

Status: Point in time view as at 19/02/1993.

Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 1992, SCHEDULE 9. (See end of Document for details)

SCHEDULES

SCHEDULE 9

Section 56.

FRIENDLY SOCIETIES

Amendments of the Taxes Act 1988

- 1 The Taxes Act 1988 shall be amended in accordance with paragraphs 2 to 19 below.
- 2 (1) Section 266 (personal reliefs: life assurance premiums) shall be amended as follows.
 - (2) In subsections (2)(a)(iii) and (6)(a), for “registered friendly society” there shall be substituted “friendly society”.
 - (3) The following subsection shall be added at the end—
 - “(13) In this section and Schedule 14, “friendly society” means the same as in the Friendly Societies Act 1992 (and includes any society that by virtue of section 96(2) of that Act is to be treated as a registered friendly society within the meaning of that Act).”
- 3 (1) Section 376 (mortgage interest relief at source: qualifying borrowers and lenders) shall be amended as follows.
 - (2) In subsection (4), the following paragraph shall be substituted for paragraph (g)—

“(g) a friendly society;”
 - (3) The following subsection shall be inserted after subsection (4)—
 - “(4A) In subsection (4)(g) above, “friendly society” means—
 - (a) a friendly society within the meaning of the Friendly Societies Act 1992 (including any society that by virtue of section 96(2) of that Act is to be treated as a registered friendly society within the meaning of that Act), or
 - (b) a registered branch within the meaning of that Act (including any branch that by virtue of section 96(3) of that Act is to be treated as a registered branch within the meaning of that Act).”
- 4 In section 459 (exemption from tax for unregistered friendly societies whose income does not exceed £160 a year) after “unregistered friendly society” there shall be inserted “(that is, a friendly society which is neither an incorporated friendly society nor a registered friendly society)”.
- 5 (1) Section 460 (exemption from tax for registered friendly societies in respect of life or endowment business) shall be amended as follows.
 - (2) In subsection (1), for “registered friendly society” there shall be substituted “friendly society”.

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- (3) In subsection (2)—
- (a) in paragraph (a), for “friendly society” there shall be substituted “registered friendly society ”, and
 - (b) the following paragraph shall be inserted after paragraph (a)—
 - “(aa) shall not, subject to section 462, exempt an incorporated friendly society which, before its incorporation, was a registered friendly society such as is mentioned in paragraph (a) above;”.
- (4) In subsections (5) to (10), for “registered friendly society” (in each place) there shall be substituted “ friendly society ”.
- (5) In subsection (11)—
- (a) for “registered friendly society” there shall be substituted “ friendly society ”,
 - (b) for “section 72 of the ^{M1}Friendly Societies Act (Northern Ireland) 1970” there shall be substituted “ section 91 of the Friendly Societies Act 1992 ”, and
 - (c) for “that Act” there shall be substituted “ either of those Acts ”.

Marginal Citations

M1 1970 c. 31 (N.I.).

- 6 In section 461 (taxation of registered friendly societies in respect of other business) in subsection (4)(a)—
- (a) for “section 72 of the Friendly Societies Act (Northern Ireland) 1970” there shall be substituted “ section 91 of the Friendly Societies Act 1992 ”, and
 - (b) for “that Act” there shall be substituted “ either of those Acts ”.
- 7 The following sections shall be inserted after section 461—

“461A Taxation in respect of other business: incorporated friendly societies qualifying for exemption.

- (1) For the purposes of sections 461B and 461C, a “qualifying society” is an incorporated friendly society which—
- (a) immediately before its incorporation, was a registered friendly society to which section 461(2) did not apply,
 - (b) was formed otherwise than by the incorporation of a registered friendly society or the amalgamation of two or more friendly societies and satisfies subsection (2) below, or
 - (c) was formed by the amalgamation of two or more friendly societies and satisfies subsection (3) below,
- and in respect of which no direction under section 461C(5) is in force.
- (2) A society satisfies this subsection if its business is limited to the provision, in accordance with the rules of the society, of benefits for or in respect of employees of a particular employer or such other group of persons as is for the time being approved for the purposes of this section by the Friendly Societies Commission.

