
STATUTORY INSTRUMENTS

1993 No. 98

The Friendly Societies (Insurance Business) Regulations 1993

PART I

PRELIMINARY

Citation and commencement

1. These Regulations may be cited as the Friendly Societies (Insurance Business) Regulations 1993, and shall come into force on 19th February 1993.

Interpretation: general

2.—(1) In these Regulations, unless the context otherwise requires—

“the 1974 Act” means the Friendly Societies Act 1974⁽¹⁾;

“the 1982 Act” means the Insurance Companies Act 1982⁽²⁾;

“the 1992 Act” means the Friendly Societies Act 1992;

“the 1981 Regulations” means the Insurance Companies Regulations 1981⁽³⁾;

“the 1987 Regulations” means the Friendly Societies (Long Term Insurance Business) Regulations 1987⁽⁴⁾;

“cede” and “cession”, in relation to reinsurance, include retrocede and retrocession;

“the Commission” means the Friendly Societies Commission established by section 1 of the 1992 Act;

“deposit back arrangement”, in relation to any contract of reinsurance, means an arrangement whereby an amount is deposited by the reinsurer with the cedant;

“guarantee fund” has the meaning given in regulation 5(1) below;

“implicit items” has the meaning given by regulation 8(3) below and “implicit item” shall be construed accordingly;

“industrial assurance business” has the meaning given in section 1(2) of the Industrial Assurance Act 1923⁽⁵⁾;

“insurance company” means a person or body of persons (whether incorporated or not) carrying on insurance business other than a friendly society;

“linked long term contract” means a contract of the kind referred to in section 56(1) of the 1992 Act;

(1) 1974 c. 46.

(2) 1982 c. 50.

(3) S.I.1981/1654 amended by S.I. 1981/1655, 1982/675, 1983/48, 1983/396, 1985/1419, 1987/2130, 1988/673, 1990/1181, 1990/1333, 1991/1999, 1991/2511, 1992/445, 1992/2890.

(4) S.I. 1987/2132.

(5) 1923 c. 8.

“mathematical reserves” means the provision made by a society to cover liabilities (excluding liabilities which have fallen due and liabilities arising from deposit back arrangements) arising under or in connection with contracts for long term business;

“minimum guarantee fund” has the meaning given in regulation 5(2) below;

“ordinary long term business” means long term business that is not industrial assurance business;

“premium” includes a contribution in respect of an insurance benefit and the consideration for the granting of an annuity;

“required margin of solvency” has the meaning given in regulation 4(2) below;

“Schedule” means Schedule to these Regulations;

“society” means a society which is an incorporated friendly society;

“zillmerising” has the meaning given by regulation 10(7) below.

(2) Unless the context otherwise requires, expressions used in these Regulations which are defined in section 116, 117, 119 or in any other provision of the 1992 Act shall have the same meanings as they have for the purposes of that Act.

(3) Any reference in these Regulations to a financial year or preceding financial year of a friendly society shall be construed—

- (a) in the case of an incorporated friendly society which was not formerly a registered friendly society, in accordance with section 118 of the 1992 Act; and
- (b) in the case of an incorporated friendly society which was formerly a registered friendly society, as referring to a period of 12 months ending with 31st December during which period the friendly society was—
 - (i) a registered friendly society;
 - (ii) an incorporated friendly society; or
 - (iii) registered as an incorporated friendly society.

(4) References to societies to which any specified Part of these Regulations applies are references to the societies expressly deemed by such Part to be societies to which that Part applies and no others.

PART II

MARGINS OF SOLVENCY

Application: Part II

3.—(1) This Part of these Regulations shall apply to—

- (a) any incorporated friendly society which carries on long term business in the United Kingdom and falls within section 48(1)(a) of the 1992 Act;
- (b) any incorporated friendly society which carries on general business in the United Kingdom and falls within section 48(1)(b) of that Act; and
- (c) any incorporated friendly society prescribed for the purposes of section 48(1)(c) of the 1992 Act by virtue of paragraph (2) below.

(2) Any incorporated friendly society, other than a society falling within paragraph (1)(a) or (b) above, which carries on insurance business in the United Kingdom is prescribed for the purposes of section 48(1)(c) of the 1992 Act.

Required margin of solvency

4.—(1) The margin of solvency of a society is the excess of the value of its assets over the amount of its liabilities determined in accordance with Parts IV and V of these Regulations.

(2) Subject to paragraphs (3) to (5) below, the margin of solvency to be maintained by a society to which this Part of these Regulations applies pursuant to section 48 of the 1992 Act (referred to in these Regulations as “the required margin of solvency”) shall be determined—

- (a) with respect to any society which carries on long term business, in accordance with Schedule 1; and
- (b) with respect to any society which carries on general business, by taking the greater of the two sums resulting from the application of the two methods of calculation set out in Schedules 2 and 3 respectively.

(3) For a contract to which section 117(4) of the 1992 Act applies, the required margin of solvency shall be determined by taking the aggregate of the results arrived at by applying—

- (a) in the case of so much of the contract as is within any class of long term business, the appropriate method prescribed by Schedule 1 for that class; and
- (b) in the case of so much of the contract as is within general business class 1 or 2, the method of calculation set out in Schedule 2 (excluding paragraphs 7, 8 and 9).

(4) Where a society carries on long term business and owing to the nature of that business more than one margin of solvency is produced in respect of that business by the operation of this Part of these Regulations, the margins in question shall be aggregated as regards the society in order to arrive at its required margin of solvency for long term business.

(5) Where a society carries on both long term and general business and is accordingly required to maintain separate margins of solvency in respect of the two kinds of business—

- (a) these Regulations shall apply for determining the margin of solvency for each kind of business separately, and
- (b) assets other than those representing the funds maintained by the society in respect of its long term business, if they are not included among the assets covering the liabilities and the margin of solvency relating to the society’s general business, may be included among the assets taken into account in covering the liabilities and the margin of solvency for the society’s long term business.

Guarantee fund and minimum guarantee fund

5.—(1) Subject to paragraphs (2) and (3) below, one-third of a required margin of solvency (being, in the case of long term business, the required margin of solvency determined in accordance with regulation 4(4) above) shall constitute the amount (“the guarantee fund”) to be prescribed or determined for the purposes of section 49(1) of the 1992 Act.

(2) The guarantee fund shall not be less than an amount (“the minimum guarantee fund”) arrived at in accordance with regulation 6 for long term business and regulation 7 for general business respectively.

(3) In the case of long term business, items that are not implicit items must be at least large enough to cover either the minimum guarantee fund or 50 per cent of the guarantee fund, whichever is the greater.

Minimum guarantee fund: long term business

6.—(1) In the financial year during which a society to which this Part applies is first authorised under section 32 of the 1992 Act to carry on long term business, the minimum guarantee fund shall be the amount in column 2 of the table below, which corresponds to the society’s annual contribution

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income in respect of that business in the last preceding financial year, as shown in column 1 of the table

Contribution Income (in ECU)	Minimum Guarantee Fund (in ECU)
1,000,000 or less	100,000
1,000,001 — 1,500,000	200,000
1,500,001 — 2,000,000	300,000
2,000,001 — 2,500,000	400,000
2,500,001 — 3,000,000	500,000
3,000,001 — 3,500,000	600,000

but where a society had no annual contribution income in respect of long term business in the last preceding financial year or has not been in existence long enough to have a preceding financial year, the minimum guarantee fund shall be an amount of 100,000 ECU.

(2) In any subsequent financial year during which a society continues to be authorised to carry on long term business, the minimum guarantee fund shall be the greater of either—

- (a) the amount in column 2 of the table in paragraph (1) above which corresponds to the society's annual contribution income in respect of long term business in the last preceding financial year, or
- (b) the amount of the minimum guarantee fund required to be maintained by the society in the last preceding financial year,

providing that if the amount referred to in subparagraphs (a) and (b) above is the same, the minimum guarantee fund shall be that amount.

(3) Where a society obtains authorisation under section 32 of the 1992 Act to carry on long term business—

- (a) of a class additional to that in respect of which it is already authorised; or
- (b) in a part of the United Kingdom additional to that in respect of which it is already authorised,

the full minimum guarantee fund of 600,000 ECU shall be maintained by that society for the whole of its long term business (that is to say, not only for the additional business carried on but also for the business previously carried on).

