph (3) insert—

“(4) In paragraph (1) “recognised investment exchange” has the same meaning as in Part 18 of the Financial Services and Markets Act 2000.”.

Investigation of share dealing

61. In Article 439 of the 1986 Order (investigation of share dealing), for paragraph (3)(21) substitute—

“(3) Articles 427 to 429 apply for the purposes of an investigation under this Article to the following persons as they apply to officers of the company or of the other body corporate—

- (a) an authorised person;
- (b) a relevant professional;
- (c) a person not falling within sub-paragraph (a) or (b) who may carry on a regulated activity without contravening the prohibition imposed by section 19 of the Financial Services and Markets Act 2000; and
- (d) in relation to an authorised person, to a relevant professional or to a person falling within sub-paragraph (c)—
 - (i) if it is a body corporate, any person who is or has been an officer of it,
 - (ii) if it is a partnership, any person who is or has been a partner in it,

(20) Inserted by the [Companies \(No. 2\) \(NI\) Order 1990 \(NI 10\)](#) article 78, Schedule 5.

(21) Section 439(3) was amended by the [Financial Services Act 1986 \(c. 60\)](#) Schedule 13 paragraph 12(a) and [Companies \(no. 2\) \(NI\) Order \(NI 10\)](#), article 113, Schedule 6.

(iii) if it is an unincorporated association, any person who is or has been a member of its governing body or an officer of it.

(3A) In paragraph (3)—

“authorised person” has the meaning given in section 31(2) of the Financial Services and Markets Act 2000;

“relevant professional” means a member of a profession if a body has been designated under section 326(1) of that Act in relation to that profession, and, in relation to such a profession, “member” has the meaning given in section 325(2) of that Act.”.

Provision for security of information obtained

62.—(1) Article 442 of the 1986 Order (provision for security of information obtained under Article 440 of that Order) is amended as follows.

(2) In paragraph (1), the following are repealed—

- (a) in sub-paragraph (c), the words “or section 94 of the Financial Services Act 1986”;
- (b) in sub-paragraph (d), the words “the Insurance Companies Act 1982”;
- (c) sub-paragraphs (de) and (df);
- (d) sub-paragraph (i).

(3) In paragraph (1)(cc), for the words from “or appointed” to “Financial Services Act 1986” substitute “Article 440 of this Order”.

(4) After paragraph (1)(cc) insert—

- “(cd) for the purposes of enabling or assisting a person appointed under—
- (i) section 167 of the Financial Services and Markets Act 2000 (general investigations),
 - (ii) section 168 of that Act (investigations in particular cases),
 - (iii) section 169(1)(b) of that Act (investigation in support of overseas regulator),
 - (iv) section 284 of that Act (investigations into affairs of certain collective investment schemes), or
 - (v) regulations made as a result of section 262(2)(k) of that Act (investigations into open-ended investment companies),

to conduct an investigation to discharge his functions;”.

(5) In paragraph (1)(d), for “the Insurance Companies Act 1982” substitute “the Financial Services and Markets Act 2000”.

(6) For sub-paragraphs (fa) to (i) of paragraph (1) substitute—

- “(fa) for the purposes of enabling or assisting the Financial Services Authority to discharge its functions under the legislation relating to friendly societies or to industrial and provident societies, under the Building Societies Act 1986, under Part 7 of the Companies Act 1989 or under the Financial Services and Markets Act 2000;
- (g) for the purposes of enabling or assisting a body corporate established in accordance with section 212(1) of the Financial Services and Markets Act 2000 (compensation scheme manager) to discharge its functions;
 - (h) for the purposes of any proceedings before the Financial Services Tribunal by virtue of the Financial Services and Markets Act 2000 (Transitional Provisions) (Partly Completed Procedures) Order 2001;

- (ha) with a view to the institution of or otherwise for the purposes of proceedings before the Financial Services and Markets Tribunal;
 - (hb) for the purpose of enabling or assisting a recognised investment exchange or a recognised clearing house to discharge its functions as such;
 - (hc) for the purpose of enabling or assisting a body designated under section 326(1) of the Financial Services and Markets Act 2000 (designated professional bodies) to discharge its functions in its capacity as a body designated under that section;”.
- (7) In paragraph (1A)(22), before sub-paragraph (a) insert—
- “(aa) in sub-paragraph (hb) “recognised investment exchange” and “recognised clearing house” have the same meaning as in section 285 of the Financial Services and Markets Act 2000;”.
- (8) Paragraph (1D) is repealed.
- (9) In paragraph (3)(b)(23), the words “or section 94 of the Financial Services Act 1986” are repealed.
- (10) After paragraph (3)(b) insert—
- “(ba) a person appointed under—
 - (i) section 167 of the Financial Services and Markets Act 2000 (general investigations),
 - (ii) section 168 of that Act (investigations in particular cases),
 - (iii) section 169(1)(b) of that Act (investigation in support of overseas regulator),
 - (iv) section 284 of that Act (investigations into affairs of certain collective investment schemes), or
 - (v) regulations made as a result of section 262(2)(k) of that Act (investigations into open-ended investment companies),
 to conduct an investigation;”.
- (11) In paragraph (3), in sub-paragraph (c), for the words from “under” to “Financial Services Act 1986” substitute “under Article 440 of this Order”.
- (12) In paragraph (3), for sub-paragraphs (ha) to (k) substitute—
- “(ha) the Financial Services Authority;”.

