Isle of Man

Ellan Vannin

AT 7 of 2008

COLLECTIVE INVESTMENT SCHEMES ACT 2008

Unofficial consolidation for Tynwald members and DHA use only

UNOFFICIAL

Isle of Man

Ellan Vannin

COLLECTIVE INVESTMENT SCHEMES ACT 2008

Index

Section **Page**

PART 1 – MEANING **7**

1 Meaning of collective investment scheme 7

PART 2 – ESTABLISHMENT AND PROMOTION **8**

2 Restriction on establishment 8
3 Restriction on promotion 8

PART 3 – TYPES OF SCHEME **9**

4 Provisions applicable to certain scheme types 9

PART 4 – MISCELLANEOUS REQUIREMENTS **10**

CHAPTER I 10

Managers and administrators ***10***

5 Matters with which managers and administrators must be satisfied 10
6 Matters to be notified to the Authority 10

CHAPTER II 11

Documents ***11***

7 Documents to be kept up to date 11
8 Avoidance of exclusion clauses 11

CHAPTER III 12

Accounts and audit ***12***

9 Accounts 12
10 Matters to be communicated to the Authority by auditors 12

PART 5 – OVERSIGHT AND INTERVENTION **12**

11 When Authority may exercise powers under this Part 12
11A Persons unfit to be members of governing body 13
11B Prohibitions 14
11C Prohibition procedure 15

UNOFFICIAL

11D Prohibitions: variation 16
11E List of prohibitions 16
11F Warning notices 16
12 Directions 18
13 Appointments 19
14 Notice of directions or appointment 20
15 Application to court 21
15A Winding up of incorporated schemes ..... **Error! Bookmark not defined.**
15B Payment of person appointed under section 13 or 15(1)(b)(ii) .... **Error! Bookmark not defined.**
16 Investigations 22
16A Contravention of statutory provisions ..... **Error! Bookmark not defined.**

PART 6 – SUPPLEMENTARY **24**

CHAPTER I 24

Offences and penalties ***24***

17 False and misleading statements 24
18 Offences and penalties 24
19 Offences by bodies corporate 25
~~19A Civil penalties~~ 25
19A Civil penalties 26

CHAPTER II 26

General ***29***

20 Guidance 29
21 Appeals against Authority decisions 31
22 Public registers 32
23 Financial provisions 33

CHAPTER III 33

Subordinate legislation etc ***33***

A24 Form and content of documents and information 33
24 Orders and regulations 33
25 Tynwald procedure 35

CHAPTER IV 35

Final provisions ***35***

26 Interpretation 35
27 Amendments 41
28 Repeals 41
29 Transitional and saving provisions 41
30 Short title and commencement 41

SCHEDULE 1 **43**

AUTHORISED SCHEMES 43

UNOFFICIAL

SCHEDULE 2 **48**
INTERNATIONAL SCHEMES 48

SCHEDULE 3 **52**
EXEMPT SCHEMES 52

SCHEDULE 4 **53**
RECOGNISED SCHEMES 53

SCHEDULE 5 **58**
SUBORDINATE LEGISLATION 58

SCHEDULE 6 **61**
AMENDMENT OF ENACTMENTS 61

SCHEDULE 7 **62**
REPEAL OF ENACTMENTS 62

SCHEDULE 8 **62**
TRANSITIONAL AND SAVING PROVISIONS 62

ENDNOTES **65**
TABLE OF LEGISLATION HISTORY 65
TABLE OF RENUMBERED PROVISIONS 65
TABLE OF ENDNOTE REFERENCES 65

UNOFFICIAL

Isle of Man

Ellan Vannin

COLLECTIVE INVESTMENT SCHEMES ACT 2008

Received Royal Assent: *17 June 2008*
Passed: *17 June 2008*
Commenced, — sections 1(5) and 24 on 19 June 2008
— other provisions *1 August 2008*

AN ACT to repeal and replace with modifications the Financial Supervision Act 1988; and for connected purposes.

PART 1 – MEANING

1 Meaning of collective investment scheme

[P2000/8/235]

(1) "**Collective investment scheme**" means arrangements with respect to property of any description, including money, the purpose or effect of which is to enable persons taking part in the arrangements (whether by becoming or being owners of the property or any part of it or otherwise) to participate in or receive profits or income arising from the acquisition, holding, management or disposal of the property or sums paid out of those profits or income.

(2) The arrangements must be such that the persons who participate ("participants") do not have day to day control over the management of the property, whether or not they have the right to be consulted or to give directions.

(3) The arrangements must also have either or both of the following characteristics —

(a) the contributions of the participants and the profits or income out of which payments are to be made to them are pooled;

(b) the property is managed as a whole by or on behalf of the governing body of the scheme.

(4) If arrangements provide for pooling in relation to separate parts of the property, the arrangements are not to be regarded as constituting a single

UNOFFICIAL

collective investment scheme unless the participants are entitled to exchange rights in one part for rights in another.

(5) The Authority may by order provide that arrangements do not amount to a collective investment scheme —

(a) in prescribed circumstances; or

(b) if the arrangements fall within a prescribed character of arrangement.[1]

(6) Where an open-ended investment company enters into liquidation, it shall be treated as remaining a collective investment scheme despite it no longer being open-ended in nature, for the purpose of the Authority exercising its inspection, investigation and enforcement powers in respect of it.

PART 2 – ESTABLISHMENT AND PROMOTION

2 Restriction on establishment

(1) A scheme must not be established in the Island unless it is —

(a) an authorised scheme;

(b) an international scheme;

(c) an exempt scheme; or

(d) a scheme which is exempted under this Act from the requirement to be an authorised scheme, an international scheme or an exempt scheme.

(2) Subsection (1) does not preclude authorised persons from carrying on, in or from the Island, the management or administration of schemes established outside the Island.

(3) For the purposes of this section, "established in the Island" includes —

(a) the establishment of a trust governed by the laws of the Island;

(b) the formation or incorporation of a body corporate under the laws of the Island;

(c) the formation of a partnership under the laws of the Island; and

(d) any other prescribed method of establishment.

3 Restriction on promotion

[1988/16/1]

(1) Subject to subsections (2) and (3) a person must not —

(a) issue or cause to be issued in the Island any advertisement inviting persons to become or offer to become participants in a scheme or containing information calculated to lead directly or indirectly to

UNOFFICIAL

persons becoming or offering to become participants in a scheme; or

(b) advise or procure any person in the Island to become or offer to become a participant in a scheme,

unless the scheme is an authorised scheme or a recognised scheme.

(2) Subsection (1) does not apply if the advertisement is issued to or the person mentioned in paragraph (b) of that subsection is —

(a) a licenceholder within the meaning of section 7 of the *Financial Services Act 2008* whose licence permits the licenceholder to advise or procure any person in the Island to become or offer to become a participant in a scheme of the same class as the scheme to which the advertisement refers or in respect of which the advice or procurement under subsection (1) is given;

(b) an authorised insurer within the meaning of section 8 of the *Insurance Act 2008*; or

(c) a person whose ordinary business involves the acquisition and disposal of property of the same kind as the property, or a substantial part of the property, to which the scheme relates.

(3) Regulations may exempt any scheme or class of scheme or any person or class of persons from the provisions of subsection (1).

(4) A person must not issue an advertisement in relation to a scheme which is false or misleading in a material particular.

(5) An advertisement or other information issued outside the Island in relation to a scheme is to be treated as issued in the Island if —

(a) it is directed to persons in the Island; or

(b) it is made available to them otherwise than in —

(i) a publication published and circulating principally outside the Island; or

(ii) a sound, television, world wide web or internet broadcast transmitted principally for reception outside the Island.

(6) In subsection (5)(b)(i), "published" includes published by any electronic means, including by way of email or on a website, webpage or internet site or page.

PART 3 – TYPES OF SCHEME

4 Provisions applicable to certain scheme types

(1) Schedule 1, which makes provision for authorised schemes, has effect.

UNOFFICIAL

(2) Schedule 2, which makes provision for international schemes, including full international schemes and other classes of international scheme, has effect.

(3) Schedule 3, which makes provision for exempt schemes, has effect.

(4) Schedule 4, which makes provision for recognised schemes, has effect.

PART 4 – MISCELLANEOUS REQUIREMENTS

CHAPTER I

Managers and administrators

5 Matters with which managers and administrators must be satisfied

A person must not act as manager or administrator of a scheme unless the person has taken reasonable steps to be satisfied that —

(a) the following persons are suitable to act in relation to the scheme in the manner envisaged —

(i) any promoter, governing body, manager, administrator, trustee, fiduciary custodian, custodian or asset manager of the scheme; and

(ii) any person proposing to carry out any of the roles mentioned in subparagraph (i); and

(b) where the scheme is constituted or established under the laws of a jurisdiction outside the Island, the jurisdiction under which it is constituted or established is a suitable jurisdiction in which to constitute or establish the scheme.

6 Matters to be notified to the Authority[2]

(1) The manager or administrator of a scheme who knows of, or has reasonable cause to believe, the occurrence of any matter which has, or is likely to have, a material adverse effect on a scheme must immediately notify the Authority in writing of the occurrence, stating the reasons for the knowledge or belief.[3]

(2) Without limiting subsection (1) but subject to subsection (3), notice must be given under subsection (1) if a scheme or any promoter, governing body, manager, administrator, trustee, fiduciary custodian, custodian or asset manager —

(a) is, or is likely to be, unable to perform its obligations as they fall due;

(b) is carrying on business otherwise than in accordance with —

(i) the documents constituting the scheme;

UNOFFICIAL

(ii) the offering document in respect of the scheme; or

(iii) this Act;

(c) is carrying on business in a manner that is, or is likely to be, prejudicial to participants.

(3) In the circumstances specified in subsection (2), notice need only be given under subsection (1) where the manager or administrator considers the occurrence of those circumstances to have, or be likely to have, a material adverse effect on the scheme.

(4) Without limiting subsection (1), matters having a material adverse effect include matters which —

(a) endanger the continued existence of the scheme; or

(b) reduce the protection of participants in the scheme.

(5) No duty of confidentiality is to be regarded as contravened by reason of the manager or administrator of a scheme communicating in good faith to the Authority, whether or not in response to a request made by the Authority, any information or opinion on a matter which the manager or administrator reasonably believes is relevant to any function of the Authority under this Act.[4]

CHAPTER II

Documents

7 Documents to be kept up to date

The governing body of every authorised scheme and every international scheme must ensure that —

(a) the offering document; and

(b) the documents constituting the scheme,

are kept up to date in respect of all material matters and are in compliance with the requirements of this Act.

8 Avoidance of exclusion clauses

[1988/16/9]

(1) Any provision of any document constituting an authorised scheme or an international scheme is void in so far as it purports to exempt the promoter, governing body, manager, administrator, trustee, fiduciary custodian or custodian from liability for any failure to exercise due care and diligence in the discharge of that person's functions in respect of the scheme.

UNOFFICIAL

(2) Regulations may extend or restrict the application of this section for a particular scheme or class of scheme or a particular person or class of persons.

CHAPTER III

Accounts and audit

9 Accounts

The governing body of a scheme must ensure that the accounts for that scheme are prepared and audited in compliance with regulations.

10 Matters to be communicated to the Authority by auditors[5]

(1) An auditor of an authorised scheme or an international scheme who becomes aware of any matter which the auditor has reasonable cause to believe may be of material significance in relation to the Authority's functions under this Act must communicate that matter to the Authority.[6]

(2) No duty of an auditor of any scheme (whether or not the scheme is an authorised or international scheme) is to be regarded as contravened by reason of the auditor communicating in good faith to the Authority, whether or not in response to a request made by the Authority, any information or opinion on a matter which the auditor reasonably believes is relevant to any function of the Authority under this Act.[7]

(3) This section only applies to matters of which an auditor becomes aware in that person's capacity as auditor and which relate to the business or affairs of the scheme.

PART 5 – OVERSIGHT AND INTERVENTION[8]

11 When Authority may exercise powers under this Part[9]

[1988/16/16(1)]

The Authority may exercise its powers under this Part if it appears to the Authority —

(a) that the exercise of a power under this Part is desirable in the interests of participants or potential participants in a scheme;

(b) that a scheme is or is likely to become unable to meet its obligations as they fall due;

(c) that the operation, management or administration of a scheme has not been conducted in a fit and proper manner;

UNOFFICIAL

(d) without limiting paragraph (a), that the governing body, manager, administrator, trustee, fiduciary custodian or custodian of a scheme —

(i) has contravened any provision of this Act or the *Financial Services Act 2008*;

(ii) in purported compliance with any such provision, has furnished the Authority with false, inaccurate or misleading information; or[10]

(iii) has contravened any condition, prohibition, direction or other requirement imposed under this Act or the *Financial Services Act 2008*; or

(e) that any of the requirements for —

(i) the making of an authorisation order under paragraph 2 of Schedule 1 or a recognition order under paragraph 2 of Schedule 4; or

(ii) the recognition of a scheme under paragraph 1 of Schedule 4,

are no longer satisfied.[11]

11A Persons unfit to be members of governing body

(1) ~~If, on reasonable grounds, it appears to the Authority that a person is not a fit and proper person to be a member of the governing body of a scheme the Authority may direct that such person must not, without the written consent of the Authority, be appointed a member of the governing body of a scheme.~~[12]

(1) If the persons constituting the governing body of a scheme do not satisfy the Authority that a person is a fit and proper person to be a member of the governing body of a scheme, the Authority may, on reasonable grounds, direct that such person must not, without the written consent of the Authority, be appointed as such a member.