Minimum guarantee fund: general business

7. The minimum guarantee fund in respect of general business carried on by a society to which this Part of these Regulations applies shall be an amount of 225,000 ECU.

Valuation of solvency margins

8.—(1) Where a society to which this Part of these Regulations applies has assets in excess of its liabilities, then, in addition to any other applicable valuation regulations in Part IV of these Regulations, paragraphs (2) and (3) below shall have effect for determining the extent to which the value of the assets exceeds the amount of liabilities in connection with the required margin of solvency, the guarantee fund and the minimum guarantee fund.

(2) In the case of a society carrying on general business, any claim which the society has against its members by way of a call for supplementary contributions for a financial year shall have its full value for that financial year, subject to the limitation that the value shall not exceed—

- (a) 50 per cent of the difference between the maximum contributions and the contributions called in, or
 - (b) 50 per cent of the required margin of solvency.
- (3) The items mentioned in regulations 9 to 11 below (which relates to future surpluses, zillmerising and hidden reserves and shall be known as “implicit items”) shall have no value, except with the consent of the Commission given upon the application of a society. Where the Commission so consents—
- (a) any of the implicit items may be valued in accordance with the provisions of regulations 9 to 11 with respect to long term business, and
 - (b) the implicit item relating to hidden reserves may be valued in accordance with regulation 11 with respect to general business.

Implicit items: future surpluses

9.—(1) The implicit item relating to future surpluses may be valued at not more than 50 per cent of the full amount of future surpluses.

(2) For the purposes of paragraph (1) above, the full amount of future surpluses shall be obtained by multiplying the estimated annual surplus by a factor which shall as nearly as may be represent the average number of years remaining to run on policies, but shall, if it exceeds 10, be reduced to 10.

(3) For the purposes of paragraph (2) above—

- (a) the estimated annual surplus shall be taken to be one-fifth of the surplus (“the periodic surplus”) made in long term business over a period of five years (“the relevant period”) ending on the last day of the most recent completed financial year during which a valuation for the purposes of section 46 of the 1992 Act or regulation 11 of the 1987 Regulations has been carried out, substantial items of an exceptional nature being excluded, and
- (b) the average number of years remaining to run on policies shall be calculated—
 - (i) by multiplying the number of years to run on each policy by the actuarial value of the benefits payable under the policy, adding together the products so obtained and dividing the total by the aggregate of the actuarial values of the benefits payable under all the policies, or
 - (ii) by an approximation to this method of calculation suitable to the circumstances of the case, including, where appropriate, an approximation involving the grouping of contracts,

appropriate allowance being made in either case for premature termination of contracts.

(4) For the purposes of paragraph (3)(a) above—

- (a) where a valuation under section 46 of the 1992 Act or regulation 11 of the 1987 Regulations has been carried out annually in relation to the relevant period, the annual surplus made in long term business for any particular year of the relevant period shall be taken to be the surplus (if any) arising in the long term business funds since the last such valuation, and the periodic surplus shall be taken to be the aggregate of those annual surpluses less any deficiencies in the long term business funds during that period;
- (b) where a society has carried on long term business throughout the relevant period but valuations under section 46 of the 1992 Act or regulation 11 of the 1987 Regulations have not been made annually in that period, the periodic surplus shall be taken to be the aggregate of surpluses arising in the long term business funds since the last valuation preceding the relevant period less any deficiencies in the long term business funds since the last valuation, except that the surplus or deficiency arising in the period ending with

the first valuation within the relevant period shall be proportionately reduced to allow for any period of time falling outside the relevant period;

- (c) where a society has not carried on long term business throughout the relevant period, the periodic surplus shall be taken to be the aggregate of any surpluses arising in the long term business funds during that part of the relevant period for which long term business was carried on less any deficiencies in the long term business funds during that part of that period.

Implicit items: zillmerising

10.—(1) Where zillmerising (as defined in paragraph (7) below) is appropriate but either is not practised or is at a rate less than the loading for acquisition costs included in the premium then, subject to paragraph (6) below, the implicit item relating to zillmerising may be valued at an amount not exceeding the difference between—

- (a) the non-zillmerised or partially zillmerised figure for mathematical reserves maintained by the society concerned, and
- (b) a figure for mathematical reserves (determined in accordance with Part V of these Regulations) zillmerised at a rate equal to the loading for acquisition costs included or allowed for in the premium.

(2) Where zillmerising is not practised, then subject to paragraph (6) below, the value given by paragraph (1) above (less any amount relating to temporary assurances) shall not exceed 3.5 per cent of the aggregate of the difference between—

- (a) the relevant capital sums for long term business activities, and
- (b) the mathematical reserves (excluding mathematical reserves for temporary assurances).

(3) Where zillmerising is practised but is at a rate less than the loading for acquisition costs, then, subject to paragraph (6) below, the value given by paragraph (1) above (less any amount relating to temporary assurances) together with the difference between the partially zillmerised mathematical reserves and the non-zillmerised mathematical reserves shall not exceed 3.5 per cent of the aggregate of the difference between—

- (a) the relevant capital sums of long term business activities, and
- (b) the mathematical reserves (excluding mathematical reserves for temporary assurances).

(4) In paragraphs (2) and (3) above “relevant capital sums” means—

- (a) for whole life assurances, the sum assured,
- (b) for policies where a sum is payable on maturity (including policies where a sum is also payable on earlier death), the sum payable on maturity,
- (c) for deferred annuities, the capitalised value of the annuity at the vesting date (or the cash option if it is greater),
- (d) for capital redemption contracts, the sums payable at the end of the contract period, and
- (e) for linked long term contracts, notwithstanding subparagraphs (a) to (d) above, the lesser of—

- (i) the amount for the time being payable on death, and
- (ii) the aggregate of the value for the time being of the units allocated to the contract (or, where entitlement is not denoted by means of units, the value for the time being of any other measure of entitlement under the contract equivalent to units) and the total amount of the premiums remaining to be paid during such part of the term of the contract as is appropriate for zillmerising, or, if such premiums are payable beyond the age of seventy-five, until that age,

excluding in all cases any vested reversionary bonus and any capital sums for temporary assurances.

(5) Where, under the contract relating to any such business as is mentioned in paragraph (4) above, the payment of premiums is to stop before the sum assured becomes due, then, notwithstanding the said paragraph (4), “relevant capital sums” in paragraphs (1) to (3) above shall be taken to mean the mathematical reserves appropriate for that contract at the end of the premium-paying term.

(6) For the purposes of this regulation—

- (a) reserves for vested reversionary bonuses shall not be regarded as mathematical reserves, and
- (b) the result given by paragraph (1), (2) or (3) above shall be reduced by the amount of any undepreciated acquisition costs brought into account as an asset.

(7) “Zillmerising” means the method known by that name for modifying the net premium reserve method of valuing a long term policy by increasing the part of the future premiums for which credit is taken so as to allow for initial expenses.

Implicit items: hidden reserves

11. The implicit item relating to hidden reserves, if it consists of hidden reserves resulting from the underestimation of assets and overestimation of liabilities (other than mathematical reserves), may, in so far as the hidden reserves in question are not of an exceptional nature, be given its full value.

PART III

MATCHING AND LOCALISATION

Application: Part III

12. This Part of these Regulations shall apply to any incorporated friendly society which falls within section 37(2) or (3) of the 1992 Act.

Matching: general requirement

13.—(1) Where the liabilities of a society to which this Part applies in any particular currency exceed 5 per cent of the society’s total liabilities, the society shall hold sufficient assets in that currency to cover at least 80 per cent of the society’s liabilities in that currency.

(2) Where a society carries on both long term and general business, the requirements of paragraph (1) apply to the assets and liabilities of each kind of business separately.

(3) For the purposes of this regulation—

“assets”, except in the case of assets of the kind referred to in regulation 20(2) below, means assets valued in accordance with Part IV of these Regulations; and

“liabilities” means provision by a society to cover liabilities arising under or in connection with contracts of insurance (not being liabilities relating to insurance business excluded by regulation 18 below).

(4) For the purposes of this regulation references to assets in a currency shall be construed as references to assets expressed in or capable of being realised (without exchange risk) in that currency; and an asset is capable of being realised (without exchange risk) in a currency if it is reasonably capable of being realised in that currency without risk that changes in exchange rates would reduce the cover of liabilities in that currency.

