



# Financial Services and Markets Act 2000

## 2000 CHAPTER 8

### PART XXX

#### SUPPLEMENTAL

#### **426 Consequential and supplementary provision.**

- (1) A Minister of the Crown may by order make such incidental, consequential, transitional or supplemental provision as he considers necessary or expedient for the general purposes, or any particular purpose, of this Act or in consequence of any provision made by or under this Act or for giving full effect to this Act or any such provision.
- (2) An order under subsection (1) may, in particular, make provision—
  - (a) for enabling any person by whom any powers will become exercisable, on a date set by or under this Act, by virtue of any provision made by or under this Act to take before that date any steps which are necessary as a preliminary to the exercise of those powers;
  - (b) for applying (with or without modifications) or amending, repealing or revoking any provision of or made under an Act passed before this Act or in the same Session;
  - (c) dissolving any body corporate established by any Act passed, or instrument made, before the passing of this Act;
  - (d) for making savings, or additional savings, from the effect of any repeal or revocation made by or under this Act.
- (3) Amendments made under this section are additional, and without prejudice, to those made by or under any other provision of this Act.
- (4) No other provision of this Act restricts the powers conferred by this section.

*Status: Point in time view as at 08/04/2010.*

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#### Modifications etc. (not altering text)

C1 S. 426 modified (1.10.2001) by 2001 c. 16, s. 70, **Sch. 2 Pt. 2 para. 26**; S.I. 2001/3150, **art. 2(d)**

### 427 Transitional provisions.

- (1) Subsections (2) and (3) apply to an order under section 426 which makes transitional provisions or savings.
- (2) The order may, in particular—
  - (a) if it makes provision about the authorisation and permission of persons who before commencement were entitled to carry on any activities, also include provision for such persons not to be treated as having any authorisation or permission (whether on an application to the Authority or otherwise);
  - (b) make provision enabling the Authority to require persons of such descriptions as it may direct to re-apply for permissions having effect by virtue of the order;
  - (c) make provision for the continuation as rules of such provisions (including primary and subordinate legislation) as may be designated in accordance with the order by the Authority, including provision for the modification by the Authority of provisions designated;
  - (d) make provision about the effect of requirements imposed, liabilities incurred and any other things done before commencement, including provision for and about investigations, penalties and the taking or continuing of any other action in respect of contraventions;
  - (e) make provision for the continuation of disciplinary and other proceedings begun before commencement, including provision about the decisions available to bodies before which such proceedings take place and the effect of their decisions;
  - (f) make provision as regards the Authority’s obligation to maintain a record under section 347 as respects persons in relation to whom provision is made by the order.
- (3) The order may—
  - (a) confer functions on the Treasury, the Secretary of State, the Authority, the scheme manager, the scheme operator, members of the panel established under paragraph 4 of Schedule 17, the Competition Commission or [<sup>F1</sup>the Office of Fair Trading];
  - (b) confer jurisdiction on the Tribunal;
  - (c) provide for fees to be charged in connection with the carrying out of functions conferred under the order;
  - (d) modify, exclude or apply (with or without modifications) any primary or subordinate legislation (including any provision of, or made under, this Act).
- (4) In subsection (2) “commencement” means the commencement of such provisions of this Act as may be specified by the order.

#### Textual Amendments

F1 Words in s. 427(3)(a) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), ss. 278(1), 279, **Sch. 25 para. 40(18)**; S.I. 2003/766, **art. 2**, Sch. (with art. 3)

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#### **428 Regulations and orders.**

- (1) Any power to make an order which is conferred on a Minister of the Crown by this Act and any power to make regulations which is conferred by this Act is exercisable by statutory instrument.
- (2) The Lord Chancellor's power to make rules under section 132 is exercisable by statutory instrument.
- (3) Any statutory instrument made under this Act may—
  - (a) contain such incidental, supplemental, consequential and transitional provision as the person making it considers appropriate; and
  - (b) make different provision for different cases.

#### **429 Parliamentary control of statutory instruments.**

- (1) No order is to be made under—
  - (a) section 144(4), 192(b) or (e), 236(5), 404 or 419, or
  - (b) paragraph 1 of Schedule 8,unless a draft of the order has been laid before Parliament and approved by a resolution of each House.
- (2) No regulations are to be made under section [F290B [F3, 214A, 214B [F4, 214D]] or] 262 unless a draft of the regulations has been laid before Parliament and approved by a resolution of each House.
- (3) An order to which, if it is made, subsection (4) or (5) will apply is not to be made unless a draft of the order has been laid before Parliament and approved by a resolution of each House.
- (4) This subsection applies to an order under section 21 if—
  - (a) it is the first order to be made, or to contain provisions made, under section 21(4);
  - (b) it varies an order made under section 21(4) so as to make section 21(1) apply in circumstances in which it did not previously apply;
  - (c) it is the first order to be made, or to contain provision made, under section 21(5);
  - (d) it varies a previous order made under section 21(5) so as to make section 21(1) apply in circumstances in which it did not, as a result of that previous order, apply;
  - (e) it is the first order to be made, or to contain provisions made, under section 21(9) or (10);
  - (f) it adds one or more activities to those that are controlled activities for the purposes of section 21; or
  - (g) it adds one or more investments to those which are controlled investments for the purposes of section 21.
- (5) This subsection applies to an order under section 38 if—
  - (a) it is the first order to be made, or to contain provisions made, under that section; or
  - (b) it contains provisions restricting or removing an exemption provided by an earlier order made under that section.

