
STATUTORY INSTRUMENTS

2002 No. 1555

**The Financial Services and Markets Act 2000
(Consequential Amendments) Order 2002**

PRIMARY LEGISLATION

The Industrial Assurance Act 1923 (c. 8)

Illegal policies: liability of insurer

2.—(1) The Industrial Assurance Act 1923 (as that Act has effect, notwithstanding its repeal⁽¹⁾, by virtue of the Financial Services and Markets Act 2000 (Consequential Amendments and Savings) (Industrial Assurance) Order 2001⁽²⁾) is amended as follows.

(3) In section 5 (prohibition on issue of illegal policies), in subsection (1)⁽³⁾ for “entitled” (in the second place it occurs) substitute “liable”.

The Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951 (c. 65)

Contraventions of the 1951 Act

3. In subsection (5)⁽⁴⁾ of section 57 of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951 (provisions supplementary to the three preceding sections), before “of regulations under this section” insert “this Part or”.

Offences under the 1951 Act: application to Guernsey and Jersey

4.—(1) In relation to the Channel Islands⁽⁵⁾, section 57 of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951 is amended as follows.

(2) For subsection (5)⁽⁶⁾ substitute—

“(5) An industrial assurance company, a collecting society or a friendly society which fails to comply with the provisions of this Part or of regulations under this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.”.

(3) Subsections (5A) and (5B) are omitted.

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- (1) The Industrial Assurance Act 1923 was repealed by section 416(1)(a) of the Financial Services and Markets Act 2000 (c. 8) as from 1st December 2001.
- (2) [S.I. 2001/3647](#), article 3(3), Schedule 1, Part I, paragraphs 1 to 18.
- (3) Section 5(1) as it has effect from 1st December 2001, was substituted by [S.I. 2001/3647](#), Schedule 1, Part I, paragraph 4.
- (4) Subsection (5) was substituted by [S.I. 2001/3647](#), Schedule 3, paragraph 5(3).
- (5) Part VI of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951 (protection against loss of benefits under contracts with industrial assurance companies and friendly societies) was extended to the Channel Islands by [S.I. 1952/165](#).
- (6) Subsection (5) was substituted, together with subsections (5A) and (5B), by [S.I. 2001/3657](#), article 5, Schedule 3, paragraph 5(3), (4). (That substitution is not affected by this article, and continues to have effect in relation to England and Wales.)

The Local Government Act 1972 (c. 70)

Meaning of “securities”

5.—(1) In subsection (1) of section 98 of the Local Government Act 1972 (interpretation of sections 95 and 97)(7) for paragraph (a)(8) substitute—

- “(a) any of the following kinds of investments, namely—
- (i) shares,
 - (ii) instruments creating or acknowledging indebtedness,
 - (iii) government and public securities,
 - (iv) instruments giving entitlement to investments,
 - (v) certificates representing securities,
 - (vi) units in a collective investment scheme,
 - (vii) rights to, or interests in, any security of a kind mentioned in sub-paragraphs (i) to (vi); or”.
- (2) After subsection (2) of section 98 insert—
- “(3) Paragraph (a) of subsection (1) 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.”.

The Welsh Development Agency Act 1975 (c. 70)

Disapplication of section 21 of the Financial Services and Markets Act 2000

6. In Schedule 1 to the Welsh Development Agency Act 1975 (the Welsh Development Agency), for paragraph 21(9) (circulars) substitute—

“21 Section 21(1) of the Financial Services and Markets Act 2000 (restrictions on financial promotion) does not apply to any invitation or inducement to engage in an investment activity (within the meaning of section 21(8) of that Act) which the Agency communicate or cause to be communicated in discharge of their functions.”.

The Credit Unions Act 1979 (c. 34)

Repeal of unnecessary provisions

- 7.—(1) The Credit Unions Act 1979 is amended as follows.
- (2) In section 4 (rules), subsection (4) is repealed.
 - (3) In subsection (2) of section 31 (interpretation), omit “71.”.
 - (4) In subsection (2) of section 32 (Northern Ireland), omit “under section 71 of the 1965 Act”.