Punishment for destruction etc. of company documents

63.—(1) Article 443 of the 1986 Order (punishment for destroying, mutilating etc company documents) is amended as follows.

(2) In paragraph (1)(24) the words “, or of an insurance company to which Part II of the Insurance Companies Act 1982 applies,” are repealed.

(3) After that paragraph insert—

“(1A) Paragraph (1) applies to an officer of an authorised insurance company which is not a body corporate as it applies to an officer of a company.”.

(22) Inserted by [SR \(NI\) 1992/257](#).

(23) Paragraph (3) was substituted by the Financial Services Act 1986 (c. 60), section 182, Schedule 13, paragraph 13, and substituted again by the Companies (No.2) (NI) Order (NI 10), Article 13(1)(6). Sub-paragraph (b) of paragraph (3) was amended by the [Companies \(No. 2\) \(NI\) Order 1990 \(NI 10\)](#), Article 78 Schedule 5.

(24) Paragraph (1) was amended by the Companies (No.2) (Northern Ireland) Order 1990 (S.I. 1990/1504 (NI 10)), Article 14(1)(2).

Disclosure of information by inspectors

64. For paragraph (3) of Article 444A(25) of the 1986 Order (disclosure of information by inspectors) substitute—

“(3) Information to which this Article applies may also be disclosed by an inspector appointed under this Part to—

- (a) another inspector appointed under this Part;
- (b) a person appointed under—
 - (i) section 167 of the Financial Services and Markets Act 2000 (general investigations),
 - (ii) section 168 of that Act (investigations in particular cases),
 - (iii) section 169(1)(b) of that Act (investigation in support of overseas regulator),
 - (iv) section 284 of that Act (investigations into affairs of certain collective investment schemes), or
 - (v) regulations made as a result of section 262(2)(k) of that Act (investigations into open-ended investment companies),to conduct an investigation; or
- (c) a person authorised to exercise powers under—
 - (i) Article 440 of this Order; or
 - (ii) section 84 of the Companies Act 1989 (exercise of powers to assist overseas regulatory authority).”.

Production of documents subject to customer confidentiality

65.—(1) Article 445 of the 1986 Order (privileged information) is amended as follows.

(2) In paragraph (3)(26), for the words from “or the customer is a person on whom a requirement has been imposed under that Article,” to the end of that paragraph, substitute

“or the customer is—

- (a) a person on whom a requirement has been imposed under that Article, or
- (b) an authorised insurance company on whom a requirement to produce information or documents has been imposed by or on behalf of the Secretary of State under Part XI of the Financial Services and Markets Act 2000.”.

Companies to which Article 453 applies

66. For paragraph (1)(27) of section 453 of the 1986 Order (order on application of the Department) substitute—

“(1) If it appears to the Department that—

- (a) the affairs of a company to which this paragraph applies are being or have been conducted in a manner which is unfairly prejudicial to the interests of its members generally or of some part of its members, or

(25) Article 444A was substituted by the [Companies \(No. 2\) \(NI\) Order 1990 \(NI 10\)](#) Article 16 and has been amended by the [Criminal Justice Act 1993 \(c. 36\)](#) Schedule 5 part II paragraph 20 and [S.I. 1994/1696](#), Schedule 8 paragraph 13(3).

(26) Paragraph (3) was amended by the [Companies \(No.2\) \(Northern Ireland\) Order 1990 \(S.I. 1990/1504 \(NI 10\)\)](#), and by [S.I. 1994/1696](#), Schedule 8, paragraph 14(4).

(27) Paragraph (1) was amended by the [Companies \(No.2\) \(Northern Ireland\) Order 1990 \(S.I. 1990/1504 \(NI 10\)\)](#), Articles 78, 113 Schedules 5 and 6, and by [S.I. 1994/1696](#), Schedule 8 paragraph 13(5).

(b) any actual or proposed act or omission of a company to which this paragraph applies, including an act or omission on its behalf, is or would be so prejudicial, the Department may (in addition to or instead of presenting a petition for the winding up of the company) apply to the court by petition for an order under this Part.

