

SCHEDULES

SCHEDULE 11

FRIENDLY SOCIETIES

PART III

REGISTRAR'S POWERS IN RELATION TO REGULATED FRIENDLY SOCIETIES

Special provisions for regulated friendly societies

- 13 Paragraphs 14 to 25 below shall have effect in connection with the exercise of powers for the regulation of regulated friendly societies in relation to regulated business, but nothing in this Part of this Schedule shall affect the exercise of any power conferred by this Act in relation to a regulated friendly society which is an authorised person by virtue of section 25 of this Act to the extent that the power relates to other investment business.

Conduct of investment business

- 14 (1) The rules under section 48 of this Act shall not apply to a regulated friendly society but the Registrar may, with the consent of the Secretary of State, make such rules as may be made under that section regulating the conduct of any such society other than a member society as respects the matters mentioned in sub-paragraph (2) below.
- (2) The matters referred to in sub-paragraph (1) above are-
- (a) procuring persons to transact regulated business with it and advising persons as to the exercise of rights conferred by investments acquired from the society in the course of such business;
 - (b) managing the investments of pension funds, procuring persons to enter into contracts for the management of such investments and advising persons on such contracts and the exercise of the rights conferred by them ;
 - (c) matters incidental to those mentioned in paragraphs (a) and (b) above.
- (3) Section SO of this Act shall apply in relation to rules under this paragraph as it applies in relation to rules under section 48 except that—
- (a) for the reference to the Secretary of State there shall be substituted a reference to the Registrar ; and
 - (b) the Registrar shall not exercise the power under subsection (1) to alter the requirement of rules made under this paragraph without the consent of the Secretary of State.
- 15 (1) The rules under section 51 of this Act shall not apply to any investment agreement which a person has entered or offered to enter into with a regulated friendly society if, as respects the society, entering into the agreement constitutes the carrying on of regulated business but the Registrar may, with the consent of the Secretary of State,

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make rules for enabling a person who has entered or offered to enter into such an agreement to rescind the agreement or withdraw the offer within such period and in such manner as may be specified in the rules.

- (2) Subsection (2) of section 51 of this Act shall apply in relation to rules under this paragraph as it applies in relation to rules under that section but with the substitution for the reference to the Secretary of State of a reference to the Registrar.
- 16 (1) Regulations under section 52 of this Act shall not apply to any regulated friendly society but the Registrar may, with the consent of the Secretary of State, make such regulations as may be made under that section imposing requirements on regulated friendly societies other than member societies.
- (2) Any notice or information required to be given or furnished under this paragraph shall be given in writing or in such other manner as the Registrar may approve.
- 17 (1) Rules under section 53 of this Act shall not apply to any regulated friendly society but the Registrar may, with the consent of the Secretary of State make rules concerning indemnity against any claim in respect of any description of civil liability incurred by a regulated friendly society in connection with any regulated business.
- (2) Such rules shall not apply to a member society of a recognised self-regulating organisation for friendly societies unless that organisation has requested that such rules should apply to it; and any such request shall not be capable of being withdrawn after rules giving effect to it have been made but without prejudice to the power of the Registrar to revoke the rules if he and the Secretary of State think fit.
- (3) Subsections (3) and (4) of section 53 of this Act shall apply in relation to such rules as they apply to rules under that section but with the substitution for references to the Secretary of State of references to the Registrar.
- 18 (1) No scheme established by rules under section 54 shall apply in cases where persons who are or have been regulated friendly societies are unable, or likely to be unable, to satisfy claims in respect of any description of civil liability incurred by them in connection with any regulated business but the Registrar may, with the consent of the Secretary of State, by rules establish a scheme for compensating investors in such cases.
- (2) Subject to sub-paragraph (3) below, subsections (2) to (4) and (6) of that section shall apply in relation to such rules as they apply to rules under that section but with the substitution for the references to the Secretary of State, authorised persons, members and a recognised self-regulating organisation of references respectively to the Registrar, regulated friendly societies, member societies and a recognised self-regulating organisation for friendly societies.
- (3) Subsection (3) of that section shall have effect with the substitution for the words " the Secretary of State is satisfied " of the words " the Registrar and the Secretary of State are satisfied ".
- (4) The references in section 179(3)(b) and 180(1)(e) of this Act to the body administering a scheme established under section 54 of this Act shall include the body administering a scheme established under this paragraph.
- 19 (1) Regulations under section 55 of this Act shall not apply to money held by regulated friendly societies but the Registrar may, with the consent of the Secretary of State, make regulations with respect to money held by a regulated friendly society in such circumstances as may be specified in the regulations.

