



Friendly Societies Act 1992

1992 CHAPTER 40

PART X

GENERAL AND SUPPLEMENTARY

Interpretation

116 Friendly societies etc.

In this Act—

“friendly society” means an incorporated friendly society or a registered friendly society;

“incorporated friendly society” means a society incorporated under this Act;

“registered branch” means a branch of a registered friendly society which is separately registered within the meaning of the 1974 Act;

“registered friendly society” means a society registered within the meaning of the 1974 Act by virtue of section 7(1)(a) of that Act or any enactment which it replaced.

Commencement Information

II Ss. 116-119 wholly in force at 8.6.1992 see s. 126(2) and S.I. 1992/1325, art. 2(c).

117 Insurance business etc.

(1) For the purposes of this Act—

“annual contribution income” means, in relation to a friendly society’s long term business, the income of the society in a financial year without any deduction for reinsurance cessions;

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[^{F1}“commitment” means, in relation to a friendly society to which section 37(2) applies, a commitment represented by insurance business of any class of Head A of Schedule 2 to this Act;]

“insurance business” means long term business and general business but does not include the operations of a society whose benefits vary according to the resources available and which require each of its members to contribute on a flat-rate basis;

[^{F2}“direct insurance business” means insurance business other than reinsurance business and “direct insurance” shall be construed accordingly;]

“long term business” means insurance business of any of the classes specified in head A of Schedule 2 to this Act; and

“general business” means insurance business of any of the classes specified in head B of that Schedule.

(2) For the purposes of any provision of Parts IV, V, VI and VIII of this Act, unless the context otherwise requires—

- (a) references to insurance business include references to reinsurance business; and
- (b) reinsurance business consisting of the effecting and carrying out of a contract of reinsurance of risks of any class shall be taken to constitute the carrying on of insurance business of that class;

and “reinsurance business” means the effecting and carrying out of contracts of reinsurance.

(3) For the purposes of this Act the effecting and carrying out of a contract whose principal object is within one class of insurance business, but which contains related and subsidiary provisions within another class or classes, shall be taken to constitute the carrying on of insurance business of the first-mentioned class, and no other, if subsection (4) or (5) below applies to the contract.

(4) This subsection applies to a contract whose principal object is within any class of long term business, but which contains subsidiary provisions within general business class 1 or 2, if the society concerned is authorised under section 32 above to carry on long term business class I.

(5) This subsection applies to a contract whose principal object is within one of the classes of general business but which contains subsidiary provisions within another of those classes.

[^{F3}(6) In relation to a contract of insurance entered into by a person on any date with a friendly society to which section 37(3) above applies the effecting of which constitutes general business, or a contract of insurance entered into by a person on any date with a friendly society to which section 37(2) above applies the effecting of which constitutes long term business, references in this Act to the [^{F4}member or EEA State] where the risk or commitment is situated shall be construed as follows—

- (a) where that person is an individual, as references to the [^{F4}member or EEA State] where he has his habitual place of residence on that date; and
- (b) in any other case, as references to the [^{F4}member or EEA State] where the establishment of that person to which the contract relates is situated on that date.

(7) In relation to any other contract of insurance with a friendly society, references in this Act to the member State where the risk is situated shall be construed as references to

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the member State where the person who has entered into the contract has his habitual place of residence.]

[^{F5}(8) In this Act references, in relation to a friendly society to which section 37(2) or (3) above applies, to the provision of insurance in the United Kingdom or any other EEA State are references to either or both of the following–

- (a) the covering (otherwise than by way of reinsurance) of a risk situated there through an establishment in another EEA State (“the provision of general insurance”); and
- (b) the covering (otherwise than by way of reinsurance) of a commitment situated there through an establishment in another EEA State (“the provision of long term insurance”).

(9) In this Act “establishment”, in relation to a friendly society to which section 37(2) or (3) above applies, means the registered office or an overseas branch of the society.

Any permanent presence of such a society in an EEA State other than the United Kingdom shall be regarded for those purposes as a single overseas branch, whether that presence consists of a single office which, or two or more offices each of which–

- (a) is managed by the society’s own staff;
- (b) is an agency of the society; or
- (c) is managed by a person who is independent but has permanent authority to act for the society in the same way as an agency.]

