



TRANSFER OF FUNCTIONS (ISLE OF MAN FINANCIAL SERVICES AUTHORITY) ORDER 2015

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Statutory Document No. 2015/0090



Government Departments Act 1987

TRANSFER OF FUNCTIONS (ISLE OF MAN FINANCIAL SERVICES AUTHORITY) ORDER 2015

Approved by Tynwald: 17 March 2015

Coming into Operation: in accordance with article 2

The Governor in Council makes the following Order under Schedule 2 to the Government Departments Act 1987 and section 5 of the Statutory Boards Act 1987.

1 Title

This Order is the Transfer of Functions (Isle of Man Financial Services Authority) Order 2015.

2 Commencement

If approved by Tynwald, —

- (a) articles 1, 2, 3 and 8 come into operation on 20th March 2015; and
- (b) the remaining articles of this Order come into operation on 1st November 2015.

3 Interpretation

(1) In this Order —

“**the existing Statutory Boards**” means the Financial Supervision Commission and the Insurance and Pensions Authority;

“**the new Statutory Board**” means the Authority established by article 4; and

“**the Supervisor**” has the same meaning as in section 54(1) of the Insurance Act 2008.

(2) A reference in this Order to a transfer of functions includes a reference to the transfer of any property, rights and liabilities held, enjoyed or incurred.

(3) Anything begun by or under the Financial Supervision Commission, the Insurance and Pensions Authority or the Supervisor, so far as it relates to any of the transferred functions, may be continued and completed by or under the new Statutory Board.

- (4) Any references to the Financial Supervision Commission, the Insurance and Pensions Authority or the Supervisor, so far as they relate to the transferred functions and not otherwise, in any instrument, contract or proceedings made or begun before the coming into operation of articles 4, 5, 6 and 7 of this Order shall be substituted by a reference to the new Statutory Board.
- (5) Paragraphs (2) to (4) do not affect the operation of paragraph 5 of Schedule 2 to the Government Departments Act 1987.

4 Establishment of the Isle of Man Financial Services Authority

The Isle of Man Financial Services Authority is established.

5 Transfer of functions

- (1) The functions of the existing Statutory Boards and the Supervisor are transferred to the new Statutory Board.
- (2) Schedule 1 has effect in respect of the transfer of functions from the Financial Supervision Commission to the new Statutory Board.
- (3) Schedule 2 has effect in respect of the transfer of functions from the Insurance and Pensions Authority and the Supervisor to the new Statutory Board.

6 Dissolution of existing Statutory Boards and transfer of assets and liabilities

The existing Statutory Boards are dissolved and their assets and liabilities are transferred to the new Statutory Board.

7 Consequential amendment of enactments

- (1) In Schedule 1 to the Statutory Boards Act 1987 —
 - (a) for “The Financial Supervision Commission” substitute **“The Isle of Man Financial Services Authority”**; and
 - (b) omit “The Insurance and Pensions Authority”.
- (2) Part 2 of Schedule 1 and Part 2 of Schedule 2 make provision about the amendment of Acts consequential upon the transfer of functions under article 5.
- (3) Without limiting paragraph (2) —
 - (a) a reference in any enactment, whether or not specified in a Schedule, to either or both of the existing Statutory Boards is also to be taken as a reference to the new Statutory Board; and

- (b) a reference in any enactment, whether or not specified in a Schedule, to the Supervisor is also to be taken as a reference to the new Statutory Board.
- (4) In this article, “enactment” includes —
 - (a) an Act;
 - (b) a public document; and
 - (c) any legislation of the United Kingdom, or any part of it, that applies to the Island —
 - (i) expressly or by implication (with or without modification);
 - (ii) by virtue of an Order in Council; or
 - (iii) by virtue of an Act of Tynwald or a provision made under an Act of Tynwald.

8 First Chief Executive Officer of the new Statutory Board

- (1) With effect from 20 March 2015, the Insurance and Pensions Authority and the Financial Supervision Commission or a sub-committee thereof have the authority to take steps to appoint and must appoint a chief executive officer of the new Statutory Board on such terms and conditions as they see fit.
- (2) On the coming into operation of articles 4, 5, 6 and 7, any such appointment of a chief executive officer will have effect as if the appointment had been made by the new Statutory Board under paragraph 1 of Schedule 1 to the Financial Services Act 2008.

MADE 27th FEBRUARY 2015

Signed by the authority of the Chief Secretary

D DAVIES
Director of Change & Reform

SCHEDULE 1

[Articles 5(2) and 7(2)]

**TRANSFER OF FUNCTIONS FROM THE FINANCIAL SUPERVISION
COMMISSION**

PART 1 — TRANSFER OF FUNCTIONS

All the functions of the Financial Supervision Commission are transferred including, but not limited to, those under the following Acts—

- (a) The Industrial and Building Societies Act 1892;
- (b) The Partnership Act 1909;
- (c) Companies Act 1931;
- (d) Companies Act 1961;
- (e) Income Tax Act 1970;
- (f) Companies Act 1974;
- (g) Companies Act 1982;
- (h) Non-Resident Traders Act 1983;
- (i) Building Societies Act 1986;
- (j) Customs and Excise Management Act 1986;
- (k) Moneylenders Act 1991;
- (l) Companies Act 1992;
- (m) Credit Unions Act 1993;
- (n) Limited Liability Companies Act 1996
- (o) Insider Dealing Act 1998;
- (p) Retirement Benefits Schemes Act 2000;
- (q) Online Gambling Regulation Act 2001;
- (r) Companies, etc. (Amendment) Act 2003;
- (s) Companies Act 2006;
- (t) Regulation of Surveillance etc. Act 2006
- (u) Civil Service (Amendment) Act 2007;
- (v) Collective Investment Schemes Act 2008;
- (w) Financial Services Act 2008;
- (x) Proceeds of Crime Act 2008;
- (y) Insurance Act 2008;
- (z) Company Officers (Disqualification) Act 2009;
- (za) Tynwald Auditor General Act 2011;
- (zb) Tynwald Commissioner for Administration Act 2011;

- (zc) Foundations Act 2011;
- (zd) Gambling Duty Act 2012;
- (ze) Companies (Beneficial Ownership) Act 2012;
- (zf) Control of Employment Act 2014;
- (zg) Terrorism and Other Crime (Financial Restrictions) Act 2014.

PART 2 – CONSEQUENTIAL AMENDMENTS

The Acts in Part 1 are consequentially amended as follows.

1 The Industrial and Building Societies Act 1892

- (1) In section 2 (interpretation) –
 - (a) before the definition of “The Court” insert –
 - ☐☐ “**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); ☐☐;
 - (b) the definition of “The Commission” is omitted.
- (2) In the following places for “Commission”, wherever occurring, substitute ☐☐ Authority ☐☐ –
 - section 22(1) and (5);
 - section 23(2);
 - section 24(4);
- (3) In section 24A(1) (power to make orders as to the disposal of valueless documents), for “Financial Supervision Commission” substitute ☐☐ Authority ☐☐.

2 The Partnership Act 1909

In section 60(1) (power to make orders as to the disposal of valueless documents), for “Financial Supervision Commission” substitute ☐☐ Isle of Man Financial Services Authority ☐☐.

3 Companies Act 1931

In the following places for “Financial Supervision Commission”, wherever occurring, substitute ☐☐ Isle of Man Financial Services Authority ☐☐ –

- section 134(6);
- section 164(1)(d);
- section 273(1);
- section 273A(3)(b);
- section 283A(1).

4 Companies Act 1961

In section 2(1) (power to make orders as to the disposal of valueless documents), for “Financial Supervision Commission” substitute **“Isle of Man Financial Services Authority”**.

5 Income Tax Act 1970

- (1) In section A106(1) (definitions for this part), in paragraph (d) of the definition of “enforcing authority”, for “(other than the Financial Supervision Commission and the Insurance and Pensions Authority)” substitute **“(other than the Isle of Man Financial Services Authority)”**.
- (2) In section 106D(3) (disclosure of information to enforcing authorities, etc), for “the Financial Supervision Commission, the Insurance and Pensions Authority” substitute **“the Isle of Man Financial Services Authority”**.

6 Companies Act 1974

- (1) For the heading to section 5 substitute —

“Isle of Man Financial Services Authority’s power to apply for investigation”

- (2) In section 5(1) (Isle of Man Financial Services Authority’s power to apply for investigation), for “Financial Supervision Commission” substitute **“Isle of Man Financial Services Authority”**.
- (3) In section 22(1) (regulations and other public documents), for “Financial Supervision Commission” substitute **“Isle of Man Financial Services Authority”**.

