



Friendly Societies Act 1992

1992 CHAPTER 40

PART V

REGULATION OF FRIENDLY SOCIETIES' BUSINESS

Information

62 Powers to obtain information and documents etc.

- (1) This section applies to information, documents or other material, or explanations of matters which relate to—
- (a) the activities or the plans for future development of a friendly society; or
 - (b) the activities or the plans for future development of a subsidiary of or body jointly controlled by an incorporated friendly society;
- and, in relation to the imposition of requirements under this section, “the purposes of its supervisory functions” means the purposes of the discharge by the Commission of any of its functions under this Act.
- (2) This section does not authorise any requirement in relation to information, documents or other material to be imposed on a subsidiary of or body jointly controlled by an incorporated friendly society unless that subsidiary or body carries on business in the United Kingdom; but a requirement may be imposed under this section on a friendly society in relation to information, documents or other material in the possession or control of a subsidiary of or body jointly controlled by the society which does not carry on business in the United Kingdom.
- (3) Subject to subsection (2) above, the Commission may by notice to a friendly society or to a subsidiary of, or body jointly controlled by, an incorporated friendly society, require the body to which it is addressed—
- (a) to furnish to it, within a specified period or at a specified time or times, such specified information as the Commission considers it needs for the purposes of its supervisory functions;

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- (b) to produce to it, at a specified time and place, such specified documents or other material as the Commission considers it needs for the purposes of its supervisory functions;
 - (c) to provide to it, within a specified period, such explanations of specified matters as the Commission considers it needs for the purposes of its supervisory functions;
 - (d) to furnish to it, within a specified period, a report by an accountant or actuary approved by the Commission on, or on specified aspects of, information or documents or other material furnished or produced to the Commission.
- (4) Where by virtue of subsection (3)(a), (b) or (c) above the Commission has power to require the furnishing of any information, the production of any document or material or the provision of any explanation by a friendly society, the Commission shall have the like power as regards any person who—
- (a) is or has been an officer, employee or agent of the society [^{F1}or, in the case of a society to which section 37(2) or (3) above applies, a controller or manager of the society], or
 - (b) in the case of documents or material, appears to the Commission to have the document or material in his possession or under his control.
- (5) Where by virtue of subsection (3)(a), (b) or (c) above the Commission has power to require the furnishing of any information, the production of any document or material or the provision of any explanation by a subsidiary of or body jointly controlled by an incorporated friendly society, the Commission shall have the like power as regards any person who—
- (a) is or has been an officer, employee or agent of the subsidiary or jointly controlled body, or
 - (b) in the case of documents or material, appears to the Commission to have the document or material in his possession or under his control.
- [^{F2}(5A) Any person authorised by the Commission may, on producing if required evidence of his authority, enter any premises occupied by—
- (a) any body which is a friendly society to which section 37(2) or (3) above applies, or is a subsidiary of, or body jointly controlled by, such a society, and on which a notice has been served under subsection (3) above; or
 - (b) any person who is or has been a controller, manager, officer, employee or agent of such a society, or of a subsidiary of, or body jointly controlled by, such a society, and on whom a notice has been served under subsection (4) or (5) above,
- for the purpose of obtaining the information or documents required by the notice and exercising the powers conferred by subsection (3) above.]
- (6) Where any person from whom production of a document or material is required under subsection (4) or (5) above claims a lien on the document or material, the production of it shall be without prejudice to the lien.
- (7) Nothing in the foregoing provisions of this section shall compel the production—
- (a) by a barrister, solicitor, advocate or licensed conveyancer of a document or material contained in a privileged communication or, in Scotland, a communication which is protected from disclosure on the ground of confidentiality, made by him or to him in that capacity or the furnishing of information contained in such communication so made;

