

2002 No. 1555

FINANCIAL SERVICES AND MARKETS

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

<i>Made</i> - - - - -	<i>12th June 2002</i>
<i>Laid before Parliament</i>	<i>12th June 2002</i>
<i>Coming into force</i> - -	<i>3rd July 2002</i>

The Treasury, in exercise of the powers conferred on them by sections 416(4), 426 and 427 of the Financial Services and Markets Act 2000(a), hereby make the following Order:

Citation and commencement

1. This Order may be cited as the Financial Services and Markets Act 2000 (Consequential Amendments) Order 2002 and comes into force on 3rd July 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(b), by virtue of the Financial Services and Markets Act 2000 (Consequential Amendments and Savings) (Industrial Assurance) Order 2001(c)) is amended as follows.

(3) In section 5 (prohibition on issue of illegal policies), in subsection (1)(d) 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)(e) 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”.

(a) 2000 c. 8.

(b) The Industrial Assurance Act 1923 was repealed by section 416(1)(a) of the Financial Services and Markets Act 2000 (c. 8) as from 1st December 2001.

(c) S.I. 2001/3647, article 3(3), Schedule 1, Part I, paragraphs 1 to 18.

(d) Section 5(1) as it has effect from 1st December 2001, was substituted by S.I. 2001/3647, Schedule 1, Part I, paragraph 4.

(e) Subsection (5) was substituted by S.I. 2001/3647, Schedule 3, paragraph 5(3).

Offences under the 1951 Act: application to Guernsey and Jersey

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

(2) For subsection (5)(b) 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.

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)(c) for paragraph (a)(d) 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(e) (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.”.

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- (a) 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.
 - (b) 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.)
 - (c) 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.
 - (d) Paragraph (a) was substituted, together with paragraph (b), by the Financial Services Act 1986 (c. 60), section 212(2), Schedule 16, paragraph 8.
 - (e) Paragraph 21 was substituted by the Financial Services Act 1986, section 212(2), Schedule 16, paragraph 12.

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”.

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)(a) 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”(b) 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.

(a) 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).)

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

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(a)—

“(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)(b), 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)”(c) 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)(d) 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—

- (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)”.

(a) 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.

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

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

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

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))(a) by article 306 of the Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001(b) 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)(c), 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.)(d), in paragraph (b) of the definition of “insurer”(e) for “paragraph 5(b)” substitute “paragraph 5(d)”.

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

Meaning of “qualifying lender”

18.—(1) Section 13A(f) 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

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

(b) S.I. 2001/3649.

(c) Subsection (1) was amended by S.I. 2001/3649, article 307.

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

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

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

- (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)(a) by article 131 of the Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001(b) 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
- (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;”.

(a) Section 28A was inserted by the Pensions (Northern Ireland) Order 1995, S.I. 1995/3213 (N.I. 22), Article 143.
(b) S.I. 2001/3649.

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.

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^(a) 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);”.

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)^(b) 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.”.

^(a) S.I. 2001/3649.

^(b) 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.

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.”.

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”.

SECONDARY LEGISLATION

The Personal Pension Schemes (Disclosure of Information) Regulations 1987 (S.I. 1987/1110)

Availability of information to scheme members

32.—(1) The Personal Pension Schemes (Disclosure of Information) Regulations 1987 are amended as follows.

(2) In paragraph (5) of regulation 6 (availability of other information)(a), for “Part 10 (reports) of the Financial Services (Regulated Schemes) Regulations 1991 issued by the Securities and Investments Board” substitute “Chapter 10 (reports and accounts) of the Collective Investment Schemes Sourcebook made by the Financial Services Authority under Part X of the Financial Services and Markets Act 2000”.

(3) In paragraph 4 of Schedule 3 (other information)(b), for “by Schedule 3 to the Financial Services (Regulated Schemes) Regulations 1991 issued by the Securities and Investments Board” substitute “by section 10.3 (contents of annual and half-yearly reports) of the Collective Investment Schemes Sourcebook made by the Financial Services Authority under Part X of the Financial Services and Markets Act 2000”.

The Personal Pension Schemes (Compensation) Regulations 1988 (S.I. 1988/2238)

Appropriate schemes

33.—(1) The Personal Pension Schemes (Compensation) Regulations 1988 are amended as follows.