(7) Section 98 was repealed prospectively by the Local Government Act 2000 (c. 22), Schedules 5 and 6, from a date to be appointed. No such date has been appointed at the date of the making of this Order.

(8) Paragraph (a) was substituted, together with paragraph (b), by the Financial Services Act 1986 (c. 60), section 212(2), Schedule 16, paragraph 8.

(9) Paragraph 21 was substituted by the Financial Services Act 1986, section 212(2), Schedule 16, paragraph 12.

The Competition Act 1980 (c. 21)

Restriction on disclosure of information

8. In subsection (3) of section 19 of the Competition Act 1980 (restriction on disclosure of information), for the second paragraph (h)(10) substitute—

“(hh) Chapter III of Part X (competition scrutiny of regulating provisions and practices of the Authority), and Chapter II of Part XVIII (competition scrutiny of regulatory provisions and practices of recognised clearing houses and recognised investment exchanges), of the Financial Services and Markets Act 2000;”.

The Licensing (Alcohol Education and Research) Act 1981 (c. 28)

Meaning of “securities”

9.—(1) In subsection (6) of section 3 of the Licensing (Alcohol Education and Research) Act 1981 (final accounts of authorities and powers of liquidators), for the definition of “securities”(11) substitute—

““securities” means—

- (a) shares,
- (b) instruments creating or acknowledging indebtedness,
- (c) government and public securities,
- (d) instruments giving entitlement to investments,
- (e) certificates representing securities,
- (f) units in a collective investment scheme,
- (g) rights to, or interests in, any security of a kind mentioned in paragraphs (a) to (f).”.

(2) After subsection (6) insert—

“(7) The definition of “securities” in subsection (6) 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.”.

The Insurance Companies Act 1981 (c. 31)

Repeal of the 1981 Act

10. The Insurance Companies Act 1981 is repealed.

(10) The second paragraph (h) (referring to Chapter XIV of Part I of the Financial Services Act (1986)) was inserted by the Financial Services Act 1986, section 182, Schedule 13, paragraph 5. (The first paragraph (h) refers to the Gas Act 1986 (c. 44), and was inserted by that Act, section 67(1), Schedule 7, paragraph 28(2).)

(11) The definition of “securities” was substituted by the Financial Services Act 1986, section 212(2), Schedule 16, paragraph 15.

The Companies Act 1985 (c. 6)

Insurance companies formed before 3rd November 1966 in contravention of section 434 of the Companies Act 1948

11. In section 716 of the Companies Act 1985 (prohibition of partnerships with more than 20 members), after subsection (5) insert(12)—

“(6) Subsection (1), or any corresponding provision previously in force, does not invalidate the formation of any insurance company which immediately before 3rd November 1966 was carrying on in Great Britain insurance business of any class relevant for the purposes of Part I of the Insurance Companies Act 1974 and was carrying on business of that class on 25th July 1973.”.

Meaning of “manager”

12. In Part IV of Schedule 9 to the Companies Act 1985 (special provisions for banking companies and groups)(13), paragraph (3) is amended as follows.

(2) In sub-paragraph (1)(b) the words “(within the meaning of the Financial Services and Markets Act 2000)”(14) are repealed.

(3) For sub-paragraph (3) substitute—

“(3) In this paragraph—

- (a) “director” includes a shadow director;
- (b) “chief executive” has the meaning given in section 417 of the Financial Services and Markets Act 2000; and
- (c) “manager” has the meaning given in section 423(3) of that Act.”.

The Insurance (Fees) Act 1985 (c. 46)

Repeal of the 1985 Act

13. The Insurance (Fees) Act 1985 is repealed.

The Insolvency Act 1986 (c. 45)

Limitation on power to make administration order

14.—(1) Subsection (5)(15) of section 8 of the Insolvency Act 1986 (power of court to make order) is amended as follows.