7 Companies Act 1982

- (1) In the following places for “Financial Supervision Commission”, wherever occurring, substitute **“Isle of Man Financial Services Authority”** —
 - section 2(2);
 - section 3A(2);
 - section 4(3);
 - section 6(2) and (4);
 - section 7(2);
 - section 12(4) and (8)(a);
 - section 14(2);
 - section 14A(3);

- section 14B(2);
section 14C(2);
section 14E(1), (2),(4), (6) and in the section heading;
section 14F(2) and in the section heading;
section 14G(1), (4)(b), (6)(c), (6)(d) and (6)(e);
section 17B(1), (3)(d), (5)(a), (6) and (7);
section 17C(1), (5) and (6);
schedule 1, Part I, paragraph 6(2)(b) and paragraph 12(2);
schedule 1, Part II, paragraph 15(5);
schedule 1, Part III, paragraph 23(3) (in the definition of “discount company”), paragraph 25(1), (3) and (4).
- (2) In section 14E(5) (authorisations by the financial supervision commission), for “Commission” substitute ~~the~~ Isle of Man Financial Services Authority ~~the~~.

8 Non-Resident Traders Act 1983

In Schedule 1A, Part I, in paragraph 2(2)(b), for “Financial Supervision Commission” substitute ~~the~~ Isle of Man Financial Services Authority ~~the~~.

9 Building Societies Act 1986

- (1) In section 2(8) (restrictions on building societies’ borrowing and acceptance of subscriptions for shares), for “Commission” substitute ~~the~~ Authority ~~the~~.
- (2) In section 6 (interpretation)—
- (a) before the definition of “Commission” insert —
- ~~the~~ “**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). ~~the~~;
- (b) the definition of “the Commission” is omitted.

10 Customs and Excise Management Act 1986

In section 174D (matters supplementary to ss 174B and 174C), in the definition of “enforcing authority” —

- (a) for paragraph (a) substitute—
- ~~the~~ (a) the Isle of Man Financial Services Authority; ~~the~~
- (b) paragraph (b) is repealed.

11 Moneylenders Act 1991

In section 16(2)(b) (disclosure of information), for “Financial Supervision Commission” substitute **“Isle of Man Financial Services Authority”**.

12 Companies Act 1992

In the following places for “Financial Supervision Commission”, wherever occurring, substitute **“Isle of Man Financial Services Authority”**—

section 26(4);

section 28(1) and (3).

13 Credit Unions Act 1993

(1) In the following places for “Commission”, wherever occurring, substitute **“Authority”**—

section 1(3)(a), (5) and (6);

section 3(3)(b);

section 4(1) and (4);

section 5(4);

section 6(3), (5) and (6);

section 9(4);

section 10(2);

section 11(7);

section 13(1);

section 14(4);

section 15(1), (2)(c), (3) and (4);

section 16(1) and (6);

section 17(1), (3) and (4);

section 18(1), (2) and (4);

section 19(1), (2) and (4);

section 20(1)(a), (b) and (c) and (2);

section 21(3);

section 23(2);

section 28;

section 30(3);

schedule 2, paragraphs 1, 2(1) and (2), 3(1), (2) and (3), 4 and 6.

(2) For the cross heading before section 17 substitute —

☞ Powers of Authority ☞

- (3) In section 29(1) (interpretation)—
- (a) after the definition of “authorised bank” insert—
- ☞ “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); **☞**
- (b) the definition of “the Commission” is omitted.

14 Limited Liability Companies Act 1996

- (1) In section 11A(3)(b) (alternative procedure for dissolving solvent limited liability companies), for “Financial Supervision Commission” substitute **☞ Authority ☞**.
- (2) In section 11B(3)(b) (restoration of dissolved limited liability companies to the register), for “Financial Supervision Commission” substitute **☞ Authority ☞**.
- (3) In section 26 (inspection of affairs of companies)—
- (a) in subsection (1), for “Commission” substitute **☞ Authority ☞**; and
- (b) in subsection (5), for “Commission” substitute **☞ Authority ☞**.
- (4) In section 51A (interpretation), for “**Commission**” means the Financial Supervision Commission” substitute **☞ “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) **☞**.
- (5) In section 52A(1) (power to make orders as to disposal of valueless documents), for “Financial Supervision Commission”, substitute **☞ Authority ☞**.
- (6) In section 53 (financial provision) for “Commission” substitute **☞ Authority ☞**.

15 Insider Dealing Act 1998

In the following paragraphs of Schedule 3 (investigation and inspection), for “Financial Supervision Commission”, wherever occurring, substitute **☞ Isle of Man Financial Services Authority ☞**—

paragraphs 1(1), (3), (6), (7) and (10)(b);

paragraphs 2(2)(b), (3), (4), (5) and (7).

16 Retirement Benefits Schemes Act 2000

See amendments made by paragraph 5(16)(b), (22)(b) and (f) of Schedule 2.

17 Online Gambling Regulation Act 2001

In the following places for “Financial Supervision Commission”, wherever occurring, substitute **“Isle of Man Financial Services Authority”**—
section 4(3)(c);
section 11(4) and (5).

18 Halifax International At 2001

Section 10 (cancellation of registration of transferor company) is repealed.

19 Companies, etc. (Amendment) Act 2003

- (1) In section 7 (substitution of new section for section 108 of Companies Act 1931), in substituted section 108(1)(d) (annual return to be made by a company not having a share capital and company limited by guarantee) for “Financial Supervision Commission” substitute **“Isle of Man Financial Services Authority”**.
- (2) The amendment in paragraph (1) does not of itself bring section 7 of the Companies, etc. (Amendment) Act 2003 into operation.

20 Protected Cell Companies Act 2004

In section 25(1)(a) (functions of receiver and effect of receivership order), for “FSC” substitute **“Department of Economic Development”**.

21 Companies Act 2006

- (1) In the following places for “Commission”, wherever occurring, substitute **“Authority”**—
section 77(2);
section 82(3);
section 197(2).
- (2) In the following places for “Financial Supervision Commission”, “Financial Supervision Commission’s” or “Commission’s”, wherever occurring, substitute **“Authority”** or **“Authority’s”**, as appropriate—
section 80B(4);
section 80D(1), (3)(d), (5)(a), (6) and (7);
section 80E(1), (5) and (6);
section 198(3) and (4);
section 205B and in the section heading.
- (3) In section 218 (interpretation) —
 - (a) after the definition of “associated company” insert —

“**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);

(b) the definition of “Commission” is omitted.

22 Regulation of Surveillance etc. Act 2006

See amendment made by paragraph 8 of Schedule 2.

23 Civil Service (Amendment) Act 2007

- (1) In section 4(1) (membership of departments, statutory boards, etc.), in the substituted section 1(7) of the Civil Service Act 1990—
- (a) in subsection (7)(a) for “Financial Supervision Commission” substitute Isle of Man Financial Services Authority;
- (b) subsection (7)(b) is repealed.
- (2) The amendment in paragraph (1) does not of itself bring section 4 of the Civil Service (Amendment) Act 2007 into operation.

24 Collective Investment Schemes Act 2008

- (1) In the following places for “Commission” or “Commission’s”, wherever occurring, substitute Authority or Authority’s, as appropriate—
- section 1(5);
- section 6(1) and (5) and in the section heading;
- section 10(1) and (2) and in the section heading;
- section 11 and in the section heading;
- section 11A(1), (2), (3),(4)(b)(ii) and (iii), (5), and (6);
- section 11B(1) and (2);
- section 11C(1), (2)(a), (d) and (e) and (3);
- section 11D(1) and (2);
- section 11E(1);
- section 11F(1), (2), (4), (5)(a) and (b), (6)(b) and (7);
- section 12(1), (4) and (5);
- section 13(1), (4)(a), (b) and (c), (5), (6), (7) and (8);
- section 14(1), (3), (5), (6) and (7);
- section 15(1), (3) and (4);
- section 16(1) and (6);
- section 17(a), (b) and (c);
- section 19A(1), (2), (3), (4) and (5);
- section 20(1) and (2);

- section 21(6) and in the section heading;
section 22(1);
section 23(1);
section A24(1), (2) and (3);
section 24(1), (6)(c), (7), (8), (12) and (13);
section 26(1) in the definition of “authorisation order”, “order”,
“prescribed”, “recognition order” and “regulations”;
section 26(2).
- (2) In section 26(1) (interpretation) –
- (a) after the definition of “authorised scheme” insert –
- ☒** “**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); **☒**
- (b) the definition of “Commission” is omitted.
- (3) In Schedule 1 (authorised schemes), in the following places, for “Commission” or “Commission’s”, wherever occurring, substitute **☒** Authority **☒** or **☒** Authority’s **☒**, as appropriate –
- paragraph 1(2)(a) and (b), (3), (5) and (6);
paragraph 2(1), (2)(b), (5)(b)(i) and (iii), (9), (10), (11), (12), (13), (14), (15) and (16);
paragraph 3(1), (3), (4)(a) and (b);
paragraph 4(1), (2), (3), (4) and (5);
paragraph 5(2).
- (4) In Schedule 2 (international schemes), in the following places, for “Commission”, wherever occurring, substitute **☒** Authority **☒** –
- paragraph 2(8), (9), (10), (11), (12), (13)(a) and (b);
paragraph 3(1), (2), (3)(a) and (b), (4), (5)(a) and (b);
paragraph 4(5);
paragraph 5(1), (2) and (3).
- (5) In Schedule 4 (recognised schemes), in the following places, for “Commission”, wherever occurring, substitute **☒** Authority **☒** –
- paragraph 1(3), (4)(a) and (b);
paragraph 2(1), (4), (6) and (13);
paragraph 3(1), (2)(a) and (b);
paragraph 4(1), (2), (3), (4) and (5);
paragraph 5(1) and (2).