(2) In regulation 2 (application of regulations)—

- (a) in paragraph (a)(c) for “regulation 2(1)(a)” substitute “regulation 2(2)(a)”; and
- (b) in paragraph (d)(d) for “regulation 2(1)(c)” substitute “regulation 2(2)(c)”.

(3) In regulation 3 (requirements to be complied with by liable schemes in event of insolvency), in paragraph (1) and paragraph (3)(e) for “regulation 2(1)” (in each place it appears) substitute “regulation 2(2)”.

The Banks (Administration Proceedings) Order 1989 (S.I. 1989/1276)

Application of Part II of the Insolvency Act 1986 to former authorised institutions

34.—(1) The Banks (Administration Proceedings) Order 1989 is amended as follows.

(a) Paragraph (5) was inserted by S.I. 1992/1531, regulation 21.
(b) Paragraph 4 was inserted by S.I. 1992/1531, regulation 24.
(c) Paragraph (a) was substituted by S.I. 2001/3649, article 394(1).
(d) Paragraph (d) was substituted by S.I. 2001/3649, article 394(4).
(e) Paragraphs (1) and (3) were substituted by S.I. 2001/3649, article 395(4).

(2) In article 2 (application of provisions in the Insolvency Act 1986 with modifications in relation to companies which are former authorised institutions)(a) the words “authorised institutions and” and “within the meaning of the Banking Act 1987” are revoked.

(3) In paragraph 2 of the Schedule(b), for “section 8(4)” substitute “section 8(5)”.

The Money Laundering Regulations 1993 (S.I. 1993/1933)

Record-keeping procedures: appointed representatives

35. In regulation 13(4) of the Money Laundering Regulations 1993 (record-keeping procedures: supplementary provisions)(c), omit “which is investment business carried on by him”.

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

Application of Part II of the Insolvency Act 1986 to partnerships which are former authorised institutions

36. In paragraph 2 of Schedule 2 to the Insolvent Partnerships Order 1994 (modified provisions of Part II of the Insolvency Act), in paragraph (b) of the text of section 8(5) of the Insolvency Act 1986 (as modified by that paragraph)(d), after “the Banking Act 1987” insert “, but is not an authorised deposit taker, within the meaning given by subsection (1B)”.

The Personal and Occupational Pension Schemes (Pensions Ombudsman) Regulations 1996 (S.I. 1996/2475)

Exclusions from jurisdiction of Pensions Ombudsman

37. In paragraph (1) of regulation 4 of the Personal and Occupational Pension Schemes (Pensions Ombudsman) Regulations 1996 (exclusions from jurisdiction)(e), after “which can be” insert “(and is in fact)”.

The Public Interest Disclosure (Prescribed Persons) Order 1999 (S. I. 1999/1549)

Prescribed persons

38.—(1) The Schedule to the Public Interest Disclosure (Prescribed Persons) Order 1999 is amended as follows.

(2) The entries relating to the following persons are revoked—

- The Building Societies Commission;
- The Chief Registrar of Friendly Societies;
- The Assistant Registrar of Friendly Societies for Scotland;
- The Friendly Societies Commission;
- The Investment Management Regulatory Organisation;
- The Personal Investment Authority; and
- The Securities and Futures Authority.

(3) In the first column of the entry relating to the competent authority under Part IV of the Financial Services Act 1986, for “Part IV of the Financial Services Act 1986” substitute “Part VI of the Financial Services and Markets Act 2000”.

(4) In the second column of the entry relating to the Financial Services Authority—

- (a) after “the operation of banks” insert “ and building societies”;
- (b) after “wholesale money market regimes;” insert “the operation of friendly societies, benevolent societies, working men’s clubs, specially authorised societies, and industrial and provident societies;” and

(a) The sub-heading to article 2 was amended by S.I. 2001/3649, article 398(4).

(b) Amendments to the Schedule which are not relevant to this amendment were made by S.I. 1998/1129, article 2, Schedule 1 paragraph 9 and S.I. 2001/3649, article 398(5), (6).

(c) Paragraph (4) of regulation 13 was amended by S.I. 2001/3649, article 44(1).

(d) Subsection (5) of the modified text of section 8 of the Insolvency Act 1986 was substituted by S.I. 2001/3649, article 468(3).

(e) Paragraph (1) was substituted by S.I. 2001/3649, article 539.

- (c) omit “the functioning of other financial regulators;”.