(2) If, on reasonable grounds, it appears to the Authority that any person who is a member of the governing body of a scheme is not a fit and proper person to continue as such, the Authority may direct that such person must not, without the written consent of the Authority, continue as a member of the governing body of that scheme.[13]

(3) The Authority must give written notice to the person concerned of any decision to give a direction under this section together with a statement of the reasons for the decision.[14]

(4) Subject to subsection (5), if a notice has been given under subsection (3), the direction takes effect —

UNOFFICIAL

(a) if no appeal under section 21 is made within the period prescribed for the purposes of such an appeal, on the expiry of that period; or

(b) if there is an appeal under section 21 —

(i) where the appellant abandons the appeal, on the date of abandonment;

(ii) where the decision of the Authority is confirmed, on the date of confirmation; or[15]

(iii) where the decision of the Authority is varied, on such date as the Tribunal directs.[16]

(5) If the Authority is of the opinion that a direction should have immediate effect, the notice under subsection (3) must contain a statement to that effect together with the reasons for that opinion, and the direction has effect on the giving of the notice.[17]

(6) Any direction or consent by the Authority under subsection (1) or (2) may be, —

(a) given subject to conditions;

(b) varied from time to time; and

(c) revoked at any time,

and the Authority must give written notice to the person concerned of any decision to exercise the powers in this subsection.[18]

(7) A person must not be a member of the governing body of a scheme in contravention of a direction under this section.

(8) The persons constituting the governing body of a scheme must not —

(a) appoint a person in contravention of a direction under subsection (1); or

(b) continue the appointment of a person in contravention of a direction under subsection (2).[19]

11B Prohibitions

(1) The Authority may impose a prohibition if it appears to the Authority that an individual is not a fit and proper person to be a member of the governing body of a scheme.[20]

(2) Before imposing a prohibition, the Authority must give the individual whom it proposes to prohibit an opportunity to make representations in accordance with section 11C.[21]

(3) A prohibition may prevent an individual from being a member of the governing body of, —

(a) a scheme specified in the prohibition;

(b) a scheme of a description so specified; or

UNOFFICIAL

(c) any scheme.

(4) An individual commits an offence if he or she contravenes a prohibition.

(5) The appointment of an individual in contravention of a prohibition is invalid for all purposes.

(6) A prohibition operates subject to subsections (7) to (9).

(7) Notice of a prohibition must be served upon the individual prohibited, either personally or by registered post to the individual's last known address.

(8) Once it has been served a prohibition comes into operation on —

(a) the expiry of time for appealing against it under section 21; or

(b) if an appeal is brought within that time, on the determination or withdrawal of that appeal.

This subsection is subject to subsection (9).

(9) Section 11A(5) applies to a prohibition as it applies to a direction under that section.

(10) A notice of prohibition must —

(a) state the terms of the prohibition;

(b) state the reasons for imposing the prohibition; and

(c) give particulars of the right of appeal under section 21.[22]

11C Prohibition procedure

(1) If the Authority proposes to impose a prohibition under section 11B, it must give written notice to that effect (a "preliminary notice") [to][23] the individual whom it proposes to prohibit.[24]

(2) The preliminary notice must —

(a) state that the Authority proposes to impose a prohibition;[25]

(b) state the terms of the proposed prohibition;

(c) state the grounds for imposing the prohibition;

(d) state that within 28 days the individual proposed to be prohibited may make representations to the Authority in such manner as the Authority may specify in the preliminary notice; and[26]

(e) give particulars of the right of appeal under section 21 that would be exercisable if the Authority imposed the prohibition.[27]

(3) The Authority must have regard to any representations made in accordance with subsection (2)(d) before imposing a prohibition.[28] [29]

UNOFFICIAL

11D Prohibitions: variation

(1) On the application of a prohibited person, the Authority may revoke or vary the terms of a prohibition.[30]

(2) The Authority must give the prohibited person a statement of its reasons for any decision it makes on an application under subsection (1).[31] [32]

11E List of prohibitions

(1) The Authority must maintain and publish a list of prohibitions.[33]

(2) The list must specify the individual prohibited and the scheme, schemes, or class or classes of schemes in respect of which the prohibition applies.[34]

11F Warning notices

(1) The Authority may —

(a) before making a direction under section 11A(2);

(b) before imposing a prohibition under section 11B; or

(c) in any other circumstances that the Authority considers it appropriate to do so,[35]

give a written warning notice under this section to a person who is or who it is proposed should become a member of the governing body of a scheme.[36]

(2) A warning notice under this section is a notice that the Authority has grounds to believe that such activities or circumstances as are specified in the notice are prejudicial to the ~~relevant person's~~ notified person's fitness and propriety and must be accompanied by a statement of the reasons for giving the notice.[37]

(3) A warning notice may (but need not) —

(a) propose that the ~~relevant person~~ notified person take such action or to refrain from taking such action as is specified in the notice;

(b) request the ~~relevant person~~ notified person to propose action; or

(c) specify action that the ~~relevant person~~ notified person must take and the time within which it must be taken.

(4) If a warning notice has been given under this section, the Authority must, before making a direction under section 11A(2) or imposing a prohibition under section 11B(1), take into account any action taken by the ~~relevant person~~ notified person in response to the warning notice.[38]

(5) The giving of a warning notice under this section —

(a) does not limit the powers of the Authority under section 11A or 11B; and[39]

UNOFFICIAL

(b) is not required before the Authority may exercise those powers.[40]

(6) A warning notice issued under this section shall have effect —

(a) for a period of up to 3 years from the date on which it is issued under subsection (1) and such period shall be specified in the notice; or

(b) until such time as the Authority is content that any action under subsection (3) has been completed to its satisfaction.[41]

(7) The Authority may disclose the circumstances surrounding a warning notice issued under subsection (1), to, —

(a) an employer who currently employs a notified person;

~~(b) a person who has received an employment application from a notified person and who, if successful in the application, would be required to be a director, key person or controller of a permitted person,~~

(b) a person who has received an employment application from a notified person who, if successful in the application, would be required to be —

(i) a director, key person or controller of the holder of a licence issued under section 7 of the *Financial Services Act 2008*; or

(ii) an actuary to an insurer, or a director, company secretary, chief executive, controller, manager or key person of a person to whom Part 7 of the *Insurance Act 2008* applies;

(c) a company of which a notified person is, or is likely to become an officer; or

(d) a scheme of the governing body of which the notified person is or may become a member~~,~~.

~~provided that the warning notice is effective in accordance with subsection (6).~~[42]

~~(8) In subsection (7) —~~

~~"notified person" means a person to whom a notice under subsection (1) has been given that is still effective under subsection (6); and~~

~~"officer" means an officer of a company for the purposes of the *Company Officers (Disqualification) Act 2009* (see section 1(2) of that Act).~~[43]

(8) In subsection (7) —

(a) **"notified person"** means a person to whom a notice under subsection (1) has been given that is still effective under subsection (6);

(b) **"officer"** means an officer of a company for the purposes of the *Company Officers (Disqualification) Act 2009* (see section 1(2) of that Act);

UNOFFICIAL

(c) **"director", "key person"** and **"controller"** referred to in paragraph (b)(i) have the meanings given in the *Financial Services Act 2008*;

(d) **"actuary to an insurer", "director", "chief executive", "controller", "key person"** and **"manager"** referred to in paragraph (b)(ii) have the meanings given in the *Insurance Act 2008*; and

(e) **"employment application"** in paragraph (b) includes any action which would result in the person, if successful, acting in a capacity mentioned in that paragraph.

12 Directions

[1988/16/ 16(1)]

(1) In the circumstances mentioned in section 11 the Authority may make a direction —

(a) requiring the governing body, manager or administrator of the scheme to cease the issue or redemption, or both, of units under the scheme on a date specified in the direction until a further date specified in that or another direction;

(b) requiring the governing body of the scheme to instruct the auditor of the scheme to audit the accounts of the scheme and to submit them to the Authority within such time as the Authority specifies;[44]

(c) requiring the governing body, trustee or fiduciary custodian of the scheme to wind it up by the date specified in the direction or, if no date is specified, as soon as is practicable;

(d) requiring any other action, or requiring that a governing body of a scheme refrain from taking such action, which the Authority believes is necessary to protect the participants or potential participants in the scheme.[45] [46]

(2) The operation of a direction under subsection (1) which is already in force is not affected by —

(a) the revocation of —

(i) an authorisation order under paragraph 4 of Schedule 1; or

(ii) a recognition order under paragraph 4 of Schedule 4; or

(b) a direction under paragraph 4 of Schedule 4 that a scheme is to cease to be recognised under paragraph 1 of Schedule 4.

(3) A direction under subsection (1) may be given in relation to a scheme in respect of which —

(a) an authorisation order or a recognition order has been revoked; or

(b) a direction has been made that a scheme is to cease to be recognised under paragraph 1 of Schedule 4,

UNOFFICIAL

if an earlier direction in relation to the scheme under subsection (1) is already in force at the time of revocation or direction (as the case may be).

(4) For the purposes of section 11(a), the Authority may take into account any matter relating to —

(a) the scheme;

(b) the governing body, manager, administrator, trustee, fiduciary custodian or custodian of the scheme;

(c) a director or controller of the governing body, manager, administrator, trustee, fiduciary custodian or custodian; or

(d) any person employed by or associated with the governing body, manager, administrator, trustee, fiduciary custodian or custodian in connection with the scheme.[47]

(5) The Authority may —

(a) of its own motion; or

(b) on the application of the governing body, manager, administrator, trustee, fiduciary custodian or custodian of the scheme,

withdraw or vary a direction given under this section if it appears to the Authority that it is no longer necessary for the direction to continue in force or that it should continue in force in a different form.[48]

13 Appointments

(1) In the circumstances mentioned in section 11 the Authority may appoint —

(a) a person to advise the scheme on the proper conduct of its affairs;

(b) a person to assume control of the affairs of the scheme.[49]

(2) A person appointed under subsection (1) has all the powers necessary, to the exclusion of the governing body, manager or administrator, to advise or to operate, manage and administer (as the case may be) the affairs of the scheme in the best interests of the participants and potential participants.

(3) The powers referred to in subsection (2) include the power to terminate the business of the scheme.

(4) A person appointed under subsection (1) must —

(a) when requested by the Authority, supply to the Authority such information as is specified in the request;[50]

(b) within 3 months of appointment, or such other period as the Authority specifies, prepare and supply to the Authority a report on the affairs of the scheme making, where appropriate, recommendations in respect of the scheme; and[51]

UNOFFICIAL

(c) if the appointment is not terminated after supplying the report referred to in paragraph (b), subsequently supply to the Authority such other information, reports and recommendations as the Authority specifies.[52]

(5) A person appointed under subsection (1) is appointed at the expense of the relevant scheme, and any expenses incurred by the Authority in respect of the appointment are recoverable from the scheme as a debt due to the Authority.[53]

(6) On receipt of any information or report under subsection (4) the Authority may —

(a) require the scheme to reorganise its affairs in a manner specified by the Authority;[54]

(b) if the scheme is a unit trust scheme established under and governed by the laws of the Island, apply to court for an order directing the trustee to wind up the scheme;

(c) if the scheme is an open-ended investment company formed or incorporated under the laws of the Island, apply to court for an order that the company be wound up in accordance with the relevant statutory provisions applying to that company;

(d) if the scheme is a partnership governed by the laws of the Island, apply to court for an order to dissolve the partnership,

and may take such action in respect of the appointment or continued appointment of the person appointed under subsection (1) as it considers appropriate.[55]

(7) Where it considers it necessary or appropriate, and if it is practical to do so, the Authority may inform the participants of the scheme of any action it is taking or intending to take under this section.[56]

(8) The Authority may —

(a) of its own motion; or

(b) on the application of the governing body, manager, administrator, trustee, fiduciary custodian or custodian of the scheme,

terminate an appointment made under this section if it appears to the Authority that the appointment is no longer necessary.[57]

14 Notice of directions or appointment

[1988/16/17]

(1) To exercise a power to give a direction under section 12 or to make an appointment under section 13, the Authority must give written notice to —

(a) any person comprising the scheme's governing body who is resident on the Island; or

UNOFFICIAL

(b) the manager or administrator of the scheme.[58]

(2) Subsection (1) is subject to subsection (5).

(3) Where application is made under section 12(5)(b) or 13(8)(b), if the Authority refuses to withdraw or vary a direction or to terminate an appointment, it must give written notice of refusal to each applicant.[59]

(4) A notice —

(a) giving a direction or making an appointment;

(b) withdrawing or varying a direction otherwise than on application under section 12(5)(b);

(c) terminating an appointment otherwise than on application under section 13(8)(b);

(d) refusing to withdraw or vary a direction or to terminate an appointment on an application under section 12(5)(b) or 13(8)(b),

must state the reasons for which the direction was given, withdrawn or varied or the appointment was made or terminated or why the application was refused (as the case may be).

(5) The power to give a direction under section 12 or to make an appointment under section 13 may be exercised prior to giving written notice under subsection (1) if the Authority considers that it would be seriously prejudicial to the interests of the participants in the scheme if the power is not exercised until written notice is given.[60]

(6) The Authority may publish notice of any direction, appointment, withdrawal, variation, termination or refusal mentioned in this section in one or more newspapers published and circulating in the Island and in any other manner which appears to it to be necessary for informing the public.[61]

(7) A notice under subsection (6) may, if the Authority thinks fit, state the reasons for which the direction was given, withdrawn or varied or the appointment was made or terminated or why the application was refused (as the case may be).[62]

15 Application to court

[1988/16/18]

(1) In circumstances where the Authority has power to give a direction under section 12 or to make an appointment under section 13, it may apply to court —

(a) for an order —

(i) removing any governing body, manager, administrator, trustee, fiduciary custodian or custodian of the scheme; and

UNOFFICIAL

(ii) replacing the person or persons removed with a person or persons nominated by the Authority and whose appointment does not infringe any other provision of this Act; or[63]

(b) if it appears to the Authority that no, or no suitable, person satisfying the requirements of paragraph (a)(ii) is available, for an order —

(i) removing any governing body, manager, administrator, trustee, fiduciary custodian or custodian; and

(ii) appointing a liquidator to wind up the scheme.[64] [65]

(2) On an application under subsection (1) the court may make such order as it thinks fit.

