

Investment Business Act 1991 (as amended)

Disclaimer: This copy of the Investment Business Act 1991 has been updated for the convenience of users of this website to include amendments made by the Fiduciary Services Act 2005. The Commission accepts no liability for the accuracy of the updating. The updated version of the Act is intended for guidance only and the original Acts should be consulted for legal purposes.



INVESTMENT BUSINESS ACTS 1991 – 1993

AS AMENDED BY THE INVESTMENT BUSINESS (AMENDMENT) ACT 1993 and other Acts

The amendments made to the Investment Business Act 1991 by the Investment Business (Amendment) Act 1993 and the Banking Act 1998 are contained in square brackets. These amendments came into effect on 25 October 1993 and 31 March 1999.

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Signed in Tynwald: 15th October 1991
Received Royal Assent: 15th October 1991
Announced to Tynwald: 15th October 1991
Passed: 15th October 1991

AN ACT

to repeal and replace, with amendments, the provisions of the Banking Act 1975 relating to the licensing and regulation of investment business; to make fresh provision in relation thereto; to amend the said Act; and for connected purposes.

We, your Majesty's most dutiful and loyal subjects, the Council and Keys of the said Isle, do humbly beseech your Majesty that it may be enacted, and be it enacted, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Council and Keys in Tynwald assembled, and by the authority of the same, as follows (that is to say):-

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Investment Business

Meaning of investment business

1. (1) For the purposes of this Act, "investment business" means the business of engaging in one or more of the activities which are prescribed under subsection (2).
- (2) The Treasury may by order prescribe activities which shall constitute investment business for the purposes of this Act being activities relating to or connected with -
 - (a) deals in investments;
 - (b) the arrangement of deals in investments;
 - (c) the management of investments;
 - (d) the giving or offering of advice to investors or potential investors; and
 - (e) the operation and administration of collective investment schemes.
- (3) Without prejudice to the generality of subsection (2), an order under that subsection may define the meaning of "investments" for the purposes of the order and of this Act.

Investment Business Licence

Offence to carry on investment business without licence

2. (1) Subject to the provisions of this Act, any person who carries on, or holds himself out as carrying on, in or from the Island, investment business -
 - (a) in respect of which no investment business licence is in force; or
 - (b) if such a licence is in force, other than in accordance with the conditions, if any, of the licence,

shall be guilty of an offence.
- (2) Without prejudice to the generality of subsection (1), for the purposes of this Act a person is treated as carrying on investment business -
 - (a) in the Island if he -
 - (i) carries on investment business from a permanent place of business maintained by him in the Island; or
 - (ii) engages in the Island in one or more of the activities which constitute investment business and his doing so constitutes the carrying on by him of a business in the Island;

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(b) from the Island if that person is -

(i) a company incorporated in the Island under the Companies Act 1931 to 1986; or

[XIII P.235]

(ii) a company incorporated outside the Island and is registered under Part XI of the Companies Act 1931; or

[VII P.327]

(iii) a limited partnership registered in the Island under Part II of the Partnership Act 1909,

and carries on investment business outside the Island.

(3) The Financial Supervision Commission (in this Act referred to as "the Commission") may by regulations exempt any person or class of persons from any of the provisions of this Act.

[c.20]

(4) Without prejudice to section 26 of the Interpretation Act 1976 or to any other provision of this Act, regulations under this section may provide for -

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

(b) the circumstances in which the Commission may withdraw the exemption from a particular person.

(5) If a person is in contravention of any condition imposed by regulations under this section, the Commission may undertake enforcement action.

Application for,
and grant of, an
investment
business licence

3. (1) Every application for a licence to carry on investment business (in this Act referred to as an "investment business licence") shall be made to the Commission.

(2) An application under subsection (1) shall be in a form specified by the Commission, together with such documents and information as may be required by the Commission.

(3) A licence shall not be granted under this section unless the Commission is satisfied that the applicant is a fit and proper person to carry on the investment business and provide the services described in the application.

[(3A) Without prejudice to the generality of subsection (6), where at any time after the grant of a licence the Commission is satisfied that the criterion mentioned in subsection (3) is no longer satisfied in respect of the holder of the licence, it may revoke the licence.]²

(4) The Commission shall, in relation to every application for an investment business licence -

(a) issue the licence; or

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- (b) issue the licence, subject to conditions; or
 - (c) refuse the application.

[(4A) Without prejudice to subsection (7)(a), an investment business licence may include a statement specifying provisions of any regulatory code issued under section 6 which are not to apply to the person to whom the licence is granted.

(4B) Where a licence contains a statement under subsection (4A), such provisions of the regulatory code as are specified in that statement shall not apply to the holder of the licence.]¹

[(5) Subject to the provisions of this section, an investment business licence shall remain in force for -

- (a) such period as may be specified in the licence; or
- (b) until revoked or surrendered,

whichever first occurs.]³

[(5A) In respect of a licence to which subsection (5)(a) applies, the Commission may extend the term of the licence for a period not exceeding 21 days.]²

(6) The Commission may at any time revoke or suspend an investment business licence.

(7) The conditions which the Commission may impose may include a requirement that the person to whom the licence is granted shall-

- (a) comply with such regulatory codes issued under section 6 as are for the time being in force;
- (b) comply with such rules, regulations, codes or standards as are from time to time in force and made or issued by a recognised regulator or any other regulatory authority (whether made before or after the date on which the condition is imposed).

(8) Where an investment business licence has been issued under subsection (4)(a) the Commission may at any time make that licence subject to conditions.

(9) Where an investment business licence is issued, or has been made, subject to conditions the Commission may at any time -

- (a) make the licence subject to further conditions;
- (b) vary or revoke any condition.

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(10) If the holder of a licence is in contravention of any condition imposed under this section, the Commission may undertake enforcement action.

(11) Any person who, for the purpose of obtaining an investment business licence, knowingly or recklessly gives any information which is false in a material particular shall be guilty of an offence.

(12) The Treasury may give the Commission such directions as it thinks fit with respect to the exercise or performance of the powers of the Commission under this section, whether generally or in any particular case, and the Commission shall comply with those directions.

Recognised and Permitted Persons

Recognised
persons

4. (1) The Commission may, where it has entered into a mutual assistance agreement with a recognised regulator under section 17, by regulations exempt any person or class of persons from section 2 (in this Act referred to as "a recognised person").

(2) The Commission shall not exercise its power under subsection (1) unless it is satisfied that the person or class of persons concerned will be adequately supervised by the recognised regulator.