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- (3) If at the time of the amalgamation referred to in subsection (1)(c) above—
- (a) section 461(2) applied to none of the registered friendly societies being amalgamated (if any), and
 - (b) all of the incorporated friendly societies being amalgamated (if any) were qualifying societies,
- the society formed by the amalgamation satisfies this subsection.

461B Taxation in respect of other business: incorporated friendly societies etc.

- (1) Subject to the following provisions of this section, a qualifying society shall, on making a claim, be entitled to exemption from income tax and corporation tax (whether on income or chargeable gains) on its profits other than those arising from life or endowment business.
- (2) Subsection (1) above shall not apply to any profits arising or accruing to the society from, or by reason of its interest in, a body corporate which is a subsidiary (within the meaning of the Friendly Societies Act 1992) of the society or of which the society has joint control (within the meaning of that Act).
- (3) If an incorporated friendly society which is not a qualifying society makes a payment to a member in respect of his interest in the society and the payment is made otherwise than in the course of life or endowment business and exceeds the aggregate of any sums paid by him to the society by way of contributions or deposits, after deducting from that aggregate the amount of—
- (a) any previous payment so made to him by the society, and
 - (b) any earlier repayment of such sums paid by him,
- the excess shall be treated for the purposes of corporation tax and income tax as a qualifying distribution.
- (4) In relation to an incorporated friendly society which, immediately before its incorporation, was a registered friendly society to which section 461(2) applied—
- (a) the references in subsection (3) above to sums paid to the society shall include sums paid to the registered friendly society,
 - (b) the reference in subsection (3)(a) above to any payment made by the society shall include any payment made by the registered friendly society after 26 March 1974 or such later date as was specified in any direction under section 461(8) relating to it, and
 - (c) the reference in subsection (3)(b) above to any repayment shall include any repayment made by the registered friendly society.
- (5) Where a qualifying society at any time ceases by virtue of section 91 of the Friendly Societies Act 1992 (conversion into company) to be registered under that Act, the company into which the society is converted shall be exempt from income tax or corporation tax on its profits arising from any part of its business, other than life or endowment business, which relates to contracts made before that time.

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- (6) Subsection (5) above shall apply so long as there is no increase in the scale of benefits which the company undertakes to provide in the course of carrying on the relevant part of its business.
- (7) Any part of a company's business to which an exemption under subsection (5) above relates shall be treated for the purposes of the Corporation Tax Acts as a separate business from any other business carried on by the company.

461C Taxation in respect of other business: withdrawal of "qualifying" status from incorporated friendly society.

- (1) Subject to subsection (2) below, subsections (3) to (5) below apply where a qualifying society—
 - (a) begins to carry on business other than life or endowment business, or
 - (b) in the opinion of the Friendly Societies Commission, begins to carry on business other than life or endowment business on an enlarged scale or of a new character.
- (2) Subsections (3) to (5) below do not apply if—
 - (a) the society's business is limited to the provision, in accordance with the rules of the society, of benefits for or in respect of employees of a particular employer or such other group of persons as is for the time being approved for the purposes of section 461 or 461A by the Friendly Societies Commission, or
 - (b) the society's rules limit the aggregate amount which may be paid by a member by way of contributions and deposits to not more than £1 per month or such greater amount as is authorised for the purposes of section 461.
- (3) If it appears to the Commission, having regard to the restrictions imposed by section 461 on registered friendly societies registered after 31st May 1973, that for the protection of the revenue it is expedient to do so, the Commission may serve a notice on the society—
 - (a) referring to the provisions of this section, and
 - (b) stating that the Commission is considering the question whether, for the protection of the revenue, it is expedient to give a direction that the society shall cease to be a qualifying society as from the date of the notice.
- (4) The Commission shall consider any representations or undertakings made or offered to the Commission by the society within the period of one month from service of the notice and, if the society so requests, shall afford it an opportunity of being heard by the Commission not later than three weeks after the end of that period.
- (5) If, after consideration of any such representations or undertakings, the Commission remains of the opinion that it is expedient to do so, the Commission shall direct that the society shall cease to be a qualifying society as from the date of the notice, but subject to any further direction given by the Commission cancelling that direction.