- (6) In Schedule 5 (subordinate legislation), in the following places, for “Commission”, wherever occurring, substitute **“Authority”** —
- paragraph 1(d), (e) and (f);
 - paragraph 2(j), (k) and (l);
 - paragraph 5(a);
 - paragraph 7;
 - paragraph 10.
- (7) In Schedule 8 (transitional and saving provisions), in paragraph 8(1), for “Commission” substitute **“Authority”**.

25 Financial Services Act 2008

- (1) In the long title for “Financial Supervision Commission” substitute “Isle of Man Financial Services Authority”.
- (2) For section 1 (the financial supervision commission) substitute—

1 The Isle of Man Financial Services Authority

- (1) There is a statutory board known as 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) (in this Act referred to as “**the Authority**”).
- (2) Schedule 1, which makes provision about the constitution, functions, proceedings and status of the Authority, has effect. **2**
- (3) For section 2 (exercise of functions to be compatible with the regulatory objectives) substitute—

2 Exercise of functions to be compatible with the regulatory objectives

- (1) The functions of the Authority shall, so far as is reasonably practicable, be exercised—
- (a) in a way that is compatible with the regulatory objectives set out in subsection (2); and
 - (b) in a way that the Authority considers most appropriate for the purpose of meeting those objectives.
- (2) The regulatory objectives are—
- (a) securing an appropriate degree of protection for policyholders, members of retirement benefits schemes and the customers of persons carrying on a regulated activity;
 - (b) the reduction of financial crime; and

- (c) the maintenance of confidence in the Island's financial services, insurance and pensions industries through effective regulation, thereby supporting the Island's economy and its development as an international financial centre.
- (3) Subsection (1) shall apply in respect of the Treasury when discharging its functions under this Act. **22**
- (4) In section 5 (application for a licence), for "Commission", wherever occurring, substitute **63** Authority **22**.
- (5) In section 6 (circumstances in which a licence will not be issued), for "Commission", wherever occurring, substitute **63** Authority **22**.
- (6) In section 7 (the licence), for "Commission", wherever occurring, substitute **63** Authority **22**.
- (7) In section 8 (alteration of conditions of existing licences), for "Commission", wherever occurring, substitute **63** Authority **22**.
- (8) In section 9 (revocation or suspension of a licence), for "Commission", wherever occurring, substitute **63** Authority **22**.
- (9) In section 10 (persons unfit to be directors, controllers or key persons), for "Commission", wherever occurring, substitute **63** Authority **22**.
- (10) In section 10A (prohibitions), for "Commission", wherever occurring, substitute **63** Authority **22**.
- (11) In section 10B (prohibition procedure), for "Commission", wherever occurring, substitute **63** Authority **22**.
- (12) In section 10C (prohibitions: variation and revocation), for "Commission", wherever occurring, substitute **63** Authority **22**.
- (13) In section 10D(1) (list of prohibitions), for "Commission" substitute **63** Authority **22**.
- (14) In section 11 (warning notices), for "Commission", wherever occurring, substitute **63** Authority **22**.
- (15) In section 12 (guidance), for "Commission", wherever occurring, substitute **63** Authority **22**.
- (16) In section 13 (public statements), for "Commission", wherever occurring, substitute **63** Authority **22**.
- (17) In section 14 (directions), for "Commission", wherever occurring, substitute **63** Authority **22**.
- (18) In section 16 (civil penalties), for "Commission", wherever occurring, substitute **63** Authority **22**.
- (19) In section 17 (auditors to report to commission) —

- (a) in the heading to section 17, for “Commission” substitute **☒ Authority ☒**;
 - (b) in subsection (1)(b), for “Commission’s” substitute **☒ Authority’s ☒**;
 - (c) at the end of subsection (1), for “Commission” substitute **☒ Authority ☒**; and
 - (d) in subsection (2), for “Commission”, wherever occurring, substitute **☒ Authority ☒**.
- (20) In section 18 (the rule book), for “Commission”, wherever occurring, substitute **☒ Authority ☒**.
- (21) In section (19)(1) for “Commission” substitute **☒ Authority ☒**.
- (22) In section 20 (injunctions, etc.), for “Commission”, wherever occurring, substitute **☒ Authority ☒**.
- (23) In section 21(1) (appointment of receiver), for “Commission” substitute **☒ Authority ☒**.
- (24) In section 22 (appointment of business manager), for “Commission”, wherever occurring, substitute **☒ Authority ☒**.
- (25) In section 23 (appointment of reporting accountants, etc), for “Commission”, wherever occurring, substitute **☒ Authority ☒**.
- (26) In section 30 (publication of information), for “Commission”, wherever occurring, substitute **☒ Authority ☒**.
- (27) In section 32 (appeals to the Financial Services Tribunal), for “Commission”, wherever occurring, substitute **☒ Authority ☒**.
- (28) For section 33 (statutory indemnity) substitute—

☒ 33 Statutory indemnity

- (1) This section applies in respect of any act or matter done or omitted to be done—
- (a) in the exercise, or purported exercise, of the Authority’s functions; or
 - (b) in the exercise, or purported exercise, of the functions conferred by or under a specified enactment or any orders, regulations, Rule Books or binding guidance made under such an enactment; or
 - (c) in the implementation, or purported implementation, of a mutual assistance agreement under section 34.
- (2) None of the persons listed in subsection (3) shall be liable in damages for, or in respect of, any act or omission unless the act or omission is shown to have been in bad faith.
- (3) The persons are—

- (a) the Authority;
 - (b) any member, officer or employee of the Authority;
 - (c) a designated body;
 - (d) any officer, member or employee of a designated body;
 - (e) any other person acting on behalf of the Authority or a designated body;
 - (f) any person acting pursuant to any authority conferred by the Authority or a designated body.
- (4) Subsection (2) does 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* (acts of public authorities).
- (5) In this section—
- “designated body” means—
- (a) the Treasury;
 - (b) a body administering a scheme under section 25 of this Act or section 43 of the *Insurance Act 2008*;
 - (c) a regulatory authority which is designated by regulations made by the Authority;
 - (d) the Isle of Man Office of Fair Trading or an adjudicator to whom a dispute has been referred to under Schedule 4;
 - (e) the Insurance Tribunal;
 - (f) the Retirement Benefits Schemes Tribunal;
 - (g) the Financial Services Tribunal;
 - (h) the Collective Investment Schemes Tribunal;
- “specified enactment” means—
- (a) this Act;
 - (b) the Companies Acts 1931 to 2004;
 - (c) the Industrial and Building Societies Acts 1892 to 1993;
 - (d) the *Collective Investment Schemes Act 2008*;
 - (e) the *Companies Act 2006*;
 - (f) the *Company Officers (Disqualification) Act 2009*;
 - (g) the *Insider Dealing Act 1998*;
 - (h) the *Life Assurance (Insurable Interest) Act 2004*;
 - (i) the *Incorporated Cell Companies Act 2010*;
 - (j) the *Foundations Act 2011*;
 - (k) the *Insurance Act 2008*;
 - (l) the *Retirement Benefits Schemes Act 2000*;

