1991 No. 374

FINANCIAL SERVICES

Financial Services Act 1986 (Restriction of Right of Action) (Friendly Societies) Regulations (Northern Ireland) 1991

Made . . . . . *14th August 1991*

Coming into operation . . *16th September 1991*

The Registrar of Friendly Societies for Northern Ireland, in exercise of his powers under paragraph 22A of Schedule 11 to the Financial Services Act 1986(**a**) and of every other power enabling him in that behalf, after having consulted those persons he is required to consult by virtue of sub-paragraph (4) of paragraph 22A, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Financial Services Act 1986 (Restriction of Right of Action) (Friendly Societies) Regulations (Northern Ireland) 1991 and shall come into operation on 16th September 1991.

(2) In these Regulations—

(*a*) ''the Act'' means the Financial Services Act 1986; and

(*b*) ''society or organisation'' means any society or organisation falling within paragraph (*b*) of the definition of ''Registrar'' in paragraph 1 of Schedule 11 to the Act.

Definition of private investor

2. For the purposes of paragraph 22A(1) of Schedule 11 to the Act, the expression private investor, in relation to any society or organisation, means an individual who is neither an authorised person under Chapter III, nor an exempted person under Chapter IV, of Part I of the Act.

Circumstances in which action may be brought at suit of person other than private investor

3. In relation to any society or organisation the following circumstances are specified for the purposes of paragraph 22A(1) of Schedule 11 to the Act as being circumstances in which action shall lie at the suit of a person other than a private investor—

(a) 1986 c. 60; paragraph 22A was inserted into Schedule 11 to the Financial Services Act 1986 by section 193(3) of the Companies Act 1989 (c. 40)

(*a*) circumstances in which an individual who is an authorised person under Chapter III, or an exempted person under Chapter IV, of Part I of the Act suffers a loss otherwise than in the course of investment business carried on by him;

(*b*) circumstances in which there is or has been a contravention of any prohibition or requirement imposed under Chapter VI of Part I of the Act as it applies by virtue of paragraph 23 of Schedule 11 to the Act;

(*c*) circumstances in which there is or has been a contravention of any requirement imposed under paragraph 24 of Schedule 11 to the Act; or

(*d*) circumstances in which the contravention in question is a contravention of any rule, regulation, condition or requirement prohibiting a person from seeking to make provision excluding or restricting any duty or liability.

S. McElrea

14th August 1991

Registrar of Friendly Societies for Northern Ireland

EXPLANATORY NOTE

(This note is not part of the Regulations.)

Paragraph 22A of Schedule 11 to the Financial Services Act 1986 (''the Act'') was inserted into the Act by section 193(3) of the Companies Act 1989 in order to restrict, in general, to a private investor the right of a person who could bring an action in relation to an investment in a friendly society under paragraph 22 of Schedule 11 to the Act.

Paragraph 22A of Schedule 11 to the Act gives the Registrar of Friendly Societies for Northern Ireland, in relation to any society such as is mentioned in section 23(2) of the Act or to any self-regulating organisation for friendly societies which has applied for or been granted a recognition order made by him, power—

(*a*) to define the expression ''private investor'' for this purpose; and

(*b*) to specify the circumstances in which a person other than a private investor can bring an action under paragraph 22 of Schedule 11 to the Act in relation to an investment in any such society.

Regulation 2 defines a private investor as an investor who is neither an ''authorised person'' under Chapter III, nor an ''exempted person'' under Chapter IV of Part I of the Act. Regulation 3 specifies four circumstances in which a person who is not a private investor can bring an action.

Section 193(3) of the Companies Act 1989 was brought into operation on 1st April 1991 by the Companies Act 1989 (Commencement No. 9 and Saving and Transitional Provisions) Order 1991 (S.I. 1991/488 (C. 11)).