(3) The court may, on the application of the Authority, rescind an order referred to in subsection (1)(b) and substitute an order referred to in subsection (1)(a).[66]

(4) The Authority must give written notice of the making of an application under this section to the governing body, manager, administrator, trustee, fiduciary custodian and custodian of the scheme concerned and take such steps as it considers appropriate for bringing the making of the application to the attention of participants.[67]

(5) Paragraph 3(2) of Schedule 1 does not apply where a liquidator is appointed by an order made on application under subsection (1)(b).

15A Winding up of incorporated schemes

Where the Authority applies to court, under the provisions of this Act for an order to wind up a scheme that is a company —

(a) the application is to be treated as if it were an application by the Authority under section 164(1)(d) (provisions as to applications for winding up) of the Companies Act 1931; and

(b) if it appears to the Authority that any of the circumstances in section 11 exist in relation to the scheme, for the purposes of 164(1)(d) (provisions as to applications for winding up) of the *Companies Act 1931*, the Authority shall be treated as being satisfied that it is expedient in the public interest that the company should be wound up.

16 Investigations

[1988/16/19]

(1) The court may, on the application of the Authority, appoint one or more competent inspectors to investigate and report, in such manner as the court directs, on the affairs of —

UNOFFICIAL

(a) a scheme;

(b) the governing body, manager, administrator, trustee, fiduciary custodian or custodian of a scheme,

if the court is satisfied that it is in the interests of participants to do so or that the matter is of public concern.[68]

(2) Sections 134 and 135 of the *Companies Act 1931* (powers of inspectors and proceedings on report by inspectors) apply in relation to an inspector appointed under this section as they apply in relation to an inspector appointed under section 134 of that Act, but with the modifications specified in subsection (3).

(3) In the provisions applied by subsection (2) —

(a) a reference to a company or its affairs is to be construed as a reference to the scheme under investigation and the affairs mentioned in subsection (1); and

(b) a reference to a director or officer of the company includes a reference to any director or officer of the governing body, manager, administrator, trustee, fiduciary custodian or custodian of the scheme.

(4) An inspector appointed under this section may, and if so directed by the court must, make interim reports to the court and, on the conclusion of the investigation, a final report to the court.

(5) A report under subsection (4) must be in the form which the court directs.

(6) The court must provide a copy of the report to the Authority.[69]

(7) The court may, if it thinks fit —

(a) on request and on payment of the prescribed fee, provide a copy of the report to —

(i) the governing body, manager, administrator, trustee, fiduciary custodian or custodian of the scheme under investigation;

(ii) any participant of the scheme;

(iii) any other person whose conduct is referred to in the report;

(b) cause the report to be published.

UNOFFICIAL

PART 6 – SUPPLEMENTARY

CHAPTER I

Offences and penalties

17 False and misleading statements

[1988/16/25]

A person commits an offence if that person —

(a) furnishes or sends to the Authority for any purpose under this Act a document which the person knows to be false or misleading in a material particular; or[70]

(b) recklessly furnishes or sends to the Authority for any purpose under this Act a document which is false or misleading in a material particular; or[71]

(c) in furnishing information to the Authority for a purpose under this Act —

(i) makes a statement which the person knows to be false or misleading in a material particular; or

(ii) recklessly makes a statement which is false or misleading in a material particular.[72]

18 Offences and penalties

[1988/16/26(1) and (2)]

(1) A person commits an offence if that person contravenes —

(a) a provision of this Act;

(b) a provision of an order or regulations made under this Act if contravention of that provision is expressed to be an offence in the order or regulations.

(2) A governing body, manager, trustee or fiduciary custodian who contravenes a condition imposed under paragraph 2(2)(b) of Schedule 1 commits an offence.

(3) Sections 20 (injunctions etc) and 26 (actions for damages) (with the exception of subsection (2)) of the *Financial Services Act 2008* apply in respect of a contravention referred to in this section as they apply in respect of a contravention referred to in those sections.

(4) A person who commits an offence under this Act or any public document made under this Act is liable —

(a) on summary conviction to a fine not exceeding £5,000 or to custody for a term not exceeding 6 months, or to both;

UNOFFICIAL

(b) on conviction on information, to a fine or to custody for a term not exceeding 2 years, or to both.

(5) A person is not to be prosecuted for an offence under this Act without the consent of the Attorney General.

(6) In proceedings brought against a person for an offence under this Act it is a defence to prove that all reasonable precautions were taken and all due diligence was exercised to avoid the commission of the offence.

19 Offences by bodies corporate

[1988/16/26(3)]

(1) Subsections (2) to (4) apply where an offence under this Act is committed by a body corporate and it is proved that the offence —

(a) was committed with the consent or connivance of an officer of the body; or

(b) was attributable to neglect on the part of an officer of the body.

(2) The officer, as well as the body, commits the offence.

(3) Where an individual is convicted of an offence under this Act by virtue of subsection (2), that individual is liable to the same penalty as the body.

(4) In this section "officer" includes —

(a) a director or secretary;

(b) a person purporting to act as a director or secretary;

(c) if the affairs of the body are managed by its members, a member;

(d) in relation to a limited liability company constituted under the *Limited Liability Companies Act 1996*, a member, the company's manager and its registered agent.

~~19A Civil penalties~~

~~(1) If the Authority is satisfied that a relevant person —~~

~~(a) has contravened any provision of this Act;~~

~~(b) has contravened any prohibition or requirement imposed under this Act; or~~

~~(c) in purported compliance with any such requirement, has furnished the Authority with false, inaccurate or misleading information,~~[73]

~~it may require the relevant person to pay a penalty in respect of the contravention.~~[74]

~~(2) The Authority must give written notice to the relevant person concerned of any decision under subsection (1), together with a statement of the reasons for the decision.~~[75]

~~(3) The Authority may not in respect of any such contravention —~~

UNOFFICIAL

~~(a) both require a person to pay a penalty under this section and revoke a licence issued under section 7 of the *Financial Services Act 2008* to carry on a regulated activity; or~~

~~(b) require a person to pay a penalty under this section if criminal proceedings have been commenced in respect of the contravention.~~[76]

~~(4) When setting the amount of a financial penalty, the Authority must have regard to regulations under subsection (5).~~[77]

~~(5) The Authority must make such regulations as are necessary to give effect to this section with respect to —~~

~~(a) the imposition of financial penalties under it; and~~

~~(b) the amount of those penalties.~~[78]

~~(6) Any amount received as a penalty under this section is to be paid into and form part of the General Revenue of the Island.~~

~~(7) In relation to a scheme, for the purposes of this section each of the following is a relevant person —~~

~~(a) the administrator;~~

~~(b) the asset manager;~~

~~(c) the custodian;~~

~~(d) a fiduciary custodian of the scheme's property;~~

~~(e) the investment adviser;~~

~~(f) the manager;~~

~~(g) the promoter;~~

~~(h) a trustee of the property of a unit trust scheme; and~~

~~(i) a person of a description prescribed by regulations.~~[79]

19A Civil penalties

(1) In this section –

(a) a contravention of this Act includes the contravention of any prohibition or requirement imposed under this Act and the furnishing to the Authority of false, inaccurate or misleading information;

(b) in relation to a scheme, each of the following is a "relevant person" —

(i) the administrator;

(ii) the asset manager;

(iii) the custodian;

(iv) a fiduciary custodian of the scheme's property;

UNOFFICIAL

(v) the investment adviser;

(vi) the manager;

(vii) the promoter;

(viii) a trustee of the property of a unit trust scheme; and

(ix) a person of a description prescribed by regulations;

(c) a "specified role-holder" means a member of the governing body of a scheme; and

(d) a "relevant person" and a "specified role-holder" include a person who has ceased to be such a person, if the contravention was committed or caused by, consented to or connived in, or was attributable to that person's neglect at a time when the person was such a person.

(2) The Authority may impose on a relevant person a civil penalty if the Authority is satisfied that the relevant person has contravened or caused the contravention of any provision of this Act.

(3) The Authority may impose a civil penalty on a person who has acted in contravention of section 2 (restriction on establishment) or 3 (restriction on promotion), or caused a person to act in contravention of either of those sections.

(4) The Authority may impose on a specified role-holder a civil penalty, whether or not the Authority has imposed a civil penalty on any other person, if the Authority is satisfied that —

(a) a relevant person has committed or caused the contravention to a significant and material extent; and

(b) the contravention was committed or caused by or with the consent or connivance of, or was attributable to the neglect of, the specified role-holder.

(5) Where the Authority decides to impose a civil penalty under this section, it must give the person concerned written notice stating –

(a) the decision and the reasons for it;

(b) the amount of the civil penalty; and

(c) such other information as may be specified in regulations made under subsection (12).

(6) If the person does not appeal the decision of the Authority, the civil penalty must be paid in accordance with regulations under subsection (12).

(7) If the person appeals the decision of the Authority and, on the determination of the appeal any amount of the civil penalty remains payable, the civil penalty must be paid within such period as may be specified in regulations under subsection (12) following the determination of the appeal.

UNOFFICIAL

(8) A person on whom the Authority has imposed a civil penalty under this section commits an offence if the person fails to pay it before the end of the period specified by the Authority in regulations under subsection (12).

(9) The Authority –

(a) may impose a civil penalty under this section for a contravention of this Act whether the contravention is an offence or not; but

(b) if the contravention is an offence, a civil penalty imposed by the Authority must be an alternative to prosecution and have the effect, upon payment of it by a person of conferring on that person, immunity from prosecution for the offence.

(10) The Authority may not in respect of any contravention referred to in subsection (2), (3) or (4) —

(a) both require a person to pay a civil penalty under this section and revoke that person's licence issued under section 7 of the *Financial Services Act 2008* to carry on a regulated activity; or

(b) require a person to pay a civil penalty under this section if criminal proceedings have been commenced under this Act against that person in respect of the contravention.

(11) Despite subsection (10), the Authority may revoke an authorisation order or a recognition order under paragraph 4 of Schedule 1 if the person has failed to pay a civil penalty within the period specified in the regulations made under subsection (12).

(12) The Authority must make regulations about civil penalties, which may include (but are not limited to) provision for —

(a) the maximum amount of civil penalty which the Authority may impose on a person under subsections (2), (3) or (4);

(b) the amount or method of calculation of the civil penalty it may impose in respect of a matter mentioned in subsections (2), (3) or (4);

(c) any contravention under this Act in respect of which the power of the Authority to require payment of a civil penalty applies;

(d) the matters to which the Authority must have regard when considering whether or not to impose a civil penalty;

(e) the processes the Authority must follow when exercising the power to impose a civil penalty;

(f) additional circumstances in which a civil penalty may be imposed in lieu of criminal proceedings under this Act; and

(g) the exercise of discretion by the Authority as to –

(i) the amount of civil penalty that may be imposed;

(ii) the payment method; or

(iii) the period within which the civil penalty must be paid.

UNOFFICIAL

Tynwald procedure – approval required.

(13) Before making regulations under this section, the Authority must consult —

(a) the Treasury;

(b) such persons or bodies as appear to be representative of interests likely to be affected; and

(c) such other persons or bodies as the Authority may determine.

(14) The Authority may not impose a civil penalty under this section in respect of a contravention that occurred before the commencement of section 11 of the *Financial Services (Miscellaneous Provisions) Act 2026*, except that if the contravention was continuing at the time of the commencement of that section, a civil penalty may be imposed in respect of such part of the contravention as continued after the commencement.

(15) The Authority must not impose a civil penalty on a person more than 6 years after the contravention came to the attention of the Authority.

(16) Any amount received as a civil penalty –

(a) may be enforced as if it were a debt owed by the person on whom it was imposed to the Authority; and

(b) shall be paid into and form part of the General Revenue of the Island.

(17) The Authority may publish information, in such form and manner as it considers appropriate, with respect to any civil penalties it has imposed.

(18) The Authority may publish guidance setting out the criteria that it will normally apply when exercising its powers under this section.

(19) The guidance under subsection (18) shall be laid before Tynwald and be published in such form and in such manner as the Authority may decide.

(20) Before publishing guidance under subsection (18), the Authority must consult such persons as it considers appropriate.

CHAPTER II

General

20 Guidance

(1) The Authority may give guidance consisting of information and advice which it considers appropriate in connection with —

(a) the operation of this Act;

(b) matters relating to the Authority's functions under this Act;[80]

(c) matters about which it considers desirable to give information or advice.[81]

UNOFFICIAL

(2) The Authority may —

(a) publish its guidance; and

(b) offer copies of its published guidance for sale at a reasonable price.[82]

20A Public statements

(1) The Authority may issue a public statement concerning a person if the Authority has reasonable grounds to believe that the person is contravening, or has contravened —

(a) any provision of, or made under, this Act; or

(b) any condition, requirement or prohibition imposed, or any direction given, under or by virtue of this Act.

(2) If the Authority has made, varied or revoked a direction under section 11A(1) or (2) or a prohibition under section 11B, the Authority may issue a public statement containing —

(a) such information about the person subject to the direction or prohibition as it believes appropriate in the circumstances; and

(b) such other information as it believes desirable in the public interest about the reasons for —

(i) giving the direction or imposing the prohibition; or

(ii) varying or revoking the direction or prohibition.

(3) The Authority may issue a public statement if it considers it to be desirable in the public interest to do so, concerning any matter or persons relating to any of its functions under this Act.

(4) Before issuing a public statement under this section, the Authority —

(a) where the statement is in respect of an authorised person, shall send a copy of the proposed statement to the person concerned at the address stated in the register kept under section 35 of the *Financial Services Act 2008*; or

(b) where the statement is in respect of any other person, shall send a copy of the proposed statement to the person concerned, at the last known address of that person,

together with a written notice of the reasons for the issue of the statement.[83]

(5) Except where the Authority is of the opinion that immediate action is necessary, the copy and notice under subsection (4) shall be sent not less than 7 days before issuing the public statement under this section.