(5) The provisions of this regulation have effect subject to the following regulations in this Part of these Regulations.

Matching: property linked benefits

14.—(1) In so far as the liabilities for property linked benefits are covered by assets which determine the benefits payable under a linked long term contract, regulation 13 above does not apply.

(2) In so far as the liabilities for property linked benefits are determined by reference to assets in a currency other than that in which the society's obligations to the policyholder are expressed, those liabilities shall for the purposes of regulation 13 be deemed to be liabilities in the first-mentioned currency.

(3) In this regulation "property linked benefits" has the meaning given by regulation 19(1) below.

Matching: currency of general business liabilities

15.—(1) The currency of a society's general business liabilities shall, for the purposes of regulation 13 above, be determined as follows.

(2) Where the contract of insurance expresses any liability in terms of a particular currency, that liability shall be regarded as a liability in that currency.

(3) Where the liabilities are not so expressed, they shall be regarded as liabilities in the currency of the country in which the risk is situated or, if the society on reasonable grounds so determines, in the currency in which the premium payable under the contract is expressed.

(4) However, the society may regard its liabilities as liabilities in the currency which it will use in accordance with past experience or, in the absence of such experience, in the currency of the country in which it is established where, in accordance with the nature of the risks, the society's liabilities are liabilities in a currency other than that determined in accordance with paragraph (2) or (3).

(5) Where a claim has been notified to a society and the society's liability in respect of that claim is payable in a currency other than one which would result from the application of the above provisions, the liability shall be regarded as a liability in the currency in which the society is actually obliged to pay it.

(6) Where a claim is assessed in a currency which is known to the society in advance but which is different from a currency determined in accordance with the above provisions, the society may regard its liabilities as liabilities in that currency.

Matching: exception for certain general business liabilities

16.—(1) The requirements of regulation 13 above have effect subject to the following provisions as regards a society's general business.

(2) The society need not cover the liabilities of its general business by assets in a particular currency if those assets would amount to 7 per cent or less of the remainder of its assets in other currencies.

This paragraph is subject to paragraphs (3) and (4) below.

(3) During the period until 31st December 1998, paragraph (2) has effect in relation to liabilities required to be covered by assets in Greek drachmas, Irish pounds or Portuguese escudos as if the amount of 2 million ECU, if less than the percentage mentioned in that paragraph, were substituted for that percentage.

(4) During the period until 31st December 1996, paragraph (2) has effect in relation to liabilities required to be covered by assets in Belgian francs, Luxembourg francs or Spanish pesetas as if the amount of 2 million ECU, if less than the percentage mentioned in that paragraph, were substituted for that percentage.

Localisation

17.—(1) Assets held pursuant to regulation 13 above shall be held—

- (a) if they cover liabilities in sterling, in the United Kingdom;
- (b) if they cover liabilities in any other currency, in the United Kingdom or in the country of that currency.

(2) For the purposes of applying paragraph (1) above to tangible assets and assets consisting of a claim against a debtor or a listed or unlisted investment, the following provisions shall have effect—

- (a) a tangible asset shall be regarded as held in the place where it is situated;
- (b) an asset consisting of a claim against a debtor shall be regarded as held in any place where it can be enforced by legal action;
- (c) an asset consisting of a listed investment shall be regarded as held in any place where—
 - (i) there is a recognised United Kingdom stock exchange or a stock exchange of repute outside the United Kingdom where it is listed; or
 - (ii) there is a securities market outside the United Kingdom, being a market of repute in which prices of all securities in which there are dealings are publicly listed and which is supervised by a public body, where it is dealt in;
- (d) an asset consisting of an unlisted investment issued by an incorporated company shall be regarded as held in the place where the head office of the company is situated.

Exclusions from regulations 13 and 17

18. Nothing in regulation 13 or 17 shall apply to insurance business carried on outside the United Kingdom.

PART IV

VALUATION OF ASSETS

Interpretation: Part IV

19.—(1) In this Part of these Regulations, unless the context otherwise requires—

“approved financial institution” means any of the following—

- (a) the Bank of England,
- (b) the National Savings Bank,
- (c) an institution authorised, or deemed to be authorised, under the Banking Act 1987⁽⁶⁾ or a European deposit-taker within the meaning of the Banking Coordination (Second Council Directive) Regulations 1992⁽⁷⁾,
- (d) the European Atomic Energy Community,
the European Bank for Reconstruction and Development,
the European Coal and Steel Community,
the European Economic Community,
the European Investment Bank,
the International Bank for Reconstruction and Development,

⁽⁶⁾ 1987 c. 22.

⁽⁷⁾ S.I. 1992/3218.

the International Finance Corporation,
the International Monetary Fund,
the African Development Bank,
the Asian Development Bank,
the Caribbean Development Bank, and
the Inter-American Development Bank,

(e) a building society;

“approved securities” means any of the following—

- (a) securities issued by Her Majesty’s Government in the United Kingdom or the Government of Northern Ireland, being securities registered in the United Kingdom, Treasury Bills, Tax Reserve Certificates or Certificates of Tax Deposit;
- (b) securities the repayment of the principal of which, or the payment of interest on which, is guaranteed by Her Majesty’s Government in the United Kingdom or the Government of Northern Ireland;
- (c) fixed interest securities issued in the United Kingdom by any public authority or nationalised industry or undertaking in the United Kingdom;
- (d) loans to any authority to which this paragraph applies charged on the revenues of the authority or on a fund into which such revenues are payable, any fixed interest securities issued in the United Kingdom by any such authority for the purpose of borrowing money so charged, and deposits with any such authority by way of temporary loan made on the giving of a receipt for the loan by the treasurer or any other similar officer of the authority and on the giving of an undertaking by the authority that, if requested to charge the loan as aforesaid, it will either comply with the request or repay the loan:

The authorities to which this paragraph applies are—

- (i) any local authority in the United Kingdom;
 - (ii) any authority all the members of which are appointed or elected by one or more local authorities in the United Kingdom;
 - (iii) any authority the majority of the members of which are appointed or elected by one or more local authorities in the United Kingdom, being an authority which by virtue of any enactment has power to issue a precept to a local authority in England and Wales, or a requisition to a local authority in Scotland, or to the expenses of which, by virtue of any enactment, a local authority in the United Kingdom is or can be required to contribute;
 - (iv) the Receiver for the Metropolitan Police District or a combined police authority (within the meaning of the Police Act 1964⁽⁸⁾);
 - (v) a residuary body within the meaning of section 105(1) of the Local Government Act 1985⁽⁹⁾;
 - (vi) a passenger transport executive within the meaning of section 9(1) of the Transport Act 1968⁽¹⁰⁾;
- (e) any loan to, or deposit with, an approved financial institution; and

⁽⁸⁾ 1964 c. 48.

⁽⁹⁾ 1985 c. 51.

⁽¹⁰⁾ 1968 c. 73.

(f) any securities issued or guaranteed by, and any deposits of cash with, any government, public or local authority or nationalised industry or undertaking outside the United Kingdom;

“asset” includes part of an asset;

“building society” means a building society within the meaning of the Building Societies Act 1986⁽¹¹⁾;

“company” includes any body corporate;

“computer equipment” means the electro-mechanical and electronic units which make up a computer configuration;

“debenture” includes debenture stock and bonds, whether constituting a charge on assets or not, and loan stock or notes;

“debenture option” means a right exercisable within a specified period, at the option of the holder of the right, to acquire or dispose of any debenture at a specified price;

“debt” includes an obligation to pay a sum of money under a negotiable instrument;

“enactment” includes any provision of Northern Ireland legislation;

“equity share” means a share of equity share capital;

“equity share capital”, in relation to a company, means its issued share capital excluding any part thereof which, neither as respects dividends nor as respects capital, carries any right to participate beyond a specified amount in a distribution;

“fixed interest securities” means securities which under their terms of issue provide for fixed amounts of interest;

“general business amount” has the meaning assigned to it in regulation 31(2) below;

“general business assets” and “general business liabilities” mean respectively assets and liabilities of a society or insurance company which are, for the time being, identified as representing the general business fund or funds maintained by that body in respect of its general business and liabilities of the body which are attributable to its general business;

“general premium income” means, in relation to any body in any year, the net amount, after deduction of any premiums payable for reinsurance, of the premiums receivable by the body in that year in respect of all insurance business other than long term business;

“industrial and provident society” means any society registered (or deemed to be registered) under the Industrial and Provident Societies Act 1965⁽¹²⁾ or the Industrial and Provident Societies Act (Northern Ireland) 1969⁽¹³⁾;

“insurance liabilities” means, in relation to a society, any debt due from, or other liabilities of the society, under any contract of insurance to which it is party;

“intermediary” means a person who in the course of any business or profession invites other persons to make offers or proposals or to take other steps with a view to entering into contracts of insurance with a society, other than a person who only publishes such invitations on behalf of, or to the order of, some other person;

“linked assets” means, in relation to a society, long term business assets of the society which are, for the time being, identified in the records of the society as being assets by reference to the value of which property linked benefits are to be determined;

“listed” means, in relation to an investment—

⁽¹¹⁾ 1986 c. 53.