The Financial Markets and Insolvency (Settlement Finality) Regulations 1999 (S.I. 1999/2979)

Designated systems

39.—(1) The Financial Markets and Insolvency (Settlement Finality) Regulations 1999 are amended as follows.

- (2) In paragraph (1) of regulation 2 (interpretation)—
- (a) for the definition of “the 1986 Act” substitute—
- ““the 2000 Act” means the Financial Services and Markets Act 2000;” and
- (b) in sub-paragraph (a)(i) of the definition of “designating authority” for “the 1986 Act” substitute “the 2000 Act”.

(3) In paragraph (1) of regulation 6 (certain bodies deemed to satisfy the requirements for designation) for “the 1986 Act” substitute “the 2000 Act”.

- (4) In paragraph (2) of regulation 7 (revocation of designation)—
- (a) for “Subsections (2) to (9) of section 11 of the 1986 Act” substitute “Subsections (1) to (7) of section 298 of the 2000 Act”;
- (b) for “under subsection (1) of that section” substitute “section 297(2) of that Act”; and
- (c) for sub-paragraphs (a) and (b) substitute—
- “(a) any reference to a recognised body shall be taken to be a reference to a designated system;
- (b) any reference to members of a recognised body shall be taken to be a reference to participants in a designated system;
- (c) references to the Authority shall, in cases where the Bank of England is the designating authority, be taken to be a reference to the Bank of England; and
- (d) subsection (4)(a) shall have effect as if for “two months” there were substituted “three months”.”.

- (5) In regulation 7, after paragraph (2) insert—
- “(3) An order revoking a designation order—
- (a) shall state the date on which it takes effect, being no earlier than three months after the day on which the revocation order is made; and
- (b) may contain such transitional provisions as the designating authority thinks necessary or expedient.

(4) A designation order may be revoked at the request or with the consent of the designated system, and any such revocation shall not be subject to the restriction imposed by paragraph (3)(a), or to the requirements imposed by subsections (1) to (6) of section 298 of the 2000 Act.”.

(6) In paragraph (5) of regulation 10 (provision of information by designated systems), for “section 41 of the 1986 Act” substitute “section 293 of the 2000 Act”.

The Stakeholder Pension Schemes Regulations 2000 (S.I. 2000/1403)

Meaning of “securities” and references to “insurers”

- 40.—(1) The Stakeholder Pension Schemes Regulations 2000 are amended as follows.
- (2) In paragraph (3) of regulation 1 (citation, commencement and interpretation)—
- (a) in the definition of “securities”(a) for “unit trust” substitute “investment trust”; and
- (b) in the definition of “with-profits fund”, for “insurance company” (in both places) substitute “insurer”.

(a) The definition of “securities” was substituted by S.I. 2001/3649, article 595(1).

(3) In paragraphs (4) and (5) of regulation 15 (requirement for trustees or manager to satisfy certain conditions in relation to with-profits fund), for “insurance company” (in each place it appears) substitute “insurer”.

The Regulation of Investigatory Powers (Prescription of Offices, Ranks and Positions) Order 2000 (S.I. 2000/2417)

Revocation of unnecessary provision

41. In the Schedule to the Regulation of Investigatory Powers (Prescription of Offices, Ranks and Positions) Order 2000, in Part I (prescriptions for public authorities which are relevant public authorities for the purposes of sections 28 and 29 of the Regulation of Investigatory Powers Act 2000) the entry relating to the Personal Investment Authority is revoked.

The Regulation of Investigatory Powers (Authorisations Extending to Scotland) Order 2000 (S.I. 2000/2418)

Revocation of unnecessary provision

42. In the Schedule to the Regulation of Investigatory Powers (Authorisations Extending to Scotland) Order 2000, the entry relating to the Personal Investment Authority is revoked.

The Terrorism Act 2000 (Crown Servants and Regulators) Regulations 2001 (S.I. 2001/192)

Revocation of references to persons no longer performing regulatory functions

43. The amendments made to regulation 4 of the Terrorism Act 2000 (Crown Servants and Regulators) Regulations 2001 (disapplication of section 19 in relation to persons performing functions of a public nature) by article 603 of the Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001^(a) are treated as if they had not been made, and instead regulation 4 is amended as follows—

(a) paragraphs (c), (d), (e), (g), (h), (j), (k), (l) and (m) are revoked, and

(b) for paragraph (f) substitute—

“(f) a designated professional body within the meaning of section 326(2) of the Financial Services and Markets Act 2000;”.