(3) Without prejudice to section 26 of the Interpretation Act 1976 or to any other provision of this Act, regulations under this section may provide for -

- (a) the conditions subject to which the exemption shall operate;
- (b) the circumstances in which the Commission may withdraw the exemption from a particular person.

(4) If a recognised person is in contravention of any condition imposed by regulations under this section, the Commission may undertake enforcement action.

Register of
permitted
persons

5. (1) The Commission shall keep a register of -

- (a) the holders of investment business licences;
- (b) persons exempted under section 2(3) from the requirement to hold an investment business licence;
- (c) recognised persons;

and in this Act, such persons are referred to collectively as "permitted persons".

(2) The register to be kept under this section shall be -

- (a) in such form; and

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(b) made available for public inspection in such manner and by such means, as may be prescribed.

[Subsection 5(2)(b) substituted by the Fiduciary Services Act 2005]

Regulation of Investment Business

Regulatory
codes

6. (1) The Commission may by instrument in writing make codes (in this Act referred to as "regulatory codes") concerning -
- (a) the conduct of investment business by permitted persons;
 - (b) the financial resources of such persons;
 - (c) the assets, liabilities and other matters to be taken into account in determining a permitted person's financial resources for the purposes of the code;
 - (d) arrangements for the settlement of disputes;
 - (e) the keeping of accounts and other records, their form, content, inspection and audit;
 - (f) the form and content of advertisements in respect of investment business;
 - (g) the disclosure of the amount or value, or of arrangements for the payment or provision, of commissions or other inducements in connection with investment business and the matters by reference to which or the manner in which their amount or value may be determined;
 - (h) the giving of notice to the Commission of the occurrence of such events as may be specified in the code;
 - (i) subject to section 7, the treatment to be afforded to money received by permitted persons;
 - (j) the form and content of any information required to be produced by the permitted persons to the Commission; and
 - (k) the financial statements and returns which are to be submitted to the Commission.

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(2) A regulatory code may include a requirement that the permitted persons to whom it applies shall comply with such rules, regulations, codes or standards as are from time to time in force and made or issued by a regulatory authority (whether made before or after the commencement of this Act).

(3) The Commission shall, at the same time as it delivers copies of a regulatory code to the Clerk of Tynwald to be laid before Tynwald in accordance with section 21, deliver to each permitted person a notice containing -

- (a) a statement that the regulatory code has been made;
- (b) its commencement date; and
- (c) an explanatory note.

Failure to comply with this subsection shall not affect the validity of any regulatory code.

(4) A person shall not be taken to be in contravention of a regulatory code if, at the time of the alleged contravention, copies of the regulatory code had not been delivered to the Clerk of Tynwald to be laid before Tynwald.

(5) The Commission shall supply copies of regulatory codes to any person on request, at such reasonable charge (if any) as the Commission may determine.

(6) If a permitted person is in contravention of a regulatory code the Commission may undertake enforcement action.

(7) Failure to comply with a regulatory code does not, unless compliance with such regulatory code is imposed as a condition under section 3(7), give rise to any right of action by investors or other persons affected or affect the validity of any transaction.

Civil penalties

6A. (1) If the Commission is satisfied that a permitted 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 Commission with false, inaccurate or misleading information;

it may require that person to pay a penalty in respect of the contravention.

(2) The Commission shall give written notice to the permitted person of any decision under subsection (1) together with a statement of the reasons for the decision.

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- (3) The Commission may not in respect of any such contravention –
- (a) both require a person to pay a penalty under this section and revoke his licence under section 3; or
- (b) require a person to pay a penalty under this section if criminal proceedings have been commenced in respect of the contravention.
- (4) When setting the amount of financial penalty, the Commission shall have regard to any regulations under this section.
- (5) The Commission shall make such regulations as are necessary to give effect to this section and with respect to –
- (a) the imposition of financial penalties under this section; and
- (b) the amount of financial penalties under this section.
- (6) Regulations under this section shall not come into operation unless they are approved by Tynwald.
- (7) Before making regulations under this section, the Commission shall consult such persons as it thinks appropriate.
- (8) Any amount received as a penalty under this section shall be paid into and form part of the General Revenue of the Island.
- (9) Criminal proceedings in respect of any contravention of this Act may not be commenced or continued if the Commission has required a person to pay a penalty under this section in respect of such contravention.”

[Section 6A substituted by the Fiduciary Services Act 2005]

- Client Money
7. (1) The Commission may provide by regulations that money held by any permitted person is held on trust and the terms and purposes of any such trust.
- (2) Any institution with which an account is kept in pursuance of regulations under this section does not incur any liability as constructive trustee where money is wrongfully paid from the account unless the institution –
- (a) permits the payment with knowledge that it is wrongful; or
- (b) has deliberately failed to make enquiries in circumstances in which a reasonable and honest person would have done so.
- Inspection and investigation
8. (1) The Commission may inspect the books, accounts and documents and investigate the transactions of a permitted person.
- (2) The Commission shall have every such power of entry and access as may be necessary for the purposes of subsection (1), and it may take

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possession of all such books, accounts and documents as, and for so long as, may be necessary for those purposes.

(3) The Commission may take copies of all books, accounts and documents in its possession for the purposes of an inspection and investigation under this section.

(4) Any person who intentionally obstructs the Commission when acting in the execution of its powers under subsection (1), (2) or (3) shall be guilty of an offence.

(5) In this section every reference to the Commission shall include any person authorised by the Commission in writing for the purposes of this section.

(6) Without prejudice to the following provisions of this section, the Treasury may give the Commission such directions as it thinks fit with respect to the exercise or performance of the powers of the Commission under subsection (1), (2) and (3), whether generally or in any particular case, and the Commission shall comply with those directions.

(7) The Commission shall exercise its right of entry and access under subsection (2) only during reasonable hours, and any person appointed by the Commission under subsection (5) shall, in the exercise of such right as aforesaid, produce his written appointment if required to do so.

(8) Nothing in this section shall apply in respect of the affairs of any particular customer of a permitted person except and in so far as it may be necessary for the purpose of an inspection and investigation under subsection (1).

(9) No person shall be prosecuted for an offence under this section without the written consent of the Attorney General.