⁽¹²⁾ 1965 c. 12.

⁽¹³⁾ 1969 c. 24 (N.I.).

- (a) that the investment is included in the Official List of The International Stock Exchange of the United Kingdom and the Republic of Ireland Limited; or
- (b) that there has been granted and not withdrawn a listing in respect of that investment on any stock exchange of repute outside the United Kingdom; or
- (c) that dealings in that investment are effected in a securities market of repute outside the United Kingdom being a market in which prices of all securities in which there are dealings are publicly listed and which are supervised by a public body;

and “unlisted” shall be construed accordingly;

“local authority” in relation to the United Kingdom means any of the following authorities—

- (a) in England and Wales, a local authority within the meaning of the Local Government Act 1986⁽¹⁴⁾;
- (b) in Scotland, a local authority within the meaning of the Local Government (Scotland) Act 1973⁽¹⁵⁾;
- (c) in Northern Ireland, any district council;

“long term business amount” has the meaning assigned to it in regulation 31(2) below;

“long term business assets” and “long term business liabilities” mean respectively assets of a society or insurance company which are, for the time being, identified as representing the long term business fund or funds maintained by that body in respect of its long term business and liabilities of the body which are attributable to its long term business;

“middle market quotation” means—

- (a) in relation to an investment for which two prices are quoted in the official list published for the relevant market, the average of the two prices so quoted for the relevant date or, if no official list has been published for that day, for the most recent day prior to that day for which the official list has been published; and
- (b) in relation to an investment for which one price is quoted in the official list published for the relevant market, the price so quoted for the relevant date or, if no official list has been published for that day, for the most recent day prior to that day for which the official list has been published; and
- (c) in any other case, the nearest equivalent to the average referred to in paragraph (a) above which is published or can be reasonably ascertained from the information which is published;

“price earnings ratio” means the price earnings ratio (net) estimated in respect of the Industrial Group index of the Financial Times Actuaries Share Indices jointly compiled by the Financial Times, the Institute of Actuaries and the Faculty of Actuaries;

“proper valuation” means, in relation to land, a valuation made by a qualified valuer not more than three years before the relevant date which determined the amount which would be realised at the time of the valuation on an open market sale of the land free from any mortgage or charge;

“property linked benefits” means benefits—

- (a) provided for under any contract the effecting of which constitutes the carrying on of ordinary long term insurance business; and
- (b) determined by reference to the value of property of any description (whether specified in the contract or not);

“qualified valuer”, in relation to any particular type of land in any particular area, means—

⁽¹⁴⁾ 1986 c. 10.

⁽¹⁵⁾ 1973 c. 65.

- (a) a person who is a fellow or professional associate of the Royal Institution of Chartered Surveyors or a fellow or associate of the Incorporated Society of Valuers and Auctioneers or a fellow or associate of the Rating and Valuation Association and either—
 - (i) has knowledge of and experience in the valuation of that particular type of land in that particular area, or
 - (ii) has knowledge of and experience in the valuation of land and has taken advice from a valuer who he is satisfied has knowledge of and experience in the valuation of that particular type of land in that particular area, or
- (b) a person who conforms with paragraph (a)(i) or (ii) above and immediately before 15th June 1981 was recognised as a qualified valuer by virtue of an approval by the Secretary of State under the Insurance Companies (Valuation of Assets) Regulations 1976⁽¹⁶⁾ (and for these purposes an approval given under the Insurance Companies (Valuation of Assets) Regulations 1974⁽¹⁷⁾ shall be deemed to have been given under the said Regulations of 1976);

“relevant date” means, in relation to the valuation of any asset for any purpose for which this Part of these Regulations applies, the date when the asset falls to be valued for that purpose;

“securities” includes shares, debentures, Treasury Bills, Tax Reserve Certificates and Certificates of Tax Deposit;

“share” includes stock;

“share option” means a right exercisable within a specified period, at the option of the holder of the right, to acquire or dispose of any share at a specified price;

“traded option” means a share or debenture option in respect of which permission to deal has been granted on the traded option market of The International Stock Exchange of the United Kingdom and the Republic of Ireland Limited, The London International Financial Futures and Option Exchange or a stock or options exchange of repute outside the United Kingdom;

“Treasury Bills” includes bills issued by Her Majesty’s Government in the United Kingdom and Northern Ireland Treasury Bills.

- (2) For the purposes of these Regulations, a body is a dependant of a society if it is—
 - (a) a subsidiary of that society; or
 - (b) a body jointly controlled by that society and another person,

within the meaning of section 13 of the 1992 Act.

Application: Part IV

20.—(1) Subject to paragraph (2) below, this Part of these Regulations applies with respect to the determination of the value of assets of a society to which Part II of these Regulations applies for the purposes of—

- (a) section 48 of the 1992 Act;
- (b) any actuarial investigation carried out pursuant to section 46 or 47 of the 1992 Act; and
- (c) such other actuarial investigation as may be required by the Commission in the exercise of its powers under Part V of the 1992 Act.

(2) Where a society has entered into any contracts providing for the payment of property linked benefits, this Part of these Regulations shall not apply with respect to the determination of the value of the linked assets by reference to the value of which those benefits are to be determined.

⁽¹⁶⁾ S.I. 1976/87; the relevant amending instrument was S.I. 1981/725; both instruments were revoked by S.I. 1981/1654.

⁽¹⁷⁾ S.I. 1974/2203, revoked by S.I. 1976/87.

(3) Any asset to which this Part of these Regulations applies (other than cash) for the valuation of which no provision is made in this Part of these Regulations shall be left out of account for the purposes specified in paragraph (1) above.

(4) Where in accordance with this Part of these Regulations the value of any asset is to be not greater than any specified amount and, in all the circumstances of the case, it appears that the asset is of a lesser value than that amount, such lesser value shall be the value of the asset.

(5) Notwithstanding paragraph (1) above (but subject to the conditions set out in paragraph (6) below) and in relation to an actuarial investigation of its long term business only, a society may elect to assign to any of its assets the value given to the asset in question in the books or other records of the society.

(6) The conditions referred to in paragraph (5) above are—

- (a) that the election shall not enable the society to bring into account any asset for the valuation of which no provision is made in this Part of these Regulations;
- (b) that the value assigned to the aggregate of the assets shall not be higher than the aggregate of the value of those assets as determined in accordance with regulations 21 to 31 of these Regulations.

Shares in and debts due or to become due from dependants

21.—(1) The value of any share in a dependant of a society shall be not greater than that part of the net asset value of the dependant which would be payable in respect of the share if the dependant were in liquidation and the net asset value were the amount distributable to the shareholders in the winding-up.

(2) In this regulation, “net asset value” means, in relation to a dependant, the amount by which the value of its assets, as determined in accordance with regulation 22 below, exceeds the amount of its liabilities as determined in the case of a dependant which is an insurance company, in accordance with regulation 22.

(3) The value of any debt due, or to become due, to a society from a dependant (other than a debt to which regulation 23(2) or (3) below applies) shall be the amount which would reasonably be expected to be recovered in respect of that debt (due account being taken of any security held in respect thereof) if the dependant were in liquidation and—

- (a) in the case of a dependant which is an insurance company, the amount realised from its assets and the amount of its liabilities in the liquidation were equal to the value of those assets and the amount of those liabilities, as determined in accordance with regulation 22 below, and
 - (b) in the case of a dependant which is not an insurance company, the amount realised from its assets in the liquidation were equal to the value of those assets, as determined in accordance with regulation 22.
- (4) Any share in a dependant—
- (a) in which there is no excess of assets over liabilities as is mentioned in paragraph (2) above, or
 - (b) in relation to which a society cannot reasonably ascertain the amount of the liabilities of the dependant for the purposes of paragraph (2),

shall be left out of account for the purposes for which this Part of these Regulations applies.