(2) For paragraph (a) substitute—

“(a) it effects or carries out contracts of insurance, but is not—

(12) Section 716 was amended by sections 145 and 212 of, and paragraph 15 of Schedule 19 to and Schedule 24 to, the Companies Act 1989 (c. 40); by section 263 of the Financial Services and Markets Act 2000 (c. 8); by regulation 2 of, and paragraph 53 of the Schedule to, S.I. 1991/1997, and by regulation 84 of, and paragraph 7 of Schedule 7 to, S.I. 2001/1228. This provision reproduces the effect of section 89 of the Insurance Companies Act 1982 (c. 50), which was repealed by S.I. 2001/3649, article 3.

(13) Part IV was inserted by the Companies Act 1989 (c. 40), section 18(3), (4), Schedule 7.

(14) The words “within the meaning of the Financial Services and Markets Act 2000” were substituted by S.I. 2001/3649, article 35(3).

(15) Subsection (5) was substituted, together with subsections (4) and (6), for subsection (4) by S.I. 2001/3649, article 304.

- (i) exempt from the general prohibition, within the meaning of section 19 of the Financial Services and Markets Act 2000, in relation to effecting or carrying out contracts of insurance, or
- (ii) an authorised deposit taker within the meaning given by subsection (1B), and effecting or carrying out contracts of insurance in the course of a banking business;”.

(3) In paragraph (b), after “the Banking Act 1987” insert “, but is not an authorised deposit taker, within the meaning given by subsection (1B)”.

Supplementary powers of the court: winding up of an insolvent partnership

15.—(1) The repeal of subsection (5C) of section 168 of the Insolvency Act 1986 (supplementary powers (England and Wales))(16) by article 306 of the Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001(17) is treated as if it had not been made, and instead that subsection is amended in accordance with paragraph (2).

(2) For subsection (5C) substitute—

“(5C) Where the court makes an order for the winding up of an insolvent partnership under—

- (a) section 72(1)(a) of the Financial Services Act 1986;
- (b) section 92(1)(a) of the Banking Act 1987; or
- (c) section 367(3)(a) of the Financial Services and Markets Act 2000,

the court may make an order as to the future conduct of the winding up proceedings, and any such order may apply any provisions of the Insolvent Partnerships Order 1994 with any necessary modifications.”.

Power to apply first group of Parts to formerly authorised banks

16.—(1) Section 422 of the Insolvency Act 1986 (recognised banks, etc.) is amended as follows.

(2) For the cross heading to that section substitute “Formerly authorised banks”.

(3) In subsection (1)(18), after “in relation to any person” insert “(other than an authorised deposit taker)”.

(4) After subsection (1) insert—

“(1A) For the purposes of subsection (1), “authorised deposit taker” has the meaning given in section 8(1B).”.

The Social Security Administration Act 1992 (c. 5)

Definition of “insurer”

17. In subsection (4) of section 15A of the Social Security Administration Act 1992 (payment out of benefit of sums in respect of mortgage interest etc.)(19), in paragraph (b) of the definition of “insurer”(20) for “paragraph 5(b)” substitute “paragraph 5(d)”.

(16) Subsection (5C) was inserted, together with subsections (5A) and (5B), by [S.I. 1994/2421](#), article 14(1).

(17) [S.I. 2001/3649](#).

(18) Subsection (1) was amended by [S.I. 2001/3649](#), article 307.

(19) Section 15A was inserted by Social Security (Mortgage Interest Payments) Act [1992 \(c. 33\)](#), section 1(2), Schedule, paragraph 1.

(20) The definition of “insurer” was inserted by [S.I. 2001/3649](#), article 330(3).

The Social Security Administration (Northern Ireland) Act 1992 (c. 8)

Meaning of “qualifying lender”

18.—(1) Section 13A(21) of the Social Security Administration (Northern Ireland) Act 1992 is amended as follows.

(2) In subsection (3)—

(a) for paragraph (a) substitute—

“(a) a deposit taker;”;

(b) paragraph (b) is repealed; and

(c) for paragraph (c) substitute—

“(c) an insurer;”.