- (m) the *Companies (Transfer of Domicile) Act 1998*;
- (n) the *Insurance Companies (Amalgamations) Act 2006*;
- (o) the *Terrorism and Other Crime (Financial Restrictions) Act 2014*.
- (6) This section does not prejudice the generality of paragraph 6 of Schedule 1 to the *Government Departments Act 1987* nor paragraph 11 of Schedule 2 to the *Statutory Boards Act 1987*. **22**
- (29) In section 34 (mutual assistance), for “Commission”, wherever occurring, substitute **63** Authority **22**.
- (30) In section 35(1) (registers), for “Commission” substitute **63** Authority **22**.
- (31) In section 39 (falsification of documents, etc. relevant to an investigation), in paragraph (a), for “Commission” substitute **63** Authority **22**.
- (32) In section 40 (offences in connection with information), for “Commission”, wherever occurring, substitute **63** Authority **22**.
- (33) In section 41 (offences and penalties), for “Commission”, wherever occurring, substitute **63** Authority **22**.
- (34) In section 43 (contravention of statutory provision), for “Commission” substitute **63** Authority **22**.
- (35) In section 44 (subordinate legislation), for “Commission”, wherever occurring, substitute **63** Authority **22**.
- (36) In section 46 (fees), for “Commission” substitute **63** Authority **22**.
- (37) In section 48 (interpretation)—
- (a) in subsection (1), after the definition of “associate” insert—
63 “the Authority” has the meaning given by section 1(1); **22**
- (b) in subsection (1) the definition of “the Commission” is omitted;
- (c) in subsection (1), in paragraph (a) of the definition of “key person”, for “Commission” substitute **63** Authority **22**;
- (d) in subsection (1), after the definition of “permitted person” insert—
63 “policyholder” has the meaning given in section 54(1) of the Insurance Act 2008; **22**
- (e) in subsection (1), in paragraph (a) of the definition of “regulatory authority”, for “Commission” substitute **63** Authority **22**;
- (f) in subsection (1), after the definition of “regulatory objectives” insert—
63 “retirement benefits scheme” has the meaning given in section 53 of the Retirement Benefits Schemes Act 2000; **22**;
and
- (g) in subsection (5), for “Commission” substitute **63** Authority **22**.

(38) In section 52(1) (financial provisions), for “Commission” substitute **“Authority”**.

(39) For the heading to Schedule 1 substitute—

“THE ISLE OF MAN FINANCIAL SERVICES AUTHORITY”

(40) In Schedule 1—

(a) for paragraph 1 substitute—

1. (1) The Authority shall consist of not less than 7 members appointed by the Treasury, subject to the approval of Tynwald.

A member must be a qualified person.

(2) The Treasury shall appoint one member to be chairperson and another to be deputy chairperson of the Authority.

(3) The Treasury shall, in appointing members of the Authority under sub-paragraph (1), have regard to the need for the Authority to include members who, by experience or otherwise, are suitable to participate in the functions of the Authority.

(4) The chief executive officer appointed under sub-paragraph (15) shall be a member of the Authority.

(5) A member shall go out of office—

(a) subject to sub-paragraph (9), on the expiration of 5 years beginning with the date on which the member was appointed; or

(b) if the member ceases to be a qualified person.

(6) A member may be removed from office by resolution of Tynwald if one of the grounds specified in sub-paragraph (7) is satisfied.

(7) The grounds are that the member—

(a) has been absent from meetings of the Authority, without permission, for a period of 3 months;

(b) is incapacitated either mentally or physically, from carrying out the member’s functions;

(c) has been declared bankrupt (whether in the Island or elsewhere) or entered into an arrangement with his or her creditors; or

(d) is otherwise unfit or unable to discharge the functions of a member.

- (8) The proposal for a resolution of Tynwald under sub-paragraph (6) must specify which of the grounds in sub-paragraph (7) applies.
- (9) A member may at any time resign on giving to the Treasury notice in writing of the member's intention to do so.
- (10) A retiring member shall be eligible to be re-appointed if the member is otherwise qualified.
- (11) Where a member goes out of office under sub-paragraphs (5)(a) or (9) the member shall continue to be a member, subject to the consent of Treasury, for all purposes (except that of filling the vacancy) for such period as Treasury may determine.
- (12) If a casual vacancy in the membership of the Authority is to be filled it shall be filled as soon as practicable in like manner and subject to like conditions as the office vacated.
- (13) The quorum necessary for the transaction of business by the Authority shall be 3 members.
- (14) Section 3 and paragraphs 1, 2(3)(c) and 7 of Schedule 2 to the *Statutory Boards Act 1987* do not apply to the Authority.
- (15) The Authority must appoint—
- (a) a chief executive officer; and
 - (b) such other officers as it may consider necessary for carrying out its functions,
- on such terms and conditions as it thinks fit.
- (16) The Civil Service Act 1990 shall not apply in respect of the persons referred to in sub-paragraph (15).
- (17) In this paragraph, a “qualified person” is a person who is not—
- (a) a member of Tynwald;
 - (b) a civil servant; or
 - (c) an employee of a department or statutory board but with the exception of the Chief Executive Officer of the Authority. ~~22~~;
- (b) in paragraph 2(1)—
- (i) for “Commission” substitute ~~14~~ Authority ~~22~~; and
 - (ii) after head (a) insert—
 - ~~14~~(aa) the regulation and supervision of persons undertaking regulated insurance activities or regulated pensions activities;

- (ab) the maintenance and development of the regulatory regime for regulated insurance activities and regulated pensions activities; ~~22~~;
- (iii) after head (g) insert—
- ~~23~~(ga) the regulation and supervision of retirement benefits schemes within the meaning of the Retirement Benefits Schemes Act 2000; ~~22~~
- (c) in paragraph 2(2)—
- (i) for sub-paragraph (2)(m) substitute—
- ~~23~~(m) *Insurance Act 2008*;
- (ma) *Retirement Benefits Schemes Act 2000*;
- (mb) *Life Assurance (Insurable Interests) Act 2004*; ~~22~~; and
- (ii) for sub-paragraph (2)(za) substitute—
- ~~23~~(za) the *Terrorism and Other Crime (Financial Restrictions) Act 2014*; ~~22~~;
- (d) for paragraph 3 and its heading substitute—
- ~~23~~*Authority's functions: manner of discharge*
3. In discharging its functions the Authority must have regard to—
- (a) the need to balance the regulatory objectives;
- (b) the need for the regulatory, supervisory and registration regimes to be effective, responsive to commercial developments and proportionate to the benefits which are expected to result from the imposition of any regulatory burden;
- (c) the need to use resources in an efficient and economic way;
- (d) the desirability of implementing and applying recognised international standards;
- (e) the desirability of cooperating with governments, regulators and others outside the island;
- (f) the need to safeguard the reputation of the island;
- (g) the need to promote public understanding of the financial services, insurance and pensions industries;
- (h) the responsibilities of those who manage the affairs of permitted persons, insurers and retirement benefits schemes;
- (i) the international character of the financial services, insurance and pensions industries and their markets and

- the desirability of maintaining the competitive position of the Island;
- (j) the desirability of facilitating the development of the financial services, insurance and pensions industries;
 - (k) the impact of its decision on the stability of the financial system of the Island. ~~22~~
- (e) in paragraph 4, for “Commission”, wherever occurring, substitute ~~22~~ Authority ~~22~~;
 - (f) in paragraphs 5(1), 5(2) and 5(3), for “Commission”, wherever occurring, substitute ~~22~~ Authority ~~22~~;
 - (g) in paragraph 5(4) for “Commission’s” substitute ~~22~~ Authority’s ~~22~~;
 - (h) in paragraph 6(1), for “Commission” substitute ~~22~~ Authority ~~22~~;
 - (i) in paragraph 7, for “Commission” or “Commission’s”, wherever occurring, substitute ~~22~~ Authority ~~22~~ or ~~22~~ Authority’s ~~22~~, as appropriate;
 - (j) in paragraph 8, for “Commission”, wherever occurring, substitute ~~22~~ Authority ~~22~~; and
 - (k) for paragraph 9, substitute—

~~22~~9 In this Schedule—

“**functions**” means functions conferred on the Authority and referred to in paragraph 2;

“**regulated insurance activities**” in relation to an activity carried on by way of business in or from the Island, means—

- (a) carrying on or holding out as carrying on insurance business within the meaning of the Insurance Act 2008;
- (b) acting or holding out as acting as an insurance manager, within the meaning of the Insurance Act 2008, for or in relation to an insurer; or
- (c) acting or holding out as acting as an insurance intermediary within the meaning of the Insurance Act 2008 in respect of effecting or carrying out contracts of insurance which are not investments within the meaning of the Regulated Activities Order 2011;

“**regulated pension activities**” in relation to an activity carried on by way of business in or from the Island, means—

- (a) acting or holding out as acting as a retirement benefits schemes administrator; or
- (b) acting as a trustee of a retirement benefits scheme, within the meaning of the Retirement Benefits Schemes Act 2000. ~~22~~