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- (b) by a person who is not a barrister or solicitor of a document or material contained in a communication made by him or to him which is privileged by virtue of section 63 of the ^{M1}Courts and Legal Services Act 1990 or the furnishing of information contained in such a communication; or
- (c) by an independent qualified conveyancer, an executry practitioner or a recognised financial institution of a document or material contained in a communication made by him or to him which is protected from disclosure by virtue of section 22 of the ^{M2}Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 or the furnishing of information contained in such a communication.
- (8) Where, by virtue of subsection (3), (4) or (5) above, the Commission requires the production by a friendly society or other body or any other person of documents or material, the Commission may—
- (a) if the documents or material are not produced, require that person to state, to the best of his knowledge and belief, where the documents or material are;
- (b) if the documents or material are produced, take copies of or extracts from them and require that person or any other person who is or has been an officer, employee or agent of the friendly society or other body, as the case may be, to provide an explanation of the documents or material.
- (9) Any person who, when required to do so under this section, fails without reasonable excuse to furnish any information or report, to produce any documents or material, or to provide any explanation or make any statement, shall be guilty of an offence and liable on summary conviction—
- (a) to a fine not exceeding level 5 on the standard scale; and
- (b) in the case of a continuing offence, to an additional fine not exceeding one tenth of that level for every day during which the offence continues.
- (10) Any friendly society which furnishes any information, provides any explanation or makes any statement which is false or misleading in a material particular, shall be guilty of an offence and liable—
- (a) on conviction on indictment, to a fine; and
- (b) on summary conviction to a fine not exceeding the statutory maximum.
- (11) Any person who knowingly or recklessly furnishes any information, provides any explanation or makes any statement which is false or misleading in a material particular shall be guilty of an offence and liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine or both; and
- (b) on summary conviction, to a fine not exceeding the statutory maximum.
- (12) In this section—
- “specified” means specified in a notice under this section; and
- “agent”, in relation to a friendly society or a subsidiary of, or body jointly controlled by, an incorporated friendly society, includes its bankers, accountants, solicitors and auditors and the appropriate actuary.

Textual Amendments

F1 S. 62(4)(a) words substituted (1.9.1994) by S.I. 1994/1984 reg. 17(1)

F2 S. 62(5A) inserted (1.9.1994) by S.I. 1994/1984, reg. 17(2)

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Commencement Information

- I1** S. 62 wholly in force; s. 62 not in force at Royal Assent see s. 126(2); s. 62 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; s. 62 in force for all remaining purposes at 28.4.1993 by S.I. 1993/1186, art. 2(2), Sch. 2

Marginal Citations

- M1** 1990 c. 41.
M2 1990 c. 40.

VALID FROM 17/08/2001

[^{F3}62A Entry of premises under warrant under section 176 of the Financial Services and Markets Act 2000.

- (1) A justice of the peace may issue a warrant under section 176 of the Financial Services and Markets Act 2000 if satisfied on information on oath given by or on behalf of the Authority, an authorised officer within the meaning of section 62(3A) above, or a person appointed as an investigator under section 65(1) below or as an inspector under section 66(1) below, that there are reasonable grounds for believing that the first or second set of conditions below is satisfied.
- (2) The first set of conditions is that—
- (a) there are on the premises specified in the warrant information, documents or other material in relation to which a requirement has been imposed on any person under section 62(3), (3A), (4) or (5) above or section 67(3) below, or which it is the duty of any person to produce under section 65(3) or 67(2) below, and
 - (b) that person has failed (wholly or in part) to comply with that requirement or, having been requested to do so, has failed (wholly or in part) to comply with that duty.
- (3) The second set of conditions is that—
- (a) there are on the premises specified in the warrant information, documents or other material in relation to which a requirement could be imposed on any person under section 62(3), (3A), (4) or (5) above or section 67(3) below, or which any person could be requested to produce in compliance with the duty imposed on them by section 65(3) or 67(2) below, and
 - (b) if such a requirement were imposed, or such a request made,—
 - (i) it would not be complied with, or
 - (ii) any information, documents or other material to which it related would be removed, tampered with or destroyed.]

Textual Amendments

- F3** S. 62A inserted (17.8.2001 for specified purposes and otherwise 1.12.2001) by S.I. 2001/2617, art. 2, 13(1), Sch. 3, Pt. 1 para 77 (with art. 13(3), Sch. 5); S.I. 2001/3538, art. 2(1)

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^{F4}63 Confidentiality of certain information.