(1A) Paragraph (1) applies to a company in respect of which—

- (a) the Department has received a report under Article 430;
- (b) the Department has exercised its powers under Article 440 or 441;
- (c) the Secretary of State or the Financial Services Authority has exercised his or its powers under Part 11 of the Financial Services and Markets Act 2000; or
- (d) the Secretary of State has received a report from an investigator appointed by him or by the Financial Services Authority under that Part.”.

Application of Article 669 to insurers

67.—(1) Article 669 of the 1986 Order (certain companies to publish periodical statement) is amended as follows.

(2) In paragraph (1) for “insurance company” substitute “insurer”.

(3) In paragraph (5) for “insurance company” substitute “insurer”.

(4) For paragraph (6) substitute—

“(6) This Article does not apply to an insurer which is—

- (a) an insurance company which is subject to, and complies with, rules made by the Financial Services Authority under Part 10 of the Financial Services and Markets Act 2000 as to the accounts and balance sheet to be prepared annually and deposited; or
- (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to the Financial Services and Markets Act 2000, if the firm complies with the provisions of law of its home State as to the accounts and balance sheets to be prepared annually and deposited.”.

(5) After paragraph (7) insert—

“(8) For the purposes of this Article—

- (a) “insurer” means a person who effects or carries out contracts of insurance in the United Kingdom; and
- (b) “contract of insurance” includes a contract of insurance under which the benefits provided by the insurer are exclusively or primarily benefits in kind in the event of accident to or breakdown of a vehicle.

(9) Paragraph (8) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that Schedule; and
- (c) Schedule 2 to that Act.”.

Form and content of company accounts

68. For paragraph 83(28) of Schedule 4 to the 1986 Order (form and content of company accounts: listed investments) substitute—

(28) Paragraph 83 has been amended by the Financial Services Act 1986 (c. 60) Schedule 16, paragraph 38.

83.—(1) “Listed investment” means an investment as respects which there has been granted a listing on—

- (a) a recognised investment exchange other than an overseas investment exchange; or
- (b) a stock exchange of repute outside Northern Ireland.

(2) “Recognised investment exchange” and “overseas investment exchange” have the meaning given in Part 18 of the Financial Services and Markets Act 2000.”.

Disclosure of information: emoluments and other benefits of directors and others

69.—(1) Paragraph 1(5) of Schedule 6(29) to the 1986 Order (disclosure of information: emoluments and other benefits of directors and others) is amended as follows.

(2) For the definition of “listed company” substitute—

““listed company” means a company—

- (a) whose securities have been admitted to the official list in accordance with the provisions of Part 6 of the Financial Services and Markets Act 2000; or
- (b) dealings in whose securities are permitted on any recognised investment exchange approved by the Treasury in accordance with regulations made under section 2(2) of the European Communities Act 1972 with respect to dealings in unlisted securities;”.

(3) After the definition of “net value” insert—

““the official list” has the meaning given in section 103(1) of the Financial Services and Markets Act 2000;”.

(4) After the definition of “qualifying services” insert—

““recognised investment exchange” has the same meaning as in the Financial Services and Markets Act 2000;”.

Form and content of company accounts: small companies

70. For paragraph 54 of Schedule 8(30) to the 1986 Order (form and content of company accounts for small companies: listed investments) substitute—

54.—(1) “Listed investment” means an investment as respects which there has been granted a listing on—

- (a) a recognised investment exchange other than an overseas investment exchange; or
- (b) a stock exchange of repute outside Northern Ireland.

(2) “Recognised investment exchange” and “overseas investment exchange” have the meaning given in Part 18 of the Financial Services and Markets Act 2000.”.

Meaning of deposit-taking business, chief executive and manager

71.—(1) Schedule 9 to the 1986 Order (special provisions for banking companies and groups) is amended as follows.

(2) In Part II (consolidated accounts)(31), in paragraph 1 (undertakings to be included in consolidation)—

- (a) in sub-paragraph (1) for “banking business” substitute “deposit-taking business”;

(29) Part I of Schedule 6 was inserted by the [Companies \(NI\) Order 1990 \(NI 5\)](#) Articles 3(b), 8(4) and Schedule 4 and paragraph 1 was substituted by [SR \(NI\) 1997/545](#).

(30) Schedule 8 was substituted by [SR \(NI\) 1997/436](#).

(31) Part II was inserted by [SR \(NI\) 1992/258](#), regulation 5, Schedule 1.