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- (2) Regulations under this paragraph shall not provide that money held by a regulated friendly society shall be held as mentioned in paragraph (a) of subsection (2) of that section but paragraphs (6) to (f) of that subsection and subsections (3) and (4) of that section shall apply in relation to regulations made under this paragraph as they apply in relation to regulations under that section (but with the substitution for the reference in paragraphs (b) and (e) of subsection (2) to a member of a recognised self-regulating organisation of a reference to a member society of a recognised self-regulating organisation for friendly societies and for the reference in paragraph (e) of that subsection to the Secretary of State of a reference to the Registrar).
- 20 Regulations under section 56(1) of this Act shall not permit anything to be done by a regulated friendly society but that section shall not apply to anything done by such a society in the course of or in consequence of an unsolicited call which, as respects the society constitutes the carrying on of regulated business, if it is permitted to be done by the society in those circumstances—
- (a) in the case of a member society, by the rules of the recognised self-regulating organisation for friendly societies of which it is a member; and
 - (b) in any other case, by regulations made by the Registrar with the consent of the Secretary of State.
- 21 (1) If it appears to the Registrar that a regulated friendly society other than a member society has contravened—
- (a) any provision of rules or regulations made under this Schedule or of section 56 or 59 of this Act;
 - (b) any condition imposed under section 50 of this Act as it applies by virtue of paragraph 14(3) above;
 - (c) any prohibition or requirement imposed under Chapter VI of Part I of this Act as it applies by virtue of paragraph 23 below; or
 - (d) any requirement imposed under paragraph 24 below ;
- he may publish a statement to that effect.
- (2) Subsections (2) to (5) of section 60 above shall apply in relation to the power under sub-paragraph (1) above as they apply in relation to the power in subsection (1) of that section but with the substitution for the references to the Secretary of State of references to the Registrar.
- 22 (1) If on the application of the Registrar the court is satisfied—
- (a) that there is a reasonable likelihood that any regulated friendly society will contravene any provision of—
 - (i) any prohibition or requirement imposed under Chapter VI of Part I of this Act as it applies by virtue of paragraph 23 below ;
 - (ii) the rules or regulations made under this Schedule ;
 - (iii) any requirement imposed under paragraph 24 below;
 - (iv) section 47, 56 or 59 of this Act;
 - (v) the rules of a recognised self-regulating organisation for friendly societies in relation to which it is a member society,or any condition imposed under section 50 of this Act as it applies by virtue of paragraph 14(3) above ;
 - (b) that any regulated friendly society has contravened any such provision or condition and that there is a reasonable likelihood that the contravention will continue or be repeated; or

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- (c) that any person has contravened any such provision or condition and that there are steps that could be taken for remedying the contravention, the court may grant an injunction restraining the contravention or, in Scotland, an interdict prohibiting the contravention or, as the case may be, make an order requiring the society and any other person who appears to the court to have been knowingly concerned in the contravention to take steps to remedy it.
- (2) No application shall be made by the Registrar under subparagraph (1) above in respect of any such rules as are mentioned in paragraph (a)(v) of that sub-paragraph unless it appears to him that the organisation is unable or unwilling to take appropriate steps to restrain the contravention or to require the society concerned to take such steps as are mentioned in sub-paragraph (1) above.
- (3) Subsections (3) to (9) of section 61 of this Act apply to such a contravention as is mentioned in subparagraph (1)(a) above as they apply to such a contravention as is mentioned in subsection (3) of that section, but with the substitution for the references to the Secretary of State of references to the Registrar.
- (4) Without prejudice to the preceding provisions of this paragraph—
- (a) a contravention of any rules or regulations made under this Schedule;
 - (b) a contravention of any prohibition or requirement imposed under Chapter VI of Part I of this Act as it applies by virtue of paragraph 23 below ;
 - (c) a contravention of any requirement imposed under paragraph 24 below;
 - (d) a contravention by a member society of any rules of the recognised self-regulating organisation for friendly societies of which it is a member relating to a matter in respect of which rules or regulations have been or could be made under this Schedule or of any requirement or prohibition imposed by the organisation in the exercise of powers for purposes corresponding to those of the said Chapter VI or paragraph 24;
- shall be actionable at the suit of a person who suffers loss as a result of the contravention subject to the defences and other incidents applying to actions for breach of statutory duty, but no person shall be guilty of an offence by reason of any such contravention and no such contravention shall invalidate any transaction.
- (5) This paragraph is without prejudice to any equitable remedy available in respect of property which by virtue of a requirement under section 67 of this Act as it applies by virtue of paragraph 23 below is subject to a trust.

Intervention, information and investigations

- 23 (1) The powers conferred by Chapter VI of Part I of this Act shall not be exercisable in relation to a regulated friendly society or the appointed representative of such a society by the Secretary of State but instead shall be exercisable by the Registrar ; and accordingly references in that Chapter to the Secretary of State shall as respects the exercise of powers in relation to a regulated friendly society or such a representative be taken as references to the Registrar.
- (2) Section 64 of this Act shall not apply to the exercise of those powers by virtue of sub-paragraph (1) above but those powers shall only be exercisable by the Registrar if it appears to him—
- (a) that the exercise of the powers is desirable in the interests of members or potential members of the regulated friendly society; or