(6) The Authority shall not issue a public statement under this section in respect of a direction under section 11A(1) or (2) or a prohibition under

UNOFFICIAL

section 11B before the date on which the direction or prohibition takes effect.

21 Appeals against Authority decisions[84]

[1988/16/5A]

(1) [Repealed][85]

(2) [Repealed][86]

(3) A person aggrieved may appeal to the Financial Services Tribunal, in accordance with rules made under section 8 of the *Tribunals Act 2006*, against any of the decisions specified in column 1 of the Table below under the provisions specified in column 2.[87]

Decision	Provision
Direction that person must not be appointed or continue a member of a governing body	Section 11A(1) or (2)
Refusal to grant consent that a person be a member of governing body of scheme	Section 11A(2)
Refusal to revoke, or to vary, a direction	Section 11A(6)
Imposition of a prohibition	Section 11B(1)
Refusal to revoke or vary a prohibition	Section 11D(1)
Variation of a prohibition in terms other than those sought by the applicant	Section 11D(1)
Giving a warning notice	Section 11F(1)
Making a direction	Section 12(1)
Withdrawal of, variation of, or refusal to withdraw or vary. a direction	Section 12(5)
Appointing a person to advise, or assume control of the affairs of, the scheme	Section 13(1)
Terminating, or refusing to terminate an appointment referred to in the preceding entry on an application	Section 13(8)
Imposing a civil penalty	Section 19A
Refusing to make an authorisation order	Paragraph 2(1) of Schedule 1
Making an authorisation order subject to conditions	Paragraph 2(2)(b) of Schedule 1
Refusing to approve alterations to a scheme or a change in the governing body(or a person comprising the governing body) or in the manager, trustee or fiduciary custodian of the scheme	Paragraph 3(4) of Schedule 1
Revoking an authorisation order	Paragraph 4(1) of Schedule 1
Refusing to revoke an authorisation order	Paragraph 4(4) of Schedule 1
Refusing to agree a manager engaging in other activities	Paragraph 5(2) of Schedule 1
Refusing to approve a proposal	Paragraph 2(13) of Schedule 2

UNOFFICIAL

Refusing to approve alterations to a scheme or a change in the governing body (or any person comprising the governing body) or in the manager, trustee or fiduciary custodian of the scheme	Paragraph 3(3) of Schedule 2
Refusing to recognise a scheme	Paragraph 1(4) of Schedule 4
Refusing to make a recognition order	Paragraph 2(1) of Schedule 4
Refusing to approve alterations to a scheme or a change in the governing body (or any person comprising the governing body) or in the manager, trustee or fiduciary custodian of the scheme	Paragraph 3(2) of Schedule 4
Direction that a scheme cease to be recognised	Paragraph 4(1) of Schedule 4
Revocation of a recognition order	Paragraph 4(1) of Schedule 4
Refusal to direct that a scheme cease to be recognised or to revoke a recognition order	Paragraph 4(4) of Schedule 4.[88]

(4) On the determination of an appeal under this section the Tribunal must confirm, vary or revoke the decision in question.

(5) The variation or revocation of a decision does not affect the previous operation of that decision or anything duly done or suffered under it.

(6) Without prejudice to section 32(7) of the *Financial Services Act 2008*, a decision of the Tribunal on an appeal under this section is binding on the Authority and the applicant.[89]

(7) [Repealed][90]

22 Public registers

[1988/16/24A]

(1) The Authority must keep ~~at its principal office~~ registers of authorised schemes, international schemes and recognised schemes containing particulars and information as are prescribed by regulations made under section 24.[91]

(2) ~~Any person is entitled to inspect the registers during ordinary office hours.~~

(2) The registers to be kept under this section must be available for public inspection at such times, in such manner and by such means as may be prescribed by regulations under section 24.

UNOFFICIAL

23 Financial provisions

[1988/16/29]

(1) Unless otherwise recoverable, expenses incurred under this Act by the Authority or a person appointed under section 16 are to be defrayed out of money provided by Tynwald.[92]

(1A) The Authority may by order prescribe in connection with the discharge of any of its functions under this Act such amount as the Authority considers is reasonable to cover the cost of discharging the function (including a reasonable proportion of the Authority's administrative and overhead expenses).

(2) Fees received under this Act form part of the General Revenue of the Island.

CHAPTER III

Subordinate legislation etc[93]

A24 Form and content of documents and information

(1) The Authority may determine —

(a) the form and content of any document or information to be delivered to the Authority; and[94]

(b) the manner in which documents and information are to be delivered.[95]

(2) The Authority must take such steps as appear to it to be reasonable to draw determinations under this section to the attention of those likely to be affected by them.[96]

(3) The power in subsection (1) is not limited by any other provision of this Act under which the Authority may prescribe —

(a) the form or content of a document or of any information, or

(b) the manner in which it is to be delivered.[97] [98]

24 Orders and regulations

[1988/16/27]

(1) The Authority may make orders and regulations —

(a) in accordance with the provisions of this Act; or

(b) as are necessary to give effect to this Act.[99]

(2) Orders or regulations may include any of the provisions mentioned in Schedule 5.

(3) Schedule 5 does not affect the generality of subsection (1).

UNOFFICIAL

(4) Orders and regulations may provide for their contravention to be an offence.

(5) Orders and regulations may exempt any scheme or class of scheme or any person or class of persons from any of the provisions of this Act.

(6) Without limiting Part 5 of the *Interpretation Act 2015* (functions and powers), orders and regulations may provide for —

(a) the circumstances under which the exemption operates;

(b) the conditions subject to which the exemption shall operate;

(c) the circumstances in which the Authority may withdraw the exemption from a scheme or person.[100] [101]

(7) The Authority may, on the application or with the consent of any person to whom an order or regulation applies, direct that the order or regulation —

(a) does not apply to that person in respect of a particular scheme; or

(b) applies to that person in respect of that scheme but with such modifications as are specified in the direction.[102]

(8) The Authority may, on the application or with the consent of the manager and trustee or manager and fiduciary custodian (as the case may be) of a particular scheme acting jointly, direct that the order or regulation —

(a) does not apply to that scheme; or

(b) applies to that scheme but with such modifications as are specified in the direction.[103]

(9) Orders and regulations may make provision under which compliance with or contravention of any specified requirements imposed under the law of a country prescribed for this purpose is treated as compliance with or contravention of any specified requirement of this Act.

(10) Orders and regulations are binding on the governing body, manager, administrator, trustee, fiduciary custodian and custodian of a scheme independently of the contents of the documents to which they relate.

(11) If orders or regulations conflict with any rule of law (whether at common law or contained in any enactment) relating to —

(a) the constitution, powers and management of bodies corporate;

(b) the powers and duties of the directors of bodies corporate;

(c) the rights and obligations of members of bodies corporate,

the order or regulations (as the case may be) prevail.

(12) Orders and regulations may contain such supplementary and transitional provisions as the Authority considers necessary or expedient.[104]

(13) Before making an order or regulations under this Act, the Authority must consult —

UNOFFICIAL

(a) the Treasury;

(b) such persons or bodies as appear to be representative of interests likely to be affected; and

(c) such other persons or bodies as the Authority determines.[105] [106]

25 Tynwald procedure

(1) Subject to subsection (2), orders and regulations made under this Act ~~must be laid before Tynwald as soon as practicable after they are made and if Tynwald, at the sitting at which they are laid or at the next following sitting, fails to approve them they cease to have effect.~~ are subject to the Tynwald procedure described in section 31 of the *Legislation Act 2015* (Tynwald procedure – affirmative).

(2) Subsection (1) does not apply to —

(a) court orders; or

(b) orders made under —

(i) section 30(2);

(ii) paragraphs 2(1) or 4(1) of Schedule 1; or

(iii) paragraphs 2(1) or 4(1)(b) of Schedule 4.

CHAPTER IV

Final provisions

26 Interpretation

[1988/16/31]

(1) In this Act —

"**administration**", in relation to a scheme, includes the following functions (insofar as they are relevant) —

(a) accounting services;

(b) handling of administrative enquiries from participants;

(c) valuation of assets and pricing of units;

(d) maintenance of the register of participants;

(e) distribution of income;

(f) issues, transfers and redemptions of units; and

(g) record keeping;

"**administrator**" means a person appointed by the governing body of a scheme who is responsible for the conduct of the administration of the scheme;

"**advertisement**" includes every form of advertising and includes advertising —

(a) in any form of publication;

UNOFFICIAL

(b) by the display of notices;

(c) by means of circulars or other documents;

(d) by means of business cards;

(e) by an exhibition of photographs or cinematograph films;

(f) by means of broadcasting sounds or pictures (including transmission by cable), electronic communications or any electronic media (including by way of email or on a website, webpage or internet site or page);[107]

"**advocate**" includes a person who is registered under the *Legal Practitioners Registration Act 1986*;

"**asset manager**" means a person appointed by the governing body of a scheme who is responsible for investment management in accordance with the investment objectives and policy of the scheme;

~~"**associate**" means —~~

~~(a) in relation to an individual —~~

~~(i) the father, mother, wife, husband, son, stepson, daughter, stepdaughter, brother or sister of the individual;~~

~~(ii) a body corporate of which that individual is a director; and~~

~~(iii) a partner or employee of that individual;~~

~~(b) in relation to a body corporate —~~

~~(i) a subsidiary of that body corporate; and~~

~~(ii) an employee of any such subsidiary;~~

"**associate**" means —

(a) in relation to any individual —

(i) the parent, spouse, civil partner, child, stepchild or sibling of the individual;

(ii) any body corporate of which that individual is a director;

(iii) a partner or employee of that individual;

(b) in relation to a body corporate —

(i) any director or employee of that body;

(ii) any subsidiary of that body;

(iii) any holding company of that body;

(iv) any subsidiary of that holding company;

(v) any director of any such holding company or subsidiary;

(c) in relation to an individual or a body corporate, any person with whom the individual or body corporate has an agreement, arrangement or other obligation —

UNOFFICIAL

(i) in respect of the acquisition, holding or disposal of shares or other interests in a body corporate; or

(ii) to act together in exercising voting power with respect to such a body corporate;

"**authorisation order**" means an order made by the Authority under paragraph 2(1) of Schedule 1 declaring a scheme to be an authorised scheme;[108]

"**authorised person**" means a person who is licensed under section 7 of the *Financial Services Act 2008* to carry out the activity to be carried out by that person under the respective provision of this Act where the expression is used;

"**authorised scheme**" means a scheme authorised under paragraph 2 of Schedule 1;

"**Authority**" means the Isle of Man Financial Services Authority (as established by article 4 of the Transfer of Functions (Isle of Man Financial Services Authority) Order 2015);[109]

"**body corporate**" includes a body corporate constituted under the law of a country or territory outside the Island;

"**collective investment scheme**" has the meaning given in section 1 and "**scheme**" is to be construed accordingly;

"**Commission**" [Repealed][110]

"**condition**" includes limitation;

"**controller**", in relation to a person ("P") which is a body corporate, means —

(a) a managing director of a body corporate of which the ~~person~~ P is a subsidiary;

(b) a chief executive of a body corporate of which the ~~person~~ P is a subsidiary;

~~(c) an individual in accordance with whose directions or instructions one or more of the directors of a body corporate of which the person is a subsidiary are accustomed to act unless the director or directors are accustomed so to act by reason only that they do so on advice given by that individual in a professional capacity;~~

~~(d) an individual who either alone or with any associate or associates is entitled to exercise or control the exercise of 15 per cent or more of the voting power at any general meeting of the person or of another body corporate of which the person is a subsidiary;~~

(c) a person in accordance with whose directions or instructions one or more of the directors of a body corporate of which P is a subsidiary are accustomed to act unless the director or directors are accustomed so to act by reason only that they do so on advice given by that person in a professional capacity;

UNOFFICIAL

(d) a person who either alone or with any associate or associates is entitled to exercise or control the exercise of 15 per cent or more of the voting power at any general meeting of P or of another body corporate of which it is a subsidiary;

(e) a person who either alone or with any associate or associates is able to exercise a significant influence over the management of P or of another body corporate of which P is a subsidiary by virtue of —

(i) a holding of shares in P; or

(ii) an entitlement to exercise, or control the exercise of, the voting power of P; or

(f) a person who has the power to appoint directors to the board or other executive committees of P and to remove them;

"**court**" means the High Court of Justice of the Isle of Man;

"**custodian**" means a person appointed by the governing body of a scheme who —

(a) is entrusted with the custody of, or procuring safe custody of, the property of the scheme; or

(b) where prescribed in relation to a scheme or class of schemes, provides prime brokerage services in relation to the scheme;

~~"**director**" includes —~~

~~(a) any person occupying the position of director by whatever name called;~~

~~(b) any person in accordance with whose directions or instructions one or more of the appointed directors are accustomed to act unless the appointed director or directors are accustomed so to act by reason only that they do so on advice given by that person in a professional capacity; and~~

~~(c) in respect of any other body corporate such persons as occupy a position equivalent to that of director;~~

"**director**" includes —

(a) any person occupying the position of director by whatever name called;

(b) any person in accordance with whose directions or instructions one or more of the appointed directors are accustomed to act unless the appointed director or directors are accustomed so to act by reason only that they do so on advice given by that person in a professional capacity;

(c) in relation to a limited liability company constituted under the *Limited Liability Companies Act 1996*, the company's manager, if the management of the limited liability company has been conferred on a manager, or the company's members, if the management has not been so conferred;

UNOFFICIAL

(d) in respect of any other body corporate such persons as occupy a position equivalent to that of director; and

(e) in relation to a foundation within the meaning of the *Foundations Act 2011*, a member of the council of the foundation;

"**documents constituting the scheme**" means —

(a) the trust deed of a unit trust scheme; or

(b) the memorandum and articles of association of an open-ended investment company; or

(c) the partnership agreement of a scheme which is a partnership; and

(d) each material agreement relating to the scheme;

"**exempt scheme**" means a scheme within the meaning of Schedule 3;

