



# Friendly Societies Act 1992

## 1992 CHAPTER 40

An Act to make further provision for friendly societies; to provide for the cessation of registration under the Friendly Societies Act 1974; to make provision about disputes involving friendly societies or other bodies registered under the Friendly Societies Act 1974 and about the functions of the Chief Registrar of friendly societies; and for connected purposes. [16th March 1992]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### Modifications etc. (not altering text)

- C1 Act: functions transferred (18.11.1998) by [S.I. 1998/2842, art. 2, Sch. Pt. II para. 65](#)  
C2 Power to amend conferred (E.W.S.) (7.2.1994) by [1993 c. 48, s.162](#), (with s. 6(8), 164); [S.I. 1994/86, art. 2](#)

## PART I

### THE FRIENDLY SOCIETIES COMMISSION

#### [1] The Friendly Societies Commission.

- (1) For the purposes of this Act and the 1974 Act there shall be established a body of Commissioners to be called the Friendly Societies Commission (in this Act referred to as "the Commission").
- (2) The Commission shall consist of not less than 4 and not more than 10 members to be appointed by the Treasury and the Treasury shall appoint one member to be the chairman, and another member to be the deputy chairman, of the Commission.

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- (3) Any appointment under subsection (2) above may be on either a full-time or a part-time basis.
- (4) The general functions of the Commission shall be—
- (a) to promote the protection by each friendly society of its funds;
  - (b) to promote the financial stability of friendly societies generally;
  - (c) to secure that the purposes of each friendly society are in conformity with this Act and any other enactment regulating the purposes of friendly societies;
  - (d) to administer the system of regulation of the activities of friendly societies; and
  - (e) to advise and make recommendations to the Treasury and other government departments on any matter relating to friendly societies,
- and the Commission shall have the other functions conferred on it by or under this Act or any other Act [<sup>F1</sup>or any provisions of the law of an EEA State other than the United Kingdom which give effect to the general insurance or life Directives]].
- [<sup>F1</sup>(4A) There shall be conferred on the Commission by virtue of this subsection any functions required to be conferred on it by the general insurance or life Directives.]
- (5) The Commission shall have power to do anything which is calculated to facilitate the discharge of its functions, or is incidental or conducive to their discharge.
- (6) The functions of the Commission, and of its officers and employees, shall be performed on behalf of the Crown.
- (7) The Treasury may by order transfer some or all of the functions of the Commission to such other person or body as the order may specify.
- (8) Without prejudice to the generality of section 121(3) below, an order under this section may in consequence of the transfer—
- (a) amend any enactment or instrument;
  - (b) direct that the Commission shall cease to exist on a day specified in the order.
- (9) Schedule 1 to this Act shall have effect with respect to the Commission.

#### Textual Amendments

**F1** Words in s. 1(4) inserted (1.9.1994) by S.I. 1994/1984 reg. 3(1)  
S. 1(4A) added (1.9.1994) by S.I. 1994/1984 reg. 3(2)

#### Commencement Information

**II** Ss. 1-4 wholly in force at 8.6.1992 see s. 126(2) and S.I. 1992/1325, art. 2(a).

## [2] Financial provision for Commission.

- (1) There shall be charged on friendly societies such a general charge towards the expenses of the Commission and such fees in respect of the exercise of its functions as are authorised under this section.
- (2) The Treasury may, by regulations, make provision for—
- (a) a general charge to be levied on friendly societies with respect to each accounting year of the Commission and to be paid at such rate computed

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- by reference to such criteria, at such time and in such manner as may be prescribed by the regulations; and
- (b) fees of such amounts as may be so prescribed to be paid by friendly societies in respect of the exercise of the Commission's functions in relation to them.
- (3) The provision to be made from time to time under subsection (2) above, by way of the general charge and fees, shall be such as to produce an annual revenue of the Commission sufficient to meet its expenses properly chargeable to revenue account, taking one year with another.
- (4) Regulations under subsection (2) above may include provision for any fees payable by societies to be reduced or for payment of any fees to be waived by the Commission in circumstances determined by or under the regulations.
- (5) The amounts received by the Commission under this section shall be applied as an appropriation in aid of money provided by Parliament for the expenses of the Commission, and in so far as not so applied, shall be paid into the Consolidated Fund.
- (6) In this Part of this Act "accounting year", in relation to the Commission, means the period of 12 months ending with 31st March in any year, except that the Commission's first accounting year shall end on 31st March 1993.