The Transport Act 2000 (Civil Aviation Authority Pension Scheme) Order 2001 (S.I. 2001/853)

Meaning of “investments”

44. In Schedule 1 to the Transport Act 2000 (Civil Aviation Authority Pension Scheme) Order 2001 (the new provisions), in paragraph 14.1 for “within the meaning of the Financial Services Act 1986” substitute “within the meaning of section 22 of the Financial Services and Markets Act 2000 and any relevant order made under that section”.

The Partnerships (Unrestricted Size) No 16 Regulations 2001 (S.I. 2001/1389)

Partnerships authorised to carry on investment business

45.—(1) The Partnerships (Unrestricted Size) No 16 Regulations 2001 are amended as follows.

(2) In paragraph (1) of regulation 2, for the words from “which is—” to the end of the paragraph substitute “which—

(a) has permission under Part 4 of the Financial Services and Markets Act 2000 to carry on that business,

(b) in an EEA firm of the kind mentioned in paragraph 5(a) 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 carry on that business,

(c) is an authorised person by virtue of paragraph 1 of Schedule 5 to that Act, and has

(a) S.I. 2001/3649.

- permission under paragraph 2 of that Schedule to carry on investment business of a kind mentioned in that paragraph (activities in connection with a recognised collective investment scheme), or
- (d) is a Treaty firm which has permission under paragraph 4 of Schedule 4 to that Act (as a result of qualifying for authorisation under paragraph 3 of that Schedule) to carry on that business.”.
- (3) Omit paragraph (2) of regulation 2.
- (4) After regulation 2 insert—
- “3.—(1) For the purposes of regulation 2, “investment business” means the business which consists of carrying on one or more of the following regulated activities—
- (a) dealing in investments as principal or as agent;
 - (b) arranging deals in investments;
 - (c) managing investments;
 - (d) safeguarding and administering investments;
 - (e) sending dematerialised instructions;
 - (f) establishing (and taking other steps in relation to) collective investment schemes;
 - (g) advising on investments;
 - (h) entering as a provider into a funeral plan contract;
 - (i) entering into a regulated mortgage contract as a lender;
 - (j) administering a regulated mortgage contract.
- (2) Paragraph (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 Railway Administration Order Rules 2001 (S.I. 2001/3352)

Meaning of “authorised deposit taker” and “former authorised institution”

46.—(1) Rule 2.8 of the Railway Administration Order Rules 2001 (manner in which service of the petition is to be effected) is amended as follows.

- (2) For paragraph (5)(a) substitute—
- “(a) is an authorised deposit taker or a former authorised institution,”.
- (3) After paragraph (6) insert—
- “(6A) For the purposes of paragraph (5)—
- (a) “authorised deposit taker” means a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits; and
 - (b) “former authorised institution” means an institution which 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, but is not an authorised deposit taker.
- (6B) References in paragraph (6A) to deposits and their acceptance 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 Terrorism (United Nations Measures) (Isle of Man) Order 2001 (S.I. 2001/3364)

Construction of the 2001 Order: “relevant institution”

47.—(1) Article 2 of the Terrorism (United Nations Measures) (Isle of Man) Order 2001 (interpretation: general)(a) is amended as follows.

- (2) The existing text is numbered paragraph (1).

(a) Article 2 is amended (in a way not relevant to this article) by S.I. 2002/259.

(3) In paragraph (1), in the definition of “relevant institution” for paragraph (d) substitute—
“**(d)** an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to the Financial Services and Markets Act 2000, which has lawfully established a branch in the Isle of Man for the purpose of accepting deposits or other repayable funds from the public;”.

(4) After paragraph (1) insert—

“(2) For the purpose of paragraph (d) of the definition of “relevant institution” in paragraph (1), the activity of accepting deposits has the meaning given in any relevant order under section 22 of the Financial Services and Markets Act 2000.”.

*The Financial Services and Markets Act 2000 (Consequential Amendments and Savings)
(Industrial Assurance) Order 2001 (S.I. 2001/3647)*

Offences under the Industrial Assurance Acts: application in relation to Guernsey and Jersey

48.—(1) Schedule 1 to the Financial Services and Markets Act 2000 (Consequential Amendments and Savings) (Industrial Assurance) Order 2001 is amended as follows.