- (41) In Schedule 1A (transfer of business including deposit-taking)—
- (a) in paragraph 4(1), for “Commission” substitute **66** Authority **22**;
and
 - (b) in paragraph 5(a), for “Commission” substitute **66** Authority **22**.
- (42) In Schedule 2 (inspection and investigation)—
- (a) in paragraph 1, for “Commission”, wherever occurring, substitute **66** Authority **22**;
 - (b) in paragraph 2, for “Commission”, wherever occurring, substitute **66** Authority **22**;
 - (c) for the heading to paragraph 3 substitute **66** *Power of Authority to require information* **22**
 - (d) in paragraph 3, for “Commission”, wherever occurring, substitute **66** Authority **22**;
 - (e) in paragraph 4(1), for “Commission” substitute **66** Authority **22**;
and
 - (f) in paragraph 5(1), for “Commission” substitute **66** Authority **22**.
- (43) In paragraph 1 of Schedule 3 (Rule Book), for “Commission”, wherever occurring, substitute **66** Authority **22**.
- (44) In Schedule 5 (disclosure of information)—
- (a) in paragraph 1(3)(b), for “Commission” substitute **66** Authority **22**;
 - (b) for paragraph 2(1)(f) substitute—
 - 66**(f) for the purpose of enabling or assisting the Authority to discharge its functions under this Act, the *Collective Investment Schemes Act 2008*, the enactments relating to companies, the *Insurance Act 2008*, the *Retirement Benefit Schemes Act 2000*, or any other of its functions; **22**
 - (c) paragraph 2(1)(g) is repealed;
 - (d) in paragraph 2(5)(b)(i), insert **66** or **22** after “*Insider Dealing Act 1998*,”
 - (e) for paragraph 2(5)(b)(ii) substitute—
 - 66**(ii) to exercise functions corresponding to any of those of the Authority under this Act, the *Collective Investment Schemes Act 2008*, the *Insurance Act 2008* or the *Retirement Benefits Schemes Act 2000*. **22**
 - (f) paragraph 2(5)(b)(iii) is repealed;
 - (g) in paragraph 2(6)(b), for “Commission” substitute **66** Authority **22**;
 - (h) in paragraph 2(7), for “Commission”, wherever occurring, substitute **66** Authority **22**;

- (i) in paragraph 2(8), for “Commission” substitute **“Authority”**; and
- (j) in paragraph 2(10), for “Commission”, wherever occurring, substitute **“Authority”**.

26 Proceeds of Crime Act 2008

In Schedule 4 (regulated sector and supervisory authorities)—

- (a) in paragraph 2(1)(c), for “Financial Supervision Commission” substitute **“Isle of Man Financial Services Authority”**;
- (b) paragraph 2(1)(d) is repealed.

27 Insurance Act 2008

See amendments made by paragraph 12(43)(e) and (44)(b), (f) and (h) of Schedule 2.

28 Company Officers (Disqualification) Act 2009

- (1) In section 2(1) (disqualification undertakings), for “the Financial Supervision Commission (referred to in this Act as “**the Commission**”)” substitute **“the Isle of Man Financial Services Authority (referred to in this Act as “the Authority”)**”
- (2) In the following places for “Commission” or “Commission’s”, wherever occurring, substitute **“Authority”** or **“Authority’s”**, as appropriate—
 - section 2(2), (4) and (5);
 - section 3(1)(a);
 - section 6(1) and (2);
 - section 7(1) and (3);
 - section 8(2) and (3);
 - section 10(2) and (3);
 - section 13(1), (2), (3), (4), (5), (6) and (7);
 - section 17(1)(a);
 - section 18;
 - section 24.
- (3) In section 21(1) (interpretation)—
 - (a) before the definition of “Commission” insert—
 - “Authority” has the meaning given in section 2(1);**
 - (b) the definition of “Commission” is omitted.

- (4) In Schedule 2 (inspection and investigation), in the following places, for “Commission” or “Commission’s”, wherever occurring, substitute **■** Authority **■** or **■** Authority’s **■**, as appropriate—
- paragraph 1(1), (2), (3), (4), (5), (6) and (7);
 - paragraph 2(1), (2), (3), (4), (5), (6) and (7);
 - the heading to paragraph 3;
 - paragraph 3(1), (2), (3), (4) and (5);
 - paragraph 4(1) and (3);
 - paragraph 5(1).
- (5) In Schedule 3 (restrictions on disclosure of information)—
- (a) in paragraph 1(4)(a), for “Commission” substitute **■** Authority **■**;
 - (b) in paragraph 2(1)(f), for “Commission” substitute **■** Authority **■**;
 - (c) for paragraph 2(5)(b)(ii) substitute —
 - (ii) to exercise functions corresponding to any of those of the Authority under the Retirement Benefits Schemes Act 2000, the Insurance Act 2008, the Financial Services Act 2008, the Collective Investment Schemes Act 2008 or this Act. **■**;
 - (d) paragraph 2(5)(b)(iii) is repealed;
 - (e) in paragraph 2(6)(b), for “Commission” substitute **■** Authority **■**;
 - (f) in paragraph 2(7), for “Commission” and “Commission’s” substitute **■** Authority **■** and **■** Authority’s **■** respectively;
 - (g) in paragraph 2(8), for “Commission” substitute **■** Authority **■**;
and
 - (h) in paragraph 2(10), for “Commission”, wherever occurring, substitute **■** Authority **■**.

29 Tynwald Auditor General Act 2011

In section 3(2)(a) (interpretation)—

- (a) for sub-paragraph (v) substitute —
 - (v) the Isle of Man Financial Services Authority; **■**;
- (b) sub-paragraph (vii) is repealed.

30 Tynwald Commissioner for Administration Act 2011

In section 3(3)(a) (interpretation)—

- (a) for sub-paragraph (ii) substitute —
 - (ii) the Isle of Man Financial Services Authority; **■**;

- (b) sub-paragraph (iv) is repealed.

31 Foundations Act 2011

In the following places for “Financial Supervision Commission”, wherever occurring, substitute **“Isle of Man Financial Services Authority”**—
section 27(3);
section 61(2).

32 Gambling Duty Act 2012

For section 27(1)(b) substitute—

- “(b) the Isle of Man Financial Services Authority;”**

33 Companies (Beneficial Ownership) Act 2012

In section 10(3) (disclosure of beneficial ownership information by nominated officer)—

- (a) for paragraph (d) substitute —
“(d) the Isle of Man Financial Services Authority;”
(b) paragraph (e) is repealed.

34 Control of Employment Act 2014

In Schedule 1 (Exemptions), in paragraph 8(17)—

- (a) for sub-paragraph (a) substitute —
“(a) the Isle of Man Financial Services Authority; or”
(b) paragraph (b) is repealed.

35 Terrorism and Other Crime (Financial Restrictions) Act 2014

In section 31(1) (general power to disclose information or evidence), for paragraph (e), substitute—

- “(e) to the Isle of Man Financial Services Authority and any body of any other part of the British Islands exercising an equivalent function;”**

SCHEDULE 2

[Articles 5(3) and 7(2)]

**TRANSFER OF FUNCTIONS FROM THE INSURANCE AND PENSIONS
AUTHORITY**

PART 1 – TRANSFER OF FUNCTIONS

All the functions of the Insurance and Pensions Authority are transferred including, but not limited to, those under the following Acts –

- (a) Companies Act 1931;
- (b) Income Tax Act 1970;
- (c) Companies Act 1982;
- (d) Customs and Excise Management Act 1986;
- (e) Companies (Transfer of Domicile) Act 1998;
- (f) Retirement Benefit Schemes Act 2000;
- (g) Life Assurance (Insurable Interest) Act 2004;
- (h) Insurance Companies (Amalgamations) Act 2006;
- (i) Regulation of Surveillance etc. Act 2006;
- (j) Civil Service (Amendment) Act 2007;
- (k) Financial Services Act 2008;
- (l) Proceeds of Crime Act 2008;
- (m) Insurance Act 2008;
- (n) Company Officers (Disqualification) Act 2009;
- (o) Tynwald Auditor General Act 2011;
- (p) Tynwald Commissioner for Administration Act 2011;
- (q) Companies (Beneficial Ownership) Act 2012;
- (r) Control of Employment Act 2014;
- (s) Terrorism and Other Crime (Financial Restrictions) Act 2014.

PART 2 – CONSEQUENTIAL AMENDMENTS

The Acts in Part 1 are consequentially amended as follows.

1 Companies Act 1931

In section 152(1A)(a) (power to compromise with creditors and members), for “Insurance and Pensions Supervisor” substitute **Isle of Man Financial Services Authority**.

2 Income Tax Act 1970

See amendment made by paragraph 5 of Schedule 1.

3 Companies Act 1982

- (1) In section 10A(1) (actuary's certificate to be attached to balance sheet of certain insurers), for "Insurance and Pensions Authority" substitute **Isle of Man Financial Services Authority**.
- (2) Section 17A (exercise of functions in relation to insurance companies) is repealed.

4 Customs and Excise Management Act 1986

See amendment made by paragraph 10 of Schedule 1.