"**fiduciary custodian**" means the person, responsible for the custody of the property of a scheme constituted as an open-ended investment company or partnership, who also has fiduciary responsibility for that property;

"**governing body**" means the person or body of persons responsible for the general supervision of the affairs of the scheme and includes —

(a) the directors of a body corporate which is the trustee of a unit trust scheme;

(b) the directors of a scheme which is an open-ended investment company;

(c) the directors of a body corporate which is the general partner of a scheme which is a partnership;

"**group**", in relation to a body corporate, means that body corporate, any other body corporate which is its holding company or subsidiary and any other body corporate which is a subsidiary of that holding company;

"**holding company**" is to be construed in accordance with the definition of subsidiary;

"**international scheme**" means a scheme within the meaning of Schedule 2 and includes a full international scheme and a scheme of any other class of international scheme;

"**investment adviser**" means a person appointed by the governing body of a scheme who is responsible for providing advice about investments within the scheme in accordance with the investment objectives and policy of the scheme;

"**manager**" means a person appointed by the governing body of a scheme who is responsible —

(a) for ensuring that the scheme is managed in accordance with the documents constituting the scheme and its offering document;

(b) for the conduct of the administration of the scheme; and

UNOFFICIAL

(c) in relation to an authorised scheme, for investment management in accordance with the investment objectives and policy of the scheme;

"**material agreement**" means an agreement in relation to a scheme —

(a) between —

(i) the governing body; and

(ii) the manager, administrator, trustee, fiduciary custodian, custodian, asset manager or investment adviser; or

(b) which is prescribed as being a material agreement;

"**offering document**" means a document, by whatever name called, which is aimed to inform prospective participants about the scheme;

"**open-ended investment company**" means a collective investment scheme under which —

(a) the property in question belongs beneficially to, and is managed by or on behalf of, a body corporate having as its purpose the investment of its funds with the aim of spreading investment risk and giving its members the benefit of the results of the management of those funds by or on behalf of that body; and

(b) the rights of the participants are represented by shares in or securities of that body which —

(i) the participants are entitled to have redeemed or repurchased by, or out of funds provided by, that body; or

(ii) the body ensures can be sold by the participants on an investment exchange at a price calculated by reference to the value of the property which the shares or securities represent;

"**order**" means an order made by the Authority under this Act (unless the context otherwise requires);[111]

"**participant**" has the meaning given in section 1;

"**prescribed**" means prescribed by an order or regulations made by the Authority and "**prescribe**" is to be construed accordingly;[112]

"**promoter**" means a person (wherever located) who prepares or distributes, or who causes the preparation or distribution of, an offering document, advertisement or marketing material relating to a scheme, but does not include a professional adviser acting for or on behalf of that person;

"**recognised scheme**" means a scheme recognised under paragraphs 1 or 2 of Schedule 4;

"**recognition order**" means an order made by the Authority under paragraph 2(1) of Schedule 4 declaring a scheme to be a recognised scheme;[113]

"**regulations**" means regulations made by the Authority under this Act;[114]

UNOFFICIAL

"**subsidiary**" means a body corporate (whether or not incorporated under the Companies Acts 1931 to 2004) that is a subsidiary of another body corporate (whether or not incorporated under those Acts) and in determining whether one body corporate is a subsidiary of another the provisions of section 1 of the *Companies Act 1974* apply with the necessary modifications, and "**holding company**" is to be construed accordingly;

"**Tribunal**" means the Financial Services Tribunal established under section 32 of the *Financial Services Act 2008*;[115]

"**trustee**" means the person holding the property of a unit trust scheme on trust for the participants;

"**units**" means the rights or interests (however described) of the participants in a collective investment scheme and include —

(a) units in a unit trust scheme;

(b) shares or securities in an open-ended investment company; and

(c) interests in a scheme which is a partnership;

"**unit trust scheme**" means a collective investment scheme under which the property in question is held on trust for the participants;

"**working day**" means any day other than a Sunday, a Saturday, Christmas Day, Good Friday or a bank holiday.

(2) The Authority may prescribe services which it considers to be prime brokerage services for the purposes of this Act.[116]

(3) Unless the context otherwise requires, in orders or regulations made under this Act "**fund**" means "**scheme**".

27 Amendments

The enactments specified in Schedule 6 are amended in accordance with that Schedule.

28 Repeals

The enactments specified in Schedule 7 are repealed in accordance with that Schedule.

29 Transitional and saving provisions

The transitional and saving provisions in Schedule 8 have effect.

30 Short title and commencement

(1) This Act may be cited as the Collective Investment Schemes Act 2008.

UNOFFICIAL

(2) This Act comes into operation on such day or days as the Treasury by order appoints and different days may be appointed for different provisions and for different purposes.

(3) An order under subsection (2) may make such transitional and saving provisions as the Treasury considers necessary or expedient.

(4) Without limiting subsection (3), an order under subsection (2) may —

(a) make such transitional adaptations to or modifications of the provisions brought into operation by the order as the Treasury considers expedient, including different adaptations or modifications for different provisions and for different purposes;

(b) include such transitional provisions and saving provisions modifying the application of any provision of any enactment pending the commencement of, or pending the doing of anything under, a provision of this Act as the Treasury considers expedient.

(5) An order under subsection (2) must be laid before Tynwald as soon as practicable after it is made.[117]

UNOFFICIAL

Schedule 1

AUTHORISED SCHEMES

Section 4(1)

1 Applications for authorisation
[1988/16/2]

(1) An application for an authorisation order must be made by —

(a) the governing body or manager of the scheme (or the proposed governing body or manager); and

(b) the trustee or fiduciary custodian of the scheme (or the proposed trustee or fiduciary custodian),

acting jointly.

(2) An application under ~~sub-paragraph~~ subparagraph (1) must —

(a) be made in the manner directed by the Authority;[118]

(b) contain or be accompanied by the information required by the Authority to enable it to determine the application; and[119]

(c) be accompanied by the prescribed fee.

(3) At any time after receiving an application and before determining it the Authority may require the applicant to furnish additional information.[120]

(4) Directions and requirements under ~~sub-paragraphs~~ subparagraphs (2) and (3) may differ as between different applications.

(5) Information furnished under this paragraph must be in the form and verified in the manner specified by the Authority.[121]

(6) The applicant may withdraw an application by giving the Authority written notice at any time before the Authority determines it.[122]

2 Authorisation orders
[1988/16/3]

(1) The Authority may make an authorisation order if —

(a) it has been furnished with —

(i) an application duly made under paragraph 1 together with all the information it requires under that paragraph;

(ii) a copy of the documents constituting the scheme; and

(iii) a certificate signed by an advocate to the effect that the documents constituting the scheme comply with requirements of regulations relating to their content;

(b) it appears to it that the scheme and the offering document comply with the requirements of regulations relating to —

UNOFFICIAL

(i) the constitution and management of the scheme; and

(ii) its offering document; and

(c) the remaining requirements of this paragraph are satisfied.[123]

(2) An authorisation order may —

(a) only be made in relation to —

(i) a unit trust scheme established under and governed by the laws of the Island;

(ii) an open-ended investment company incorporated under the Companies Acts 1931 to 2004; or

(iii) such other description of scheme as is prescribed; and

(b) include such conditions as the Authority thinks fit.[124]

(3) The scheme must —

(a) if it is a unit trust, have a manager and trustee who are persons independent of each other;

(b) if it is an open-ended investment company, have a manager and fiduciary custodian who are persons who are independent of each other and of the scheme itself.

(4) The manager must be an authorised person whose licence allows it to act as a manager of an authorised scheme.[125]

(5) The trustee or fiduciary custodian must be —

(a) an authorised person whose licence allows it to act as a trustee or fiduciary custodian of an authorised scheme; or

(b) a body corporate that —

(i) is incorporated in a jurisdiction with which the Authority has a co-operation agreement that includes provisions in relation to collective investment schemes;[126]

(ii) is authorised to act as a trustee or fiduciary custodian for retail collective investment schemes in its jurisdiction of incorporation; and

(iii) receives the Authority's approval to act as such in relation to authorised schemes.[127] [128]

(6) The name of the scheme must not be undesirable or misleading and the purposes of the scheme must be reasonably capable of being successfully achieved.

(7) The participants must be entitled to have their units redeemed in accordance with the scheme at a price related to the net value of the property to which the units relate and determined in accordance with the scheme.

(8) But a scheme is treated as complying with subparagraph (7) if it requires the manager to ensure that a participant is able to sell units on an investment exchange at a price not significantly different from that mentioned in that subparagraph.

UNOFFICIAL

(9) The Authority must be satisfied that each person comprising the governing body is a fit and proper person to act as such.[129]

(10) In assessing whether a person is fit and proper under subparagraph (9), the Authority must have regard to the information before it as to the integrity, competence and financial standing of the person.[130]

(11) The Authority may publish guidance setting out the criteria it will normally apply in assessing whether it is satisfied under subparagraph (9).[131]

(12) The guidance is to be published in such form and manner as the Authority decides.[132]

(13) The Authority must inform the applicant of its decision on the application not later than 6 months after the date on which the application was received.[133]

(14) Where the Authority decides not to make an authorisation order it must give the applicant a written statement of the reasons for the decision and giving particulars of the right of appeal conferred by section 21.[134]

(15) The Authority may amend this paragraph by order.[135]

(16) An order under ~~sub-paragraph~~ subparagraph (15) may include such consequential, incidental, supplemental or transitional provisions as appear to the Authority to be necessary or expedient in consequence of amendments made to this paragraph (including consequential amendments to other provisions of this Act).[136]

3 Changes to authorised schemes
[1988/16/7]

(1) The manager of an authorised scheme must give written notice to the Authority of any proposal —

(a) to alter the scheme;

(b) to replace its trustee or fiduciary custodian; or

(c) to replace its governing body or any person comprising its governing body.[137]

(2) Notice given in respect of a proposal to alter the scheme involving a change in the documents constituting the scheme must be accompanied by a certificate signed by an advocate to the effect that the change will not affect the compliance of the documents with regulations relating to —

(a) the constitution and management of the scheme; and

(b) its offering document.

(3) The trustee or fiduciary custodian of an authorised scheme must give written notice to the Authority of any proposal to replace the manager of the scheme.[138]

(4) Effect is not to be given to any proposal under this paragraph unless —

(a) the Authority has given its approval to the proposal; or[139]

UNOFFICIAL

(b) one month, beginning with the date on which the notice was given under ~~sub-paragraph~~ subparagraph (1) or (3), has expired without the Authority having notified the manager, trustee or fiduciary custodian that the proposal is not approved.[140]

4 Revocation of authorisation

[1988/16/4 and 5]

(1) In the circumstances mentioned in ~~sub-paragraph~~ subparagraph (2), the Authority may revoke an authorisation order.[141]

(2) The Authority may take action under ~~sub-paragraph~~ subparagraph (1) if it appears to it —

(a) that any of the requirements for the making of the order are no longer satisfied;

(b) that it is not in the interests of the participants or potential participants that the scheme should continue to be authorised; or

(c) without limiting ~~sub-paragraph~~ subparagraph (b), that the governing body, manager, trustee or fiduciary custodian of the scheme —

(i) has contravened any provision of this Act or the *Financial Services Act 2008*;

(ii) in purported compliance with any such provision, has furnished the Authority with false, inaccurate or misleading information; or[142]

(iii) has contravened any condition, prohibition, direction or other requirement imposed under this Act or the *Financial Services Act 2008*.[143]

(3) For the purposes of ~~sub-paragraph~~ subparagraph (1), the Authority may take into account any matter relating to —

(a) the scheme;

(b) the governing body, manager, trustee or fiduciary custodian of the scheme;

(c) a director or controller of the governing body, manager, trustee or fiduciary custodian; or

(d) any person employed by or associated with the governing body, manager, trustee or fiduciary custodian in connection with the scheme.[144]

(4) The Authority may take action under ~~sub-paragraph~~ subparagraph (1) at the request of the governing body, manager, trustee or fiduciary custodian of the scheme; but it may refuse to do so if it considers that —

(a) any matter concerning the scheme should be investigated before determining whether the action should be taken; or

UNOFFICIAL

(b) the action would not be in the interests of participants.[145]

(5) Where the Authority decides to take action under ~~sub-paragraph~~ subparagraph (1) otherwise than at the request of the governing body, manager, trustee or fiduciary custodian of the scheme, it must give the governing body, manager and trustee or fiduciary custodian a written statement of the reasons for the decision and giving particulars of the right of appeal conferred by section 21.[146]

(6) A revocation under ~~sub-paragraph~~ subparagraph (1) may be permanent or may apply for a specific period of time or until the occurrence of a specified event or until specified conditions are complied with.

5 Restrictions on activities

[1988/16/8]

(1) An open-ended investment company which is an authorised scheme must not carry on activities other than for the purposes of or in connection with the scheme.

(2) The manager of an authorised scheme must not carry on activities other than those mentioned in ~~sub-paragraph~~ subparagraph (3) or such other activities as are agreed in writing by the Authority.[147]

(3) Those activities are —

(a) acting as manager of a scheme;

(b) activities for the purposes of or in connection with acting as a manager of a scheme.

UNOFFICIAL

Schedule 2

INTERNATIONAL SCHEMES

Section 4(2)

1 Classes of international scheme

(1) A scheme is an international scheme if —

(a) it is a full international scheme within the meaning of paragraph 2; or

(b) it is a scheme of a class of international scheme prescribed by regulations made under paragraph 4(1).

2 Full international schemes

[1988/16/11(1) to (6)]

(1) A scheme is a full international scheme if —

(a) the documents constituting the scheme and its offering document each state that it is an international scheme or a full international scheme;

(b) it complies with regulations relating to full international schemes (but see subparagraph (1A)); and

(c) the remaining requirements of this paragraph are satisfied.