(5) Where a society is unable to determine the value of any debt due or to become due to the society from a dependant because the society cannot reasonably ascertain the amount of the liabilities of the dependant for the purpose of ascertaining what would reasonably be expected to be recovered

in respect of that debt in accordance with paragraph (3) above, the debt shall be left out of account for the purposes for which this Part of these Regulations applies.

Valuation of assets and liabilities of dependants for the purposes of regulation 21

22.—(1) This regulation shall apply with respect to the determination of the value of the assets and the amount of the liabilities of a dependant for the purposes of regulation 21 above.

(2) In the case of a dependant which is an insurance company, whether or not it is a company to which Part II of the 1982 Act applies—

- (a) subject to paragraph (4) below and paragraph 3 of Schedule 4, the value of its assets shall be determined in accordance with Part V of the 1981 Regulations;
 - (b) subject to paragraphs (c), (d), (e) and (f) below, the amount of its liabilities shall be determined in accordance with Part VI of the 1981 Regulations;
 - (c) where the dependant carries on general business, its general business liabilities shall be deemed to include an amount equal to whichever is the greater of 400,000 ECU or 20 per cent of the general premium income;
 - (d) where the dependant carries on long term business, its long term business liabilities shall be deemed to include whichever is the greatest of the following three amounts—
 - (i) an amount (“the first amount”) which is one-sixth of the margin of solvency that would be arrived at by regarding the dependant as having its head office in the United Kingdom (whether it has or not) and applying regulations 5 to 8 of the 1981 Regulations;
 - (ii) an amount which is six times the first amount, reduced by the implicit figure within the meaning of subparagraph (e) below;
 - (iii) 800,000 ECU;
 - (e) for the purposes of subparagraph (d)(ii) above the implicit figure is—
 - (i) in the case of a dependant having its head office in the United Kingdom, the amount of any implicit items relating to future profits, zillmerising or hidden reserves which the dependant is permitted to count by virtue of an order under section 68 of the 1982 Act of the kind mentioned in regulation 10(4) of the 1981 Regulations and the application of regulations 10(4), 11, 12 and 13 of those Regulations, and
 - (ii) in the case of a dependant having its head office elsewhere than in the United Kingdom, the amount of any implicit items relating to future profits or zillmerising which would be arrived at by regarding the dependant as having its head office in the United Kingdom and as having received an order under section 68 of the 1982 Act of the kind mentioned in regulation 10(4) of the 1981 Regulations and the application of regulations 10(4), 11 and 12 of those Regulations accordingly;
 - (f) in any case where the dependant is required to establish a long term business fund or funds under section 28 of the 1982 Act, its long term business liabilities shall be deemed to be not less than the value of the assets representing that fund or funds.
- (3) In the case of a dependant which is not an insurance company—
- (a) the value of its assets shall be determined in accordance with Part V of the 1981 Regulations, and subject to the provisions of and the modifications provided for in paragraphs 3 and 4 of Schedule 4 to these Regulations;
 - (b) subject to paragraph (4) below, assets of the dependant which are of a relevant description shall be taken into account only to the extent that their value does not exceed the permitted limit applicable to the dependant in relation to those assets; and

- (c) any equipment leased by the dependant exclusively to any person other than the society of which it is a dependant, or any other dependant of that society, shall be valued as a debt for the purposes of Part V of the 1981 Regulations.

(4) Where—

- (a) the dependant is an insurance company and has general business assets of a relevant description, or, is not an insurance company and has assets of a relevant description,
- (b) the value of such assets exceeds the permitted limit applicable to the dependant in relation to those assets, and
- (c) the society has no assets of the same description of the relevant class, or has assets of the same description of the relevant class and their value is less than the permitted limit applicable to the society in relation to those assets,

then, for the purpose of determining the value of the assets of the dependant, there shall be added to the permitted limit applicable to the dependant in relation to the assets referred to in subparagraph (a) above an amount equal to the supplementary amount determined in accordance with Part I of Schedule 4.

(5) In this regulation and Schedule 4—

“assets of a relevant description” means assets of a description specified in Part I of Schedule 8 of the 1981 Regulations or, in the case of a dependant which is not an insurance company, assets which would be of such a description if it were an insurance company;

“permitted limit” means, in relation to assets of a relevant description—

- (a) in the case of the society, an amount equal to the percentage of the general business amount or, as the case may be, the long term business amount applicable in relation to assets of that description in accordance with regulation 31 below;
- (b) in the case of a dependant which is an insurance company, an amount equal to the percentage of the general business amount or, as the case may be, the long term business amount applicable in relation to assets of that description in accordance with regulation 49 of the 1981 Regulations as applied pursuant to paragraph (2) above; and
- (c) in the case of a dependant which is not an insurance company, an amount equal to the percentage specified in Schedule 8 of the 1981 Regulations, with respect to assets of that description, of the liabilities of the dependant, other than liabilities to the society;

and references to assets held by any society being of the same description as assets held by a dependant mean—

- (i) in relation to land of the dependant of a description specified in paragraph 1 of Schedule 8 of the 1981 Regulations, any interest of that society in that land,
- (ii) in relation to assets of the dependant of a description specified in paragraph 2 of Schedule 8 of the 1981 Regulations, any debt due or to become due to the society which is secured on the land on which the debt due or to become due to the dependant is secured, and
- (iii) in relation to assets of the dependant of a description specified in paragraphs 3 to 13 of Schedule 8 of the 1981 Regulations, assets of the society which, if held by the dependant, would be assets of that description.

(6) Save as otherwise provided in paragraph 3(5) of Schedule 4, references in this regulation and in Schedule 4 to assets of the society being of a relevant class mean—

- (a) where this regulation and Schedule 4 are being applied for the purpose of determining the value of a long term business asset of the society, assets of the society which are long term business assets, and
- (b) in any other case, assets of the society which are general business assets.

(7) Where the society cannot reasonably ascertain in accordance with the provisions of this regulation—

- (a) the value of any asset of the dependant, or
- (b) the amount of the permitted limit applicable in relation to any asset of the dependant,

that asset shall be left out of account in determining the value of the assets of the dependant under this regulation.

Debts and other rights

23.—(1) The value of any debt due, or to become due, to a society, other than a debt to which regulation 21(3) above, paragraph (2), (3) or (4) of this regulation or regulation 28 or 30 below applies, shall be—

- (a) in the case of any such debt which is due, or will become due, within twelve months of the relevant date (including any debt which would become due within that period if the society were to exercise any right to which it is entitled to require payment of the same), the amount which can reasonably be expected to be recovered in respect of that debt (due account being taken of any security being held in respect thereof); and
- (b) in the case of any other such debt, the amount which would reasonably be paid by way of consideration for an immediate assignment of the debt together with the benefit of any security held in respect thereof.

Provided that in determining the amounts referred to in subparagraphs (a) and (b) above, no account shall be taken of any letter of credit.

(2) The value of any debt due, or to become due, to the society which is secured on a policy of insurance issued by the society and which (together with any other debt secured on that policy) does not exceed the amount payable on a surrender of that policy at the relevant date shall be the amount of that debt.

(3) Any debt due or to become due to the society—

- (a) from an intermediary in respect of money advanced on account of commission to which that intermediary is not absolutely entitled at the relevant date, or
- (b) under a letter of credit,

shall be left out of account for the purposes for which this Part of these Regulations applies.

(4) The value of any debt due to, or other rights of, the society, under any contract of reinsurance to which the society is a party shall be the amount which can reasonably be expected to be recovered in respect of that debt or right.

Land

24. The value of any land of a society (other than land held by the society as security for a debt or to which regulation 29 below applies) shall be not greater than the amount which (after deduction of the reasonable expenses of sale) would be realised if the land were sold at a price equal to the most recent proper valuation of that land which has been provided to the society and any such land of which there is no proper valuation shall be left out of account for the purposes for which this Part of these Regulations applies.