(3) In subsection (4), before the definition of “mortgage interest” insert—

““deposit taker” means—

(a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits, or

(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;

“insurer” means—

(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, or

(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;”.

(4) After subsection (4) insert—

“(4A) The definitions of “deposit taker” and “insurer” in subsection (4) 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.”.

The Pension Schemes (Northern Ireland) Act 1993 (c. 49)

Discharge of protected rights on winding up: insurance policies

19.—(1) The amendments made to section 28A of the Pension Schemes (Northern Ireland) Act 1993 (discharge of protected rights on winding up: insurance policies)(22) by article 131 of the Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001(23) are treated as if they had not been made, and instead section 28A is amended as follows.

(2) In subsection (2)(a)—

(a) for “insurance company” substitute “insurer”; and

(21) Article 13A was inserted by the Social Security (Mortgage Interest Payments) (Northern Ireland) Order 1992, S.I. 1992/1309 (N.I. 9), Schedule.

(22) Section 28A was inserted by the Pensions (Northern Ireland) Order 1995, S.I. 1995/3213 (N.I. 22), Article 143.

(23) S.I. 2001/3649.

- (b) in sub-paragraph (i), the word “ordinary” and the words “(within the meaning of the Insurance Companies Act 1982)” are repealed.

Entitlement to guaranteed minimum pensions: treatment of entitlements

20. In section 43(3)(d) of the Pension Schemes (Northern Ireland) Act 1993 (further provisions concerning entitlement to guaranteed minimum pensions for the purposes of section 42), for “Policyholders Protection Act 1975” substitute “Financial Services Compensation Scheme”.

Determination of questions by the Department

21. In section 165(1)(c) of the Pension Schemes (Northern Ireland) Act 1993 (determination of questions by the Department) for “Policyholders Protection Act 1975” substitute “Financial Services Compensation Scheme”.

Interpretation: Financial Services Compensation Scheme

22. In section 176(1) of the Pension Schemes (Northern Ireland) Act 1993, at the appropriate place insert—

““Financial Services Compensation Scheme” means the Financial Services Compensation Scheme referred to in section 213(2) of the Financial Services and Markets Act 2000;”.

The Coal Industry Act 1994 (c. 21)

Restriction on disclosure of information

23. For paragraph (b) of section 59(3) of the Coal Industry Act 1994 (information to be kept confidential by the Authority) substitute—

“(b) the Secretary of State, the Treasury and the Financial Services Authority are relevant authorities in relation to their functions under the Financial Services and Markets Act 2000 and the enactments relating to companies and insolvency;”.

The Competition Act 1998 (c. 41)

Interpretation of section 55: relevant functions and designated person

24.—(1) Schedule 11 to the Competition Act 1998 (interpretation of section 55) is amended as follows.

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

“(h) the Financial Services and Markets Act 2000 (c. 11);”.

(3) In paragraph 2, for sub-paragraph (r) substitute—

“(r) the Financial Services Authority;”.

The Data Protection Act 1998 (c. 29)

Exemption in connection with corporate finance services

25.—(1) In Schedule 7 to the Data Protection Act 1998 (miscellaneous exemptions), paragraph 6 (corporate finance) is amended as follows.

(2) In sub-paragraph (3), in the definition of “instrument”, omit “, as set out in Schedule 1 to the Investment Services Regulations 1995”.

(3) In that sub-paragraph, in the definition of “relevant person”, for paragraphs (a) to (c) substitute—

- “(a) any person who, by reason of any permission he has under Part IV of the Financial Services and Markets Act 2000, is able to carry on a corporate finance service without contravening the general prohibition, within the meaning of section 19 of that Act;
- (b) an EEA firm of the kind mentioned in paragraph 5(a) or (b) of Schedule 3 to that Act which has qualified for authorisation under paragraph 12 of that Schedule, and may lawfully carry on a corporate finance service;
- (c) any person who is exempt from the general prohibition in respect of any corporate finance service—
 - (i) as a result of an exemption order made under section 38(1) of that Act, or
 - (ii) by reason of section 39(1) of that Act (appointed representatives);
- (cc) any person, not falling within paragraph (a), (b) or (c) who may lawfully carry on a corporate finance service without contravening the general prohibition;”.