5 Retirement Benefits Schemes Act 2000

- (1) In section 2 (applications for authorisation)—
 - (a) in subsection (2)(a), for "Supervisor" substitute **Authority**;
 - (b) in subsection (2)(b), for "he" substitute **the Authority**;
 - (c) in subsection (3), for "Supervisor" substitute **Authority**;
 - (d) for subsection (5) substitute—

(5) Any information to be furnished to the Authority under this section shall, if the Authority so requires, be in such form or verified in such manner as the Authority may specify.
- (2) In section 3 (authorisation)—
 - (a) for subsection (1) substitute—

(1) The Authority may on an application duly made in accordance with section 2 and after being furnished with all such information as the Authority may require under that section, register a scheme as an authorised scheme for the purposes of this Act if—

 - (a) it appears to the Authority that the scheme complies with the requirements of regulations under section 6 and that the following provisions of this section are satisfied; and
 - (b) the Authority has been furnished with a copy of the documents constituting the scheme.
 - (b) for subsection (3) substitute—

(3) A scheme may be registered as an authorised scheme subject to such conditions as the Authority thinks fit, and the Authority may subsequently—

 - (a) make such authorisation subject to new conditions; or
 - (b) vary or revoke any existing condition.
 - (c) in subsection (7)(b), for "Supervisor" substitute **Authority**; and
 - (d) for subsection (10) substitute—

- (10)** Where the Authority refuses an application for registration as an authorised scheme or exercises its power under subsection (3), the Authority shall do so by giving the applicant written notice stating the reasons for the decision. **(2)**
- (3) In section 4 (revocation of authorisation) —
- (a) in subsection (1), for “The Supervisor may with the consent of the IPA, revoke the registration of an authorised scheme if it appears to him —” substitute **(3)** The Authority may revoke the registration of an authorised scheme if it appears to the Authority — **(2)**;
- (b) for subsection (1)(c)(vi) substitute —
- (3)** (vi) any rules, regulations or code made under any of those Acts or, in purported compliance with any such provision, has furnished the Authority with false, inaccurate or misleading information; or **(2)**;
- (c) in subsection (2) for “Supervisor” substitute **(3)** Authority **(2)**;
- (d) in subsection (3), for “The Supervisor may with the consent of the IPA,” substitute **(3)** The Authority may **(2)**; and
- (e) in subsection (4), for “The Supervisor may refuse a request under subsection (3) if he considers” substitute **(3)** The Authority may refuse a request under subsection (3) if the Authority considers **(2)**.
- (4) In section 5 (representations against revocation) —
- (a) for subsection (1) substitute —
- (1)** Where the Authority proposes to revoke a registration under section 4 otherwise than at the request of the trustee or administrator of the scheme, the Authority shall give the trustee and administrator of the scheme written notice of its intention to do so, stating the reasons for which the Authority proposes to act and giving particulars of the rights conferred by subsection (2). **(2)**;
- (b) in subsection (2), for “Supervisor”, wherever occurring, substitute **(3)** Authority **(2)**; and
- (c) in subsection (3), for “Supervisor” substitute **(3)** Authority **(2)**.
- (5) In section 6 (constitution and management) —
- (a) in subsection (2)(g), for “Supervisor” substitute **(3)** Authority **(2)**; and
- (b) in subsection (2)(h)(ii), for “Supervisor” substitute **(3)** Authority **(2)**.
- (6) In section 9 (schedules of contributions), for subsection (7) substitute —
- (7)** The Authority may extend (or further extend) the period referred to in subsection (6), and where the Authority refuses to extend (or further extend) the period the Authority shall give written notice of the refusal together with a statement of reasons for the decision. **(2)**.

- (7) In section 10(1) (determination of contributions: supplementary) for “Supervisor” substitute **“Authority”**.
- (8) In section 12(1) (schedules of payments: supplementary) for “Supervisor” substitute **“Authority”**.
- (9) In section 13 (serious underprovision) —
- (a) in subsection (4), for “Supervisor” substitute **“Authority”**; and
- (b) for subsection (7) substitute —
- (7)** The Authority may extend (or further extend) the period applicable under subsection (3), and where the Authority refuses to extend (or further extend) the period the Authority shall give written notice of the refusal together with a statement of reasons for the decision. **“”**.
- (10) In section 14 (serious overprovision) —
- (a) in subsection (2), for “Supervisor”, wherever occurring, substitute **“Authority”**;
- (b) in subsection (4) for “Supervisor” substitute **“Authority”**;
- (c) for subsection (5) substitute —
- (5)** The Authority may extend (or further extend) the period applicable under subsection (3), and where the Authority refuses to extend (or further extend) the period the Authority shall give written notice of the refusal together with a statement of reasons for the decision. **“”**.
- (11) In section 15 (annual accounts) —
- (a) in subsection (1), for “Supervisor”, wherever occurring, substitute **“Authority”**;
- (b) in subsection (2), for “Supervisor” substitute **“Authority”**; and
- (c) for subsection (3), substitute —
- (3)** The Authority may exempt in writing a scheme specified in the exemption from any provision contained in regulations made under this Act relating to accounts. **“”**.
- (12) In section 16(1) (publication of scheme particulars) for “Supervisor” substitute **“Authority”**.
- (13) In section 18 (alteration of schemes and changes of trustee, administrator and professional advisers) —
- (a) in subsection (A1), (1), (2), (3)(b) and (4), for “Supervisor”, wherever occurring, substitute **“Authority”**; and
- (b) for subsection (3)(a) substitute —
- (a)** the Authority has given its approval to the proposal; or **“”**
- (14) In section 19 (directors, controllers, etc) —

- (a) for subsection (1) substitute—
- (1)** If it appears to the Authority that any individual is not a fit and proper person—
- (a) to be appointed as a director, chief executive or manager;
or
- (b) to become a controller,
of the trustee or administrator of an authorised scheme or an authorised scheme of any specified description, the Authority may direct that the individual shall not, without the written consent of the Authority, be appointed as such a director, chief executive or manager nor become such a controller. **(2)**
- (b) for subsection (2) substitute—
- (2)** If it appears to the Authority that any—
- (a) director, chief executive or manager; or
- (b) controller,
of the trustee or administrator of an authorised scheme or an authorised scheme of any specified description, is not a fit and proper person to continue as such, the Authority may direct that the individual shall not, without the written consent of the Authority, continue as such a director, chief executive, manager or controller. **(2)**
- (c) in subsections (3) and (4), for “Supervisor”, wherever occurring, substitute **Authority**.
- (15) In section 21(4), for “Supervisor” substitute **Authority**.
- (16) In section 22 (revocation of recognised status)—
- (a) in subsection (1), for “The Supervisor, with the consent of the IPA, may at any time direct that a scheme shall cease to be a recognised scheme by virtue of section 21 if it appears to him—” substitute **The Authority may at any time direct that a scheme shall cease to be a recognised scheme by virtue of section 21 if it appears to the Authority—**;
- (b) in subsection (1)(b)(vi) for “the IPA, the Insurance Supervisor, the Supervisor or the Financial Supervision Commission” substitute **the Authority**.
- (c) in subsection (2), for “Supervisor” substitute **Authority**;
- (d) for subsection (3) substitute—
- (3)** The Authority may give such a direction as is mentioned in subsection (1) at the request of the trustee or administrator of the scheme; but the Authority may refuse to do so if it considers that any matter concerning the scheme should be investigated as a preliminary to a decision on the question whether the direction

should be given or the recognition revoked or that the direction or revocation would not be in the interests of the members. 22

- (e) for subsection (4) substitute –
- 23(4) Where the Authority proposes to give such a direction as is mentioned in subsection (1), the Authority shall give the trustee written notice of its intention to do so, stating the reasons for which the Authority proposes to act and giving particulars of the rights conferred by subsection (5). 22
- (f) in subsections (5) and (6), for “Supervisor”, wherever occurring, substitute 23 Authority 22.
- (17) In section 23 (facilities, information and assets in the Island), for “Supervisor”, wherever occurring, substitute 23 Authority 22.
- (18) In section 24 (registration of retirement benefits schemes), for “IPA”, wherever occurring, substitute 23 Authority 22.
- (19) In section 26 (inspection and investigation) for “Supervisor” substitute 23 Authority 22.
- (20) In section 29 (injunctions), for “Supervisor”, wherever occurring, substitute 23 Authority 22.
- (21) In section 30(1) (restitution) for “Supervisor” substitute 23 Authority 22.
- (22) In section 31 (directions)–
- (a) in the first line of subsection (1), for “Supervisor” substitute 23 Authority 22;
- (b) in subsection (1)(c)(vi) for “the IPA, the Insurance Supervisor, the Supervisor or the Financial Supervision Commission” substitute 23 the Authority 22;
- (c) at the end of subsection (1), for “the Supervisor, with the consent of the IPA,” substitute 23 the Authority 22;
- (d) in subsection (2)(c), for “Supervisor” substitute 23 Authority 22;
- (e) in the first line of subsection (4), for “Supervisor” substitute 23 Authority 22;
- (f) in subsection (4)(b)(vi), for “the IPA, the Insurance Supervisor, the Supervisor or the Financial Supervision Commission” substitute 23 the Authority 22;
- (g) at the end of subsection (4), for “the Supervisor, with the consent of the IPA,” substitute 23 the Authority 22;
- (h) in subsection (5), for “Supervisor” substitute 23 the Authority 22;
- (i) for subsection (6) substitute –
- 23(6) The Authority may, either on its own initiative or on the application of the trustee or administrator of, or a professional adviser to, the scheme concerned, 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 take effect or continue in force or, as the case may be, that it should take effect or continue in force in a different form. 22