(1A) Despite subparagraph (1)(b), once a scheme is established as a full international scheme under this paragraph a failure to comply with a provision of regulations relating to full international schemes does not of itself —

(a) affect the existence of the scheme as a full international scheme;

(b) exempt the scheme from a requirement to comply with such regulations; or

(c) prevent the Authority from enforcing such regulations with respect to the scheme.

(2) A full international scheme must be —

(a) a unit trust scheme established under and governed by the laws of the Island;

(b) an open-ended investment company formed or incorporated under —

(i) the Companies Acts 1931 to 2004; or

(ii) the *Companies Act 2006*; or

(c) a limited partnership registered in the Island under Part II of the *Partnership Act 1909*; or

(d) such other description of scheme as is prescribed.

UNOFFICIAL

(3) A full international scheme must —

(a) if it is a unit trust scheme, have a manager and trustee who are different persons;

(b) if it is an open-ended investment company or a partnership, have a manager and fiduciary custodian who are different persons.

(4) The name of the scheme must not be undesirable or misleading.

(5) The manager and the trustee or fiduciary custodian must not be prohibited from acting as manager, trustee or fiduciary custodian (as the case may be) by or under any enactment.

(6) The manager must be an authorised person.

(7) The trustee or fiduciary custodian must be —

(a) an authorised person; or

(b) authorised to act as trustee or fiduciary custodian (as the case may be) of a collective investment scheme under the law of any country or territory prescribed for the purpose of this paragraph.

(8) The Authority must be satisfied that each person comprising the governing body is a fit and proper person to act as such.[148]

(9) In assessing whether a person is fit and proper under subparagraph (8), the Authority must have regard to the information before it as to the integrity, competence and financial standing of the person.[149]

(10) The Authority may publish guidance setting out the criteria it will normally apply in assessing whether it is satisfied under subparagraph (8).[150]

(11) The guidance is to be published in such form and manner as the Authority decides.[151]

(12) A person proposing to be appointed or act as a manager of a full international scheme must give written notice to the Authority, containing such particulars as are prescribed, not less than 3 months before the intended appointment or such shorter period as the Authority agrees to in writing.[152]

(13) Effect is not to be given to a proposal under subparagraph (12) unless —

(a) the Authority has approved the proposal; or[153]

(b) 3 months, beginning with the date on which the notice was given under subparagraph (12), have expired without the Authority having notified the proposed manager that the proposal is not approved.[154]

(14) Regulations may extend or restrict the requirements of this paragraph.

3 Changes to full international schemes

(1) The manager of a full international scheme must give written notice to the Authority of any proposal —

UNOFFICIAL

(a) to alter the scheme;

(b) to replace its trustee or fiduciary custodian;

(c) to replace its governing body or any person comprising its governing body.[155]

(2) The trustee or fiduciary custodian of a full international scheme must give written notice to the Authority of any proposal to replace the manager of the scheme.[156]

(3) Effect is not to be given to any proposal under ~~sub-paragraph~~ subparagraph (1) or (2) unless —

(a) the Authority has given its approval —

(i) for the manager to continue to act in relation to the scheme to be altered in accordance with a proposal under ~~sub-paragraph~~ subparagraph (1)(a); or

(ii) to a proposal under ~~sub-paragraph~~ subparagraph (1)(b), (1)(c) or (2); or[157]

(b) one month, beginning with the date on which the notice was given under ~~sub-paragraph~~ subparagraph (1) or (2), has expired without the Authority having notified the manager, trustee or fiduciary custodian that the proposal is not approved.[158]

(4) A person proposing to cease to be appointed or act as manager of a full international scheme must give written notice to the Authority, containing such particulars as are prescribed, not less than 3 months before the intended cessation or such shorter period as the Authority agrees to in writing.[159]

(5) Effect is not to be given to a proposal under ~~sub-paragraph~~ subparagraph (4) unless —

(a) the Authority has approved the proposal; or[160]

(b) 3 months, beginning with the date on which the notice was given under ~~sub-paragraph~~ subparagraph (4), has expired without the Authority having notified the manager that the proposal is not approved.[161]

4 Other classes of international scheme

(1) Other classes of international scheme and requirements and arrangements relating to such classes of scheme may be prescribed by regulations.

(2) A scheme is an international scheme of a class prescribed in ~~sub-paragraph~~ subparagraph (1) if —

(a) the documents constituting the scheme and its offering document each state that it is an international scheme of that class;

(b) it complies with regulations relating to international schemes of that class (but see subparagraph (2A)); and

UNOFFICIAL

(c) the remaining requirements of this paragraph are satisfied.

(2A) Despite subparagraph (2)(b), once a scheme is established as an international scheme under this paragraph a failure to comply with a provision of regulations relating to such an international scheme does not of itself —

(a) affect the existence of the scheme as an international scheme;

(b) exempt the scheme from a requirement to comply with such regulations; or

(c) prevent the Authority from enforcing such regulations with respect to the scheme.

(3) An international scheme of a class prescribed in ~~sub-paragraph~~ subparagraph (1) must be —

(a) a unit trust scheme established under and governed by the laws of the Island;

(b) an open-ended investment company formed or incorporated under —

(i) the Companies Acts 1931 to 2004; or

(ii) the *Companies Act 2006*;

(c) a limited partnership registered in the Island under Part II of the *Partnership Act 1909*; or

(d) such other description of scheme as is prescribed.

(4) The name of the scheme must not be undesirable or misleading.

(5) Unless otherwise specified in regulations, the manager or administrator of an international scheme which is of a class prescribed in ~~sub-paragraph~~ subparagraph (1) must notify the Authority in writing of the scheme's establishment within 10 working days of establishment.[162]

(6) Regulations may extend or restrict the requirements of this paragraph.

5 Changes to other international schemes

(1) The manager or administrator of an international scheme which is of a class prescribed in paragraph 4 must give written notice to the Authority of any material changes to the scheme or parties to the scheme within 10 working days of that change taking effect.[163]

(2) The Authority may give guidance setting out changes which it considers to be material for the purposes of this paragraph or may otherwise prescribe changes which it considers to be material.[164]

(3) The guidance may be published in such form or manner as the Authority decides.[165]

UNOFFICIAL

Schedule 3

EXEMPT SCHEMES

Section 4(3)

1 Exempt schemes
[1988/16/11(7) to (10)]

(1) A scheme is an exempt scheme if —

(a) it has less than 50 participants;

(b) the documents constituting the scheme —

(i) prohibit the making of an invitation in any part of the world to the public or any section of it to become or offer to become participants in the scheme; and

(ii) do not imply that the scheme is regulated under this Act or otherwise; and

(c) it complies with the requirements of ~~sub-paragraph~~ subparagraph (2).

(2) To comply with this subparagraph the scheme must be —

(a) a unit trust scheme established under and governed by the laws of the Island;

(b) an open-ended investment company formed or incorporated under —

(i) the Companies Acts 1931 to 2004; or

(ii) the *Companies Act 2006*;

(c) a limited partnership registered in the Island under Part II of the *Partnership Act 1909*; or

(d) such other description of scheme as is prescribed.

(3) The exemption provided by ~~sub-paragraph~~ subparagraph (1) does not apply to a scheme where units are held by participants as a result of an invitation in any part of the world to the public or any section of it by any person.

(4) The following are not to be treated as invitations to the public or a section of the public —

(a) invitations issued to existing participants in a scheme inviting them to participate further in that scheme;

(b) invitations to persons whose ordinary business involves the acquisition and disposal of property of the same kind as the property, or a substantial part of the property, to which the scheme relates;

(c) invitations which are permitted by regulations.

(5) Regulations may extend or restrict the requirements of this paragraph.

UNOFFICIAL

Schedule 4

RECOGNISED SCHEMES

Section 4(4)

1 Schemes authorised in designated countries
[1988/16/12]

(1) Subject to ~~sub-paragraph~~ subparagraph (4), a collective investment scheme which is authorised under the law of a designated country or territory outside the Island is a recognised scheme if the scheme is of a class specified by order.[166]

(2) In this paragraph, "designated country or territory" means the United Kingdom and any other country or territory designated for the purposes of this paragraph by order.

(3) The Authority must not make an order under ~~sub-paragraph~~ subparagraph (1) or (2) unless it is satisfied that adequate protection is afforded to participants.[167]

(4) A scheme may not be a recognised scheme —

(a) unless the governing body of the scheme gives written notice to the Authority that the governing body wishes it to be recognised; or[168]

(b) if, within such period from receiving the notice as is prescribed, the Authority notifies the governing body that the scheme is not to be recognised.[169]

(5) The notice given under ~~sub-paragraph~~ subparagraph (4)(a) must —

(a) contain the name and address of one or more persons in the Island authorised to accept on behalf of the governing body any process, notice or other documents required or authorised to be served on the governing body under this Act; and

(b) contain or be accompanied by such information and documents as are prescribed; and

(c) be accompanied by the prescribed fee.

(6) Orders and regulations may make provision under which compliance with a requirement imposed under the law of a designated country or territory is treated as compliance with a requirement of the order or regulations.

2 Individually recognised schemes
[1988/16/ 13(1) to (8)]

(1) The Authority, on the application of the governing body of a scheme —

(a) which is authorised in a country or territory outside the Island;[170]

(b) which is not authorised in a country or territory designated for the purposes of paragraph 1 or, if it is so authorised, is not of a class specified in an order under paragraph 1(1); and[171]

UNOFFICIAL

(c) which appears to the Authority to satisfy the remaining provisions of this paragraph,[172]

may make a recognition order.[173]

(2) The scheme must afford adequate protection to participants.

(3) The arrangements for the scheme's constitution and management must be adequate.

(4) In determining the matters mentioned in ~~sub-paragraphs~~ subparagraphs (2) and (3), the Authority must have regard to any matters which are the subject of regulations applicable in relation to comparable authorised schemes.[174]

(5) The manager must be a body corporate or the scheme must take the form of an open-ended investment company.

(6) Subject to ~~sub-paragraph~~ subparagraph (7), any governing body, manager, trustee or fiduciary custodian must be fit and proper to act as governing body, manager, trustee or fiduciary custodian (as the case may be); and for that purpose the Authority may take into account any matter relating to —

(a) any director or controller of the governing body, manager, trustee or fiduciary custodian;

(b) any other body corporate in the same group as the governing body, manager, trustee or fiduciary custodian and any director or controller of that other body;

(c) any person who is or will be employed by or associated with the governing body, manager, trustee or fiduciary custodian for the purposes of the scheme.[175]

(7) ~~Sub-paragraph~~ Subparagraph (6) does not apply to a governing body, manager, trustee or fiduciary custodian who is an authorised person and who is not prohibited from acting as governing body, manager, trustee or fiduciary custodian (as the case may be) by any enactment.

(8) The governing body must have a representative in the Island who is an authorised person and has power to act generally for the governing body and to accept service of notices and other documents on its behalf.

(9) The name of the scheme must not be undesirable or misleading and the purposes of the scheme must be reasonably capable of being successfully achieved.

(10) The participants must be entitled to have their units redeemed in accordance with the scheme at a price related to the net value of the property to which the units relate and determined in accordance with the scheme.

(11) But a scheme is to be treated as complying with ~~sub-paragraph~~ subparagraph (10) if it requires the governing body to ensure that a participant is able to sell units on an investment exchange at a price not significantly different from that mentioned in that subparagraph.

UNOFFICIAL

(12) Paragraph 1(2) to (6) of Schedule 1 applies also to an application under this paragraph.

(13) Where the Authority decides not to make a recognition order it must give the governing body a written statement of the reasons for the decision and giving particulars of the right of appeal conferred by section 21.[176]

(14) Regulations relating to offering documents have the same effect in relation to schemes recognised under this paragraph as they have in relation to authorised schemes.

3 Changes to individually recognised schemes

[1988/16/13(9)]

(1) The governing body of a scheme recognised under paragraph 2 must give written notice to the Authority of any proposal —

(a) to alter the scheme; or

(b) to replace its governing body (or any person comprising its governing body), manager, trustee or fiduciary custodian.[177]

(2) Effect is not to be given to any proposal under ~~sub-paragraph~~ subparagraph (1) unless —

(a) the Authority has given its approval to the proposal; or[178]

(b) one month, beginning with the date on which the notice was given, has expired without the Authority having notified the governing body that the proposal is not approved.[179]

4 Revocation of recognition

[1988/16/4 and 5]

(1) In the circumstances mentioned in ~~sub-paragraph~~ subparagraph (2), the Authority may —

(a) direct that a scheme is to cease to be recognised by virtue of paragraph 1; or

(b) revoke a recognition order made under paragraph 2.[180]

(2) The Authority may take action under ~~sub-paragraph~~ subparagraph (1) if it appears to it —

(a) that the scheme is no longer of a class specified by an order under paragraph 1(1);

(b) that the country or territory where the scheme is authorised is no longer a designated country or territory for the purposes of paragraph 1(2);

(c) that any of the requirements for the making of the recognition order are no longer satisfied;

(d) that it is not in the interests of the participants or potential participants that the scheme should continue to be recognised; or

UNOFFICIAL

(e) without limiting subparagraph (d), that the governing body, manager, trustee, fiduciary custodian or custodian of the scheme —

(i) has contravened any provision of this Act or the *Financial Services Act 2008*;

(ii) in purported compliance with any such provision, has furnished the Authority with false, inaccurate or misleading information; or[181]

(iii) has contravened any condition, prohibition, direction or other requirement imposed under this Act or the *Financial Services Act 2008*.[182]

(3) For the purposes of ~~sub paragraph~~ subparagraph (1), the Authority may take into account any matter relating to —

(a) the scheme;

(b) the governing body, manager, trustee, fiduciary custodian or custodian of the scheme;

(c) any director or controller of the governing body, manager, trustee, fiduciary custodian or custodian; or

(d) any person employed by or associated with the governing body, manager, trustee, fiduciary custodian or custodian in connection with the scheme.[183]

(4) The Authority may take action under ~~sub paragraph~~ subparagraph (1) at the request of the governing body, manager, trustee, fiduciary custodian or custodian of the scheme; but it may refuse to do so if it considers that —

(a) any matter concerning the scheme should be investigated before determining whether the action should be taken; or

(b) the action would not be in the interests of participants.[184]

(5) Where the Authority decides to take action under ~~sub paragraph~~ subparagraph (1) otherwise than at the request of the governing body, manager, trustee, fiduciary custodian or custodian of the scheme, it must give the governing body, manager and trustee, fiduciary custodian or custodian a written statement of the reasons for the decision and giving particulars of the right of appeal conferred by section 21.[185]

(6) A revocation or direction under ~~sub paragraph~~ subparagraph (1) may be permanent or may apply for a specific period of time or until the occurrence of a specified event or until specified conditions are complied with.