(2) In paragraph 31, for “paragraphs 20 and 25” substitute “paragraphs 20, 24 and 25”.

(3) Paragraph 34 is revoked, and in its place insert—

“**34.** In relation to the Channel Islands, section 39 of the 1923 Act (offences) has effect with the substitution for subsection (1) of the following—

“(1) Any collecting society or industrial assurance company which contravenes or fails to comply with any of the provisions of this Act shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 4 on the standard scale.”.

After paragraph 36 insert—

“**36A.** In relation to the Channel Islands, section 16 of the 1948 Act (offences)(a) has effect with the substitution for subsection (2) of the following—

“(2) Any collecting society or industrial assurance company which contravenes or fails to comply with any of the provisions of this Act, or of regulations made for the purposes of section 8 of this Act, shall be guilty of an offence under the Industrial Assurance Act 1923.”.

NORTHERN IRELAND LEGISLATION

The Industrial and Provident Societies Act (Northern Ireland) 1969 (c. 24 (N.I.))

Power of societies to disapply obligation to appoint auditors

49.—(1) Section 38A of the Industrial and Provident Societies Act (Northern Ireland) 1969(b) is amended as follows.

(2) In paragraph (3)(d) the words “within the meaning of the Banking Act 1987” are repealed.

(3) After paragraph (3) insert—

“(3A) In paragraph (3)(d), the reference to a deposit 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.”.

(a) Section 16(2) was repealed in so far as it related to industrial assurance companies by the Companies Act 1969 (c. 81), section 130(4)(d), Schedule 8, Part IV. Section 89(1)(a) of that Act made equivalent provision in relation to industrial assurance companies. That Act was repealed by S.I. 2001/3647, Schedule 3, paragraph 8, and this amendment is consequential upon that repeal.

(b) Section 38A was inserted by the Deregulation (Northern Ireland) Order 1997, S.I. 1997/2984 (N.I. 22), Schedule 2, paragraph 6(2).

Authorised providers in relation to superannuation schemes for civil servants etc.

50.—(1) Article 3 of the Superannuation (Northern Ireland) Order 1972 (superannuation schemes in respect of civil servants etc.) is amended as follows.

(2) In paragraph (8)(a), for the definition of “authorised provider” substitute—

““authorised provider”, in relation to the investment of any sums paid by way of voluntary contributions or the provision of any benefit, means—

- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to invest such sums or, as the case may be, to provide that benefit;
- (b) an EEA firm of a kind mentioned in paragraph 5(a), (b) or (c) 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 invest such sums or, as the case may be, to provide that benefit and which satisfies the conditions applicable to it which are specified in paragraph (8B), (8C) or (8D); or
- (c) an EEA firm of a 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 invest such sums or, as the case may be to provide that benefit;”.

(3) After that paragraph insert—

“(8A) In paragraph (8), the definition of “authorised provider” must be read with—

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

(8B) If the EEA firm concerned is of the kind mentioned in paragraph 5(a) of Schedule 3 to the Financial Services and Markets Act 2000, the conditions are—

- (a) that, in investing of the sums in question, or in providing the benefit in question, the firm is carrying on a service falling within section A or C of the Annex to the Investment Services Directive; and
- (b) that firm is authorised by its home state authorisation to carry on that service.

(8C) If the EEA firm concerned is of the kind mentioned in paragraph 5(b) of that Schedule, the conditions are—

- (a) that, in investing of the sums in question, or in providing the benefit in question, the firm is carrying on an activity falling within Annex 1 to the Banking Consolidation Directive; and
- (b) that the activity in question is one in relation to which an authority in the firm’s home State has regulatory functions.

(8D) If the EEA firm concerned is of the kind mentioned in paragraph 5(c) of that Schedule, the conditions are—

- (a) that, in investing of the sums in question, or in providing the benefit in question, the firm is carrying on an activity falling within Annex 1 to the Banking Consolidation Directive;
- (b) that the activity in question is one in relation to which an authority in the firm’s home State has regulatory functions; and
- (c) that the firm also carries on the activity in question in its home State.

(8E) Expressions used in paragraphs (8B) to (8D) which are also used in Schedule 3 to the Financial Services and Markets Act 2000 have the same meanings in those paragraphs as they have in that Schedule.”.