Textual Amendments

- F1** Definition in s. 117(1) inserted (1.1.1994) by [S.I. 1993/2519, reg. 7\(1\)](#)
- F2** Definition in s. 117(1) added (1.9.1994) by [S.I. 1994/1984 reg. 29\(1\)](#)
- F3** [S. 117\(6\)\(7\)](#) substituted (1.1.1994) for s. 177(6) by [S.I. 1993/2519, reg. 7\(2\)](#)
- F4** [S. 117\(6\)](#) words substituted (1.9.1994) by [S.I. 1994/1984 reg. 29\(2\)](#)
- F5** [S. 117\(8\)\(9\)](#) inserted (1.9.1994) by [S.I. 1994/1984 reg. 29\(3\)](#)

Commencement Information

- I2** [Ss. 116-119](#) wholly in force at 8.6.1992 see [s. 126\(2\)](#) and [S.I. 1992/1325, art. 2\(c\)](#).

118 Financial year of friendly societies.

- (1) Subject to subsection (2) below, in this Act “financial year” means the period of 12 months ending with 31st December.
- (2) The initial financial year of a friendly society shall be such period as expires with the end of the calendar year in which it is registered under the 1974 Act or incorporated under this Act and the final financial year of the society shall be such shorter period than 12 months as expires with the date as at which the society makes up its final accounts.

Commencement Information

- I3** [Ss. 116-119](#) wholly in force at 8.6.1992 see [s. 126\(2\)](#) and [S.I. 1992/1325, art. 2\(c\)](#).

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119 General interpretation.

(1) In this Act, unless the context otherwise requires—

“the 1974 Act” means the ^{M1}Friendly Societies Act 1974;

“actuary” means an actuary possessing the qualifications prescribed by regulations under section 44 above;

“annuities on human life” does not include superannuation allowances and annuities payable out of any fund applicable solely to the relief and maintenance of persons engaged or who have been engaged in any particular profession, trade or employment, or of the dependants of such persons;

“appointed actuary” means the actuary appointed under section 44 above;

“the appropriate actuary” means—

(a) if the society is under the duty imposed by section 44(1) above, the society’s appointed actuary; and

(b) if it is not under that duty, an actuary appointed to perform the function in question;

“the central office” means the central office of the registry of friendly societies except in relation to Scotland where it means the assistant registrar of friendly societies for Scotland;

“the Chief Registrar” means the Chief Registrar of Friendly Societies;

“collecting society” has the same meaning as in the ^{M2}Industrial Assurance Act 1923 or the ^{M3}Industrial Assurance (Northern Ireland) Order 1979;

“the Commission” means the Friendly Societies Commission established by section 1 above;

“committee of management” means the committee of management or other directing body of a society or branch;

“contract of insurance” includes any contract the effecting of which constitutes the carrying on of insurance business by virtue of section 117 above;

[^{F6}“controller” has the meaning given by section 55A above;]

“the court” except in relation to the winding-up of an incorporated friendly society, means—

(a) in the case of a body whose registered office is situated in England and Wales or in Northern Ireland, the county court for the district in which the office is situated;

(b) in the case of a body whose registered office is situated in Scotland, the sheriff in whose jurisdiction the office is situated;

and, in relation to the winding-up of an incorporated friendly society, means the court which has jurisdiction under the applicable winding-up legislation to wind-up the society;

“the criteria of prudent management” means the criteria set out in section 50 above;

[^{F7}“EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 ^{M4} as adjusted by the Protocol signed at Brussels on 17th March 1993 ^{M5};

^{F7}“EEA State” means a State which is a Contracting Party to the EEA Agreement but, until the EEA Agreement comes into force in relation to Liechtenstein, does not include Liechtenstein;

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^{F7}“EFTA State” means an EEA State which is not a member State;]

“financial year” is to be construed in accordance with section 118;

“the first general insurance Directive” means Council Directive [73/239/EEC](#) of 24th July 1973 on the coordination of laws, regulations and administrative provisions relating to the taking-up and pursuit of the business of direct insurance other than life assurance;

“the first life Directive” means Council Directive [79/267/EEC](#) of 5th March 1979 on the co-ordination of laws, regulations and administrative provisions relating to the taking up and pursuit of the business of direct life assurance;

[^{F8}“the general insurance Directives” means the first general insurance Directive, the second general insurance Directive and the third general insurance Directive as amended, and such other Directives as make provision with respect to the business of direct insurance other than life assurance;]

“group business” is to be construed in accordance with section 11 above;

“jointly controlled body” is to be construed in accordance with section 13 above;