- (1) Subject to section 64 below, no restricted information which relates to the business or other affairs of a friendly society, a registered branch of a friendly society or any other person shall be disclosed (otherwise than to an officer or employee of the primary recipient) by—
- (a) the primary recipient; or
 - (b) any person obtaining the information directly or indirectly from him,
- without the consent of the person from whom the primary recipient obtained the information and, if different, the person to whom it relates.
- (2) For the purposes of this section—
- “the primary recipient” means the Commission, the Chief Registrar, the central office or any officer or servant of any such person; and
- “restricted information” means information which is obtained by the primary recipient for the purposes of, or in the discharge of his functions under, this Act or the 1974 Act;
- but information shall not be treated as restricted information if it has been made available to the public by virtue of being disclosed in any circumstances in which, or for any purpose for which, disclosure is not precluded by this section.
- (3) Any information disclosed to the Commission or the Chief Registrar by an overseas regulatory authority (within the meaning of section 64 below) shall be treated as restricted information for the purposes of this section.
- (4) A person who discloses information in contravention of this section shall be guilty of an offence and liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or both; and
 - (b) on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding the statutory maximum, or both.

Textual Amendments

- F4** S. 63A substituted (17.8.2001 for specified purposes and otherwise 1.12.2001) for ss. 63, 64 by S.I. 2001/2617, arts. 2, 8(1), 13(1), **Sch. 3 para. 78** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**

Commencement Information

- I2** S. 63 wholly in force; s. 63 not in force at Royal Assent see s. 126(2); s. 63 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, **Sch. 1**; s. 63 in force for all remaining purposes at 28.4.1993 by S.I. 1993/1186, art. 2(2), **Sch. 2**

VALID FROM 17/08/2001

[^{F5}63A Disclosure of information.

- (1) For the purposes of sections 348 to 353 of the Financial Services and Markets Act 2000 (restrictions on disclosure of confidential information)—
- (a) information to which this section applies is to be treated as confidential information; and

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- (b) in relation to such information, each of the following is a primary recipient—
 - (i) the Authority;
 - (ii) any person who is or has been employed by the Authority; and
 - (iii) any person appointed by the Authority to carry out functions under this Act or the 1974 Act.
- (2) This section applies to information which—
 - (a) relates to the business or other affairs of a friendly society, a registered branch of a friendly society or any other person;
 - (b) was received by a primary recipient (within the meaning of subsection (1) (b)) for the purposes of, or in the discharge of, any functions of the Authority under any provision made by or under this Act or the 1974 Act; and
 - (c) is not excluded information by virtue of subsection (4).
- (3) It is immaterial for the purposes of subsection (2) whether or not the information was received—
 - (a) by virtue of a requirement to provide it imposed by or under this Act;
 - (b) for other purposes as well as purposes mentioned in that subsection.
- (4) Information is excluded information if—
 - (a) it has been made available to the public by virtue of being disclosed in any circumstances in which, or for any purposes for which, disclosure is not precluded by section 348 of the Financial Services and Markets Act 2000 (restrictions on disclosure of confidential information); or
 - (b) it is in the form of a summary or collection of information so framed that it is not possible to ascertain from it information relating to any particular person.]

Textual Amendments

F5 S. 63A substituted (17.8.2001 for specified purposes and otherwise 1.12.2001) for ss. 63, 64 by S.I. 2001/2617, art. 2, 8(1), 13(1), **Sch. 3, Pt. 1 para. 78** (with art. 13(3), Sch. 5); S.I. 2001/3538, art. 2(1)

^{F4}63 Confidentiality of certain information.

- (1) Subject to section 64 below, no restricted information which relates to the business or other affairs of a friendly society, a registered branch of a friendly society or any other person shall be disclosed (otherwise than to an officer or employee of the primary recipient) by—
 - (a) the primary recipient; or
 - (b) any person obtaining the information directly or indirectly from him, without the consent of the person from whom the primary recipient obtained the information and, if different, the person to whom it relates.
- (2) For the purposes of this section—
 - “the primary recipient” means the Commission, the Chief Registrar, the central office or any officer or servant of any such person; and
 - “restricted information” means information which is obtained by the primary recipient for the purposes of, or in the discharge of his functions under, this Act or the 1974 Act;

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but information shall not be treated as restricted information if it has been made available to the public by virtue of being disclosed in any circumstances in which, or for any purpose for which, disclosure is not precluded by this section.

- (3) Any information disclosed to the Commission or the Chief Registrar by an overseas regulatory authority (within the meaning of section 64 below) shall be treated as restricted information for the purposes of this section.
- (4) A person who discloses information in contravention of this section shall be guilty of an offence and liable—
 - (a) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or both; and
 - (b) on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding the statutory maximum, or both.