(a) Paragraph (8) was inserted by the Pensions (Miscellaneous Provisions) (Northern Ireland) Order 1990, S.I. 1990/1509 (N.I. 13), Article 10, and amended by the Pension Schemes (Northern Ireland) Act 1993 (c. 49), Schedule 7, paragraph 14.

Authorised providers in relation to superannuation schemes for teachers

51. In Article 11(6) of the Superannuation (Northern Ireland) Order 1972 (superannuation schemes as respects teachers) for the definition of “authorised provider”(a) substitute—

““authorised provider” has the meaning given in Article 3;”.

Authorised providers in relation to superannuation schemes for persons engaged in health services etc.

52. In Article 12(6) of the Superannuation (Northern Ireland) Order 1972 (superannuation schemes as respects persons engaged in health services, etc.) for the definition of “authorised provider”(b) substitute—

““authorised provider” has the meaning given in Article 3;”.

The Industrial Assurance (Northern Ireland) Order 1979 (S.I. 1979/1574 (N.I.13))

Meaning of “relevant insurer”

53.—(1) The Industrial Assurance (Northern Ireland) Order 1979 (as that Order has effect, notwithstanding its revocation(c), by virtue of the Financial Services and Markets Act 2000 (Consequential Amendments and Savings) (Industrial Assurance) Order 2001(d) is amended as follows.

(2) In paragraph (2) of Article 2 (interpretation)(e), after the definition of “Registrar” insert—

““relevant insurer” means a person, whether incorporated or not, who carried on industrial assurance business before 1st December 2001;”.

(3) In Article 20 (illegal policies), in paragraph (1)(f) for “entitled” (in the second place it occurs) substitute “liable”.

The Credit Unions (Northern Ireland) Order 1985 (S.I. 1985/1205 (N.I.12))

Definition of “authorised bank”

54. Article 2 of the Credit Unions (Northern Ireland) Order 1985 (interpretation) is amended as follows.

(2) In paragraph (2), for sub-paragraph (a) of the definition of “authorised bank” substitute—

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

(ab) 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(1) of that Schedule) to accept deposits;

(ac) a municipal bank, that is to say a company which, immediately before the 1st December 2001 fell within the definition in section 103 of the Banking Act 1987(g);”.

(3) After paragraph (2) insert—

“(2A) Sub-paragraphs (a) and (ab) of the definition of “authorised bank” in 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.”.

(a) The definition of “authorised provider” was inserted by S.I. 1990/1509, (N.I. 13), Article 10(4).

(b) The definition of “authorised provider” was inserted by S.I. 1990/1509 (N.I. 13), Article 10(6).

(c) The Industrial Assurance (Northern Ireland) Order 1979 was revoked by section 416(2) of the Financial Services and Markets Act 2000 (c. 8) as from 1st December 2001.

(d) S.I. 2001/3647, article 3(3), Schedule 1, Part IV, paragraphs 37 to 58.

(e) Article 2 is saved with modifications by S.I. 2001/3647, Schedule 1, Part IV, paragraph 38.

(f) Paragraph (1) of Article 20, as it has effect from 1st December 2001, was substituted by S.I. 2001/3647, Schedule 1, Part IV, paragraph 35.

(g) The Banking Act 1987 (c. 22) was repealed on 1st December 2001 by S.I. 2001/3649, article 3(1)(d).

General prohibition on deposit taking

55. In Article 25(2) of the Credit Unions (Northern Ireland) Order 1985 (general prohibition on deposit taking)(a), for the words “has the meaning given in section 5 of the Banking Act 1987” substitute—

“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.”.

Insurance against fraud or other dishonesty

56.—(1) Article 37 of the Credit Unions (Northern Ireland) Order 1985 (insurance against fraud or other dishonesty) is amended as follows.

(2) In paragraph (2), for sub-paragraph (d) substitute—

“(d) must be issued by—

- (i) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect and carry out contracts of insurance of a relevant class, or
- (ii) 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 and carry out contracts of insurance of a relevant class.”.

(3) After paragraph (2) insert—

“(2A) Sub-paragraph (d) of paragraph (2) must be read with—

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

The Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2045 (N.I. 19))

Limitation of power to make an administration order

57.—(1) Paragraph (5)(b) of Article 21 of the Insolvency (Northern Ireland) Order 1989 (restrictions on making of administration order) is amended as follows.