[(10) The power provided by this section may be exercised in relation to a person who has ceased (for any reason) to be a permitted person, but, after that person has ceased to have any liability in respect of investment business for which he had a liability at a time when he was a permitted person, the powers may be exercised only in respect of, or in connection with, such transactions, matters or circumstances as occurred or existed when he did have such a liability.]³

(11) The powers provided by this section may be exercised in relation to a person who is, on reasonable grounds, suspected by the Commission of carrying on, or to have carried on, investment business contrary to section 2.

Power of
Commission
to require
information

[8A. (1) Where, on an application made by the Commission, a justice of the peace is satisfied that there is good reason to do so for the purpose of investigating the affairs, or any aspect of the affairs, of any person so far as is relevant to any investment business which that person is or was carrying on or appears to the Commission to be or to have been carrying on, the justice may by written instrument, authorise the Commission to exercise the powers under this section and such powers shall not otherwise be exercisable.

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(2) The Commission may by notice in writing, accompanied by a copy of the instrument issued by a justice of the peace under subsection (1), require the person whose affairs are to be investigated ("the person under investigation") or any other person whom it has reason to believe has relevant information to attend before the Commission at a specified time and place to answer questions or otherwise furnish information with respect to any matter relevant to the investigation.

(3) The Commission may by notice in writing, accompanied by a copy of the instrument issued by a justice of the peace under subsection (1), require any person (other than the person under investigation) to produce at a specified time and place any specified documents or copies of documents which appear to the Commission to relate to any matter relevant to the investigation or any documents of a specified class which appear to it so to relate.

(4) If documents or copies of documents are not produced as required under subsection (3), the Commission may require the person who was required to produce them to state, to the best of his knowledge and belief, where they are.

(5) Where any documents are produced as required under subsection (3), the Commission may -

- (a) take copies or extracts from them;
- (b) require the person producing them to provide an explanation of any of them.

(6) Where, on information on oath laid by the Commission, a Deemster is satisfied, in relation to any documents, that there are reasonable grounds for believing -

- (a) that -
 - (i) a person has failed to comply with an obligation under this section to produce them or copies of them;
 - (ii) it is not practicable to serve a notice under subsection (3) in relation to them; or
 - (iii) the service of such a notice in relation to them might seriously prejudice the investigation; and
- (b) that they are on premises specified in the information,

he may issue such a warrant as is mentioned in subsection (7).

(7) The warrant referred to above is a warrant authorising any person named in the warrant -

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-
- (a) to enter (using such force as is reasonably necessary for the purpose) and search the premises; and
 - (b) to take possession of any documents appearing to be documents of the description specified in the information or to take in relation to any documents so appearing any other steps which may appear to be necessary for preserving them and preventing interference with them.

[(7A) If, during the course of a search of premises for documents of a description specified in the information, other documents are discovered which appear to contain evidence in relation to an offence under this Act or the Banking Act 1998 [or the Corporate Service Providers Act 2000]⁴, the person named in the warrant may -

- (a) take possession of those documents; or
- (b) take in relation to them any other steps which may appear to be necessary for preserving them and preventing interference with them.]²

(8) A person executing a warrant issued under subsection (6) shall be accompanied by a constable.

[(9) A statement by a person in response to a requirement imposed under this section may not be used in evidence against him in respect of -

- (a) any proceedings under section 6A; or
- (b) any criminal proceedings except proceedings alleging contravention of subsection (11) or (12).]³

(10) A person shall not be under an obligation under this section to disclose any information or produce any document which he would be entitled to refuse to disclose or produce on grounds of legal professional privilege in proceedings in the High Court, except that a lawyer may be required to furnish the name and address of his client.

(11) Any person who without reasonable excuse fails to comply with a requirement imposed on him under this section shall be guilty of an offence.

(12) A person who, in purported compliance with a requirement under this section -

- (a) makes a statement which he knows to be false or misleading in a material particular; or
- (b) recklessly makes a statement which is false or misleading in a material particular,

shall be guilty of an offence.

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(13) Where any person -

- (a) knows or suspects that an investigation by the Commission is being or is likely to be carried out; and
- (b) falsifies, conceals, destroys or otherwise disposes of, or causes or permits the falsification, concealment, destruction or disposal of documents which he knows or suspects are or would be relevant to such an investigation,

he shall be guilty of an offence unless he proves that he had no intention of concealing the facts disclosed by the documents from persons carrying out such an investigation.

[(13A. A person guilty of an offence under subsection (13) shall be 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;
- (b) on conviction on information to a fine or to custody for a term not exceeding 7 years, or to both.]²

(14) In this section, "documents" includes information recorded in any form and, in relation to information recorded otherwise than in legible form, references to its production include references to producing a copy of the information in legible form.

(15) Where a person claims a lien on a document, its production under this section is without prejudice to the lien.

(16) The Commission may authorise any person to exercise on its behalf all or any of the powers conferred by this section but no such authority shall be granted except for the purpose of investigating the affairs, or any aspect of the affairs, of a person specified in such authority.

(17) No person shall be bound to comply with any requirement imposed by a person exercising powers by virtue of any authority granted under subsection (16) unless he has, if required to do so, produced evidence of his authority.]¹

Supervisory Powers and Remedies

Recommendations
and directions to
permitted persons

- [9. (1) The Commission may make recommendations to a permitted person or former permitted person.
- (2) The Commission may issue directions to any permitted person or former permitted person to secure that -
- (a) effect is given to a recommendation under subsection (1); or

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(b) the permitted person's business is in whole or in part suspended or discontinued.

(3) The Commission shall not make any recommendation under subsection (1) with respect to the affairs of any particular customer of a permitted person or former permitted person unless the Commission is satisfied that it is necessary for the purpose of -

(a) securing that a direction issued under subsection (2)(a) is complied with; or

(b) protecting the interests of the permitted person's other customers.

(4) No recommendation or direction under this section may be made or issued to or in respect of a former permitted person after that person has ceased to have any liability in respect of investment business for which the permitted person had a liability at a time when he was a permitted person.

(5) Any person who contravenes or fails to comply with a direction issued under this section shall be guilty of an offence.

Requests for
Information

9A. (1) The Commission may request a permitted person or former permitted person to provide the Commission with any information that it may reasonably require for the performance of its functions under this Act.