Textual Amendments

- F4** S. 63A substituted (17.8.2001 for specified purposes and otherwise 1.12.2001) for ss. 63, 64 by S.I. 2001/2617, arts. 2, 8(1), 13(1), **Sch. 3 para. 78** (with art. 13(3), Sch. 5); S.I. 2001/3538, art. 2(1)

Commencement Information

- I2** S. 63 wholly in force; s. 63 not in force at Royal Assent see s. 126(2); s. 63 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, **Sch. 1**; s. 63 in force for all remaining purposes at 28.4.1993 by S.I. 1993/1186, art. 2(2), **Sch. 2**

64 Exceptions from restrictions on disclosure.

- (1) Information which is restricted information for the purposes of section 63 above may be disclosed—
 - (a) to any person with a view to the institution of, or otherwise for the purposes of, relevant proceedings;
 - (b) if it is information which is or has been available to the public from other sources;
 - (c) in the form of a summary or collection of information so framed as not to enable information related to any particular body or person to be ascertained from it;
 - (d) to the extent that it is information which is provided for the purpose, under any provision of this Act or the 1974 Act, of its being made available to the public in any manner;
 - (e) in pursuance of any Community obligation;
 - (f) for the purpose of facilitating the discharge by the Commission, the Chief Registrar or the central office of any of their functions under this Act or the 1974 Act;
 - (g) to the Treasury, if the disclosure is made for the purpose of facilitating the discharge of any functions of the Treasury under this Act or the 1974 Act or otherwise in the interests of members of friendly societies or in the public interest;
 - (h) for the purpose of enabling or assisting any person appointed investigator under section 65 below or inspector under section 66 below to discharge his duties under that section; or

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- (i) for the purpose of facilitating the discharge by the auditors of a friendly society of their duties to the Commission.
- (2) For the purposes of subsection (1)(a) above “relevant proceedings” are—
- (a) any criminal proceedings;
 - (b) any civil proceedings by or at the relation of or against the Commission or the Chief Registrar arising out of the discharge of any of their functions under this Act or the 1974 Act;
 - (c) any disciplinary proceedings relating to—
 - (i) the exercise by a solicitor, auditor, accountant, actuary or valuer of his professional duties;
 - (ii) the discharge by a public servant of his duties;
- and in paragraph (c) above “public servant” means an officer or servant of the Crown (including an officer or servant of the Crown in right of Her Majesty’s Government in Northern Ireland) or of any public or other authority designated for the purpose by order made by the Treasury.
- (3) Nothing in section 63 above prohibits the disclosure of information to the Secretary of State or the Department of Economic Development in Northern Ireland in circumstances where it is desirable or expedient—
- (a) that the information should be disclosed in the interests of members of a friendly society or in the public interest; or
 - (b) it is desirable or expedient that the information should be disclosed for the purpose of facilitating the discharge—
 - (i) by the Secretary of State, of any functions of his under the enactments relating to companies, insurance companies, or insolvency or under the ^{M3}Financial Services Act 1986 or any provision of Parts II, III or VII of the ^{M4}Companies Act 1989; or
 - (ii) by the Department, of any of its functions relating to companies or insolvency, or under Part III of the ^{M5}Companies (Northern Ireland) Order 1990 or Part II or V of the ^{M6}Companies (No. 2) (Northern Ireland) Order 1990;

nor does that section prohibit further disclosure of the information by the Secretary of State or the Department with the consent of the Commission.

[^{F6}(3A) Nothing in section 63 above prohibits the disclosure of information to the Treasury in circumstances where it is desirable or expedient that the information should be disclosed for the purpose of facilitating the discharge by the Treasury of any functions of theirs under the Financial Services Act 1986 or under Part III or Part VII of the Companies Act 1989 nor does that section prohibit further disclosure of the information by the Treasury with the consent of the Commission.]

- (4) Nothing in section 63 above prohibits the disclosure of information to an authority mentioned in subsection (5) below (a “relevant authority”) in circumstances where, in the opinion of the Commission, it is desirable or expedient that the information should be disclosed—
- (a) in the interests of members of a friendly society or in the public interest; or
 - (b) with a view to facilitating the discharge by the authority, of any functions of the authority (including functions in relation to proceedings) mentioned in that subsection (“relevant functions”);

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nor does that section prohibit further disclosure of the information, with the consent of the Commission.

