
STATUTORY INSTRUMENTS

2001 No. 2512

The Financial Services and Markets Act 2000 (Transitional Provisions) (Reviews of Pensions Business) Order 2001

Modifications of section 404 in its application to deemed scheme

- 6.—(1) In its application to the deemed scheme, section 404 has effect as if—
- (a) subsection (6) provided that, for the purposes of the Act, failure on the part of an authorised person—
 - (i) to comply with any obligation imposed on him by the deemed scheme to make any payment to the Authority,
 - (ii) to comply with any obligation imposed on him by the deemed scheme to provide information to the Authority, or
 - (iii) otherwise, to take all reasonable steps to comply with the provisions of the deemed scheme (so far as applicable to him),were (subject to paragraph (2)) to be treated as a failure on his part to comply with rules;
 - (b) it provided for the Authority to make to the deemed scheme such modifications as it considers necessary or appropriate for the purposes of—
 - (i) determining the nature and extent of any failure on the part of authorised persons to comply with any applicable requirements relating to the selling between 29th April 1988 and 30th June 1994 of rights in, or interests under, personal pension schemes, or the selling between 29th April 1988 and 15th August 1999 of rights in, or interests under, free standing additional voluntary contribution schemes;
 - (ii) establishing the liability of authorised persons to make compensation payments with respect to any such failure; or
 - (iii) determining the amounts payable by way of compensation payments with respect to any such failure;or such incidental, supplemental, consequential or transitional modifications as it considers appropriate.
- (2) A person is not (by virtue of paragraph (1)(a)) to be treated as having failed to comply with rules by reason of his failure to comply with any designated provision, if he shows that at the time of the alleged contravention the designation instrument concerned had not been published in accordance with article 3(2)(e).
- (3) The Authority may, before commencement, exercise the power in paragraph (1)(b) so as to make modifications to a designated provision, to have effect after commencement (but not before) as modifications of the deemed scheme.
- (4) A provision which is modified under paragraph (1)(b), or which is added to the deemed scheme as a result of a modification made under that paragraph, is referred to in this Order as a “new provision”.