(b) for sub-paragraph (2) substitute—

“(2) For the purposes of this paragraph “deposit-taking business” means the activity of accepting deposits by way of business, but does not include accepting deposits only for the purpose of carrying on another regulated activity.”;

(c) after sub-paragraph (2) insert—

“(3) References in sub-paragraph (2) to deposits and their acceptance, and to regulated activities must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

(3) In Part IV of that Schedule (additional disclosure: emoluments and other benefits of directors and others)(**32**), in sub-paragraph (1)(b) of paragraph 3 (other transactions and agreements) for “within the meaning of the Banking Act 1987” substitute “within the meaning of the Financial Services and Markets Act 2000”.

Form and content of accounts of insurance companies and groups

72.—(1) In Schedule 9A to the 1986 Order (form and content of accounts of insurance companies and groups)(**33**) Part I (individual accounts) is amended as follows.

(2) In paragraph 6—

- (a) the existing text is numbered sub-paragraph (1);
- (b) for “to business within Classes 1 and 2 of Schedule 2 to the 1982 Act” substitute “to business which consists of effecting or carrying out relevant contracts of general insurance”;

(c) after sub-paragraph (1) insert—

“(2) For the purposes of sub-paragraph (1), a contract of general insurance is a relevant contract if the risk insured against relates to—

- (a) accident; or
- (b) sickness.

(3) Sub-paragraph (2) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

(3) In paragraph 9—

- (a) the existing text is numbered sub-paragraph (1);
 - (b) in paragraph (a) of that sub-paragraph, for “business within the classes of insurance specified in Schedule 2 to the 1982 Act” substitute “business which consists of effecting or carrying out contracts of general insurance”;
 - (c) in paragraph (b) of that sub-paragraph, for “business within the classes of insurance specified in Schedule 1 to that Act” substitute “business which consists of effecting or carrying out contracts of long term insurance”;
- (d) after sub-paragraph (1) insert—

(32) As inserted by the Companies (Northern Ireland) Order 1990 (S.I. 1990/593 (NI 5)), Schedule 7 Part IV.

(33) Substituted for Parts I and II of Schedule 9, as originally enacted, by S.R. 1992/258.

“(2) In sub-paragraph (1), references to—

- (a) contracts of general or long term insurance; and
- (b) the effecting or carrying out of such contracts,

must be read with section 22 of the Financial Services and Markets Act 2000, any relevant order under that section, and Schedule 2 to that Act.”.

(4) In Section B (the required format for accounts), in note (24) (Equalisation provision)(34) of the Notes on the balance sheet format for “the amount of any reserve maintained by the company under section 34A of the Insurance Companies Act 1982” substitute “the amount of any equalisation reserve maintained in respect of general business by the company, in accordance with rules made by the Financial Services Authority under Part X of the Financial Services and Markets Act 2000”.

(5) In paragraph 11 (managed funds), for sub-paragraph (1)(a) substitute—

“(a) the management of which constitutes long term insurance business, and”.

(6) For paragraph 50 (equalisation reserves)(35) substitute—

“50. The amount of any equalisation reserve maintained in respect of general business, in accordance with rules made by the Financial Services Authority under Part X of the Financial Services and Markets Act 2000, shall be determined in accordance with such rules.”.

(7) In paragraph 81 (interpretations of Part I), in sub-paragraph (1)—

(a) omit the definition of “the 1982 Act”;

(b) for the definition of “general business” substitute—

““general business” means business which consists of effecting or carrying out contracts of general insurance;”;

(c) for the definition of “long term business” substitute—

““long term business” means business which consists of effecting or carrying out contracts of long term insurance;”;

(d) in the definition of “long term fund” for “in accordance with the provisions of the 1982 Act” substitute “in accordance with rules made by the Financial Services Authority under Part X of the Financial Services and Markets Act 2000”; and

(e) for the definition of “policy holder” substitute—

““policy holder” has the meaning given in any relevant order under section 424(2) of the Financial Services and Markets Act 2000;”.

Share dealing by directors etc.: supplementary provision

73.—(1) Paragraph 11 of Schedule 13 to the 1986 Order (share dealing by directors etc.: provision supplementary to Articles 332 to 336) is amended as follows.

(2) The existing provision becomes sub-paragraph (1).

(3) In that sub-paragraph, in paragraph (a), the words “within the meaning of the Financial Services Act 1986” are repealed.

(4) After that sub-paragraph, insert—

(34) Note (24) was amended (and the words substituted by this Order inserted) by the Insurance Companies (Reserves) Act 1995 (c. 29), section 3(1), (2).

(35) Paragraph 50 was substituted by the Insurance Companies (Reserves) Act 1995 (c. 29), section 3(1), (3), and further substituted by S.I. 1996/946, regulation 13.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

“(2) “Unit trust scheme” and “authorised unit trust scheme” have the meaning given in section 237 of the Financial Services and Markets Act 2000.”.