(2) For sub-paragraph (a) substitute—

“(a) it carries on a regulated activity of effecting or carrying out contracts of insurance but is not—

- (i) exempt from the general prohibition, within the meaning of section 19 of the Financial Services and Markets Act 2000, in respect of that activity, or
- (ii) an authorised deposit taker within the meaning given by paragraph (1B), and carrying on that activity in the course of, or for the purposes of, a banking business;”.

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

Winding-up on petition of the Authority: partnerships

58. In paragraph (5C) of Article 143 of the Insolvency (Northern Ireland) Order 1989(c), for “under section 72(1)(a) of the Financial Services Act 1986 or section 92(1)(a) of the Banking Act 1987” substitute “under section 367(3)(a) of the Financial Services and Markets Act 2000”.

(a) Article 25(2) was substituted for paragraphs (2) and (3) by the Banking Act 1987 (c. 22), section 108(1), Schedule 6, paragraph 23(2).

(b) Paragraph (5) was substituted, together with paragraphs (4) and (6), for paragraph (4) by S.I. 2001/3649, article 401.

(c) Paragraph (5C) was inserted by the Insolvent Partnerships Order (Northern Ireland) 1995, S.R. (N.I.) 1995 No. 225, Article 15(1).

Power to apply Parts 2 to 7 to formerly authorised banks

59.—(1) Article 366 of the Insolvency (Northern Ireland) Order 1989 (power to apply Parts 2 to 7 to banks etc.)(a) is amended as follows.

(2) For the cross heading to that Article substitute “Power to apply Parts II to VII to formerly authorised banks etc.”.

(3) The existing text is numbered paragraph (1).

(4) In paragraph (1), after “any company” insert “(other than an authorised deposit taker)”.

(4) After paragraph (1) insert—

“(2) For the purposes of paragraph (1), “authorised deposit taker” has the meaning given in Article 21(1B).”.

The Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22))

Salary related occupational pension schemes: discharge of liability by insurance etc.

60. In Article 74 of the Pensions (Northern Ireland) Order 1995 (discharge of liabilities by insurance etc.), in paragraph (3)(c), for “insurance companies” substitute “insurers”.

NORTHERN IRELAND STATUTORY RULES

The Reserve and Auxiliary Forces (Protection of Industrial Assurance etc. Policies) Regulations (Northern Ireland) 1953 (S.R.&O. (N.I.) 1953 No.43)

Reserve and auxiliary forces: protection of industrial assurance policies and policies with friendly societies

61.—(1) The Reserve and Auxiliary Forces (Protection of Industrial Assurance etc. Policies) Regulations (Northern Ireland) 1953 are amended as follows.

(2) In paragraph (2) of regulation 1—

(a) omit the definition of “the Commissioner”; and

(b) before the definition of “owner” insert—

““ombudsman” means a person who—

(a) is a member of the panel established under paragraph 4 of Schedule 17 to the Financial Services and Markets Act 2000 to act as ombudsmen for the purposes of the ombudsmen scheme, and

(b) has considered or determined an application made under the ombudsman scheme under Part VI of the Act;

““ombudsman scheme” has the same meaning as in the Financial Services and Markets Act 2000;”.

(3) After paragraph (3) of regulation 2 insert—

“(4) In relation to a notice before forfeiture served under Article 29 of the Industrial Assurance (Northern Ireland) Order 1979 after the 30th November 2001, references in these Regulations to Article 29 of the Industrial Assurance (Northern Ireland) Order 1979 are references to that Article as it has effect (notwithstanding the revocation of the 1979 Order) by virtue of the Financial Services and Markets Act 2000 (Consequential Amendments and Savings) (Industrial Assurance) Order 1979.”.

(4) In paragraphs (1) and (2) of regulation 3 for “the Commissioner” substitute “the ombudsman scheme”.

(5) In regulation 6—

(a) for “An appeal to the Commissioner” substitute “A complaint under the ombudsman scheme”;

(b) for “addressed to him at 64 Chichester Street, Belfast,” substitute “sent to the Financial Ombudsman Service at South Quay Plaza, 183 Marsh Wall, London E14 9SR,”; and

(a) Article 366 was amended by the Bank of England Act 1998 (c. 11), Schedule 5, paragraph 40, and by S.I. 2001/3649, article 403.