#### Commencement Information

**I2** Ss. 1-4 wholly in force at 8.6.1992 see s. 126(2) and S.I. 1992/1325, art. 2(a).

### 3 Accounts of Commission and audit.

- (1) The Commission shall keep proper accounts and proper accounting records and shall prepare in respect of each accounting year a statement of accounts in such form as the Treasury may direct.
- (2) The statement of the accounts required by subsection (1) above may be combined with the statement of the accounts of the Chief Registrar which he is required to prepare as regards his functions.
- (3) The Commission shall send to the Treasury and to the Comptroller and Auditor General, before the end of the period of seven months after the end of each accounting year, a copy of the statement of accounts for that year.
- (4) The Comptroller and Auditor General shall examine, certify and report on every statement of accounts received by him from the Commission and shall lay a copy of the statement and of his report thereon before each House of Parliament.

#### Commencement Information

**I3** Ss. 1-4 wholly in force at 8.6.1992 see s. 126(2) and S.I. 1992/1325, art. 2(a).

### 4 Annual and other reports.

- (1) It shall be the duty of the Commission to lay before the Treasury and before Parliament as soon as possible after the end of each accounting year a report on the discharge of its functions during that year.

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- (2) The Commission may lay before Parliament from time to time such other reports relating to the discharge of its functions, whether in relation to friendly societies generally or a particular friendly society, as it thinks fit.]

**Commencement Information**

**I4** Ss. 1-4 wholly in force at 8.6.1992 see s. 126(2) and S.I. 1992/1325, art. 2(a).

**PART II**

INCORPORATED FRIENDLY SOCIETIES

*Constitution and purposes of incorporated friendly societies*

**5 Establishment of incorporated friendly societies.**

- (1) This Part of this Act has effect—
- (a) to enable societies to be established in accordance with this Act and to be registered and incorporated under it; and
  - (b) to enable friendly societies registered under the 1974 Act to be registered and incorporated under this Act.
- (2) A society may be established under this Act if under its proposed memorandum—
- (a) its purposes are to include the carrying on of one or more activities falling within Head A, B, C or D of Schedule 2 to this Act;
  - (b) any such activity—
    - (i) is to be carried on by the society with a view to the provision, for its members and such persons connected with its members as may be prescribed in its rules, of insurance or other benefits; and
    - (ii) is to be funded by voluntary subscriptions from members of the society, with or without donations; and
  - (c) any other purposes which it is to have are within the permitted capacity of incorporated friendly societies under this Act.
- (3) A society established under this Act is incorporated as from the date of its registration under this Act by the central office.
- (4) The Commission may by order made with the consent of the Treasury vary Schedule 2 to this Act by adding to or deleting, or by varying the description of, any activity for the time being specified in it.
- (5) No such order shall be made unless a draft of the order has been laid before and approved by a resolution of each House of Parliament.
- (6) Schedule 3 to this Act shall have effect in relation to—
- (a) the procedure for registration of societies as societies incorporated under this Act (in this Act referred to as “incorporated friendly societies”);
  - (b) the memorandum of the purposes and extent of the powers of, and the rules for the regulation of, such societies,
  - (c) the name and registered office of such societies,

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and certain incidents of membership of incorporated friendly societies.

- (7) In this Part of this Act references to the permitted capacity of incorporated friendly societies under this Act are to the capacity to carry on all the activities mentioned in section 7(2) below.

