



# Companies Act 1989

## 1989 CHAPTER 40

### PART III

#### INVESTIGATIONS AND POWERS TO OBTAIN INFORMATION

##### *Powers exercisable to assist overseas regulatory authorities*

#### **82 Request for assistance by overseas regulatory authority.**

- (1) The powers conferred by section 83 are exercisable by the Secretary of State for the purpose of assisting an overseas regulatory authority which has requested his assistance in connection with inquiries being carried out by it or on its behalf.
- (2) An “overseas regulatory authority” means an authority which in a country or territory outside the United Kingdom exercises—
  - [<sup>F1</sup>(a) any function corresponding to—
    - (i) any function of the Secretary of State under the Companies Act 1985;
    - (ii) any function of the Financial Services Authority under the Financial Services and Markets Act 2000;
    - (iii) any function exercised by the competent authority under Part VI of that Act in relation to the listing of shares;]
  - (b) any function in connection with the investigation of, or the enforcement of rules (whether or not having the force of law) relating to, conduct of the kind prohibited by [<sup>F2</sup>Part V of the Criminal Justice Act 1993 (insider dealing)], or
  - (c) any function prescribed for the purposes of this subsection by order of the Secretary of State, being a function which in the opinion of the Secretary of State relates to companies or financial services.

An order under paragraph (c) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

- (3) The Secretary of State shall not exercise the powers conferred by section 83 unless [<sup>F3</sup>he and the Financial Services Authority are] satisfied that the assistance requested by the overseas regulatory authority is for the purposes of its regulatory functions.

*Status: Point in time view as at 01/06/2004. This version of this provision has been superseded.*

*Changes to legislation: There are currently no known outstanding effects for the Companies Act 1989, Section 82. (See end of Document for details)*

An authority’s “regulatory functions” means any functions falling within subsection (2) and any other functions relating to companies or financial services.

- (4) In deciding whether to exercise those powers the Secretary of State may take into account, in particular—
- (a) whether corresponding assistance would be given in that country or territory to an authority exercising regulatory functions in the United Kingdom;
  - (b) whether the inquiries relate to the possible breach of a law, or other requirement, which has no close parallel in the United Kingdom or involves the assertion of a jurisdiction not recognised by the United Kingdom;
  - (c) the seriousness of the matter to which the inquiries relate, the importance to the inquiries of the information sought in the United Kingdom and whether the assistance could be obtained by other means;
  - (d) whether it is otherwise appropriate in the public interest to give the assistance sought.

- (5) Before deciding whether to exercise those powers in a case where the overseas regulatory authority is a banking supervisor, the Secretary of State shall consult the [<sup>F4</sup>Financial Services Authority].

A “banking supervisor” means an overseas regulatory authority with respect to which the [<sup>F4</sup>Financial Services Authority] has notified the Secretary of State, for the purposes of this subsection, that it exercises functions corresponding to those of the [<sup>F5</sup>Authority][<sup>F6</sup>in relation to authorised persons with permission under the Financial Services and Markets Act 2000 to accept deposits].

- [<sup>F7</sup>(5A) In subsection (5), “authorised person” has the meaning given in the Financial Services and Markets Act 2000 and the references to deposits and their acceptance must be read with—
- (a) section 22 of that Act;
  - (b) any relevant order under that section; and
  - (c) Schedule 2 to that Act.]
- (6) The Secretary of State may decline to exercise those powers unless the overseas regulatory authority undertakes to make such contribution towards the costs of their exercise as the Secretary of State considers appropriate.
- (7) References in this section to financial services include, in particular, investment business, insurance and banking.

#### Textual Amendments

- F1** S. 82(2)(a) substituted (1.12.2001) by [S.I. 2001/3649](#), [arts. 1](#), 76(2)
- F2** Words in s. 82(2)(b) substituted (1.3.1994) by 1993 c. 36, s. 79(13), [Sch. 5 Pt. I para. 16](#); [S.I. 1994/242](#), [art. 2](#), [Sch.](#)
- F3** Words in s. 82(3) substituted (1.12.2001) by [S.I. 2001/3649](#), [arts. 1](#), 76(3)
- F4** Words in s. 82(5) substituted (1.6.1998) by 1998 c. 11, s. 23, [Sch. 5 Pt. IV](#) c. II para. 66(2)(b)(i); [S.I. 1998/1120](#), [art. 2](#)
- F5** Word in s. 82(5) substituted (1.6.1998) by 1998 c. 11, s. 23, [Sch. 5 Pt. IV](#) c. II para. 66(2)(b)(ii); [S.I. 1998/1120](#), [art. 2](#)
- F6** Words in the definition of “banking supervisor” in s. 82(5) substituted (1.12.2001) by [S.I. 2001/3649](#), [arts. 1](#), 76(4)
- F7** S. 82(5A) inserted (1.12.2001) by [S.I. 2001/3649](#), [arts. 1](#), 76(5)

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

- C1** S. 82(3): (7.6.1992) certain functions made exercisable concurrently by the Secretary of State and the Treasury by S.I. 1992/1315, arts. 5, 8, **Sch. 3 para. 3** (with art. 6).

**Status:**

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**Changes to legislation:**

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