(2) Without prejudice to the generality of subsection (1), the Commission may request information about -

(a) subject to subsection (4), the affairs of a customer of a permitted person;

(b) any body corporate which is or has at any relevant time been -

(i) a holding company, subsidiary or related company of that permitted person;

(ii) a subsidiary of a holding company of that permitted person;

(iii) a holding company of a subsidiary of that permitted person; or

(iv) a body corporate in the case of which a shareholder controller of that permitted person, either alone or with any associate or associates, is entitled to exercise, or control the exercise of, more than 50 per cent of the voting power at a general meeting,

or in relation to any partnership of which that permitted person is or has at any relevant time been a member,

if it appears to the Commission necessary for the performance of its functions under this Act.

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(3) The Commission may issue directions to any permitted person or former permitted person to secure that effect is given to a request under subsection (1) or (2).

(4) The Commission shall not make any request under subsection (1) or (2) with respect to the affairs of any particular customer of a permitted person or former permitted person unless the Commission is satisfied that it is necessary for the purpose of -

(a) securing that a direction issued under subsection (3) is complied with;
or

(b) protecting the interests of the permitted person's other customers.

(5) No request or direction under this section may be made or issued to or in respect of a former permitted person after that person has ceased to have any liability in respect of investment business for which he had a liability at a time when he was a permitted person.

(6) Any person who contravenes or fails to comply with a direction issued under this section shall be guilty of an offence.

(7) Any person who, in purported compliance with a request or direction under this section -

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

(b) recklessly makes a statement which is false or misleading in a material particular,

shall be guilty of an offence.

(8) A statement by a person in response to a direction issued under this section may not be used in evidence against him in respect of -

(a) any proceedings under section 6A; or

(b) any criminal proceedings except proceedings alleging contravention of subsections (6) and (7).

(9) In this section -

"associate" has the same meaning as in section 10;

"holding company" and "subsidiary" shall be construed in accordance with section 1 of the Companies Act 1974;

"related company" shall have the same meaning as in section 32 of the Banking Act 1998.]³

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Directors,
controllers etc

10. (1) If, on reasonable grounds, it appears to the Commission that any individual is not a fit and proper person -

- (a) to be appointed as director, chief executive or manager; or
- (b) to become controller,

of a permitted person, specified permitted persons or permitted persons of any specified description, the Commission may direct that the individual shall not, without the written consent of the Commission, be appointed as such a director, chief executive or manager nor become such a controller.

[(1A) If, on reasonable grounds, it appears to the Commission that -

- (a) any director, chief executive, manager; or
- (b) any controller,

of a permitted person is not a fit and proper person to continue as such, the Commission may direct that the individual shall not, without the written consent of the Commission, continue as such a director, chief executive, manager or controller.]²

(2) The Commission shall give written notice to the individual concerned of any decision to make a direction under this section together with a statement of reasons for the decision.

(2A) Subject to subsection (2B), where a notice has been given under subsection (2), the direction shall take effect -

- (a) if no application for a review under section 15 is made within the period prescribed under that section, on the expiry of that period; or
- (b) if there is an application for a review under section 15 -
 - (i) where the applicant abandons the review, on the date of abandonment; or
 - (ii) where the decision of the Commission is confirmed, on the date of confirmation; or
 - (iii) where the decision of the Commission is varied, on such date as the Review Committee appointed under section 15 directs.

(2B) If the Commission is of the opinion that a direction should have immediate effect, the notice under subsection (2) shall contain a statement to that effect together with the reasons for that opinion, and the direction shall have effect on the giving of the notice.

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(3) Any consent by the Commission under subsection (1) [or (1A)]² may be -

- (a) given subject to conditions;
- (b) varied from time to time; and
- (c) revoked at any time.

(3A) Any direction by the Commission under subsection (1) or (1A), whether made before or after the commencement of this subsection, may be revoked at any time.

(4) Any individual who accepts or continues in any appointment referred to in subsection (1)(a) [or (1A)(a)]² or becomes or continues as a controller in contravention of a direction shall be guilty of an offence and liable on summary conviction to a fine not exceeding £2,000.

(5) It shall be the duty of a permitted person to take reasonable care not to appoint or continue the appointment of an individual in contravention of a direction.

(6) In this section -

"associate" in relation to any individual means -

- (a) the wife, husband, son, stepson, daughter, stepdaughter of the individual;
- (b) any body corporate of which that individual is a director; and
- (c) a partner or employee of that individual;

"chief executive" means an individual who is employed by the permitted person and who either alone or jointly with others is or will be responsible under the immediate authority of the directors for the conduct of its business;

"controller" means -

- (a) a managing director of a body corporate of which the permitted person is a subsidiary;
- (b) a chief executive of a body corporate of which the permitted person 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 permitted 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% or more of the

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voting power at any general meeting of the permitted person or of another body corporate of which it is a subsidiary;

"director" includes -

- (a) any individual occupying the position of director by whatever name called;
- (b) any individual 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 individual in a professional capacity;

"manager" means an individual employed by the permitted person who, under the immediate authority of a director or its chief executive -

- (a) exercises managerial functions; or
- (b) is responsible for maintaining the accounts or other records of the permitted person;

[c.30]

"subsidiary" shall be construed in accordance with section 1 of the Companies Act 1974.

(6A) The Commission shall keep a register of directions given under this section and the register shall –

- (a) contain such information; and
- (b) be made available for public inspection in such manner,

as may be prescribed in regulations made under section 20.

[Subsection 10(1) & (1A) amended by the Fiduciary Services Act 2005]
[Subsection 10(2) substituted by the Fiduciary Services Act 2005]
[Subsections 10(3A) & (6A) inserted by the Fiduciary Services Act 2005]

Vesting of
assets in
trustees

11. (1) The Commission may impose a requirement that all assets, or all assets of any specified class or description, which at any time while the requirement is in force -

- (a) belong to persons carrying on investment business; or
- (b) belong to investors and are held by or to the order of persons carrying on investment business,

shall be transferred to and held by a trustee appointed by the Commission.

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(2) Where a requirement is imposed under subsection (1) it shall be the duty of the person carrying on investment business to transfer the assets to the trustee and to give him all such other assistance as may be required to enable him to discharge his functions in accordance with the requirement.

(3) Assets held by a trustee in accordance with a requirement under subsection (1) shall not be released or dealt with except in accordance with directions, whether specific or general, given by the Commission or in such circumstances as may be specified by it.

(4) A requirement under subsection (1) may relate to assets outside the Island.

(5) The Commission shall be entitled to be reimbursed its costs and expenses, including any fees payable to, or costs and expenses of, the trustee, by the relevant person carrying on investment business or out of the assets transferred under subsection (1).