Equipment

25.—(1) The value of any computer equipment of a society—

- (a) in the financial year of the society in which it is purchased, shall not be greater than three-quarters of the cost thereof to the society;

- (b) in the first financial year thereafter, shall not be greater than one-half of that cost;
- (c) in the second financial year thereafter, shall be not greater than one-quarter of that cost; and
- (d) in any subsequent financial year, shall be left out of account for the purposes for which this Part of these Regulations applies.

(2) The value of any office machinery (other than computer equipment), furniture, motor vehicles and other equipment of a society, shall be, in the financial year of the society in which it is purchased, not greater than one-half of the cost thereof and shall be, in any subsequent financial year, left out of account for the purposes for which this Part of these Regulations applies.

Unlisted securities

26.—(1) This regulation does not apply to the valuation of shares in a dependant of a society.

(2) The value of any unlisted security which is dealt in on The International Stock Exchange of the United Kingdom and the Republic of Ireland Limited or on a recognised stock exchange or on a stock exchange of repute outside the United Kingdom shall be an amount not greater than the middle market quotation.

(3) The value of any unlisted equity share, other than a share to which paragraph (2) above applies, shall not be greater than—

- (a) where the company in which the share is held has been carrying on business for more than three financial years, the multiple of the price earnings ratio for the relevant date (or, if no price earnings ratio has been published for that date, for the most recent date prior to that date for which a price earnings ratio has been published) and the proportionate amount attributable to that share of the average amount of the profits of the company for the last three financial years; and
- (b) where the company has been carrying on business for less than three but more than one financial year, the multiple of such price earnings ratio and the proportionate amount attributable to that share of the average amount of the profits of the company for its two financial years or the profits of the company in its only financial year (as the case may be).

(4) For the purposes of this regulation, the average amount of the profits of a company for any specified years shall be the amount represented by the formula—

$$\frac{P-L}{Y}$$

where—

- a P is the aggregate amount of the profits of the company after provision for taxation in each of the specified years,
 - b L is the aggregate amount of any losses made by the company after provision for taxation in any of the specified years in which there were no profits, and
 - c Y is the number of years specified,
- no account being taken of any profit or loss brought forward from any year preceding the specified years.

(5) In this regulation, the proportionate amount attributable to any share of the average amount of any profits of the company in which the share is held for any specified years shall be the amount which could reasonably be expected to be received in respect of that share if the average amount or the amount (as the case may be) of the profits in question were available for distribution by the company among its shareholders.

(6) Where the value of any share would otherwise be determined in accordance with the provisions of paragraph (3) above but cannot be so determined because the amount of the profits of, or the amount of losses incurred by, the company in the last financial year cannot be reasonably ascertained, then the value of that share shall be determined—

- (a) in the case of a company which has been carrying on business for not less than four financial years, by reference to the average amount of the profits of the company for the three financial years preceding the last financial year; and
 - (b) in the case of the company which has been carrying on business for less than four years but more than two financial years, by reference to the average amount or the amount (as the case may be) of the profits of the company in any specified years other than the last financial year.
- (7) Any share to be valued in accordance with paragraphs (3) to (6) above shall be left out of account for the purposes for which this Part of these Regulations applies if—
- (a) no amount is attributable thereto in accordance with paragraph (3) above;
 - (b) the company in which the share is held has been carrying on business for less than one financial year; or
 - (c) the value of the share cannot be ascertained in accordance with paragraphs (3) to (6) above because the amount of the profits of, or the amount of the losses incurred by, the company in any of the specified years cannot reasonably be ascertained and no provision is made for its valuation in paragraph (6) above.
- (8) The value of any unlisted share other than one to which paragraph (2) or (3) above applies shall be the amount which would reasonably be paid by way of consideration for an immediate transfer of that share.

Unit trusts

27. The value of any holding of units, or other beneficial interests, under an authorised unit trust scheme within the meaning of the Financial Services Act 1986(18) shall be the price at which the managers under the unit trust scheme would purchase the holding of units or other beneficial interest if required to do so.

Listed Investments

28.—(1) The value of any listed debenture which is not a debenture issued by a dependant of the society, and of any listed share, which is not a share in such a dependant nor a share in any body specified in regulation 30(2)(a) below, shall be the middle market quotation.

(2) Where the listing of any listed debenture or listed share, the value of which falls to be determined in accordance with this regulation, was suspended at a relevant date, then for the purpose or purposes for which that date was the relevant date—

- (a) if that suspension was in force for a period in excess of ten days, that debenture or share shall be left out of account, and
- (b) if that suspension was in force for a period not exceeding ten days, the value of that debenture or share shall be the lower of:
 - (i) the middle market quotation on the day before the day the suspension came into force, and
 - (ii) the middle market quotation on the day after the day the suspension was terminated.

(3) For the purposes of paragraph (2) above, a day which is a Saturday or a Sunday or a bank holiday in any part of the United Kingdom shall be disregarded.

Life interests, reversionary interests etc

29. The value of any asset consisting of an interest in property which—

- (a) is determinable upon the death of any person or upon the happening of some other future event or at some future time or is a remainder, reversionary interest, right of fee subject to a life interest or other future interest, whether vested or contingent, and
- (b) is not a lease or a reversionary interest expectant upon the determination of a lease,

shall be the amount which would reasonably be paid by way of consideration for an immediate transfer or assignment thereof.

Other assets

30.—(1) The value of any approved securities shall be—

- (a) in the case of listed securities, the middle market quotation;
- (b) in the case of securities which are not transferable, the amount payable on a surrender or redemption of such securities at the relevant date; and
- (c) in any other case, the amount which would reasonably be paid by way of consideration for an immediate transfer or assignment thereof.

(2) The value of—

- (a) shares in any building society or industrial and provident society, and
- (b) share options and debenture options, not being traded options,

shall be the amount which would reasonably be paid by way of consideration for an immediate transfer or assignment thereof.

(3) The value of traded options shall be the middle market quotation.

Assets to be taken into account only to a specified extent

31.—(1) Assets of a society of any of the descriptions specified in Schedule 5 shall be taken into account only to the extent that the value of those assets does not exceed—

- (a) for a society carrying on general business, whether or not also carrying on long term business, in the case of general business assets of a description specified in Part I of Schedule 5, an amount equal to the percentage of the general business amount specified in Schedule 5 for assets of that description;
- (b) for a society carrying on only long term business, for all assets of a description specified in Part I of Schedule 5, an amount equal to the percentage of the long term business amount specified in Schedule 5 for assets of that description;
- (c) for a society carrying on general business and long term business, in the case of long term business assets of a description specified in Part I of Schedule 5, an amount equal to the percentage of the long term business amount specified in Schedule 5 for assets of that description;
- (d) for a society carrying on general business, whether or not also carrying on long term business, in the case of general business assets of the description specified in Part II of Schedule 5, an amount equal to the percentage specified in Schedule 5 of the net premium income of the society in respect of general business (other than premium income in respect of treaty reinsurance accepted) for the twelve months preceding the relevant date;
- (e) for a society carrying on only long term business, for all assets of the description specified in Part II of Schedule 5, an amount equal to the percentage so specified of the net premium

income of the society in respect of long term business (other than premium income in respect of treaty reinsurance accepted) for twelve months preceding the relevant date; and

- (f) for a society carrying on general business and long term business, in the case of long term business assets of the description specified in Part II of Schedule 5, an amount equal to the percentage so specified of the net premium income of the society in respect of long term business (other than premium income in respect of treaty reinsurance accepted) for the twelve months preceding the relevant date.

(2) In this regulation—

“general business amount” means the aggregate of the society’s general business liabilities and in the case of a society which carries on general business an amount equal to whichever is the greater of 225,000 ECU or 20 per cent of the general premium income less the amount of the deduction specified in paragraph (3) below.

“long term business amount” means the aggregate of the society’s long term business liabilities and whichever is the greater of—

- (a) one-sixth of the margin of solvency which the society is required to maintain and
- (b) 600,000 ECU

less the amount of the deduction specified in paragraph (3) below;

“the net premium income” of a society for any specified period means the gross amounts first recorded in the society’s books during that period as paid or due to the society by way of premiums, less any rebates, refunds and commission so recorded during that period as allowed or paid on those gross amounts or any such gross amounts so recorded in any previous period.