UNOFFICIAL

5 Facilities and information in the Island

[1988/16/15]

(1) Regulations may require governing bodies of recognised schemes to maintain in the Island such facilities as the Authority considers desirable in the interests of participants and as are prescribed.[186]

(1A) Regulations may prescribe information which all recognised schemes, or all recognised schemes of a particular description, must give in any relevant communication.[187]

(2) The Authority may by notice in writing require the governing body of a recognised scheme to include such explanatory information as is specified in the notice in any relevant communication.[188]

(3) In this paragraph "relevant communication" means any advertisement or other document or communication —

(a) naming the scheme; and

(b) relating to the promotion of the scheme,

which is issued, or caused to be issued, in the Island by the governing body.[189]

UNOFFICIAL

Schedule 5

SUBORDINATE LEGISLATION

Section 24(2) [1988/16/6 and 10]

PART 1 – CONSTITUTION AND MANAGEMENT

1. Provisions as to —

(a) the constitution and management of any scheme;

(b) the constitution, powers and duties of the promoter, governing body, manager, administrator, trustee, fiduciary custodian, custodian or asset manager of any scheme;

(c) the documents constituting a scheme;

(d) the submission to the Authority by the governing body, manager, administrator, trustee, fiduciary custodian or custodian of information (including, but not limited to, accounting and statistical information), statements, returns, reports or certificates which relate to —

(i) the scheme;

(ii) its promoter, governing body, manager, administrator, trustee, fiduciary custodian, custodian or asset manager;

(iii) the affairs of it or any of them;[190]

(e) the time within which, and the occasions when (including on a request by the Authority), information or documents required to be produced to the Authority under paragraph (d) is to be produced;[191]

(f) the form, content and verification of any information or document required to be produced to the Authority under paragraph (c) or (d);[192]

(g) the powers and duties of the directors of the governing body, manager, administrator, trustee, fiduciary custodian or custodian which is a body corporate;

(h) the payment by the scheme, governing body, manager, administrator, trustee, fiduciary custodian or custodian of such application and periodical fees as are prescribed;

(i) the circumstances, times and occasions when the functions of the governing body, manager, administrator, trustee, fiduciary custodian or custodian of a scheme may be delegated;

(j) the management of potential and actual conflicts of interests between any of the following —

UNOFFICIAL

(i) persons acting as manager, administrator, trustee, fiduciary custodian or custodian of a scheme;

(ii) other persons acting as manager, administrator, trustee, fiduciary custodian or custodian of that scheme;

(iii) participants of a scheme;

(iv) other participants of that scheme;

(v) the scheme itself;

(k) the persons or class of persons who may be participants in a scheme (including the requirement for participants to satisfy prescribed criteria in order to become eligible to participate in a scheme);

(l) the rights and obligations of participants of any scheme; and

(m) the winding up of any scheme.

2. Provisions —

(a) as to contribution levels by participants (including requirements for minimum levels of contribution);

(b) as to the valuation of the property of a scheme;

(c) as to the issue and redemption of units under a scheme;

(d) as to the expenses of a scheme and the means of meeting them;

(e) for the appointment, removal, powers and duties of an auditor of a scheme;

(f) prescribing who may act as auditor of a scheme and the qualifications an auditor must have;

(g) requiring an auditor to hold a policy of professional indemnity insurance in a prescribed form, indemnifying the auditor to such sum, in such manner, in respect of such matters and valid for such period as is prescribed;

(h) restricting or regulating the investment and borrowing powers exercisable in relation to a scheme;

(i) requiring the keeping of records with respect to the transactions and financial position of the scheme, for the keeping of records in the Island and for the inspection of records;

(j) for the preparation of accounts and other financial records of a scheme, their form, content, inspection and audit and the submission of copies or extracts to the Authority and to participants at such times and on such occasions as are prescribed;[193]

(k) requiring the provision of information to the Authority and to participants to supplement the information provided under paragraph (j) at such times and on such occasions as are prescribed;[194]

UNOFFICIAL

(l) requiring the preparation of periodical reports concerning a scheme and the furnishing of those reports to the Authority and to participants; and[195]

(m) as to the amendment of any scheme.

3. Provisions relating to the preparation and auditing of accounts of schemes may require compliance with standards or the adoption of practices recommended by a prescribed body and may, in particular, require compliance with standards or the adoption of practices recommended by that body from time to time (that is, after as well as before the provisions are made).

4. Provisions as to the contents of the documents constituting the scheme may require any of the matters mentioned in paragraph 1 or 2 to be dealt with in such documents.

PART 2 – OFFERING DOCUMENT

5. Provisions requiring the governing body of a scheme to —

(a) submit to the Authority; and[196]

(b) publish or make available to the public on request,

an offering document containing such information about the scheme and complying with such requirements as are prescribed.

6. Provisions requiring the governing body of a scheme to submit and publish or make available a revised or further offering document if —

(a) there is a significant change affecting any matter contained in the offering document previously published or made available and which is required to be reflected in a revised or further document; or

(b) a significant new matter arises the inclusion of information in respect of which would have been required in a previous offering document if it had arisen when that document was prepared.

7. Provisions requiring the manager or administrator of a scheme to notify the Authority if there is a significant change or a significant new matter arises which requires the submission, publication or making available of a further or revised offering document but the governing body refuses to prepare such document.[197]

8. Provisions requiring the payment of compensation by the person who is treated as responsible for the offering document to a person —

(a) who is or has agreed to become a participant in the scheme; and

(b) has suffered loss as a result of —

(i) an untrue or misleading statement in that document; or

UNOFFICIAL

(ii) the omission from that document of a matter required to be included.

PART 3 – ADVERTISEMENTS

9. Provisions regulating the issue, form and content of advertisements and other documents relating to the promotion of schemes and in particular —

(a) prohibiting the issue of advertisements —

(i) in respect of schemes or classes of scheme;

(ii) by persons or classes of persons; and

(b) as to matters which must be, or which must not be, included in advertisements.

PART 4 – SUBMISSION OF INFORMATION

10. Provisions as to the method of submission of information and documentation to the Authority under this Act.[198]

Schedule 6

AMENDMENT OF ENACTMENTS

Section 27

[Sch 6 amends the following Acts —

Partnership Act 1909 q.v.

Stock Transfer Act 1965 q.v.

Income Tax Act 1970 q.v.

Legal Aid Act 1986 q.v.

Income Tax Act 1989 q.v.

Companies Act 1992 q.v.

Value Added Tax Act 1996 q.v.

Fair Trading Act 1996 q.v.

Companies (Transfer of Domicile) Act 1998 q.v.

Retirement Benefits Schemes Act 2000 q.v.

Trustee Act 2001 q.v.

Tribunals Act 2006 q.v.

Companies Act 2006 q.v.

Financial Services Act 2008 q.v.]

UNOFFICIAL

Schedule 7

REPEAL OF ENACTMENTS

Section 28

[Sch 7 repeals the following Acts in part —

Limited Liability Companies and Financial Supervision (Amendment) Act 1999

Retirement Benefits Schemes Act 2000

Fair Trading (Amendment) Act 2001

Companies, etc (Amendment) Act 2003

Fiduciary Services Act 2005

Tribunals Act 2006

Companies Act 2006

and the following Act wholly —

Financial Supervision Act 1988.]

Schedule 8

TRANSITIONAL AND SAVING PROVISIONS

Section 29

1. When section 4(1) comes into operation an existing scheme which is an authorised scheme (within the meaning of section 31 of the *Financial Supervision Act 1988*) continues to be an authorised scheme (within the meaning of Schedule 1).

2. Subject to paragraph 3, when section 4(2) comes into operation an existing scheme —

(a) which is an international scheme (within the meaning of section 11 of the *Financial Supervision Act 1988*); and

(b) which is not exempted under section 11(7) of the *Financial Supervision Act 1988*,

continues to be an international scheme (within the meaning of Schedule 2), whether or not it complies with section 2(3) or paragraphs 2(2) or 4(3) of Schedule 2.

3. Notwithstanding paragraph 2, when section 4(2) comes into operation an existing scheme —

(a) which is an international scheme (within the meaning of section 11 of the *Financial Supervision Act 1988*); and

(b) to which section 11(1) to (6) of the *Financial Supervision Act 1988* does not apply by reason of the operation of paragraph 4 of the

UNOFFICIAL

Financial Supervision (Overseas Funds)(Exemption) Order 2003 (S.D. 76/03),

ceases to be an international scheme (within the meaning of Schedule 2).

4. When section 4(3) comes into operation an existing scheme which is exempted under section 11(7) of the *Financial Supervision Act 1988* from the requirements of section 11 of that Act, continues to be a scheme which is an exempt scheme under Schedule 3, whether or not it complies with section 2(3) or paragraph 1(2) of Schedule 3.

5. When section 4(4) comes into operation an existing scheme which is a recognised scheme (within the meaning of section 31 of the *Financial Supervision Act 1988*) continues to be a recognised scheme (within the meaning of Schedule 4).

6. Paragraphs 1 to 5 do not affect the operation of section 16 of the *Interpretation Act 1976* (which relates to the effect of substituting provisions).

7. Paragraphs 1 to 5 are subject to regulations made under paragraph 8.

8. (1) The Authority may make regulations to give further effect to paragraphs 1 to 5.[199]

(2) The regulations may prescribe that, when a provision of section 4 comes into operation, a particular scheme or class of scheme is to be classified otherwise than in accordance with paragraphs 1 to 5.

9. (1) The repeal by section 28 and Schedule 7 of the provisions of any enactment do not affect in any way the amendment of other enactments (including savings, transitional provisions and modifications relating to those enactments) made by those provisions or the operation or effect of those amendments.

(2) In subparagraph (1), "amendment" includes the insertion of words or expressions and the substitution of other words or expressions.

(3) This paragraph does not limit the operation of sections 3 and 15 of the *Interpretation Act 1976*.

UNOFFICIAL

ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement

Table of Renumbered Provisions

Original	Current

Table of Endnote References

[1] Subs (5) amended by SD2015/0090 as amended by SD2015/0276.
[2] S 6 heading amended by SD2015/0090 as amended by SD2015/0276.
[3] Subs (1) amended by SD2015/0090 as amended by SD2015/0276.
[4] Subs (5) amended by SD2015/0090 as amended by SD2015/0276.
[5] S 10 heading amended by SD2015/0090 as amended by SD2015/0276.
[6] Subs (1) amended by SD2015/0090 as amended by SD2015/0276.
[7] Subs (2) amended by SD2015/0090 as amended by SD2015/0276.
[8] Heading to Part 5 substituted by Financial Services (Miscellaneous Amendments) Act 2013 s 27.
[9] Heading substituted by Financial Services (Miscellaneous Amendments) Act 2013 s 28 and amended by SD2015/0090 as amended by SD2015/0276.
[10] Subpara (ii) amended by SD2015/0090 as amended by SD2015/0276.
[11] S 11 amended by Financial Services (Miscellaneous Amendments) Act 2013 s 28 and by SD2015/0090 as amended by SD2015/0276.
[12] Subs (1) amended by SD2015/0090 as amended by SD2015/0276.
[13] Subs (2) amended by SD2015/0090 as amended by SD2015/0276.
[14] Subs (3) amended by SD2015/0090 as amended by SD2015/0276.
[15] Subpara (ii) amended by SD2015/0090 as amended by SD2015/0276.
[16] Subpara (iii) amended by SD2015/0090 as amended by SD2015/0276 and by Insurance (Amendment) Act 2017 Sch 2.
[17] Subs (5) amended by SD2015/0090 as amended by SD2015/0276.
[18] Subs (6) amended by SD2015/0090 as amended by SD2015/0276.
[19] S 11A inserted by Financial Services (Miscellaneous Amendments) Act 2013 s 29.