Public
statements

12. (1) The Commission may issue a public statement concerning a person if that person -

- (a) is [or has been]² carrying on investment business in contravention of any provision of this Act;
- (b) is [or has been]² in contravention of a regulatory code; or
- (c) is [or has been]² in contravention of any condition imposed upon any exemption granted under section 2 or 4.

[(2) The Commission may issue a public statement concerning any person who it believes is or has been carrying on investment business (whether in the Island or elsewhere) if it appears to the Commission to be desirable to make the statement for the protection of any person or class of persons.]³

(2A) If a direction has been given under section 10(1) or (1A), the Commission shall issue a public statement containing –

- (a) such information as is required by regulations under this Act to be included in the statement; and
- (b) such other information about the reasons for the giving of the direction as the Commission believes to be desirable in the public interest.

(2B) The Commission may issue a public statement concerning any matter relating to investment business or persons carrying on investment business in general or any class of investment business or person carrying on investment business where the Commission believes it to be desirable in the public interest to issue such a public statement.

(3) Before issuing a public statement under this section the Commission –

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-
-
- (a) where the statement is in respect of a permitted person, shall send to the person concerned at this address stated in the register kept under section 5; or
 - (b) where the statement is in respect of any other person, shall send to the person concerned, at this last known address,

written notice of the proposed statement and of the reasons for which it intends to act.

[(4) Except where the Commission is of the opinion that immediate action is necessary, a notice under subsection (3) shall be sent not less than 7 days before issuing the public statement under this section.]²

- (5) The Commission shall not issue a public statement under this section in respect of a direction under section 10(1) or (1A) before the date on which the direction takes effect in accordance with section 10(2A)."

[Subsections 12(2A) & (2B) inserted by the Fiduciary Services Act 2005]
[Subsection 12(3) substituted by the Fiduciary Services Act 2005]
[Subsection 12(4) words repealed by the Fiduciary Services Act 2005]
[Subsection 12(5) inserted by the Fiduciary Services Act 2005]

Injunctions and
restitution orders

13. (1) If on the application of the Commission the High Court is satisfied -
- (a) that there is a reasonable likelihood that any person will contravene any provision of -
 - (i) section 2 and any breach of any condition imposed under section 3;
 - (ii) any condition imposed upon any exemption granted under section 2 or 4;
 - (iii) a regulatory code;
 - (iv) any request, recommendation or direction under section 9, [9A]² or 10;

[XX.p387]

[(v) section 17A or 17B; or]³

- (b) that any person has contravened any such provision and that there is a reasonable likelihood that the contravention will continue or be repeated; or
- (c) that any person has contravened any such provision and that there are steps that could be taken for remedying the contravention,

the court may grant an injunction restraining the contravention or, as the case may be, make an order requiring that person and any other person who

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appears to the court to have been knowingly concerned in the contravention to take such steps as the court may direct to remedy it.

(2) The court may, on the application of the Commission, make an order under subsection (1) if satisfied -

- (a) that profits have accrued to any person as a result of his contravention of any provision mentioned in subsection (1)(a); or
- (b) that one or more investors have suffered loss or been otherwise adversely affected as a result of that contravention.

(3) The court may under this subsection order the person concerned to pay into court, or appoint a receiver to recover from him, such sum as appears to the court to be just having regard -

- (a) in a case within subsection (2)(a), to the profits appearing to the court to have accrued;
- (b) in a case within subsection (2)(b), to the extent of the loss or other adverse effect; or
- (c) in a case within both paragraphs (a) and (b) of subsection (2), to the profits and to the extent of the loss or other adverse effect.

(4) Any amount paid into court by or recovered from a person in pursuance of an order under subsection (3) shall be paid out to such person or distributed among such persons as the court may direct, being a person or persons appearing to the court to have entered into transactions with that person as a result of which the profits mentioned in subsection (2)(a) have accrued to him or the loss or adverse effect mentioned in subsection (2)(b) has been suffered.

(5) On an application under subsection (2) the court may require the person concerned to furnish it with such accounts or other information as it may require for establishing whether any and, if so what profits have accrued to him as mentioned in subsection (2)(a) and for determining how any amounts are to be paid or distributed under subsection (4); and the court may require any such amounts or other information to be verified in such manner as it may direct.

(6) Nothing in this section affects the right of any person other than the Commission to bring proceedings in respect of the matters to which this section applies.

Actions for
damages

14. (1) Without prejudice to section 13, a contravention of any conditions imposed under section 3 shall be actionable at the suit of a person who suffers loss as a result of the contravention subject to the defences and other incidents applying to actions for breach of statutory duty.

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

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-
-
- (a) a contravention of conditions imposed under section 3 in connection with the financial resources of a licence-holder; or
 - (b) a contravention of a regulatory code except where compliance is imposed as a licence condition under section 3.
- (3) No contravention to which subsection (1) applies shall invalidate any transaction.
- (4) No action in respect of a contravention to which this section applies shall lie at the suit of such persons or classes of persons as are prescribed for this purpose.

Miscellaneous and General

Review of
Commission
decisions

15. (1) Any person who is aggrieved by a decision of the Commission to -
- (a) refuse to grant an investment business licence;
 - (b) refuse to renew an investment business licence;
 - (c) revoke an investment business licence;
 - (d) suspend an investment business licence;
 - (e) grant or renew an investment business licence subject to conditions;
 - (f) require a permitted person to pay a penalty in respect of a contravention under section 6A;
 - (g) make an investment business licence subject to conditions or further conditions;
 - (h) vary any condition attached to an investment business licence;
 - (i) issue a direction under section 9, 9A or 10;
 - (j) refuse to revoke a direction under section 10;
 - (k) withdraw an exemption in accordance with regulations under section 2(4)(b) or 4(3)(b);
 - (l) impose a requirement under section 11; or
 - (m) issue a public statement under section 12(2) or (2B)
- may apply for a review of the decision.
- (2) In the first instance the application shall be addressed to the Chief Secretary who shall report the application to the Council of Ministers.