- (j) in subsection (8), for “Supervisor” substitute 66 Authority 22.
- (23) In section 32 (notice of directions) —
- (a) in subsection (1), for “Supervisor” substitute 66 Authority 22;
 - (b) in subsection (2)—
 - (i) for “Supervisor” substitute 66 Authority 22; and
 - (ii) for “he” substitute 66 the Authority 22;
 - (c) in subsection (4)—
 - (i) for “Supervisor”, wherever occurring, substitute 66 Authority 22; and
 - (ii) for “him” substitute 66 the Authority 22.
- (24) In section 33 (removal of trustee, administrator, etc) —
- (a) in subsection (1), for “In any case in which the Supervisor has power to give a direction under section 31(2) in relation to an authorised scheme or, by virtue of subsection (3) of that section, in relation to a scheme which has been such a scheme, the Supervisor, with the consent of the IPA, may by order—” substitute 66 In any case in which the Authority has power to give a direction under section 31(2) in relation to an authorised scheme or, by virtue of subsection (3) of that section, in relation to a scheme which has been such a scheme, the Authority may by order— 22;
 - (b) in subsection (1)(a) and (b), for “him”, wherever occurring, substitute 66 the Authority 22;
 - (c) in subsection (2)—
 - (i) for “Supervisor” substitute 66 Authority 22; and
 - (ii) for “he” substitute 66 it 22;
 - (d) in subsection (3)—
 - (i) for “Supervisor” substitute 66 Authority 22; and
 - (ii) for “he” substitute 66 the Authority 22;
 - (e) in subsection (5), for “Supervisor” substitute 66 Authority 22;
 - (f) in subsection (6), delete “on an application”.
- (25) In section 34 (appointment of inspector)—
- (a) for subsection (1) substitute—

- 63**(1) The Authority may appoint one or more competent inspectors to investigate and report, in such manner as the Authority may direct, on the affairs of, or of the trustee or administrator of, any scheme if the Authority is satisfied that it is in the interests of the members to do so or that the matter is of public concern. **62**
- (b) for subsection (5) substitute—
- 63**(5) An inspector appointed under this section may, and if so directed by the Authority shall, make interim reports to the Authority and on the conclusion of his investigation shall make a final report to the Authority. **62**
- (c) in subsection (6) for “the Supervisor may direct and he may, if he thinks fit —” substitute **63**the Authority may direct and the Authority may, if it thinks fit — **62**.
- (26) In section 35 (powers exercisable in aid of income tax and pension scheme functions) for “the Supervisor and the IPA” substitute **63**the Authority **62**.
- (27) In section 36 (register of scheme administrators)—
- (a) in subsections (1)(a), (2), (3), (4) and (5), for “Supervisor”, wherever occurring, substitute **63**Authority **62**; and
- (b) for subsection (9) substitute—
- 63**(9) Where the Authority exercises its power under subsection (4), the Authority shall do so by giving the applicant written notice stating the reasons for the decision. **62**
- (28) For section 37A (regulatory objectives) substitute—

6337A Regulatory objectives

Sections 1(2) (the Isle of Man Financial Services Authority) and 2 (exercise of functions to be compatible with the regulatory objectives) of the Financial Services Act 2008 shall apply in respect of the Authority’s functions under this Act. **62**

- (29) In subsection 38 (appeals to the retirement benefits schemes tribunal)—
- (a) in subsection (3), for “Supervisor” substitute **63**Authority **62**; and
- (b) in subsection (6), for “Supervisor” substitute **63**Authority **62**.
- (30) In subsection 41 (blowing the whistle)—
- (a) for subsection (1)(b) substitute—
- 63**(b) the failure to comply is likely to be of material significance in the exercise by the Authority of any of its functions, **62**

- (b) at the end of subsection (1), for “Supervisor” substitute **“Authority”**;
- (c) in subsection (5)—
 - (i) in the first line, for “Supervisor” substitute **“Authority”**; and
 - (ii) for “the Supervisor, with the consent of the IPA,” substitute **“the Authority”**;
- (d) in subsection (7)—
 - (i) for “The Supervisor, with the consent of the IPA,” substitute **“The Authority”**;
 - (ii) for “Supervisor”, wherever else occurring, substitute **“Authority”**; and
 - (iii) for “he” in the second place that it occurs substitute **“the Authority”**.
- (31) In section 42 (publication of information and advice)—
 - (a) in the first line of subsection (1), for “IPA” substitute **“Authority”**;
 - (b) in subsection (1)(b), for “the IPA or the Supervisor” substitute **“the Authority”**; and
 - (c) in subsection (2), for “IPA” substitute **“Authority”**.
- (32) In section 45 (public registers), for subsection (1) substitute —
“(1) The Authority shall keep at its principal office registers to which this section applies containing such particulars and information as may be prescribed.”
- (33) In section 50 (civil penalties)—
 - (a) for “IPA”, wherever occurring, substitute **“Authority”**;
 - (b) in subsection (9), for “permitted person” substitute **“person concerned”**; and
 - (c) in subsection (10), for “permitted person” substitute **“person”**.
- (34) In section 52 (financial provision), for “the IPA, the Supervisor” substitute **“the Authority”**.
- (35) In section 54 (interpretation – general)
 - (a) after the definition of “authorised scheme” insert—
““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).”
 - (b) the definition of “IPA” is omitted; and

- (c) the definition of “Supervisor” is omitted.

6 Life Assurance (Insurable Interest) Act 2004

- (1) In section 5—
- (a) in subsection (1), for “Authority” substitute **Isle of Man Financial Services Authority**;
 - (b) in subsection (3), for “Authority”, wherever occurring, substitute **Isle of Man Financial Services Authority**.
- (2) In section 26(2) (short title and commencement), for “Insurance and Pensions Authority” substitute **Isle of Man Financial Services Authority**.

7 Insurance Companies (Amalgamations) Act 2006

In section 1(3) (orders in respect of the amalgamation, reconstruction, etc. of insurance companies)—

- (a) in paragraph (a), for “Insurance and Pensions Authority” substitute **Isle of Man Financial Services Authority**;
- (b) paragraph (b) is repealed;
- (c) in paragraph (c), for “Supervisor” substitute **Isle of Man Financial Services Authority**; and
- (d) in paragraph (f), for “Insurance and Pensions Authority and the Supervisor” substitute **Isle of Man Financial Services Authority**.

8 Regulation of Surveillance etc. Act 2006

In the Schedule (public authorities)—

- (a) for paragraph 4 substitute—
(4) The Isle of Man Financial Services Authority.
- (b) paragraph 5 is repealed.

9 Civil Service (Amendment) Act 2007

See amendment made by paragraph 23 of Schedule 1.

10 Financial Services Act 2008

See amendment made by paragraph 25(44)(b), (c) and (e) of Schedule 1.

11 Proceeds of Crime Act 2008

See amendment made by paragraph 26 of Schedule 1.

12 Insurance Act 2008

- (1) For section 1 (regulatory objectives), substitute—

1 Regulatory objectives

Sections 1(2) (the Isle of Man Financial Services Authority) and 2 (exercise of functions to be compatible with the regulatory objectives) of the Financial Services Act 2008 shall apply in respect of the Authority's functions under this Act. **22**

- (2) Section 2 (duty to promote regulatory objectives) is repealed.
(3) For section 3 (insurance and pensions authority) substitute—

3 The Isle of Man Financial Services Authority

- (1) The Authority shall exercise the functions conferred on it by this Act.
- (2) The Authority is charged with the general administration of this Act and the *Retirement Benefits Schemes Act 2000*. **22**
- (4) Section 4 (insurance and pensions supervisor) is repealed.
- (5) In section 5(1) (authorised insurers), for “Supervisor” substitute **1** Authority **22**.
- (6) In section 6 (application for authorisation), for “Supervisor”, wherever occurring, substitute **1** Authority **22**.
- (7) In section 7 (circumstances in which authorisation will not be granted), for “Supervisor”, wherever occurring, substitute **1** Authority **22**.
- (8) In section 8 (authorisation), for “Supervisor”, wherever occurring, substitute **1** Authority **22**.
- (9) In section 9 (alteration of conditions of existing authorisations), for “Supervisor” substitute **1** Authority **22**.
- (10) In section 10(1) (withdrawal of authorisation in respect of new business), for “Supervisor” substitute **1** Authority **22**.
- (11) In section 11 (statement of reasons) —
- (a) for “Supervisor”, wherever occurring, substitute **1** Authority **22**;
and
- (b) subsection (4) is repealed.
- (12) In section 13 (consequences of not meeting solvency margin), for “Supervisor”, wherever occurring, substitute **1** Authority **22**.
- (13) In section 14 (accounts), for “Supervisor”, wherever occurring, substitute **1** Authority **22**.