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- (6) A friendly society may, within one month from the giving of a direction under subsection (5) above, appeal against it to a tribunal constituted in accordance with section 59(2) of the Friendly Societies Act 1992.
- (7) The Treasury may by regulations provide for sections 58 to 61 of that Act to have effect in relation to appeals under subsection (6) above subject to such modifications as may be prescribed by the regulations.”
- 8 (1) Section 462 (conditions for tax exempt business) shall be amended as follows.
- (2) In subsection (2), for “Section 460(2)(a)” there shall be substituted “ Section 460(2)(a) or (aa) ”.
- (3) In subsection (3), for “registered friendly society or branch” there shall be substituted “ friendly society or registered branch ”.
- 9 In section 462A (election as to tax exempt business) the following subsection shall be added at the end—
- “(9) If a friendly society which (or a branch of which) has made an election under subsection (1) or (2) above becomes an incorporated friendly society, the election shall have effect in relation to the incorporated friendly society as it had effect in relation to the society (or branch) which made the election (and accordingly, in relation to accounting periods of the incorporated friendly society, “the society” in subsection (8)(a) and (b) above shall be read as referring to the incorporated friendly society).”
- 10 In section 463 (life or endowment business: application of the Corporation Tax Acts) in subsection (1) for “registered friendly societies” there shall be substituted “ friendly societies ”.
- 11 (1) Section 464 (maximum benefits payable to members) shall be amended as follows.
- (2) In subsections (1) and (3), for “registered friendly society or branch” there shall be substituted “ friendly society or registered branch ”.
- (3) In subsection (5)(d)(ii), for “society which is not” there shall be substituted “ friendly society other than ”.
- (4) In subsection (7)—
- (a) for “registered friendly society or branch” there shall be substituted “ friendly society or registered branch ”, and
- (b) for “registered friendly societies or branches” there shall be substituted “ friendly societies or registered branches ”.
- 12 In section 465 (old societies) the following subsection shall be added at the end—
- “(6) If a registered friendly society in respect of which a direction is in force under subsection (4) above becomes an incorporated friendly society, the direction shall continue to have effect, so that the incorporated friendly society shall be treated for the purposes of this Act as a new society.”
- 13 The following section shall be inserted after section 465—

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“465A Assets of branch of registered friendly society to be treated as assets of society after incorporation.

- (1) This section applies where any assets of a branch of a registered friendly society have been identified in a scheme under section 6(5) of the Friendly Societies Act 1992 (property, rights etc. excluded from transfer to the society on its incorporation).
- (2) In relation to any time after the incorporation of the society, the assets shall be treated for the purposes of the Tax Acts as assets of the society (and, accordingly, any tax liability arising in respect of them shall be a liability of the society rather than of the branch).
- (3) Where, by virtue of this section, tax in respect of any of the assets becomes chargeable on and is paid by the society, the society may recover from the trustees in whom those assets are vested the amount of the tax paid.”

- 14 (1) Section 466 (interpretation of sections 459 to 465) shall be amended as follows.
- (2) In subsection (1) for the words from “any of paragraphs” to “1970” there shall be substituted “ class I, II, III or IV of Head A of Schedule 2 to the Friendly Societies Act 1992 ”.
 - (3) Subsection (2) shall be amended as mentioned in sub-paragraphs (4) to (7) below.
 - (4) The following definitions shall be inserted before the definition of “life assurance business”—

““friendly society”, without qualification, means (except in section 459) an incorporated friendly society or a registered friendly society;

“incorporated friendly society” means a society incorporated under the Friendly Societies Act 1992;”.
 - (5) The following definition shall be substituted for the definition of “new society”—

““new society” means—

 - (a) a registered friendly society which was registered after 3rd May 1966 or which was registered in the period of three months ending on that date but which at no time earlier than that date carried on any life or endowment business, or
 - (b) an incorporated friendly society other than one which, before its incorporation, was a registered friendly society not within paragraph (a) above;”.
 - (6) The following definitions shall be inserted after the definition of “policy”—

““registered branch” means the same as in the Friendly Societies Act 1992 (and includes any branch that by virtue of section 96(3) of that Act is to be treated as a registered branch);

“registered friendly society” means the same as in the Friendly Societies Act 1992 (and includes any society that by virtue of section 96(2) of that Act is to be treated as a registered friendly society);”.