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- (b) that the society is not a fit person to carry on regulated business of a particular kind or to the extent to which it is carrying it on or proposing to carry it on ; or
 - (c) that the society has contravened any provision of this Act or of any rules or regulations made under it or in purported compliance with any such provision has furnished him with false, inaccurate or misleading information or has contravened any prohibition or requirement imposed under this Act.
- (3) For the purposes of sub-paragraph (2)(b) above the Registrar may take into account any matters that could be taken into account in deciding whether to withdraw or suspend an authorisation under Chapter III of Part I of this Act.
- (4) The powers conferred by this paragraph shall not be exercisable in relation—
 - (a) to a member society which is subject to the rules of a recognised self-regulating organisation for friendly societies in carrying on all the investment business carried on by it; or
 - (b) to an appointed representative of a member society if that member society, and each other member society which is his principal, is subject to the rules of such an organisation in carrying on the investment business in respect of which it has accepted responsibility for his activities;except that the powers conferred by virtue of section 67(1)(6) of this Act may on any of the grounds mentioned in sub-paragraph (2) above be exercised in relation to a member society or appointed representative at the request of the organisation in relation to which the society or, as the case may be, the society which is the representative's principal is a member society.
- 24 (1) The Registrar may by notice in writing require any regulated friendly society (other than a member society) or any self-regulating organisation for friendly societies to furnish him with such information as he may reasonably require for the exercise of his functions under this Act.
- (2) The Registrar may require any information which he requires under this paragraph to be furnished within such reasonable time and verified in such manner as he may specify.
- 25 (1) Where a notice or copy of a notice is served on any person under section 60 or section 70 of this Act as they apply by virtue of paragraph 21(2) or 23 above, Chapter IX of Part I of this Act (other than section 96) shall, subject to sub-paragraph (2) below, have effect—
 - (a) with the substitution for the references to the Secretary of State of references to the Registrar; and
 - (b) as if for the references in section 98(4) to sections 28, 33 and 60 of this Act there were substituted references to paragraphs 21, 23, 24, 26 and 27 of this Schedule.
- (2) Where the friendly society in question is an authorised person by virtue of section 25 of this Act the provisions mentioned in subparagraph (1) above shall have effect as if the references substituted by that sub-paragraph had effect in addition to rather than in substitution for the references for which they are there substituted.
- (3) Where the Tribunal reports that the appropriate decision is to take action under paragraph 26 or 27 of this Schedule the Registrar shall take the report into account but shall not be bound to act on it.

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Exercise of powers under enactments relating to friendly societies

- 26 (1) If it appears to the Chief Registrar of friendly societies that a regulated friendly society which is an authorised person by virtue of section 23(1) of this Act—
- (a) has contravened any provision of—
 - (i) this Act or any rules or regulations made under it;
 - (ii) any requirement imposed under paragraph 24 above;
 - (iii) the rules of a recognised self-regulating organisation for friendly societies in relation to which it is a member society; or
 - (b) in purported compliance with any such provision has furnished false, inaccurate or misleading information,
- he may exercise any of the powers mentioned in sub-paragraph (2) below in relation to that society.
- (2) The powers mentioned in sub-paragraph (1) above are those under subsection (1) of section 87 (inspection and winding up of registered friendly societies), subsection (1) of section 88 (suspension of business of registered friendly societies), subsections (1) and (2) of section 89 (production of documents) and subsections (1) and (2) of section 91 (cancellation and suspension of registration) of the Friendly Societies Act 1974 ; and subject to sub-paragraph (3) below the remaining provisions of those sections shall apply in relation to the exercise of those powers by virtue of this paragraph as they do in relation to their exercise in the circumstances mentioned in those sections.
- (3) In its application by virtue of this paragraph—
- (a) section 88 of the said Act of 1974 shall have effect with the omission of subsections (3), (5) and (9); and
 - (b) section 89 of that Act shall have effect with the omission of subsection (7).
- 27 (1) If it appears to the Registrar of Friendly Societies for Northern Ireland that a regulated friendly society which is an authorised person by virtue of section 23(2) of this Act—
- (a) has contravened any provision of—
 - (i) this Act or any rules or regulations made under it;
 - (ii) any requirement imposed under paragraph 24 above;
 - (iii) the rules of a recognised self-regulating organisation for friendly societies in relation to which it is a member society; or
 - (b) in purported compliance with any such provision has furnished false, inaccurate or misleading information,
- he may exercise any of the powers mentioned in sub-paragraph (2) below in relation to that society.
- (2) The powers mentioned in sub-paragraph (1) above are those under subsection (1) of section 77 (inspection and winding up of registered friendly societies), subsection (1) of section 78 (suspension of business of registered friendly societies), subsections (1) and (2) of section 79 (production of documents) and subsections (1) and (2) of section 80 (cancellation and suspension of registration) of the Friendly Societies Act (Northern Ireland) 1970; and subject to sub-paragraph (3) below the remaining provisions of those sections shall apply in relation to the exercise of those powers by virtue of this paragraph as they do in relation to their exercise in the circumstances mentioned in those sections.

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- (3) In its application by virtue of this paragraph section 78 of the said Act of 1970 shall have effect with the omission in subsection (2) of the words from " and such notice " onwards and of subsection (4).