## **6 Incorporation of registered friendly societies.**

- (1) A registered friendly society may be registered and incorporated under this Act if—
- (a) the conditions mentioned in section 5(2) above are satisfied by reference to the society's proposed memorandum; and
  - (b) the society complies with the requirements in Schedule 3 to this Act which are applicable to its registration under this Act;
- and such a society is so incorporated as from the date of its registration by the central office.
- (2) On the incorporation of a registered friendly society all property held immediately before incorporation by any person in trust for the society shall become by virtue of this subsection the property of the society after incorporation.
- (3) After its incorporation the society shall continue to be entitled to all rights and subject to all liabilities to which it was entitled or subject immediately before incorporation.
- (4) On the incorporation of a registered society with registered or unregistered branches—
- (a) all property held immediately before incorporation by any person in trust for any branch of the society, and
  - (b) all rights and liabilities to which any such branch was then entitled or subject, shall, subject to subsection (5) below, become by virtue of this subsection property, rights and liabilities of the society.
- (5) A registered friendly society may (in accordance with paragraph 2 of Schedule 4 to this Act) make a scheme identifying any property, rights or liabilities of any branch of the society which are not to be transferred to the society on its incorporation; and any such property, rights or liabilities shall be excluded from transfer under subsection (4) above.
- (6) On the incorporation of a registered friendly society, its registration under the 1974 Act and that of any registered branch of the society shall be cancelled by the central office.
- (7) Schedule 4 to this Act shall have effect for supplementing this section.

## **7 Purposes and powers of an incorporated friendly society.**

- (1) The purposes of an incorporated friendly society shall be those provided for by the society's memorandum.
- (2) The purposes for which an incorporated friendly society may exist are—
- (a) the carrying on, subject to section 5(2)(b) above, of—
    - (i) any business of any description falling within a class specified in Head A or B or within Head C of Schedule 2 to this Act, or
    - (ii) any activity falling within Head D of that Schedule; and
  - (b) the carrying on, in addition to any business or activity falling within paragraph (a) above, of any of the following, namely—

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- (i) social or benevolent activities in accordance with section 10 below;
- (ii) group insurance business in accordance with section 11 below;
- (iii) reinsurance, in accordance with section 12 below, of risks insured by other friendly societies;
- (iv) control or joint control of bodies corporate in accordance with section 13 below;

and the memorandum of an incorporated friendly society may also confer on the society power to do anything falling within Schedule 5 to this Act.

- (3) The memorandum of an incorporated friendly society may confer on it any other power specified in this Part of this Act, but no such power may be exercised except for carrying out the society's purposes.
- (4) An incorporated friendly society shall, subject to the provisions of this Act, its memorandum and its rules, have any other power which is incidental or conducive to the carrying out of its purposes or for doing anything falling within Schedule 5 to this Act.
- (5) Nothing in this Act shall be taken as preventing an incorporated friendly society from providing in its rules—
  - (a) for such system of representation of the members in the making of decisions by the society as the society may think fit;
  - (b) for the division of the society's members into groups under the control of the society and bound to contribute to the funds of the society but, subject to that, having funds and property of their own vested in trustees and administered by themselves or through their own trustees, officers or committees (and in accordance with their own rules);
  - (c) for the delegation of authority to any such group (or to its committee or any of its officers) to act, within such limits as the society may set, on the society's behalf;

but no such group may do anything on its own account which does not fall [<sup>F2</sup>within section 10 below or] within Head D of Schedule 2 or within Schedule 5 to this Act.

- (6) Schedule 6 to this Act shall have effect in relation to the making of contracts and execution of documents by incorporated friendly societies.

#### **Textual Amendments**

**F2** Words in s. 7(5) inserted (1.8.1996) by S.I. 1996/1188 art. 3

## **8 Effect of the memorandum of an incorporated society.**

- (1) The provisions of the memorandum of an incorporated friendly society are binding upon—
  - (a) each of the members and officers of the society,
  - (b) all persons claiming on account of a member or under its rules,
 and all such members, officers and persons (but no others) shall be taken to have notice of the provisions of the memorandum.
- (2) A person not of a description mentioned in subsection (1)(a) or (b) above who is a party to a transaction with an incorporated friendly society which is within the permitted

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capacity of such societies under this Act is not bound to enquire as to whether the transaction is within the capacity of the society in question.