UNOFFICIAL

[20] Subs (1) amended by SD2015/0090 as amended by SD2015/0276.
[21] Subs (2) amended by SD2015/0090 as amended by SD2015/0276.
[22] S 11B inserted by Financial Services (Miscellaneous Amendments) Act 2013 s 29.
[23] Printed as "to" original Act.
[24] Subs (1) amended by SD2015/0090 as amended by SD2015/0276.
[25] Para (a) amended by SD2015/0090 as amended by SD2015/0276.
[26] Para (d) amended by SD2015/0090 as amended by SD2015/0276.
[27] Para (e) amended by SD2015/0090 as amended by SD2015/0276.
[28] Subs (3) amended by SD2015/0090 as amended by SD2015/0276.
[29] S 11C inserted by Financial Services (Miscellaneous Amendments) Act 2013 s 29.
[30] Subs (1) amended by SD2015/0090 as amended by SD2015/0276.
[31] Subs (2) amended by SD2015/0090 as amended by SD2015/0276.
[32] S 11D inserted by Financial Services (Miscellaneous Amendments) Act 2013 s 29.
[33] Subs (1) amended by SD2015/0090 as amended by SD2015/0276.
[34] S 11E inserted by Financial Services (Miscellaneous Amendments) Act 2013 s 29.
[35] Para (c) amended by SD2015/0090 as amended by SD2015/0276.
[36] Subs (1) amended by SD2015/0090 as amended by SD2015/0276.
[37] Subs (2) amended by SD2015/0090 as amended by SD2015/0276.
[38] Subs (4) amended by SD2015/0090 as amended by SD2015/0276.
[39] Para (a) amended by SD2015/0090 as amended by SD2015/0276.
[40] Para (b) amended by SD2015/0090 as amended by SD2015/0276.
[41] Para (b) amended by SD2015/0090 as amended by SD2015/0276.
[42] Subs (7) amended by SD2015/0090 as amended by SD2015/0276.
[43] S 11F inserted by Financial Services (Miscellaneous Amendments) Act 2013 s 29.
[44] Para (b) amended by SD2015/0090 as amended by SD2015/0276.
[45] Para (d) amended by SD2015/0090 as amended by SD2015/0276.
[46] Subs (1) amended by SD2015/0090 as amended by SD2015/0276.
[47] Subs (4) amended by SD2015/0090 as amended by SD2015/0276.
[48] Subs (5) amended by SD2015/0090 as amended by SD2015/0276.
[49] Subs (1) amended by SD2015/0090 as amended by SD2015/0276.
[50] Para (a) amended by SD2015/0090 as amended by SD2015/0276.
[51] Para (b) amended by SD2015/0090 as amended by SD2015/0276.
[52] Para (c) amended by SD2015/0090 as amended by SD2015/0276.
[53] Subs (5) amended by SD2015/0090 as amended by SD2015/0276.
[54] Para (a) amended by SD2015/0090 as amended by SD2015/0276.
[55] Subs (6) amended by SD2015/0090 as amended by SD2015/0276.
[56] Subs (7) amended by SD2015/0090 as amended by SD2015/0276.
[57] Subs (8) amended by SD2015/0090 as amended by SD2015/0276.
[58] Subs (1) amended by SD2015/0090 as amended by SD2015/0276.
[59] Subs (3) amended by SD2015/0090 as amended by SD2015/0276.
[60] Subs (5) amended by SD2015/0090 as amended by SD2015/0276.
[61] Subs (6) amended by SD2015/0090 as amended by SD2015/0276.

UNOFFICIAL

[62] Subs (7) amended by SD2015/0090 as amended by SD2015/0276.
[63] Subpara (ii) amended by SD2015/0090 as amended by SD2015/0276.
[64] Para (b) amended by SD2015/0090 as amended by SD2015/0276.
[65] Subs (1) amended by SD2015/0090 as amended by SD2015/0276.
[66] Subs (3) amended by SD2015/0090 as amended by SD2015/0276.
[67] Subs (4) amended by SD2015/0090 as amended by SD2015/0276.
[68] Subs (1) amended by SD2015/0090 as amended by SD2015/0276.
[69] Subs (6) amended by SD2015/0090 as amended by SD2015/0276.
[70] Para (a) amended by SD2015/0090 as amended by SD2015/0276.
[71] Para (b) amended by SD2015/0090 as amended by SD2015/0276.
[72] Para (c) amended by SD2015/0090 as amended by SD2015/0276.
[73] Para (c) amended by SD2015/0090 as amended by SD2015/0276.
[74] Subs (1) amended by SD2015/0090 as amended by SD2015/0276.
[75] Subs (2) amended by SD2015/0090 as amended by SD2015/0276.
[76] Subs (3) amended by SD2015/0090 as amended by SD2015/0276.
[77] Subs (4) amended by SD2015/0090 as amended by SD2015/0276.
[78] Subs (5) amended by SD2015/0090 as amended by SD2015/0276.
[79] S 19A inserted by Financial Services (Miscellaneous Amendments) Act 2013 s 30.
[80] Para (b) amended by SD2015/0090 as amended by SD2015/0276.
[81] Subs (1) amended by SD2015/0090 as amended by SD2015/0276.
[82] Subs (2) amended by SD2015/0090 as amended by SD2015/0276.
[83] Subs (5) amended by SD2015/0090 as amended by SD2015/0276.
[84] S 21 heading amended by SD2015/0090 as amended by SD2015/0276.
[85] Subs (1) repealed by Insurance (Amendment) Act 2017 Sch 2.
[86] Subs (2) repealed by Insurance (Amendment) Act 2017 Sch 2.
[87] Subs (3) substituted by Financial Services (Miscellaneous Amendments) Act 2013 s 31 and amended by Insurance (Amendment) Act 2017 Sch 2.
[88] Table inserted by Financial Services (Miscellaneous Amendments) Act 2013 s 31.
[89] Subs (6) amended by SD2015/0090 as amended by SD2015/0276 and by Insurance (Amendment) Act 2017 Sch 2.
[90] Subs (7) repealed by Insurance (Amendment) Act 2017 Sch 2.
[91] Subs (1) amended by SD2015/0090 as amended by SD2015/0276.
[92] Subs (1) amended by SD2015/0090 as amended by SD2015/0276.
[93] Chapter III heading amended by Financial Services (Miscellaneous Amendments) Act 2013 s 32.
[94] Para (a) amended by SD2015/0090 as amended by SD2015/0276.
[95] Subs (1) amended by SD2015/0090 as amended by SD2015/0276.
[96] Subs (2) amended by SD2015/0090 as amended by SD2015/0276.
[97] Subs (3) amended by SD2015/0090 as amended by SD2015/0276.
[98] S A24 inserted by Financial Services (Miscellaneous Amendments) Act 2013 s 32.
[99] Subs (1) amended by SD2015/0090 as amended by SD2015/0276.
[100] Para (c) amended by SD2015/0090 as amended by SD2015/0276.
[101] Subs (6) amended by Interpretation Act 2015 s 106.

UNOFFICIAL

[102] Subs (7) amended by SD2015/0090 as amended by SD2015/0276.
[103] Subs (8) amended by SD2015/0090 as amended by SD2015/0276.
[104] Subs (12) amended by SD2015/0090 as amended by SD2015/0276.
[105] Para (c) amended by SD2015/0090 as amended by SD2015/0276.
[106] Subs (13) amended by SD2015/0090 as amended by SD2015/0276.
[107] Para (f) amended by Communications Act 2021 Sch 9.
[108] Definition of "authorisation order" amended by SD2015/0090 as amended by SD2015/0276.
[109] Definition of "Authority" inserted by SD2015/0090 as amended by SD2015/0276.
[110] Definition of "Commission" repealed by SD2015/0090 as amended by SD2015/0276.
[111] Definition of "order" amended by SD2015/0090 as amended by SD2015/0276.
[112] Definition of "prescribed" amended by SD2015/0090 as amended by SD2015/0276.
[113] Definition of "recognition order" amended by SD2015/0090 as amended by SD2015/0276.
[114] Definition of "regulations" amended by SD2015/0090 as amended by SD2015/0276.
[115] Definition of "Tribunal" amended by Insurance (Amendment) Act 2017 Sch 2.
[116] Subs (2) amended by SD2015/0090 as amended by SD2015/0276.
[117] ADO (whole Act) 1/8/2008 (SD461/08) with savings. Ss 1(5) and 24 operative on the making of SD461/08 - 19/6/2008.
[118] Item (a) amended by SD2015/0090 as amended by SD2015/0276.
[119] Item (b) amended by SD2015/0090 as amended by SD2015/0276.
[120] Subpara (3) amended by SD2015/0090 as amended by SD2015/0276.
[121] Subpara (5) amended by SD2015/0090 as amended by SD2015/0276.
[122] Subpara (6) amended by SD2015/0090 as amended by SD2015/0276.
[123] Subpara (1) amended by SD2015/0090 as amended by SD2015/0276.
[124] Item (b) amended by SD2015/0090 as amended by SD2015/0276.
[125] Subpara (4) substituted by SD412/13.
[126] Subitem (i) amended by SD2015/0090 as amended by SD2015/0276.
[127] Subitem (iii) amended by SD2015/0090 as amended by SD2015/0276.
[128] Subpara (5) substituted by SD412/13.
[129] Subpara (9) amended by SD2015/0090 as amended by SD2015/0276.
[130] Subpara (10) amended by SD2015/0090 as amended by SD2015/0276.
[131] Subpara (11) amended by SD2015/0090 as amended by SD2015/0276.
[132] Subpara (12) amended by SD2015/0090 as amended by SD2015/0276.
[133] Subpara (13) amended by SD2015/0090 as amended by SD2015/0276.
[134] Subpara (14) amended by SD2015/0090 as amended by SD2015/0276.
[135] Subpara (15) inserted by Financial Services (Miscellaneous Amendments) Act 2013 s 33 and amended by SD2015/0090 as amended by SD2015/0276.
[136] Subpara (16) inserted by Financial Services (Miscellaneous Amendments) Act 2013 s 33 and amended by SD2015/0090 as amended by SD2015/0276.
[137] Subpara (1) amended by SD2015/0090 as amended by SD2015/0276.
[138] Subpara (3) amended by SD2015/0090 as amended by SD2015/0276.
[139] Item (a) amended by SD2015/0090 as amended by SD2015/0276.

UNOFFICIAL

[140] Item (b) amended by SD2015/0090 as amended by SD2015/0276.
[141] Subpara (1) amended by SD2015/0090 as amended by SD2015/0276.
[142] Subitem (2) amended by SD2015/0090 as amended by SD2015/0276.
[143] Subpara (2) amended by SD2015/0090 as amended by SD2015/0276.
[144] Subpara (3) amended by SD2015/0090 as amended by SD2015/0276.
[145] Subpara (4) amended by SD2015/0090 as amended by SD2015/0276.
[146] Subpara (5) amended by SD2015/0090 as amended by SD2015/0276.
[147] Subpara (2) amended by SD2015/0090 as amended by SD2015/0276.
[148] Subpara (8) amended by SD2015/0090 as amended by SD2015/0276.
[149] Subpara (9) amended by SD2015/0090 as amended by SD2015/0276.
[150] Subpara (10) amended by SD2015/0090 as amended by SD2015/0276.
[151] Subpara (11) amended by SD2015/0090 as amended by SD2015/0276.
[152] Subpara (12) amended by SD2015/0090 as amended by SD2015/0276.
[153] Item (a) amended by SD2015/0090 as amended by SD2015/0276.
[154] Item (b) amended by SD2015/0090 as amended by SD2015/0276.
[155] Subpara (1) amended by SD2015/0090 as amended by SD2015/0276.
[156] Subpara (2) amended by SD2015/0090 as amended by SD2015/0276.
[157] Item (a) amended by SD2015/0090 as amended by SD2015/0276.
[158] Item (b) amended by SD2015/0090 as amended by SD2015/0276.
[159] Subpara (4) amended by SD2015/0090 as amended by SD2015/0276.
[160] Item (a) amended by SD2015/0090 as amended by SD2015/0276.
[161] Item (b) amended by SD2015/0090 as amended by SD2015/0276.
[162] Subpara (5) amended by SD2015/0090 as amended by SD2015/0276.
[163] Subpara (1) amended by SD2015/0090 as amended by SD2015/0276.
[164] Subpara (2) amended by SD2015/0090 as amended by SD2015/0276.
[165] Subpara (3) amended by SD2015/0090 as amended by SD2015/0276.
[166] Subpara (1) amended by Financial Services (Miscellaneous Amendments) Act 2013 s 34.
[167] Subpara (3) amended by SD2015/0090 as amended by SD2015/0276.
[168] Item (a) amended by SD2015/0090 as amended by SD2015/0276.
[169] Item (b) amended by SD2015/0090 as amended by SD2015/0276.
[170] Item (a) amended by Financial Services (Miscellaneous Amendments) Act 2013 s 34.
[171] Item (b) amended by Financial Services (Miscellaneous Amendments) Act 2013 s 34.
[172] Item (c) amended by SD2015/0090 as amended by SD2015/0276.
[173] Subpara (1) amended by SD2015/0090 as amended by SD2015/0276.
[174] Subpara (4) amended by SD2015/0090 as amended by SD2015/0276.
[175] Subpara (6) amended by SD2015/0090 as amended by SD2015/0276.
[176] Subpara (13) amended by SD2015/0090 as amended by SD2015/0276.
[177] Subpara (1) amended by SD2015/0090 as amended by SD2015/0276.
[178] Item (a) amended by SD2015/0090 as amended by SD2015/0276.
[179] Item (b) amended by SD2015/0090 as amended by SD2015/0276.
[180] Subpara (1) amended by SD2015/0090 as amended by SD2015/0276.

UNOFFICIAL

[181] Subitem (ii) amended by SD2015/0090 as amended by SD2015/0276.
[182] Subpara (2) amended by SD2015/0090 as amended by SD2015/0276.
[183] Subpara (3) amended by SD2015/0090 as amended by SD2015/0276.
[184] Subpara (4) amended by SD2015/0090 as amended by SD2015/0276.
[185] Subpara (5) amended by SD2015/0090 as amended by SD2015/0276.
[186] Subpara (1) amended by SD2015/0090 as amended by SD2015/0276.
[187] Subpara (1A) inserted by Financial Services (Miscellaneous Amendments) Act 2013 s 34.
[188] Subpara (2) amended by Financial Services (Miscellaneous Amendments) Act 2013 s 34 and by SD2015/0090 as amended by SD2015/0276.
[189] Subpara (3) inserted by Financial Services (Miscellaneous Amendments) Act 2013 s 34.
[190] Item (d) amended by SD2015/0090 as amended by SD2015/0276.
[191] Item (e) amended by SD2015/0090 as amended by SD2015/0276.
[192] Item (f) amended by SD2015/0090 as amended by SD2015/0276.
[193] Item (j) amended by SD2015/0090 as amended by SD2015/0276.
[194] Item (k) amended by SD2015/0090 as amended by SD2015/0276.
[195] Item (l) amended by SD2015/0090 as amended by SD2015/0276.
[196] Item (a) amended by SD2015/0090 as amended by SD2015/0276.
[197] Para 7 amended by SD2015/0090 as amended by SD2015/0276.
[198] Para 10 amended by SD2015/0090 as amended by SD2015/0276.
[199] Subpara (1) amended by SD2015/0090 as amended by SD2015/0276.

UNOFFICIAL