- (5) The relevant authorities mentioned in subsection (4) above and the relevant functions in relation to each such authority, are as follows—

<i>Authority</i>	<i>Functions</i>
An inspector appointed under Part XIV of the Companies Act 1985, Part XV of the Companies (Northern Ireland) Order 1986 or section 94 or 177 of the Financial Services Act 1986.	Functions under that Part or that section or Article.
A person authorised to exercise powers under section 44 of the Insurance Companies Act 1982, section 447 of the Companies Act 1985, section 106 of the Financial Services Act 1986 or section 84 of the Companies Act 1989 or Article 440 of the Companies (Northern Ireland) Order 1986.	Functions under that section or Article.
The Policyholders Protection Board.	Functions under the Policyholders Protection Act 1975.
A designated agency within the meaning of the Financial Services Act 1986.	Functions under that Act or Part VII of the Companies Act 1989.
A transferee body or the competent authority within the meaning of the Financial Services Act 1986.	Functions under that Act.
A body administering a scheme under section 54 of the Financial Services Act 1986.	Functions under the scheme.
A recognised self-regulating organisation, recognised professional body, recognised investment exchange, recognised clearing house, or recognised self-regulating organisation for friendly societies (within the meaning of the Financial Services Act 1986).	Functions in its capacity as an organisation, body, exchange or clearing house recognised under that Act.
The Bank of England.	Functions under the Banking Act 1987 and any other functions.
A body established by order under section 46 of the Companies Act 1989.	Functions under Part II of that Act.
A recognised supervisory or qualifying body within the meaning of Part II of the Companies Act 1989.	Functions as such a body.
The Industrial Assurance Commissioner for Northern Ireland.	Functions under the enactments relating to industrial assurance.

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The Insurance Brokers Registration Council.	Functions under the Insurance Brokers (Registration) Act 1977.
The Official Receiver or the Official Receiver for Northern Ireland.	Functions under the enactments relating to insolvency.
A recognised professional body (within the meaning of section 391 of the Insolvency Act 1986).	Functions in its capacity as such a body under that Act.
The Building Societies Commission.	Functions under the Building Societies Act 1986.
The Director-General of Fair Trading.	Functions under the Financial Services Act 1986.

- (6) The Commission, with the consent of the Treasury, may by order—
- (a) amend the Table in subsection (5) above so as to—
 - (i) add any public or other authority to the Table and specify the relevant functions of that authority;
 - (ii) remove any authority from the Table; or
 - (iii) add functions to, or remove functions from, those which are relevant functions in relation to an authority specified in the Table;
 - (b) restrict the circumstances in which information may, by virtue of subsection (4) above, be disclosed or further disclosed; and
 - (c) impose conditions subject to which the information may be disclosed or further disclosed.

- (7) Nothing in section 63 above prohibits the disclosure to an overseas regulatory authority of information for the purpose of assisting that authority in the discharge of its functions.

[^{F7}(7A) In the case of restricted information which relates to the business or other affairs of a friendly society to which section 37(2) or (3) above applies, no disclosure may be made by virtue of subsection (1), (3), (4) or (7) above unless the disclosure appears to be in accordance with—

- (a) Article 16 of the third general insurance Directive; or
- (b) Article 15 of the third life Directive.]

- (8) In this section—

“authority” includes any body (corporate or unincorporate) which is charged with the regulation of the carrying on of any description of financial or insurance business or the practice of any profession to which the carrying on of such business is incidental;

“overseas regulatory authority” means any government department or public or other authority in a country or territory outside the United Kingdom which is charged under the law of that country or territory with the regulation of companies, insurance companies, financial services, banking or any business corresponding to the business which may be carried on by friendly societies (or their subsidiaries); and

“regulation”, in relation to any public or other authority, means regulation in the public interest or for the protection of private interests.

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Textual Amendments

- F6** S. 64(3A) inserted (7.6.1992) by S.I. 1992/1315, art. 10(1), **Sch. 4 para. 14**
F7 S. 64(7A) inserted (1.9.1994) by S.I. 1994/1984 reg. 18
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Commencement Information

- I3** S. 64 wholly in force; s. 64 not in force at Royal Assent see s. 126(2); s. 64 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, **Sch. 1**; s. 64 in force for all remaining purposes at 28.4.1993 by S.I. 1993/1186, art. 2(2), **Sch. 2**
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Marginal Citations

- M3** 1986 c. 60
M4 1989 c. 40
M5 S.I. 1990/593 (N.I. 5)
M6 S.I. 1990/1504 (N.I. 10)

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