- (c) for “the appeal is made” substitute “the complaint is made”.
- (6) In regulation 7—
- (a) for “on appeal being duly made” substitute “on a complaint being duly made”;
 - (b) for “the Commissioner” substitute “the ombudsman”;
 - (c) for “he may make an order requiring” substitute “he make direct”; and
 - (d) for “the appellant” substitute “the complainant”.
- (7) In regulation 8—
- (a) in paragraph (1)(a) for “a right to appeal to the Commissioner” substitute “a right to make a complaint under the ombudsman scheme”;
 - (b) in paragraph (1)(b) for “appeal” substitute “complaint”; and
 - (c) for paragraph (2), substitute—
- “(2) For the purpose of the preceding paragraph an application or complaint shall be deemed to be pending where the application or complaint has been duly made and the applicant or complainant has not been notified in the form provided for by the Regulations of the decision of the company or society, or notified of the determination of the ombudsman.”.
- (8) In regulation 9—
- (a) for the words from the beginning of the regulation to the end of paragraph (ii), substitute—
- “Where, in relation to any policy of assurance to which section 54 of the Act applies, the time for making an application to the company or society or for making a complaint under the ombudsman scheme has expired, the owner of the policy, or anyone on his behalf, may refer a complaint under the ombudsman scheme, and if it appears to the ombudsman that—
- (a) there were good reasons for the failure to make the application to the company or society or to make the complaint under the ombudsman scheme within the required time and there has been no undue delay in referring a complaint under this regulation; and
 - (b) if an application or a complaint had been made with the said time it would have been granted or determined in favour of the complainant,”;
- (b) for “he may make an order requiring” substitute “he may direct”;
 - (c) for “appeal” substitute “complaint”; and
 - (d) for “allowed” substitute “determined in favour of the complainant”.
- (9) In the Schedule to the Regulations, in Form A, B, C, D and E—
- (a) for “the Industrial Assurance Commissioner for Northern Ireland at 64 Chichester Street, Belfast” substitute “the Financial Ombudsman Service at South Quay Plaza, 183 Marsh Wall, London E14 9SR”; and
 - (b) for “the Commissioner” substitute “the ombudsman scheme”.

The Banks (Administration Proceedings) Order (Northern Ireland) 1991
(S.R. (NI) 1991/295)

Application of Part III of the 1989 Order to former authorised institutions

62.—(1) The Banks (Administration Proceedings) Order (Northern Ireland) 1991 is amended as follows.

(2) In Article 3 (application of the 1989 Order with modifications to banks) the words “authorised institutions and” and “within the meaning of the Banking Act 1987” are revoked.

(3) In the sub-heading to the Schedule (modifications of Part III of the Insolvency (Northern Ireland) Order 1989 in relation to companies which are authorised or former authorised institutions under the Banking Act 1987) the words “authorised or” and “under the Banking Act 1987” are revoked.

(4) In paragraph 2 of the Schedule, for “Article 21(4)” substitute “Article 21(5)”.

Nick Ainger

John Heppell

Two of the Lords Commissioners of
Her Majesty's Treasury

12th June 2002

EXPLANATORY NOTE

(This Note does not form part of the Order)

This Order is supplementary to the Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001 (S.I. 2001/3649) (“the principal Order”) which came into force on 1st December 2001 at the same time as the coming into force of the Financial Services and Markets Act 2000 (c. 8) (“FSMA”). This Order corrects or adjusts amendments made in the principal Order, and makes additional amendments which are consequential upon the repeal by article 3 of the principal order of the legislation which established the regulatory regimes which have been replaced by FSMA.

The first group of articles makes amendments to primary legislation, including Acts which apply to Northern Ireland. Article 4 makes an amendment to the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951 (c. 65) which applies exclusively in relation to the Channel Islands.

The second group amends secondary legislation, and includes an amendment by article 48 to the Financial Services and Markets Act 2000 (Consequential Amendments and Savings) (Industrial Assurance) Order 2001 (S.I. 2001/3647). That article amends in relation to the Channel Islands savings made by that Order of provisions of the Industrial Assurance Act 1923 (c. 8) and the Industrial Insurance and Friendly Societies Act 1948 (c. 39), both of which were repealed by section 416 of FSMA.

The third group amends Northern Ireland legislation, and the fourth group amends Northern Ireland Statutory Rules.

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