- (14) In section 15 (auditor), for “Supervisor”, wherever occurring, substitute **“Authority”**.
- (15) In section 18 (actuary), for “Supervisor”, wherever occurring, substitute **“Authority”**.
- (16) In section 22(1) (foreign insurers), for “Supervisor”, wherever occurring, substitute **“Authority”**.
- (17) In section 23(3) (insurance managers), for “Supervisor”, wherever occurring, substitute **“Authority”**.
- (18) In section 25 (registration under this part), for “Supervisor”, wherever occurring, substitute **“Authority”**.
- (19) In section 26 (cancellation or restriction) —
 - (a) for “Supervisor”, wherever occurring, substitute **“Authority”**; and
 - (b) subsection (5) is repealed.
- (20) In section 27 (winding up of insurance managers and insurance intermediaries), for “Supervisor”, wherever occurring, substitute **“Authority”**.
- (21) In section 29 (connected persons), for “Supervisor”, wherever occurring, substitute **“Authority”**.
- (22) In section 30 (notice of cessation), for “Supervisor” substitute **“Authority”**.
- (23) For the cross heading before section 31 substitute ***“The powers of the Authority”***
- (24) In section 31 (location of assets), for “Supervisor”, wherever occurring, substitute **“Authority”**.
- (25) In section 33 (residual power to impose requirements)—
 - (a) in subsection (1), for “regulatory objectives set out in section 1” substitute **“regulatory objectives referred to in section 1”**;
 - (b) for “Supervisor”, wherever occurring, substitute **“Authority”**.
- (26) In section 34 (publication of information and advice), for “Supervisor”, wherever occurring, substitute **“Authority”**.
- (27) In section 35 (public statements), for “Supervisor”, wherever occurring, substitute **“Authority”**.
- (28) In section 37 (civil penalties), for “Supervisor”, wherever occurring, substitute **“Authority”**.
- (29) In section 38 (injunctions) —
 - (a) in subsection (1), for “Supervisor” substitute **“Authority”**; and
 - (b) in subsection (2), for “Supervisor or the Authority” substitute **“Authority”**.

- (30) In section 39 (restitution orders) —
- (a) in subsection (1), for “Supervisor” substitute **“Authority”**; and
 - (b) in subsection (5), for “Supervisor or the Authority” substitute **“Authority”**.
- (31) In section 45 (appeals to the insurance tribunal) —
- (a) in subsection (3), for “Supervisor or the Authority” substitute **“Authority”**; and
 - (b) in subsection (6), delete “the Supervisor,”.
- (32) In section 47(2) (fees), for “Supervisor”, wherever occurring, substitute **“Authority”**.
- (33) In section 48(1) (registers), for “Supervisor” substitute **“Authority”**.
- (34) Section 49 (indemnity) is repealed.
- (35) In section 51 (guidance notes), for “Supervisor”, wherever occurring, substitute **“Authority”**.
- (36) In section 52(a) (false statements, etc), delete “or the Supervisor”.
- (37) In section 54 (interpretation) —
- (a) for the definition of “the Authority” substitute —
 - “the 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);
 - (b) in the definition of “register”, for “Supervisor” substitute **“Authority”**; and
 - (c) the definition of “Supervisor” is omitted.
- (38) In section 55(1) (financial provisions) for “the Treasury, the Authority and the Supervisor” substitute **“the Treasury and the Authority”**.
- (39) Schedule 1 is repealed.
- (40) In Schedule 2 (transfer of long-term business), for “Supervisor”, wherever occurring, substitute **“Authority”**.
- (41) In Schedule 3 (insolvency and winding up), for “Supervisor”, wherever occurring (including in the headings), substitute **“Authority”**.
- (42) In Schedule 4 (continuation and discontinuation of insurance companies) —
- (a) for paragraph 2(a) substitute —
 - (a)** after subsection (2)(c), insert —
 - “(ca) a business plan for the continuation of the insurance business to the satisfaction of the Authority;”
 - (b) for paragraph 3 substitute —

3. After section 5(4) of the 1998 Act (effect of continuance), insert –
- (5) if a continued insurer ceases to carry on insurance business and it appears to the Authority that it is expedient in the public interest that the company should be wound up, the Authority may, unless the company is already being wound up by the court, present a petition for the winding up of the company if the court thinks it proper for it to be so wound up.”
- (c) paragraph 10 is repealed.
- (43) In Schedule 5 (inspection and investigation)
- (a) At the end of paragraph 1(1) for “if, on reasonable grounds, it appears to the Supervisor necessary for the performance of the Supervisor’s or the Authority’s functions under this Act or the Retirement Benefits Schemes Act 2000.” substitute “if, on reasonable grounds, it appears to the Authority necessary for the performance of the Authority’s functions under this Act or the Retirement Benefits Schemes Act 2000.”;
- (b) in paragraph 2(1), for “the Supervisor’s or the Authority’s functions” substitute “the Authority’s functions”;
- (c) in paragraph 3(1), for “the Supervisor’s or the Authority’s functions” substitute “the Authority’s functions”;
- (d) in paragraph 4(3), for “the functions of the Supervisor or the Authority” substitute “the functions of the Authority”;
- (e) for paragraph 6(1)(d) substitute –
- (d) enabling or assisting a person or an authority (whether a governmental or private body) in a country or territory outside the Island –
- (i) to exercise functions corresponding to any of those of the Authority under this Act or any other enactment; or
- (ii) to exercise functions relating to financial crime;
- (f) in paragraph 7(1), for “the Supervisor or the Authority” substitute “the Authority”;
- (g) for “Supervisor” or “Supervisor’s”, wherever else occurring (including in the headings), substitute “Authority” or “Authority’s” as appropriate.
- (44) In Schedule 6 (restrictions on disclosure of information) –
- (a) paragraph 1(3)(c) is repealed;
- (b) for paragraph 2(1)(f) substitute –

- (f) for the purpose of enabling or assisting the Authority or the Treasury to discharge their respective functions under this Act or any other enactment. 22;
- (c) in paragraph 2(1)(g), for “the Treasury, the Authority or the Supervisor” substitute 23 the Treasury or the Authority 22;
- (d) at the end of paragraph 2(2)(b)(i) insert 23 or 22;
- (e) for paragraph 2(2)(b)(ii) substitute —
- 23 (ii) to exercise functions corresponding to any of those of the Authority under this Act or any other enactment. 22;
- (f) paragraph 2(2)(b)(iii) is repealed;
- (g) in paragraph 2(3)(a), for “the Authority or the Supervisor” substitute 23 the Authority 22;
- (h) paragraph 2(3)(b) is repealed; and
- (i) paragraph 2(9) is repealed.
- (45) In Schedule 7 (matters in respect of which regulations may be made) —
- (a) in paragraph 34(a), for “the Authority and the Supervisor” substitute 23 the Authority 22; and
- (b) for “Supervisor”, wherever else occurring, substitute 23 Authority 22.

13 Company Officers (Disqualification) Act 2009

- (46) In Schedule 3 (restrictions on disclosure of information), for paragraph 2(1)(g) substitute—
- 23 (g) for the purpose of enabling or assisting the Authority to discharge its functions under the Retirement Benefits Schemes Act 2000 and the Insurance Act 2008; 22.
- (47) See amendment made by paragraph 28(5)(c) of Schedule 1.

14 Tynwald Auditor General Act 2011

See amendment made by paragraph 29 of Schedule 1.

15 Tynwald Commissioner for Administration Act 2011

See amendment made by paragraph 30 of Schedule 1.

16 Companies (Beneficial Ownership) Act 2012

See amendment made by paragraph 33 of Schedule 1.

17 Control of Employment Act 2014

See amendment made by paragraph 34 of Schedule 1.

18 Terrorism and Other Crime (Financial Restrictions) Act 2014

See amendment made by paragraph 35 of Schedule 1.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order —

- (a) establishes the Isle of Man Financial Services Authority;
- (b) transfers the functions of the Financial Supervision Commission and the Insurance and Pensions Authority to the Isle of Man Financial Services Authority;
- (c) dissolves the Financial Supervision Commission and the Insurance and Pensions Authority; and
- (d) makes consequential statutory amendments to give effect to the above.