(3) The deduction to be made in determining the general business amount or the long term business amount in accordance with paragraph (2) above shall be the aggregate of the following—

- (a) the amount of any general business or, as the case may be, long term business liabilities of the society to a dependant, other than insurance liabilities, and
- (b) the value of the debts due or to become due to and other rights of the society under contracts of reinsurance ceded by it (but excluding any rights of recovery in respect of insurance liabilities already discharged by the society) which are general business or, as the case may be, long term business assets of the society, and
- (c) in the case of the long term business amount, the amount of any liabilities of the society in respect of property linked benefits.

(4) Where—

- (a) an asset (or group of assets) of a society carrying on only long term business is attributed by the society partly to its long term business assets and partly to its other assets, and
- (b) by virtue of paragraph (1)(b) above there is a reduction in the extent to which that asset or group of assets is to be taken into account,

the reduction shall be in the same proportion as the attribution.

(5) For the purposes of this regulation, the amount of the liabilities of a society shall be determined in accordance with Part V of these Regulations.

(6) This regulation shall not apply to any approved securities or to any interest accrued thereon.

PART V

DETERMINATION OF LIABILITIES

Interpretation: Part V

32. In this Part of these Regulations—

“long term liabilities” means liabilities of a society arising under or in connection with contracts for long term business including liabilities arising from deposit back arrangements; “the valuation date”, in relation to an actuarial investigation, means the date to which the investigation relates.

Application: Part V

33. This Part of these Regulations applies with respect to the determination of the amount of liabilities of societies to which Part II of these Regulations applies for the purposes of—

- (a) section 48 of the 1992 Act;
- (b) any actuarial investigation to which section 46 or 47 of the 1992 Act applies; and
- (c) such other actuarial investigation as may be required by the Commission in the exercise of its powers under Part V of the 1992 Act.

Long term and general business

34.—(1) Subject to this Part of these Regulations, the amount of liabilities of a society in respect of long term and general business and other lawful activities shall be determined in accordance with generally accepted accounting concepts, bases and policies or other generally accepted methods appropriate for insurance business.

(2) In determining under paragraph (1) above the amount of liabilities of a society, all contingent and prospective liabilities shall be taken into account.

Long term liabilities

35. The determination of the amount of long term liabilities (other than liabilities which have fallen due for payment before the valuation date) shall be made on actuarial principles and shall make proper provision for all liabilities on prudent assumptions in regard to the relevant factors; and the amount of the liability for each category of contract shall not be less than the amount calculated in accordance with regulations 36 to 45 below (which shall apply only to long term liabilities).

Nature and term of assets

36. The determination of the amount of long term liabilities shall take into account the nature and terms of the assets representing the long term business funds and the value placed upon them and shall include appropriate provision against the effect of possible future changes in the value of the assets on their adequacy to meet the liabilities.

Avoidance of future valuation strain

37. The amount of the liability determined in respect of a group of contracts shall not be less than such amount as, if the assumptions adopted for the valuation were to remain unaltered and were fulfilled in practice, would enable liabilities similarly determined at all times in the future to be covered from resources arising solely from the contracts and the assets covering the amount of the liability determined at the current valuation.

Valuation of future premiums

38.—(1) Subject to paragraph (4) below, where further specified premiums are payable by the policyholder under a contract under which benefits (other than benefits arising from a distribution of surplus) are determined from the outset in relation to the total premiums payable thereunder, then, subject to regulation 39 below—

- (a) where the premiums under the contract are at a uniform rate throughout the period for which they are payable, the premiums to be valued shall not be greater than such level premiums as, if payable for the same period as the actual premiums under the contract and calculated according to the rates of interest and rates of mortality or disability which are to be employed in calculating the liability under the contract, would have been sufficient at the outset to provide for the benefits under the contract according to the contingencies upon which they are payable, exclusive of any additions for profits, expenses or other charges;
- (b) where the premiums under the contract are not at a uniform rate throughout the period for which they are payable, the premiums to be valued shall not be greater than such premiums as would be determined on the principles set out in subparagraph (a) above modified as appropriate to take account of the variations in the premiums payable by the policyholder in each year;

save that a premium to be valued shall in no year be greater than the amount of the premium payable by the policyholder.

(2) Where the terms of the contract have changed since the contract was first made (the terms of the contract being taken to change for the purposes of this paragraph if the change is indicated in an endorsement on the policy but not if a new policy is issued), then, for the purposes of paragraph (1) above it shall be assumed that those changes from the time they occurred were provided for in the contract at the time it was made.

(3) Subject to paragraph (4) below, where under a contract—

- (a) each premium paid increases the benefits (other than benefits arising from a distribution of surplus) provided under the contract, or
- (b) the amount of a premium payable in future is not determinable until it comes to be paid,

future premiums and the corresponding liability may be left out of account so long as adequate provision is made against any risk that the increase in the liabilities of the society resulting from the payment of future premiums might exceed the amount of the premiums.

(4) The provisions of this regulation do not apply to a contract which is a linked long term contract, a permanent health contract, or a contract whose principal object is permanent health insurance but which contains related and subsidiary provisions for life or birth insurance business.

Acquisition expenses

39.—(1) In order to take account of acquisition expenses, the maximum annual premium to be valued under regulation 38 above may (subject to paragraph (2) below) be increased by an amount not greater than the equivalent, taken over the whole period of premium payments and calculated according to the rates of interest and rates of mortality or disability employed in valuing the contract, of 3.5 per cent (or the defined percentage, if it is lower than 3.5 per cent) of the relevant capital sum under the contract.

(2) For the purposes of paragraph (1) above “the defined percentage” is the percentage arrived at by taking (for all contracts of the same type as the contract in question for which an adjustment is made) the average of the percentages of the relevant capital sum under each such contract that represent the acquisition costs for which, after allowing for the effects of taxation, allowance is made in the premiums.

(3) The increase permitted by paragraph (1) above shall be subject to the limitation that the amount of a future premium valued shall not in any event be greater than the amount of the premium actually payable by the policyholder.

(4) For the purposes of this regulation—

- (a) for contracts other than temporary assurances, the relevant capital sum under a contract shall be arrived at in accordance with regulation 10(4) above, and
- (b) for temporary assurances, the relevant capital sum shall be the sum assured on the valuation date.

Rates of interest

40.—(1) In determining the rates of interest to be used in calculating the present value of future payments by or to a society, regard shall be had to the yields on the existing assets attributed to the long term business and, to the extent appropriate, to the yield which it is expected will be obtained on sums to be invested in the future.

(2) For the purposes of paragraph (1) above, the assumed yield on an asset attributed to the long term business, before any adjustment to take account of the effect of taxation, shall not exceed the yield on that asset calculated in accordance with paragraphs (3) to (6) below, reduced by 7.5 per cent of that yield.

(3) For the purpose of calculating the yield on an asset—

- (a) the asset shall be valued in accordance with Part IV of these Regulations, excluding any provision under which assets may be taken at lower book values for the purposes of an investigation to which section 46 of the 1992 Act applies; and
- (b) where a particular asset is required to be taken into account only to a specified extent by the operation of regulation 31 above, the future income to be taken into account (whether interest, dividends or repayments of capital) shall be correspondingly reduced.

(4) For fixed interest investments (that is to say, investments which are fixed interest securities as defined in regulation 19(1) above) the yield on an asset, subject to paragraph (6) below, shall be that annual rate of interest which, if used to calculate the present value of future payments of interest before the deduction of tax and the present value of repayments of capital, would result in the sum of those amounts being equal to the value of the asset.

(5) For variable interest investments (that is to say, investments which are not fixed interest securities as defined in regulation 19(1) above) the yield on an asset, subject to paragraph (6) below, shall be the ratio to the value of the asset of the income before deduction of tax which would be received in the period of 12 months following the valuation date on the assumption that the assets will be held throughout that period and that the factors which affect income will remain unchanged, so however that account shall be taken of any changes in those factors known to have occurred by the valuation date and in particular, without prejudice to the generality of the foregoing, of—

- (a) any known changes in the rental income from property or in dividends on equity shares,
- (b) any forecast changes in dividends which have been publicly announced by the valuation date,
- (c) the effect of any alterations in capital structure, and
- (d) the value (at the most recent date for which it is known at the valuation date) of any determinant of the amount of any future interest payment, the said value being deemed to remain unaltered for all subsequent dates.