[^{F9}“the life Directives” means the first life Directive, the second life Directive and the third life Directive as amended, and such other Directives as make provision with respect to the business of direct life assurance;

“manager”, in relation to a friendly society to which section 37(2) or (3) above applies, means any person (other than an employee of a society) appointed by the society to manage any part of its insurance business, or any employee of the society (other than a chief executive) who, under the immediate authority of a member of the committee of management or chief executive of the society—

- (a) exercises managerial functions, or is responsible for maintaining accounts or other records of the society; and
- (b) is not a person whose functions relate exclusively to business conducted from a place of business which is not in a member State;]

“memorandum” has the meaning given by paragraph 4(3) of Schedule 3 to this Act;

“modifications”, in relation to enactments, includes additions, omissions and amendments;

“non-insurance business” means business falling within head C of Schedule 2 to this Act;

“notice” means written notice and “notice to” a person means notice given to that person, and “notify” shall be construed accordingly;

[^{F10}“notifiable voting rights” has the meaning given by section 55A above;]

“officer” means—

- (a) in relation to a registered friendly society or a registered branch—
 - (i) a trustee;
 - (ii) the treasurer, secretary and chief executive (however described);
 - (iii) a member of the committee of management; and

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- (iv) a person appointed by the society or branch to sue or be sued on its behalf; or
- (b) in relation to an incorporated friendly society, a member of the committee of management, the chief executive (however described) and the secretary;

“the public file”, in relation to a friendly society, means the file relating to the society which the central office is required to maintain under section 104 above;

“registered address”, in relation to a member of an incorporated friendly society, has the meaning given by paragraph 14(6) of Schedule 3 to this Act;

“the second general insurance Directive” means Council Directive [88/357/EEC](#) of 22nd June 1988 on the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance and laying down provisions to facilitate the effective exercise of freedom to provide services and amending Directive [73/239/EEC](#);

“the second life Directive” means Council Directive [90/619/EEC](#) of 8th November 1990 on the co-ordination of laws, regulations and administrative provisions relating to direct life assurance, laying down provisions to facilitate the effective exercise of freedom to provide services and amending Directive [79/267/EEC](#);

“special resolution” has the meaning given by paragraph 7 of Schedule 12 to this Act;

“subscription” includes any premium or other sum (however described) payable, in respect of the provision of benefits, by (or on behalf of) a member of a friendly society under the rules of the society;

“subsidiary” is to be construed in accordance with section 13 above; and

[^{F11}“supervisory authority”, in relation to an EEA State other than the United Kingdom, means the authority responsible in that State for supervising insurance companies;

^{F11}“the third general insurance Directive” means Council Directive [92/49/EEC](#) of 18th June 1992 ^{M6} on the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance and amending Directives [73/239/EEC](#) ^{M7} and [88/357/EEC](#) ^{M8};

^{F11}“the third life Directive” means Council Directive [92/96/EEC](#) of 10th November 1992 ^{M9} on the coordination of laws, regulations and administrative provisions relating to direct life assurance and amending Directives [79/267/EEC](#) ^{M10} and [90/619/EEC](#) ^{M11};

“valuation regulations” means regulations under section 45 above.

[^{F12}(1A) References in this Act to the first or third general insurance Directive, or to the first or third life Directive, are references to that Directive as amended by the Prudential Supervision Directive (within the meaning of the Financial Institutions (Prudential Supervision) Regulations 1996).

^{F12}(1B) References in this Act—

- (a) to an undertaking being closely linked with any person, or being closely linked with any person by control; or
- (b) to an undertaking’s close links with any person,

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shall be construed in accordance with regulation 2 of those Regulations.]

- (2) References in this Act to the “ECU” are to the unit of account of that name defined in Council Regulation (EEC) No.3180/78 as amended; and the exchange rates as between the ECU and pounds sterling to be applied for each year beginning on 31st December shall be the rates applicable on the last day of the preceding October for which exchange rates for the currencies of all the member States were published in the Official Journal of the Communities.

