

Statutory Document No. 467/05



FIDUCIARY SERVICES ACT 2005

FIDUCIARY SERVICES ACT 2005 (APPOINTED DAY) ORDER 2005

Laid before Tynwald: 13 July 2005

In exercise of the powers conferred on the Treasury by section 5(3) of the Fiduciary Services Act 2005^(a), and of all other enabling powers, the following Order is hereby made:-

Citation and interpretation

1. (1) This Order may be cited as the Fiduciary Services Act 2005 (Appointed Day) Order 2005.

(2) In this Order,

"the Act" means the Fiduciary Services Act 2005;

"regulated activities" has the meaning given in section 1(2) of the Corporate Service Providers Act 2000^(b); and

"relevant fiduciary licence" means a fiduciary licence in respect of the regulated activities that fall within the meaning of section 1(2)(b) of the Corporate Service Providers Act 2000 (trust services).

Appointed day

2. Subject to article 3, all the provisions of the Act shall come into operation on the date on which this Order is made.

Transitional

3. (1) This article applies to a person who has made an application for a relevant fiduciary licence before 1 November 2005 and such application has not been determined before that date.

^(a) 2005 c.

^(b) 2000 c.13

(2) Section 2(1) of the Corporate Service Providers Act 2000 as inserted by section 1 of the Act shall not apply in respect of a person to whom this article applies until –

- (a) a relevant fiduciary licence is issued to the applicant; or
- (b) if the application is refused and the applicant seeks a review of that decision under section 18 of the Corporate Service Providers Act 2000 and the decision to refuse the application is upheld, the expiry of a period of 6 months commencing on the date of the determination of the review; or
- (c) if the application is refused and the applicant does not seek a review of that decision under section 18 of the Corporate Service Providers Act 2000, the expiry of a period of 6 months commencing on the date on which the period within which an application for a review must be made expires.

Made 13 July 2005

A. R. Bell

Minister for the Treasury

EXPLANATORY NOTE

(This Note is not part of the Order)

The Order brings into operation all the provisions of the Fiduciary Services Act 2005 with immediate effect, at the time and date on which the Order is laid before Tynwald.

Although the Act makes miscellaneous amendments to other legislation (as detailed in Schedule 3 to the Act), its principal purpose is to provide for the licensing, regulation and supervision of trust service providers (“TSPs”), who together with corporate service providers will be known as “fiduciaries”. By amendment to the Corporate Service Providers Act 2000, as already applies in respect of the provision of “corporate services”, a fiduciary who in or from the Isle of Man, engages in any of the regulated activities that are “trust services”, by way of business, will be required to hold a fiduciary licence, unless the activity is exempted.

The Order includes transitional arrangements that allow existing TSPs to continue in business whilst their application for the relevant class and category of fiduciary licence is being considered. However, they must have applied before 1 November 2005. The Financial Supervision Commission is inviting TSPs to apply for the relevant fiduciary licence in the period from 1 August to 31 October 2005 and thereafter it will be an offence to operate as a TSP without a licence, unless its activities are exempted from the requirement to hold a licence.

Where the Commission refuses to grant a licence, an aggrieved applicant may apply for a review of the Commission’s decision. Such persons may continue to act as TSPs until the expiry of the period in which an appeal can be lodged or, if an appeal has been lodged, for six months after the completion of the review process where the review upholds the decision to refuse a licence application.