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- (7) For the words from “include” to the end of the subsection there shall be substituted “ include, in the case of a registered friendly society, references to any branch of that society ”.
- (8) In subsection (3) for the words “registered friendly society” there shall be substituted “ friendly society ”.
- (9) The following subsection shall be added at the end—
- “(5) An incorporated friendly society formed on the amalgamation of two or more friendly societies shall, for the purposes of this Chapter, be treated as a society which, before its incorporation, was a registered friendly society registered not later than 3rd May 1966 if at the time of the amalgamation—
- (a) all the friendly societies amalgamated were registered friendly societies eligible for the exemption conferred by section 460(1); and
- (b) at least one of them was not a new society.”
- 15 In section 539 (life policies etc: introductory) in subsection (3) the following definition shall be inserted after the definition of “capital redemption policy”—
- ““friendly society” means the same as in the Friendly Societies Act 1992 (and includes any society that by virtue of section 96(2) of that Act is to be treated as a registered friendly society within the meaning of that Act);”.
- 16 In section 599 (charge to tax: commutation of entire pension in special circumstances) for subsection (8)(b) there shall be substituted—
- “(b) a friendly society within the meaning of the Friendly Societies Act 1992 (including any society that by virtue of section 96(2) of that Act is to be treated as a registered friendly society within the meaning of that Act).”
- 17 In section 630 (personal pension schemes: interpretation) for paragraph (b) of the definition of “authorised insurance company” there shall be substituted—
- “(b) a friendly society within the meaning of the Friendly Societies Act 1992 (including any society that by virtue of section 96(2) of that Act is to be treated as a registered friendly society within the meaning of that Act);”.
- 18 (1) Schedule 14 (provisions ancillary to section 266) shall be amended as follows.
- (2) In paragraphs 2(1)(b) and 3(1), for “registered friendly society” there shall be substituted “ friendly society ”.
- (3) In paragraph 3(3)(a), for “registered friendly societies” there shall be substituted “ friendly societies ”.
- 19 (1) Schedule 15 (qualifying policies) shall be amended as follows.
- (2) In paragraph 3(1), for “registered friendly society” there shall be substituted “ friendly society ”.
- (3) In paragraph 3(2)(c), after “the friendly society” there shall be inserted “ (or any successor of it) ”.

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(4) In paragraph 3(4)(c), after “the same friendly society” there shall be inserted “ (or any predecessor of it) ”.

(5) In paragraph 3, the following sub-paragraph shall be inserted after sub-paragraph (4)

“(4A) For the purposes of sub-paragraphs (2) and (4) above—

- (a) a friendly society formed on the amalgamation of two or more friendly societies is the successor of each of those societies (and each of those societies was a predecessor of the society so formed), and
- (b) an incorporated friendly society that was a registered friendly society before its incorporation is the successor of the registered friendly society (and the registered friendly society was the predecessor of the incorporated friendly society).”

(6) For paragraph 4(3)(b)(i) there shall be substituted—

“(i) it was effected in the course of business within class VI of Head A or class I of Head B of Schedule 2 to the Friendly Societies Act 1992.”.

(7) In paragraph 6(1)—

- (a) for “any friendly society” there shall be substituted “ any registered friendly society (as defined in section 466) ”, and
- (b) for “a friendly society” there shall be substituted “ such a society ”.

Amendments of enactments relating to chargeable gains

20 (1) Subject to the repeals made by the ^{M2}Taxation of Chargeable Gains Act 1992, after section 143 of the ^{M3}Capital Gains Tax Act 1979 there shall be inserted—

“ Friendly societies

143A Transfer of assets on incorporation of registered friendly society.

(1) This section applies where a registered friendly society is incorporated under the Friendly Societies Act 1992 (“the 1992 Act”).

(2) In this section—

- (a) “the registered society” means the society before the incorporation, and
- (b) “the incorporated society” means the society after the incorporation.

(3) For the purposes of corporation tax on chargeable gains—

- (a) any asset of the registered society that by virtue of section 6(2) or (3) of the 1992 Act is transferred to the incorporated society,
- (b) any asset of a branch of the registered society that by virtue of section 6(4) of the 1992 Act is transferred to the incorporated society, and
- (c) any asset of a branch of the registered society that is identified in a scheme under section 6(5) of the 1992 Act,

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shall be taken to be disposed of by the registered society or branch and acquired by the incorporated society on the incorporation for a consideration of such amount as to secure that on the disposal neither a gain nor a loss accrues to the registered society or branch.