Textual Amendments

- F6** S. 119(1): definition inserted (1.9.1994) by S.I. 1994/1984 reg. 30(a)
F7 S. 119(1): definition inserted (1.9.1994) by S.I. 1994/1984, **reg. 30(b)**
F8 S. 119(1): definition substituted (1.9.1994) by S.I. 1994/1984 reg. 30(c)
F9 S. 119(1): definitions of “the life Directives” and “manager” substituted for definition of “the life Directives” (1.9.1994) by S.I. 1994/1984, **reg. 30(d)**
F10 S. 119(1): definition inserted (1.9.1994) by S.I. 1994/1984, **reg. 30(e)**
F11 S. 119(1): definition inserted (1.9.1994) by S.I. 1994/1984, **reg. 30(f)**
F12 S. 119(1A)(1B) inserted (18.7.1996) by S.I. 1996/1669, reg. 23, **Sch. 5 para. 6**

Commencement Information

- I4** Ss. 116-119 wholly in force at 8.6.1992 see s. 126(2) and S.I. 1992/1325, **art. 2(c)**.

Marginal Citations

- M1** 1974 c. 46.
M2 1923 c. 8.
M3 S.I. 1979/1574 (N.I. 13).
M4 O.J. L1, 3.1.94, page 3.
M5 O.J. L1, 3.1.94, page 572.
M6 O.J. L228, 11.8.92, page 1.
M7 O.J. L228, 16.8.73, page 3.
M8 O.J. L172, 4.7.88, page 1.
M9 O.J. L360, 9.12.92, page 1.
M10 O.J. L63, 13.3.79, page 1.
M11 O.J. L330, 29.11.90, page 50.

[^{F13}119A Meaning of “associate”].

- (1) In this Act “associate”, in relation to any person entitled to exercise or control the exercise of voting power in relation to a friendly society to which section 37(2) or (3) above applies, means—
- (a) the wife or husband or minor son or daughter of that person;
 - (b) any company of which that person is a director;
 - (c) any person who is an employee or partner of that person;
 - (d) if that person is a company—
 - (i) any director of that company;
 - (ii) any subsidiary undertaking of that company;
 - (iii) any director or employee of any such subsidiary under- taking; and

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- (e) if that person has made an agreement or arrangement with any other person under which they undertake to act together in exercising their voting power in relation to the society, that other person.

(2) In this section–

“minor”, in relation to Scotland, means not having attained the age of sixteen;

“son” includes stepson and “daughter” includes stepdaughter;

“subsidiary undertaking” has the same meaning as in the Insurance Companies Act 1982^{M12}.]

Textual Amendments

F13 S. 119(A) inserted (1.9.1994) by S.I. 1994/1984 reg. 31

Marginal Citations

M12 1982 c.50.

[^{F14}119B Meaning of “main agent”.

- (1) In this Act “main agent”, in relation to a society to which section 37(2) or (3) above applies, means a person appointed by the society to be its agent in respect of general business in a member State with authority to enter into contracts on behalf of the society in any financial year–
- (a) without limit on the aggregate amount of premiums; or
 - (b) with a limit in excess of the 10 per cent. of the premium limit as determined in accordance with subsections (3) to (6) below.
- (2) A person shall not be regarded as falling within subsection (1)(a) above unless–
- (a) the society is of the opinion that the aggregate amount of premiums, on contracts entered into by him on behalf of the society in that year in respect of general business in the member State or States concerned, will be in excess of 10 per cent. of the premium limit as determined in accordance with subsections (3) to (6) below; or
 - (b) the aggregate amount of premiums, on contracts so entered into, actually is in excess of 10 per cent. of that premium limit.
- (3) Subject to subsections (4) to (6) below, the premium limit for the purposes of subsections (1) and (2) above is the aggregate of the amounts of gross premiums shown in the annual accounts relating to the society’s business last sent to the Commission under section 78 above as receivable in respect of general business in the financial year to which the accounts relate.
- (4) If the accounts so sent relate to a financial year which is not a period of 12 months, the aggregate of the amounts of gross premiums shown in the accounts as receivable in that financial year shall be divided by the number of months in the financial year and multiplied by twelve.
- (5) If no accounts have been sent to the Commission under section 78 above the aggregate amount of gross premiums shall be the amount or, if more than one amount, the lower or lowest amount, shown in respect of gross premiums relating to the society’s

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business in the financial forecast last submitted by the society in accordance with regulations made for the purposes of paragraph 2(2) of Schedule 13 to this Act.

- (6) Any reference in subsection (3) or (5) above to the society's business is a reference to its business in the member State or States in which the agent has authority to enter into contracts on its behalf.]

Textual Amendments

F14 S. 119B inserted (1.9.1994) by S.I. 1994/1984 reg. 32

Status:

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Changes to legislation:

There are currently no known outstanding effects for the Friendly Societies Act 1992, Cross
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