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- (3) An application for a review shall be in such form, made within such time, and be subject to such conditions, as may be prescribed by regulations made by the Council of Ministers.
- (4) On the notification of an application for review, the Council of Ministers shall appoint 3 persons to form a committee (in this section referred to as the "Review Committee") to review the decision in question.
- (5) The members of the committee must be persons -
- (a) who have appropriate experience; and
 - (b) who are independent of both the Commission and the applicant.
- (6) The Review Committee shall conduct reviews under this section.
- (7) On the determination of a review under this section the Review Committee shall confirm, vary or revoke the decision appealed against.
- (8) Any variation or revocation of a decision shall not affect the previous operation of that decision or anything duly done or suffered under it.
- (9) Without prejudice to any right of recourse to the High Court, a decision of the Review Committee on a review under this section shall be binding on the Commission and the applicant.
- (10) The Council of Ministers may make regulations to provide for the practice and procedure of the Review Committee and for proceedings before the Committee.]⁵

Indemnity for
designated bodies

- [15A. (1) A designated body shall not, nor shall -
- (a) any officer, member or employee of a designated body; or
 - (b) any other person acting on behalf of a designated body; or
 - (c) any person acting pursuant to any authority conferred by a designated body

be liable [in damages]⁵ for, or in respect of, any act or matter done or omitted to be done in the exercise, or purported exercise, of the functions conferred by or under any specified enactment unless the act or matter done or omitted to be done is shown to have been in bad faith.

- (2) [In this section -] ³

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"designated body" means -

- (a) the Treasury;
- (b) the Financial Supervision Commission;
- (c) a body administering a scheme under section 21 of the Financial Supervision Act 1988;
- [(ca) a body administering a scheme under section 23 of the Banking Act 1998; and] ²
- (d) a recognised regulator within the meaning given by section 17 (1) of this Act which is designated by order made by the Treasury;

"specified enactment" means -

- (a) [the Banking Act 1998;] ³
 - (b) the Financial Supervision Act 1988;
 - (c) the Investment Business Act 1991;
 - [(d) the Companies Acts 1931 to 1993.] ²
 - [(e) the Industrial and Building Societies Act 1892 to 1993.] ²
- (3) An order under subsection (2) shall be laid before Tynwald.
- (4) A designated body shall not, nor shall -
- (a) any officer, member or employee of a designated body; or
 - (b) any other person acting on behalf of a designated body; or
 - (c) any person acting pursuant to any authority conferred by a designated body

be liable [in damages]⁵ for, or in respect of, any act or matter done or omitted to be done in the implementation, or purported implementation, of a mutual assistance agreement under section 17 [or of an agreement between a recognised regulator and a person who carries on investment business whereby the recognised regulator undertakes, with the consent of the Commission, the supervision of investment business carried on by that person] ² unless the act or matter done or omitted to be done is shown to have been in bad faith.

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(4A) Subsections (1) and (4) do not apply so as to prevent the award of damages made in respect of an act or omission on the ground that the act or omission was unlawful as a result of section 6(1) of the Human Rights Act 2001.

(5) This section shall not have effect in relation to any action, suit or proceedings, whether commenced before or after the date on which this section comes into operation, in respect of any act or matter done or omitted to be done before that date.]¹

Matters to be communicated to the Commission by auditors

[15B. (1) Matters are to be communicated to the Commission by an auditor of a permitted person in the circumstances specified in subsection (2).

(2) The circumstances referred to in subsection (1) are circumstances in which in the course of his work, the auditor becomes aware of facts which are such as to give the auditor reasonable cause to believe that they are of material significance in relation to the Commission's functions under this Act.

(3) Without prejudice to the generality of subsection (2), the circumstances specified in that subsection include circumstances in which in the course of his work, the auditor becomes aware of facts which -

- (a) are likely to lead to a serious qualification or refusal of the certificate of audit;
- (b) endanger the existence of the permitted person; or gravely impair the development of the permitted person;
- (c) imperil the protection of customers of the permitted person; or
- (d) indicate that the principles of sound management have been seriously violated.]²

[Subsection 15(1) substituted by the Fiduciary Services Act 2005]

[Subsection 15A(4A) inserted by the Fiduciary Services Act 2005]

Indemnity for auditors

16. (1) No duty to which an auditor of a permitted person may be subject shall be regarded as contravened by reason of his communicating in good faith to the Commission, whether or not in response to a request made by it, any information or opinion on a matter which is relevant to any function of the Commission under this Act or the Financial Supervision Act 1988.

(2) This section applies to any matter to which the auditor becomes aware in his capacity as auditor and which relates to the business or affairs of the permitted person.

Mutual assistance agreements

17. (1) Subject to subsection (2), the Commission may, in relation to investment business, enter into mutual assistance agreements with an authority (in this Act referred to as a "recognised regulator") whether a governmental or private body and whether in the Island or in a country or territory outside the Island exercising, whether by law or by the rules of the body, functions corresponding to the

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Commission under this Act or Part I of the Financial Supervision Act 1988 or other functions of supervision of persons carrying on investment business or similar business or of the markets on which such persons may carry on such business, and the powers conferred by sections [8, 8A, 9 and 9A] ³ may, without prejudice to their generality, be exercised for the purpose of assisting any such authority in the exercise of its functions.

- (2) Subsection (1) shall not permit the disclosure of any information relating to the affairs of a customer unless –
- (a) the customer consents; or
 - (b) the Commission has given its written consent to the disclosure in accordance with subsections (2A) to (2C).
- (2A) The Commission may consent to a disclosure of information to which subsection (2) applies if the Commission is satisfied that –
- (a) disclosure is in the public interest, having regard to the confidential nature of the information and the purpose for which it is required; and
 - (b) the body to which the disclosure is made is required by law to observe rules of confidentiality with respect to the information that are no less strict than those applying to it in the Island, or the body has undertaken to observe standards of equivalent effect; and
 - (c) the body to which the disclosure is made has undertaken to observe standards of information security with respect to the information that are no less strict than those adopted by the Commission; and
 - (d) the body to which the disclosure is made has undertaken to observe any conditions imposed by the Commission on the release of the information to third parties; and
 - (e) the body to which the disclosure is made has undertaken that the information will be used only for the purpose of assisting that body in the exercise of functions conferred on it by or under statute; and
 - (f) the disclosure is (either itself or when taken with other material) likely to be of substantial value to the body to which it is made.
- (2B) In deciding whether to consent to a disclosure of information to which subsection (2) applies, the Commission shall take the following factors into account –
- (a) the seriousness of the circumstances of the particular case;
 - (b) whether the information could be obtained by other means;

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(c) whether the making of the disclosure is proportionate to what is sought to be achieved by it; and

(d) whether reciprocal assistance would be given in the country concerned.

(2C) The factors set out in subsection (2B) are neither exhaustive nor definitive.

(2D) The Treasury may by order modify –

(a) the matters in respect of which the Commission must be satisfied under subsection (2A);

(b) the factors to be taken into account under subsection (2B).