143B Subsequent disposal of assets by incorporated society etc.

- (1) Where any asset acquired on a disposal to which section 143A(3) above applies is subsequently disposed of by the incorporated society, section 34 above shall apply as if any capital allowance made to the registered society in respect of the asset had been made to the incorporated society.
 - (2) If the disposal by the incorporated society is in relevant circumstances for the purposes of section 275(1) of the Income and Corporation Taxes Act 1970, the disposal to which section 143A(3) above applies shall for those purposes be taken to have been a previous transfer of the asset in relevant circumstances.”
- (2) Subject to the repeals made by the ^{M4}Taxation of Chargeable Gains Act 1992—
- (a) in section 68 of the ^{M5}Finance Act 1985 (modification of indexation allowance) in subsection (7A)(a) after “123A,” there shall be inserted “ 143A, ”, and
 - (b) in Schedule 8 to the ^{M6}Finance Act 1988 (assets held on 31st March 1982) in paragraph 1(3)(a) after “123A,” there shall be inserted “ 143A, ”.

Marginal Citations

M2	1992 c. 12.
M3	1979 c. 14.
M4	1992 c. 12.
M5	1985 c. 54.
M6	1988 c. 39.

21 The Taxation of Chargeable Gains Act 1992 shall be amended as follows.

- (2) In section 35 (disposal of assets held on 31st March 1982) in subsection (3)(d)(i) after “216,” there shall be inserted “ 217A, ”.
- (3) After section 217 there shall be inserted—

“ Friendly societies

217A Transfer of assets on incorporation of registered friendly society.

- (1) This section and section 217B apply where a registered friendly society is incorporated under the Friendly Societies Act 1992 (“the 1992 Act”).
- (2) In this section and section 217B—
 - (a) “the registered society” means the society before the incorporation, and
 - (b) “the incorporated society” means the society after the incorporation.
- (3) For the purposes of corporation tax on chargeable gains—

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- (a) any asset of the registered society that by virtue of section 6(2) or (3) of the 1992 Act is transferred to the incorporated society,
- (b) any asset of a branch of the registered society that by virtue of section 6(4) of the 1992 Act is transferred to the incorporated society, and
- (c) any asset of a branch of the registered society that is identified in a scheme under section 6(5) of the 1992 Act,

shall be taken to be disposed of by the registered society or branch and acquired by the incorporated society on the incorporation for a consideration of such amount as to secure that on the disposal neither a gain nor a loss accrues to the registered society or branch.

217B Rights of members in registered society equated with rights in incorporated society.

- (1) In this section, “change of membership” means a change effected by Schedule 4 to the 1992 Act whereby a member of the registered society or of a branch of the registered society becomes a member of the incorporated society or of a branch of the incorporated society.
- (2) For the purposes of this Act, a change of membership shall not be taken to involve any disposal or acquisition of an asset by the member concerned, but all the interests and rights in the incorporated society or a branch of the incorporated society that he has immediately after the change, taken together, shall be treated as a single asset which—
 - (a) was acquired by the first relevant acquisition, and
 - (b) was added to by any subsequent relevant acquisitions.
- (3) In subsection (2) above, “relevant acquisition” means an acquisition by which the member acquired any interest or right in the registered society or a branch of the registered society that he had immediately before the change of membership.

217C Subsequent disposal of assets by incorporated society etc.

- (1) Where any asset acquired on a disposal to which section 217A(3) applies is subsequently disposed of by the incorporated society, section 41 shall apply as if any capital allowance made to the registered society in respect of the asset had been made to the incorporated society.
- (2) If the disposal by the incorporated society is in relevant circumstances for the purposes of section 174(1), the disposal to which section 217A(3) applies shall for those purposes be taken to have been a previous transfer of the asset in relevant circumstances.”

Commencement

- 22 (1) This Schedule shall come into force on such day as the Treasury may by order made by statutory instrument appoint, and different days may be appointed for different provisions or different purposes.
- (2) An order under this paragraph may contain such transitional provisions and savings (whether or not involving the modification of any statutory provision) as appear to

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the Treasury necessary or expedient in connection with the provisions brought into force.

Subordinate Legislation Made

P1 [Sch. 9 para. 22](#): Power exercised (9.2.1993) by [S.I. 1993/236](#)

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