- (3) Subsection (4) below applies to any act of an incorporated society which is within the permitted capacity of such societies under this Act but is beyond the capacity of the society in question.
- (4) In favour of a person who—
  - (a) is not a person mentioned in subsection (1) above;
  - (b) gives valuable consideration for the act; and
  - (c) does not know that the act is beyond the capacity of the society,any act to which this subsection applies is deemed to be one which is within the capacity of the society to enter into, notwithstanding the provisions of the memorandum.
- (5) Where an incorporated friendly society purports to transfer or grant an interest in property, the fact that the act was beyond the capacity of the society does not affect the title of a person who in good faith subsequently acquires the property or an interest in it for valuable consideration and without actual notice of the circumstances affecting the validity of the society's act.
- (6) Subsection (4) above does not affect—
  - (a) the right of a member of an incorporated friendly society to bring proceedings to restrain the doing of an act (other than an act done in fulfilment of a legal obligation arising from a previous act of the society) which is beyond the capacity of the society;
  - (b) the duty of the committee of management to observe any limitation on their powers flowing from the society's memorandum; or
  - (c) any liability incurred by any person by reason of the society acting beyond its capacity.
- (7) Relief from any liability mentioned in subsection (6)(c) above must be agreed to by special resolution.
- (8) In any proceedings arising out of subsection (4) above, the burden of proving that a person knew that an act was beyond the capacity of the society in question lies on the person making the allegation.
- (9) In this section “transaction” includes any act.

## **9 Effect of the rules of an incorporated society.**

- (1) The provisions of the rules of an incorporated friendly society are binding upon—
  - (a) each of the members and officers of the society,
  - (b) all persons claiming on account of a member or under its rules,and all such members, officers and persons (but no others) shall be taken to have notice of the provisions of the rules.
- (2) A party to a transaction with an incorporated friendly society who is not of a description mentioned in subsection (1)(a) or (b) above is not bound to enquire as to any limitation on the powers of the committee of management to bind the society.
- (3) Subsection (4) below applies in relation to any act of an incorporated friendly society which is, or is deemed by section 8(4) above to be, within the capacity of the society

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and is decided upon by the committee of management acting beyond their powers under the constitution of the society.

- (4) In favour of a person who—
- (a) is not a person mentioned in subsection (1) above;
  - (b) gives valuable consideration for an act to which this subsection applies; and
  - (c) does not know that the act is beyond the powers of the committee of management;
- the power of the committee of management to bind the society shall be deemed free of any limitation in the society's constitution.
- (5) Where an incorporated friendly society purports to transfer or grant an interest in property, the fact that the committee of management acted beyond their powers under the society's constitution does not affect the title of a person who in good faith subsequently acquires the property or an interest in it for valuable consideration and without actual notice of the circumstances (if any) affecting the validity of the society's act.
- (6) Subsection (4) above does not affect—
- (a) the right of a member of an incorporated friendly society to bring proceedings to restrain the doing of an act (other than an act done in fulfilment of a legal obligation arising from a previous act of the society) which is beyond the powers of the committee of management;
  - (b) the duty of the committee of management to act within their powers under the constitution of the society;
  - (c) any liability incurred by any person by reason of the committee of management exceeding their powers.
- (7) Action by the committee of management of an incorporated friendly society which is beyond their powers under the society's constitution but is within its capacity may be ratified by the society in general meeting in such manner as its rules may provide; but relief from any liability mentioned in subsection (6)(c) above must be agreed to by special resolution separate from any resolution ratifying the committee's action.
- (8) In this section—
- (a) references to limitations on the committee's powers under the constitution of the society include limitations deriving from a resolution of the society in general meeting or any agreement between the members of the society; and
  - (b) "transaction" includes any act.
- (9) In any proceedings arising out of subsection (4) above, the burden of proving that a person knew that an act was beyond the powers of the committee of management lies on the person making the allegation.
- (10) This section shall not affect the application, in relation to an incorporated friendly society, of any rule of law relating to the validity of acts which are within the capacity of a body corporate but may have been affected by defects arising from its internal management under its constitution.