(6) In calculating the yield on an asset under this regulation—

- (a) if the asset does not consist of equity shares or land—

- (i) an adjustment shall be made to exclude that part of the yield estimated to represent compensation for the risk that the income from the asset might not be maintained or that capital repayments might not be received as they fall due, and
 - (ii) in making that adjustment, regard shall be had wherever possible to the yields on risk-free investments of a similar term in the same currency;
- (b) for assets which are equity shares or land, adjustments to yields shall be made as appropriate to exclude that part, if any, of the total yield from those assets, taken together, that is needed to compensate for the risk that the aggregate income from those assets taking one year with another might not be maintained, so however that the yield assumed on an asset shall not be greater than that on British Government 2½ per cent Consolidated Stock on the valuation date.

(7) To the extent that it is necessary to make an assumption about the yields which will be obtained on sums to be invested in future, the yield assumed on any investment to be made more than three years after the valuation date shall not exceed 7.2 per cent per annum before any adjustment to take account of the effect of taxation.

(8) In no case shall a rate of interest determined for the purposes of paragraph (1) above exceed the adjusted overall yield on assets calculated as the weighted average of the reduced yields on the individual assets arrived at under paragraph (2) above; and when that weighted average is calculated—

- (a) the weight given to each investment shall be its value as an asset determined in accordance with Part IV of these Regulations, excluding any provision under which assets may be taken at lower book values for the purposes of an investigation to which section 46 of the 1992 Act applies, and
- (b) except in relation to the rate of interest used in valuing payments of property linked benefits (as defined in regulation 19(1) above), both the yield and the value of any linked assets (as so defined) shall be omitted from the calculation.

(9) For the purpose of determining the rates of interest to be used in valuing a particular category of contracts the assets may, where appropriate, be notionally apportioned between different categories of contracts and in such cases the limit under paragraph (8) above shall be applied on the basis of the overall yield on the assets apportioned to the contracts in question.

Rates of mortality and disability

41. The amount of the liability in respect of any category of contract shall, where relevant, be determined on the basis of appropriate rates of mortality and disability that take into account—

- (a) relevant published tables of rates of mortality and disability, and
- (b) the rates of mortality and disability experienced in connection with any similar contracts issued by the society in the past.

Expenses

42.—(1) Provision shall be made for meeting the expenses likely to be incurred in future in fulfilling the existing contracts, taking account of the effect of taxation as appropriate, but credit may be taken to the extent appropriate for the fractions of future premiums left out of account pursuant to regulation 38(1) above.

(2) The provision mentioned in paragraph (1) above shall have regard to, among other things, the society's actual expenses in the last twelve months before the valuation date and the contingency that the society may cease to transact new business.

Options

43.—(1) Provision shall be made to cover any increase in liabilities caused by policyholders exercising options under their contracts.

(2) Where a contract includes an option whereby the policyholder could secure a guaranteed cash payment within twelve months following the valuation date, the provision for that option shall be such as to ensure that the value placed on the contract is not less than the amount required to provide for the payments that would have to be made if the option were exercised.

Contracts not to be treated as assets

44. No contract for long term business shall be treated as an asset.

No credit for profits from voluntary discontinuance

45. Allowance shall not be made in the valuation for the voluntary discontinuance of any contract if the amount of the liability so determined would thereby be reduced.

PART VI

LINKED LONG TERM CONTRACTS

Application: Part VI

46. This Part of these Regulations shall apply to any incorporated friendly society which has entered into contracts to which regulation 47(3) below applies including any such contracts entered into before the coming into force of these Regulations.

Linked long term contracts

47.—(1) Benefits payable under any contract to which this regulation applies shall not be determined, either wholly or partly, by reference to the value of, or the income from, or fluctuations in the value of, property of any description other than—

- (a) property of any of the descriptions specified in Part I of Schedule 6, or
- (b) property which was property of any of the descriptions specified in paragraphs 1 to 10 of Part I of Schedule 6 when it first became a property by reference to which benefits under that contract, or under any contract of a similar description to that contract, were to be determined, and which ceased to conform with that description not more than fifteen months previously.

(2) Benefits payable under any contract to which this regulation applies shall not be determined, either wholly or partly, by reference to fluctuations in any index of the value of property other than an index described in Part II of Schedule 6.

(3) This regulation applies to long term contracts entered into by societies which—

- (a) are contracts under which the benefits payable to the policyholder are wholly or partly to be determined by reference to the value of, or the income from, property of any description (whether or not specified in the contract) or by reference to fluctuations in, or in an index of, the value of property of any description (whether or not so specified); and
- (b) are not contracts specified in paragraph (4) below as being contracts to which this regulation does not apply.

(4) The contracts referred to in paragraph (3)(b) above to which this regulation does not apply are—

- (a) contracts with any policyholder who is a person not ordinarily resident in the United Kingdom;
- (b) contracts under or relating to a retirement benefits scheme (whether evidenced by deed, agreement or series of agreements or other arrangement) not being a scheme whereby—
 - (i) the benefit is assured by means of one or more contracts;
 - (ii) each contract provides in respect of each member of the scheme separate assurance, the proceeds of which are to go to that member at least to the extent that they are not greater than the benefits to which he is entitled at normal pension age;
 - (iii) the premium payable under each contract in respect of each member is payable at least annually; and
 - (iv) the amount of the premium (expressed as an annual rate) remains unchanged except in consequence of the declaration of a bonus or a change in the premium rate of the society;
- (c) contracts entered into before the date of coming into force of these Regulations providing for benefits which would, if they had become due for payment on that date, have been wholly or partly determined either—
 - (i) by reference to the value of, or the income from or fluctuations in the value of, property of any description other than a description specified in Part I of Schedule 6, or
 - (ii) by reference to fluctuations in an index of the value of property other than an index specified in Part II of Schedule 6,

providing that the Commission has altered the requirements of paragraphs (1), (2) or (3) above in relation to such contracts in accordance with section 56(4) of the 1992 Act.

(5) In this regulation “retirement benefits scheme” means a scheme for the provision to a member of the scheme or his wife or widow, children, dependants or personal representatives of any pension, annuity, lump sum, gratuity or other like benefit given or to be given on retirement or on death, or in anticipation of retirement, or, in connection with past service, after retirement or death, except that it does not include any benefit which is to be afforded solely by reason of the disablement by accident of a member occurring during his service or of his death by accident so occurring and for no other reason.

(6) Any reference in this regulation to contracts of a similar description to any specified contract is a reference to contracts which correspond with that contract in both the following respects—

- (a) the provisions defining the descriptions of property or indices by reference to which the benefits payable thereunder are to be determined are the same as in that contract; and
- (b) the society or other person undertaking to pay the benefits provided for thereunder is the same as in that contract.

PART VII

MISCELLANEOUS

Annual actuarial investigation: prescribed societies

48. Any incorporated friendly society carrying on long term business other than a society to which section 37(2) of the 1992 Act applies is prescribed for the purposes of section 46(1)(b) of

the 1992 Act and accordingly shall, once in every period of 12 months, cause an investigation to be made by the appropriate actuary into the financial condition of the society in respect of its long term business in accordance with section 46 of that Act.

Annual investigation: signature of copy of abstract

49.—(1) For the purposes of section 46(3) of the 1992 Act (signature of a copy of an abstract of an actuary’s report), one copy of the abstract of the actuary’s report shall be signed by the following persons:

- (a) the actuary who prepared the report;
- (b) the chief executive;
- (c) the secretary; and
- (d) subject to paragraph (2) below, one member of the committee of management.

(2) Where the offices of chief executive and secretary are held by the same person, the copy of the abstract shall be signed, in addition to the persons referred to in paragraphs (1)(a) and (b) above, by two members of the committee of management.

In witness whereof the common seal of the Friendly Societies Commission is hereunto fixed, and is authenticated by me, a person authorised under paragraph 13 of Schedule 1 to the Friendly Societies Act 1992, on

18th January 1993.

Michael Cook
Secretary to the Commission

We consent to regulations 1-11 and 19-49.

21st January 1993

Irvine Patnick
Nicholas Baker
Two of the Lords Commissioners of Her
Majesty’s Treasury