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STATUTORY INSTRUMENTS

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**2001 No. 3649**

The Financial Services and Markets Act 2000  
(Consequential Amendments and Repeals) Order 2001

PART 7

ENACTMENTS RELATING TO SCOTLAND

CHAPTER II

secondary legislation

*The Local Government Pension Scheme (Management and Investment of Funds) (Scotland) Regulations 1998 (S.I. 1998/2888) (S.168)*

**Definitions of terms**

**256.**—(1) In regulation 2 of the Local Government Pension Scheme (Management and Investment of Funds) (Scotland) Regulations 1998 (general definitions)(1)—

- (a) the existing provision becomes paragraph (1);
- (b) the definitions of “European authorised institution” and “European institution” are revoked;
- (c) the definition of “home-regulated investment business” is revoked;
- (d) for the definition of “relevant institution” substitute—

““relevant institution” means—

- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits;
  - (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(1) of that Schedule) to accept deposits; or
  - (c) a person who is an exempt person in respect of accepting deposits as a result of an order made under section 38(1) of that Act;”;
- (e) after paragraph (1) insert—

“(2) The definition of “relevant institution” in paragraph (1), together with regulations 3(5) to (6A) and 4(2) and paragraph 4 of Part I of Schedule 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.”.

### **Meaning of “investment”**

**257.**—(1) In regulation 3 of the Local Government Pension Scheme (Management and Investment of Funds) (Scotland) Regulations 1998 (definition of “investment”), for paragraphs (5) and (6) substitute—

“(5) A contract of insurance is an investment if and only if it is a contract of a relevant class, and is entered into with a person within paragraph (6) for whom entering into the contract constitutes the carrying on of a regulated activity (within the meaning of the Financial Services and Markets Act 2000).

(6) The persons within this paragraph are—

- (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 of a relevant class;
- (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 of a relevant class; or
- (c) a person who does not fall within sub-paragraph (a) or (b) and who, because he has his head office in an EEA State (within the meaning of that Act) other than the United Kingdom, is permitted by the law of that State to effect or carry out contracts of insurance of a relevant class.

(6A) A contract of insurance is of a relevant class for the purposes of paragraphs (5) and (6) if it is—

- (a) a contract of insurance on human life or a contract to pay an annuity on human life where the benefits are wholly or partly to be determined by reference to the value of, or the income from, property of any description (whether or not specified in the contract) or by reference to fluctuations in, or in an index of, the value of property of any description (whether or not so specified); or
- (b) a contract to manage the investments of pension funds, whether or not combined with contracts of insurance covering either conservation of capital or payment of a minimum interest.”.

(2) For paragraphs (7) and (8) substitute—

“(7) A stock lending arrangement is an investment if, and only if, in respect of it, the conditions in rules 5.14.4R and 5.14.6R in the Collective Investment Scheme Sourcebook are complied with.

(8) For the purposes of paragraph (7)—

- (a) the references in rules 5.14.4R and 5.14.6R to the trustee must be read as if they were references to the administering authority; and
- (b) the “Collective Investment Scheme Sourcebook” means the Collective Investment Scheme Sourcebook made by the Financial Services Authority under Part 10 of the Financial Services and Markets Act 2000.”.

### **Meaning of “investment manager”**

**258.**—(1) Regulation 4 of the Local Government Pension Scheme (Management and Investment of Funds) (Scotland) Regulations 1998 (definition of “investment manager”), for paragraphs (2) to (4) substitute—

- “(2) A person is an investment manager if—
- (a) he has permission under Part 4 of the Financial Services and Markets Act 2000 to manage the assets of occupational pension schemes;
  - (b) he is an EEA firm of the kind mentioned in paragraph 5(a) or (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 manage the assets of occupational pension schemes; or
  - (c) he is a person—
    - (i) who does not carry on regulated activities (within the meaning of that Act) from a permanent place of business maintained by him in the United Kingdom;
    - (ii) whose head office is situated in an EEA State (within the meaning of that Act) other than the United Kingdom;
    - (iii) who is recognised by the law of that EEA State as a national of that or another EEA State;
    - (iv) who is authorised under that law to carry on one or more regulated activities (within the meaning of that Act); and
    - (v) who is not prevented by that law from managing the assets of occupational pension schemes or assets belonging to another person.”.

#### **Limits on investments and other definitions**

**259.**—(1) Schedule 1 to the Local Government Pension Scheme (Management and Investment of Funds) (Scotland) Regulations 1998 (limits on investments) is amended as follows.

(2) For paragraph 4 of Part I of that Schedule (limits on investments) substitute—

“4. All deposits with—

- (a) any local authority, or
- (b) any body with power to issue a precept or requisition to a local authority, or to the expenses of which a local authority can be required to contribute,

which is an exempt person (within the meaning of the Financial Services and Markets Act 2000) in respect of accepting deposits as a result of an order made under section 38(1) of that Act, and all loans (but see paragraph 12).”.

(3) In paragraph 15—

- (a) in the definition of “collective investment scheme” for the words “section 75 of the Financial Services Act 1986” substitute “section 235 of the Financial Services and Markets Act 2000”; and
- (b) in the definition of “open-ended investment company” for the words “Open-ended Investment Companies (Investment Companies with Variable Capital) Regulations 1996” substitute “Open-Ended Investment Companies Regulations 2001”.