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## 10 Social and benevolent activities.

- (1) An incorporated friendly society may include among its purposes the carrying on of any social or benevolent activity which is not inconsistent with the other purposes of the society.
- (2) For the purposes of this section “benevolent activity” means the making of donations, the raising of funds or any other activity carried on for a charitable purpose or for any other benevolent purpose.

## 11 Group insurance.

- (1) An incorporated friendly society may include among its purposes the carrying on of any group insurance business.
- (2) In this Act “group insurance business” means business (carried on in accordance with the society’s rules) which—
  - (a) is of a description falling within Head A, or class 2 of Head B, of Schedule 2 to this Act; and
  - (b) is carried on as the business of providing benefits, in pursuance of a contract with a qualifying person, for or in respect of the members of a group scheme.
- (3) For the purposes of this section—

“group scheme” means a scheme or other arrangement under which benefits are to be provided for or in respect of persons who are members of the scheme and who qualify for membership by virtue of—

  - (a) being employees of a particular employer, or
  - (b) being members of some other group of persons of a description prescribed in regulations under subsection (7) below;

“qualifying person” means a person who has established or is otherwise responsible for the operation of a group scheme or a trustee of such a scheme; and

“member”, in relation to a group scheme, includes any person for or in respect of whom benefits are to be provided under the scheme, whatever the terms in which such persons are described in the scheme.
- (3) Group insurance business may be carried on by an incorporated friendly society whether or not members of the group scheme are, or are required by the society to be, members of the society.
- (4) Where an incorporated friendly society carries on any group insurance business and the rules of the society so provide, any qualifying person with whom the society contracts (or his nominee) may be accorded the rights of a member of the society (including any right to vote) for the purpose of participating in the affairs of the society in the interests of the members of the group scheme with which he is concerned.
- (5) A person who is accorded the rights of a member of a society by virtue of subsection (4) above shall, for the purposes of any power conferred on the Commission by this Act which is exercisable in the interests of members of the society, be treated as if he were a member of the society.
- (6) The rules of an incorporated friendly society may not prevent a person from being a member of the society in his private capacity by reason only of the fact that he has been accorded the rights of a member by virtue of subsection (4) above.

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- (7) The Commission may make regulations specifying the manner in which group insurance business may be carried on by incorporated friendly societies; and such regulations may in particular include limitations or requirements relating to—
- (a) the contracts in pursuance of which group insurance business may be carried on; or
  - (b) the persons with whom, or the groups of persons for whose benefit, such contracts may be made.

## **12 Reinsurance.**

- (1) An incorporated friendly society may include among its purposes the carrying on of any reinsurance business to which subsection (2) below applies to such extent or in such circumstances as may from time to time be approved by the appropriate actuary.
- (2) This subsection applies to business consisting of the effecting and carrying out of contracts of reinsurance of risks which—
  - (a) are insured or to be insured by any other friendly society (whether incorporated or not); and
  - (b) are of a class or part of a class of insurance business which the society carrying on the reinsurance business itself carries on.
- (3) An incorporated friendly society which carries on any insurance business may provide in its rules for the reinsurance to such extent as may from time to time be approved by the appropriate actuary of any risks against which persons are or are to be insured by the society.

## **13 Control of subsidiaries and other bodies corporate.**

- (1) Subject to the following provisions of this section, an incorporated friendly society may include among its purposes any of the following activities—
  - (a) forming subsidiaries;
  - (b) taking part with others in forming bodies corporate to be jointly controlled by it;
  - (c) otherwise acquiring, or keeping, control or joint control of bodies corporate.
- (2) An incorporated friendly society may form or take part in forming or may otherwise acquire control or joint control of the following bodies corporate (referred to as “qualifying bodies”) but no others—
  - (a) companies whose objects are limited to the carrying on of any one or more of the activities specified in Schedule 7 to this Act; and
  - (b) bodies formed in another member State whose purposes are limited to the carrying on of any one or more of those activities in another member State.
- (3) A company or other body corporate is not a qualifying body if its objects or purposes enable it to form or take part in forming or otherwise to acquire control or joint control of bodies corporate.
- (4) An incorporated friendly society may not take part in forming or acquire control of a body corporate jointly with any person other than another incorporated friendly society without the consent of the Commission.