Misleading
statements

[17A. (1) Any person who -

(a) makes a statement, promise or forecast which he knows to be misleading, false or deceptive; or

(b) dishonestly conceals any material facts; or

(c) recklessly makes (dishonestly or otherwise) a statement, promise or forecast which is misleading, false or deceptive,

is guilty of an offence if he makes the statement, promise or forecast or conceals the facts for the purpose of inducing, or is reckless as to whether it may induce, another person (whether or not the person to whom the statement, promise or forecast is made or from whom the facts are concealed) to -

(i) enter or offer to enter into, or to refrain from entering or offering to enter into, an investment agreement; or

(ii) exercise, or refrain from exercising, any rights conferred by an investment.

(2) Subsection (1) does not apply unless -

(a) the statement, promise or forecast is made in or from, or the facts are concealed in or from, the Island; or

(b) the agreement is or would be entered into or the rights are or would be exercised in the Island.

(3) A person guilty of an offence under this section shall be liable -

(a) on conviction on indictment, to custody for a term not exceeding 10 years or to a fine or to both;

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

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Misleading
practices

- 17B. (1) Any person who does any act or engages in any course of conduct which creates a false or misleading impression as to the market in or the price or value of any investments is guilty of an offence if he does so for the purpose of creating that impression and of thereby inducing another person to acquire, dispose of, subscribe for or underwrite those investments or to refrain from doing so or to exercise, or refrain from exercising, any rights conferred by those investments.
- (2) In proceedings brought against any person for an offence under subsection (1) it shall be a defence for him to prove that he reasonably believed that his act or conduct would not create an impression that was false or misleading as to the matters mentioned in that subsection.
- (3) Subsection (1) does not apply unless -
- (a) the course of conduct is engaged in, or the act is done, in the Island; or
 - (b) the false or misleading impression is created there.
- (4) A person guilty of an offence under this section shall be liable -
- (a) on conviction on indictment, to custody for a term not exceeding 10 years or to a fine or to both;
 - (b) on summary conviction, to custody for a term not exceeding 6 months or to a fine not exceeding £5,000 or to both.]²

[Subsection 17(2) substituted by the Fiduciary Services Act 2005]

Fees and
expenses

18. The Commission after consulting the Treasury may prescribe the fees which shall be paid -
- (a) upon an application for and upon the issue and renewal of an investment business licence;
 - [(aa) upon any application or notification in respect of any matter arising under or relating to an investment business licence;]²
 - [(ab) upon any amendment of an investment business licence;]²
 - (b) upon entering the name of any recognised person in the register under section 5;
 - (c) annually by recognised persons for continued entry on the register.
 - [(d) in the case of licences which are not subject to periodical renewal, prescribe fees which shall be paid by licenceholders in respect of such periods and at such times as may be specified.]²

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| Offences | <p>19. (1) Any person guilty of an offence under any provision of this Act (except section 10(4)) shall be liable -</p> <p style="margin-left: 40px;">(a) on summary conviction, to a fine not exceeding £5,000 or to a term of imprisonment not exceeding 6 months, or to both;</p> <p style="margin-left: 40px;">(b) on conviction on information, to a fine or to a term of imprisonment not exceeding [3]³ years, or to both.</p> <p>[(2) Where an offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to neglect on the part of, a director, manager, secretary or other similar officer of the body corporate or a person who was purporting to act in such a capacity, he, as well as the body corporate, is guilty of the offence and liable to be proceeded against and punished accordingly.</p> <p>(3) Where the affairs of a body corporate are managed by its members, subsection (2) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.]⁵</p> |
| Power of the Commission to make regulations | <p>20. (1) The Commission may make such regulations as it considers are necessary or desirable to carry this Act into effect.</p> <p>(2) The Commission shall consult the Treasury before making any regulations under this Act.</p> |
| Tynwald procedure: orders and regulations | <p>21. All orders made by the Treasury and all regulations or regulatory codes made by the Commission under this Act shall be laid before Tynwald as soon as may be 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 shall cease to have effect.</p> |
| Interpretation | <p>22. (1) In this Act, unless the context otherwise requires -</p> <p style="margin-left: 40px;">"advertisement" includes every form of advertising whether in a publication or by the display of notices or by means of circulars or other documents or by an exhibition of photographs or cinematograph films or by way of sound broadcasting or television (including transmission by cable, [telecommunications or any electronic media])²;</p> <p style="margin-left: 40px;">"conditions" includes restrictions;</p> <p style="margin-left: 40px;">["investment agreement" means any agreement the making or performance of which by either party constitutes an activity which falls within any paragraph of Part I of Schedule 1 to the Investment Business Order 1991 or would do so apart from Part 2 of that Schedule;]²</p> <p style="margin-left: 40px;">"investment business" has the meaning given by section 1;</p> |
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"investment business licence" has the meaning given by section 3;

"permitted person" has the meaning given by section 5;

"recognised person" has the meaning given by section 4;

"recognised regulator" has the meaning given by section 17;

"regulatory authority" means any authority (whether established in the Island or elsewhere) which regulates -

- (a) the carrying on of investment business by any class of persons; or
- (b) the practice of any profession;

"regulatory code" has the meaning given by section 6;

"trustee" has the meaning given by section 11.

(2) In this Act "enforcement action" means the exercise of any one or more of the following powers -

- (a) the issue of a request, recommendation or direction under section 9 [or 9A] ² in relation to a permitted person;
- (b) the institution of an inspection or investigation in relation to a permitted person under section 8;
- (c) the withdrawal or suspension of a licence issued under section 3;
- (d) the withdrawal of an exemption under which the person is a permitted person.

(3) The exercise of any power referred to in subsection (2) shall not prevent the exercise of any other power or remedy under this Act nor shall it prevent the commencement of proceedings for an offence under this Act.

(4) In determining for any purposes of this Act whether any particular matter is desirable in the public interest, the Commission shall take into account all matters which appear to it in the particular circumstances to be relevant and, among other things, shall have regard to -

- (a) the protection of the public;
- (b) the deterrent effect of such a public statement; and

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(c) the effect of publication on those to whom the statement relates.

Gaming contracts [22A. (1) For the avoidance of doubt, no contract to which this section applies shall be void or unenforceable by reason of section 40 of the Gaming Betting and Lotteries Act 1988.