The Regulation of Investigatory Powers Act 2000 (c. 23)

Repeal of unnecessary provision

26. In Schedule 1 to the Regulation of Investigatory Powers Act 2000, in Part I (relevant authorities for the purposes of sections 28 and 29), paragraph 22 (the Personal Investment Authority) is repealed.

The Utilities Act 2000 (c. 27)

Restriction on disclosure of information

27. The amendments made to section 105(4) of the Utilities Act 2000 (general restrictions on disclosure of information) by article 363 of the Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001⁽²⁴⁾ are treated as if they had not been made, and instead section 105(4) is amended as follows—

- (a) in paragraph (c) omit “by the Financial Services Act 1986 or” and “, insurance companies”; and
- (b) after paragraph (d) insert—
 - “(da) for the purpose of facilitating the performance by the Secretary of State, the Treasury or the Financial Services Authority of any functions under the Financial Services and Markets Act 2000;
 - (db) for the purpose of facilitating the discharge of any function by a person appointed under—
 - (i) section 97 of the financial Services and Markets Act 2000 (investigations into a breach of listing rules etc.),
 - (ii) section 167 of that Act (general investigations), or
 - (iii) section 168 of that Act (investigations in particular cases);”.

(24) S.I. 2001/3649.

The Insolvency Act 2000 (c. 39)

Repeal of unnecessary provisions

28.—(1) In Schedule 1 to the Insolvency Act 2000 (amendments of the Insolvency Act 1986), Schedule A1 to the Insolvency Act 1986 (moratorium where directors propose voluntary arrangement)**(25)** is amended as follows.

(2) In paragraph 1 (interpretation), the definitions of “money market contract” and “money market charge”, and “related contract” are repealed.

(3) In paragraph 2 (eligible companies), in sub-paragraph (2)(c) omit “, a money market contract or a related contract” and “, a money market charge”.

(4) In paragraph 23 (market contracts, etc.)—

(a) in sub-paragraph (2)(a) omit “a money market contract or a related contract,”;

(b) in sub-paragraph (2)(c) omit “, a money market charge”; and

(c) in sub-paragraph (5) omit “a money market charge,”.

Companies not eligible for a moratorium

29.—(1) In Schedule 1 to the Insolvency Act 2000 (amendments of the Insolvency Act 1986), paragraph 2 of Schedule A1 to the Insolvency Act 1986 (moratorium where directors propose voluntary arrangement) is amended as follows.

(2) In sub-paragraph (2) (eligible companies) for paragraphs (a) and (b) substitute—

“(a) it effects or carries out contracts of insurance, but is not exempt from the general prohibition, within the meaning of section 19 of the Financial Services and Markets Act 2000, in relation to that activity,

(b) it has permission under Part IV of that Act to accept deposits,

(bb) it has a liability in respect of a deposit which it accepted in accordance with the Banking Act 1979 (c. 37) or 1987 (c. 22),”;

(3) After sub-paragraph (2) insert—

“(3) Paragraphs (a), (b) and (bb) of 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.”.

Excepted petitions

30. In Schedule 1 to the Insolvency Act 2000, in paragraph 12 (effect on creditors etc.) of Schedule A1 to the Insolvency Act 1986, after paragraph (c) of sub-paragraph (5) insert—

“(d) section 367 of the Financial Services and Markets Act 2000 on the ground mentioned in subsection (3)(b) of that section.”.

(25) Schedule A1 is to be inserted into the Insolvency Act 1986 (c. 45) from a date to be appointed under section 16(1) of the Insolvency Act 2000, but not yet appointed at the time of the making of this Order.

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

Application of companies insolvency legislation to building societies

31. In Part II of Schedule 2 to the Insolvency Act 2000 (company voluntary arrangements: amendments of the Building Societies Act 1986), in paragraph 13(1), for “the Commission” (in each place it appears) substitute “the Authority”.