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- (6) An order containing a provision to which, if the order is made, subsection (7) will apply is not to be made unless a draft of the order has been laid before Parliament and approved by a resolution of each House.
- (7) This subsection applies to a provision contained in an order if—
- (a) it is the first to be made in the exercise of the power conferred by subsection (1) of section 326 or it removes a body from those for the time being designated under that subsection; or
  - (b) it is the first to be made in the exercise of the power conferred by subsection (6) of section 327 or it adds a description of regulated activity or investment to those for the time being specified for the purposes of that subsection.
- (8) Any other statutory instrument made under this Act, apart from one made under section 431(2) or to which paragraph 26 of Schedule 2 applies, shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

- F2** Words in s. 429(2) inserted (8.11.2006) by [Companies Act 2006 \(c. 46\)](#), ss. 1272, 1300(1)(a), [Sch. 15 para. 12](#)
- F3** Words in s. 429(2) inserted (17.2.2009 for certain purposes and 21.2.2009 otherwise) by [Banking Act 2009 \(c. 1\)](#), ss. 178, 263(1) (with s. 247); [S.I. 2009/296](#), arts. 2, 3, [Sch. para. 4](#)
- F4** Word in s. 429(2) inserted (8.4.2010) by [Financial Services Act 2010 \(c. 28\)](#), ss. 24(1), 26(1)(l), [Sch. 2 para. 33\(3\)](#)

#### 430 Extent.

- (1) This Act, except Chapter IV of Part XVII, extends to Northern Ireland.
- (2) Except where Her Majesty by Order in Council provides otherwise, the extent of any amendment or repeal made by or under this Act is the same as the extent of the provision amended or repealed.
- (3) Her Majesty may by Order in Council provide for any provision of or made under this Act relating to a matter which is the subject of other legislation which extends to any of the Channel Islands or the Isle of Man to extend there with such modifications (if any) as may be specified in the Order.

#### 431 Commencement.

- (1) The following provisions come into force on the passing of this Act—
- (a) this section;
  - (b) sections 428, 430 and 433;
  - (c) paragraphs 1 and 2 of Schedule 21.
- (2) The other provisions of this Act come into force on such day as the Treasury may by order appoint; and different days may be appointed for different purposes.

#### Subordinate Legislation Made

- P1** [S. 431\(2\)](#) power partly exercised: 25.2.2001 appointed for specified provisions by [S.I. 2001/516](#), [art. 2 Sch.](#)

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S. 431(2) power partly exercised: 30.4.2001 appointed for specified provisions by S.I. 2001/1282, **art. 2**  
S. 431(2) power partly exercised: 18.6.2001 appointed for specified provisions by S.I. 2001/1820, **art. 2 Sch.**  
S. 431(2) power partly exercised: 20.7.2001 and 3.9.2001 appointed for specified provisions by S.I. 2001/2632, **art. 2 Sch.**  
S. 431(2) power partly exercised: 19.10.2001 appointed for specified provisions by S.I. 2001/3436, **art. 2**  
S. 431(2) power partly exercised: different dates appointed for specified provisions by S.I. 2001/3538, **art. 2**

#### **432 Minor and consequential amendments, transitional provisions and repeals.**

- (1) Schedule 20 makes minor and consequential amendments.
- (2) Schedule 21 makes transitional provisions.
- (3) The enactments set out in Schedule 22 are repealed.

#### **Commencement Information**

- II** S. 432 wholly in force at 1.12.2001; s. 432 not in force at Royal Assent see s. 431(2); s. 432(3) in force for specified purposes at 30.4.2001 by S.I. 2001/1282, **art. 2**; s. 432(1) in force for specified purposes at 2.7.2001 by S.I. 2001/2364, **art. 2(1)(b)**; s. 432(1) in force for specified purposes at 3.9.2001 by S.I. 2001/2632, **art. 2(2)**, **Sch. Pt. 2**; s. 432 in force in so far as not already in force at 1.12.2001 by S.I. 2001/3538, **art. 2(1)**

#### **433 Short title.**

This Act may be cited as the Financial Services and Markets Act 2000.

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