(2) This section applies to any contract entered into by either or each party by way of business and the making or performance of which by either party constitutes an activity which is investment business.]²

[Subsection 22(4) inserted by the Fiduciary Services Act 2005]

Amendments to Banking Act 1975 23. The Banking Act 1975 shall be amended in accordance with Schedule 1.

Minor and consequential amendments and repeals 24. (1) The enactments specified in Schedule 2 shall be amended in accordance with that Schedule.

(2) The enactments mentioned in Schedule 3 are repealed to the extent specified in the third column of that Schedule.

Short title and commencement 25. (1) This Act may be cited as the Investment Business Act 1991.

(2) This Act shall come into operation on such date as the Treasury may by order appoint, and different dates may be so appointed for different provisions and for different purposes.

¹ *Inserted by the Investment Business (Amendment) Act 1993*

² *Inserted by the Banking Act 1998*

³ *Amended by the Banking Act 1998*

⁴ *Inserted by the Corporate Service Providers Act 2000*

⁵ *Amended by the Corporate Service Providers Act 2000*

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SCHEDULES

SCHEDULE 1

[REPEALED BY THE BANKING ACT 1998]

Section 24(1)**SCHEDULE 2****MINOR AND CONSEQUENTIAL AMENDMENTS****Advocates Act 1826 (II p.1)**

1. In Section 1A, after paragraph (c) add -
"(d) the Legal Officer (Fraud).".

Companies Act 1982 (c.2)

2. For section 12A(2)(c) substitute -
"(c) a permitted person under the Investment Business Act 1991".

Income Tax (Exempt Companies) Act 1984 (c.10)

3. In section 1(1)(c)(iii), for "7 of that Act" substitute "3 of the Investment Business Act 1991".

Financial Supervision Commission Act 1984 (c. 22)

4. In section 6(2), at the end add -
"and
(d) the Investment Business Act 1991".

Insurance Act 1986 (c.24)

5. In section 24(2), after paragraph (b) insert -
"(bb) to the Financial Supervision Commission; or".

Financial Supervision Act 1988 (c.16)

6. In section 4(1)(c) -
 - (a) after "Banking Act 1975", in both places where the words occur, insert "or the Investment Business Act 1991";
 - (b) for "either Act" substitute "any of those Acts".

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7. In section 11(4), after "7(1)" insert "(with the omission of the requirement relating to the advocate's certificate)".
 8. In section 12(5), at the end add -

"and

(c) shall be accompanied by such fee as may be prescribed."
 9. In section 14(1)(b) -
 - (a) after "Banking Act 1975", in both places where the words occur, insert "or the Investment Business Act 1991";
 - (b) for "either Act" substitute "any of those Acts".
 10. In section 16(1)(c) -
 - (a) after "Banking Act 1975", in both places where the words occur, insert "or the Investment Business Act 1991";
 - (b) for "either Act" substitute "any of those Acts".
 11. For section 20(4) substitute -

"(4) Sections 13 and 14 (with the exception of subsection (2)) of the Investment Business Act 1991 shall apply in respect of any contravention referred to in this section as they apply in respect of a contravention referred to in those sections."
 12. In section 22(1)(a), after "Banking Act 1975", insert "or the Investment Business Act 1991".
 13. In section 23(2), after "Banking Act 1975", insert "or the Investment Business Act 1991".
 14. In section 24 -
 - (a) in subsection (1), in paragraphs (c) and (e), after "Banking Act 1975" insert "or the Investment Business Act 1991";
 - (b) in subsections (4) and (5), after "Banking Act 1975" insert "or the Investment Business Act 1991".
 15. After section 24 insert -
 - 24A. (1) The Commission shall keep at its principal office registers of schemes to which this section applies containing such particulars and information as may be prescribed.
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- (2) Any person shall be entitled to inspect the registers during ordinary office hours.
- (3) This section applies to -
- (a) authorised schemes;
 - (b) international collective investment schemes within the meaning of section 11; and
 - (c) recognised schemes."
16. (1) In section 27, after subsection (2) insert -
- "(2A) Without prejudice to the generality of the power contained in subsection (1), regulations made under that subsection may regulate the issue, form and content of advertisements or other documents relating to collective investment schemes and in particular -
- (a) may prohibit the issue of advertisements of schemes of particular descriptions or by persons of particular descriptions; and
 - (b) may make provision with respect to matters which must be, as well as to matters which may not be, included in advertisements.
- (2B) Any person who issues an advertisement in contravention of regulations made under this section shall be guilty of an offence."
- (2) Any regulations under section 11(2) of the Banking Act 1975 relating to collective investment schemes, which are in operation immediately before the commencement of this paragraph shall, without prejudice to section 16 of the Interpretation Act 1976, have effect as if made under section 27(2A) of the Financial Supervision Act 1988.
17. For section 30(8) substitute -
- "(8) The Treasury may by order modify this section."
18. In section 31(1) -
- (a) [repealed by Fiduciary Services Act 2005 Sch. 3]
 - (b) in the definition of "documents constituting the scheme" for the words from "and, in any case" to the end substitute "and, any agreements between the company and the manager or trustee (if any) of the scheme".
- Consumer Protection Act 1991 (c. 11)***
19. In section 19(3), for "a person holding a licence under section 7 of the Banking Act 1975" substitute "a permitted person within the meaning of the Investment Business Act 1991".
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20. In section 45(1), in the definition of "advertisement", for "Banking Act 1975" substitute "Investment Business Act 1991".

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Section 24 (2)**SCHEDULE 3****MINOR AND CONSEQUENTIAL REPEALS**

| Chapter | Short Title | Extent of Repeal |
|-----------|--------------------------------|--|
| 1975 c.9 | Banking Act 1975 | <p>Section 4(3), (3A) and (3B)</p> <p>Sections 7A and 7B</p> <p>In section 11(2), the words "or investment business".</p> <p>In section 13 -</p> <p>(a) the definition of "investment business";</p> <p>(b) subsection (2).</p> <p>The Schedule.</p> |
| 1986 c.2 | Banking (Amendment) Act 1986 | <p>Section 1(c).</p> <p>Section 3(a).</p> <p>Section 8.</p> |
| 1988 c.16 | Financial Supervision Act 1988 | <p>Section 3(8).</p> <p>In Schedule 1 -</p> <p>(a) entry 6;</p> <p>(b) entry 7;</p> <p>(c) in entry 10(c), the definition of "investment business";</p> <p>(d) entry 10(d);</p> <p>(e) entry 11.</p> |