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STATUTORY INSTRUMENTS

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**2001 No. 3649**

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

PART 9

AMENDMENTS TO SECONDARY LEGISLATION

*The Insolvent Partnerships Order 1994 (S.I. 1994/2421)*

**Winding up of an insolvent partnership which is an authorised person**

**467.** In article 19 of the Insolvent Partnerships Order 1994 (supplemental and transitional provisions), for paragraph (4) substitute—

“(4) Nothing in this Order is to be taken as preventing a petition being presented against an insolvent partnership under section 367 of the Financial Services and Markets Act 2000, or any other enactment.”.

**Partnerships which are authorised persons: administration orders**

**468.—**(1) In paragraph 2 of Schedule 2 to the Insolvent Partnerships Order 1994 (modified provisions of Part II of the Insolvency Act), in subsection (1)(a) of the text of section 8 of the Insolvency Act 1986 (as modified by that paragraph), after “of this Act” insert “or subsection (1A) below”.

(2) In that paragraph, after the text of section 8(1) of the Insolvency Act 1986 (as modified by that paragraph) insert—

“(1A) An authorised deposit taker which defaults on an obligation to pay any sum due and payable in respect of a relevant deposit is deemed to be unable to pay its debts.

(1B) In subsection (1A)—

(a) “authorised deposit taker” means a person (being a partnership) which has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits, other than a person who has such permission only for the purpose of carrying on another regulated activity in accordance with that permission; and

(b) “relevant deposit” must be read with—

(i) section 22 of the Financial Services and Markets Act 2000,

(ii) any relevant order under that section, and

(iii) Schedule 2 to that Act,

but any restriction on the meaning of deposit which arises from the identity of the person making it is to be disregarded.”.

(3) In that paragraph, for the text of section 8(4) of the Insolvency Act 1986 (as modified by that paragraph) substitute—

“(4) An administration order shall not be made in relation to a partnership after an order has been made for it to be wound up by the court as an unregistered company, nor after an order has been made in relation to it by virtue of article 11 of the Insolvent Partnerships Order 1994(1).

(5) An administration order shall not be made against a partnership if—

- (a) it has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of insurance in the United Kingdom;
- (b) it continues to have a liability in respect of a deposit which was held by it in accordance with the Banking Act 1979 or the Banking Act 1987.

(6) The definition of “authorised deposit taker” in subsection (1B)(a) and subsection (5)(a) 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.”.

#### **Authorised deposit takers and former authorised institutions: restriction on presentation of bankruptcy petition by partners**

**469.**—(1) In paragraph 2 of Schedule 7 to the Insolvent Partnerships Order 1994 (provisions of the Insolvency Act which apply with modifications for the purposes of Article 11 where joint bankruptcy petition presented by individual members without winding up a partnership as an unregistered company), in the text of section 264(2) of the Insolvency Act 1986 as modified by that paragraph for “which is an authorised institution or former authorised institution within the meaning of the Banking Act 1987” substitute—

“if the partnership—

- (a) has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits, other than such a permission only for the purpose of carrying on another regulated activity in accordance with that permission, or
- (b) continues to have a liability in respect of a deposit which was held by it in accordance with the Banking Act 1979 or the Banking Act 1987.”.

(2) In that paragraph, in the text of section 264 of the Insolvency Act 1986 (as modified by that paragraph), after subsection (2) insert—

“(2A) Subsection (2)(a) 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.”.

#### **Disqualification of a member of an insolvent partnership after investigation**

**470.** In paragraph 8 of Schedule 8 to the Insolvent Partnerships Order 1994 (modified provisions of the Company Directors Disqualification Act 1986 for the purposes of Article 16), for the text of section 8(1) of the Company Directors Disqualification Act 1986 (as modified by that paragraph) substitute—

“(1) If it appears to the Secretary of State from—

- (a) a report made by an inspector or person appointed to conduct an investigation under a provision mentioned in subsection (1A), or

- (b) information or documents obtained under a provision mentioned in subsection (1B),

that it is expedient in the public interest that a disqualification order should be made against any person who is or has been an officer of an insolvent partnership, he may apply to the court for such an order to be made against that person.

(1A) The provisions are—

- (a) section 437 of the Companies Act,
- (b) section 167, 168, 169(1)(b) or 284 of the Financial Services and Markets Act 2000, or
- (c) regulations made as a result of section 262(2)(k) of that Act.

(1B) The provisions are—

- (a) section 447 or 448 of the Companies Act,
- (b) section 2 of the Criminal Justice Act 1987,
- (c) section 52 of the Criminal Justice (Scotland) Act 1987,
- (d) section 83 of the Companies Act 1989, or
- (e) section 171 or 173 of the Financial Services and Markets Act 2000.”.