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- (5) The Commission may give consent without conditions or subject to such conditions as it thinks fit.
- (6) Any alteration of the memorandum of an incorporated friendly society to include among its purposes and powers the carrying on of any activity such as is mentioned in subsection (1) above must be adopted by a special resolution of the society in general meeting; and any amendment of a provision in its memorandum which permits it to do so must also be so adopted.
- (7) A registered friendly society may not include in a memorandum adopted for the purposes of paragraph 2(1)(c) of Schedule 3 to this Act any provision enabling it on incorporation to carry on any activity such as is mentioned in subsection (1) above unless its inclusion has been authorised by a special resolution of the society in general meeting.
- (8) The Commission may by order made with the consent of the Treasury vary Schedule 7 to this Act by adding to or deleting from it any activity or by varying the description of any activity for the time being specified in it.
- (9) For the purposes of this Act—
- (a) an incorporated friendly society has control of a body corporate if the society—
    - (i) holds a majority of the voting rights in it; or
    - (ii) is a member of it and has the right to appoint or remove a majority of its board of directors; or
    - (iii) is a member of it and controls alone, pursuant to an agreement with other shareholders or members, a majority of the voting rights in it;
  - (b) a body corporate is a subsidiary of an incorporated friendly society if the society has control of it.
  - (c) an incorporated friendly society has joint control of a body corporate if, in pursuance of an agreement or other arrangement between them, the society and another person—
    - (i) hold a majority of the voting rights in that body; or
    - (ii) are members of it and together have the right to appoint or remove a majority of its board of directors; or
    - (iii) are members of it and alone control, pursuant to an agreement with other shareholders or members, a majority of the voting rights in it;
  - (d) a body corporate is a body jointly controlled by an incorporated friendly society if the society has joint control of it;
- and a society acquires joint control whenever any of the conditions mentioned in paragraph (c) above are satisfied with respect to a body corporate, notwithstanding that it may already be a subsidiary of the society.
- (10) Schedule 8 to this Act shall have effect for supplementing this section.
- (11) In this section “company” means a company within the meaning of the <sup>M1</sup>Companies Act 1985 or the <sup>M2</sup>Companies (Northern Ireland) Order 1986.

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**Marginal Citations**

**M1** 1985 c. 6.

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**M2** S.I. 1986/1032 (N.I.6).

### *Powers of incorporated friendly societies*

#### **14 Investment of funds.**

- (1) An incorporated friendly society may invest its funds—
  - (a) in the purchase of land, or in the erection of offices or other buildings thereon;
  - (b) upon any other security expressly directed by the rules of the society, other than personal security (but without prejudice to any provision of this Act relating to loans); or
  - (c) in any other investment of a kind which trustees are for the time being by law authorised to make.
- (2) An incorporated friendly society which falls within subsection (3) or (4) below may also invest the funds of the society in any other manner authorised by its constitution.
- (3) An incorporated friendly society falls within this subsection if—
  - (a) it is a society to which section 48 below applies; and
  - (b) it maintains the margin of solvency which it is required to maintain by virtue of that section.
- (4) An incorporated friendly society falls within this subsection if—
  - (a) it carries on insurance business in the United Kingdom;
  - (b) section 48 below does not apply to it; and
  - (c) it maintains a margin of solvency of such amount as may be prescribed by or determined in accordance with regulations made for the purposes of this section.
- (5) Once a society falls within subsection (3) or (4) above, it shall be treated as continuing to do so for the purposes of subsection (2) above unless the Commission serves a notice under subsection (6) below on it.
- (6) Where it appears to the Commission that an incorporated friendly society has ceased to fall within subsection (3) or (4) above, it shall serve on the society a notice stating that fact.
- (7) The powers of investment of a society on which a notice is served under subsection (6) above shall accordingly, until the notice is revoked under subsection (10) below, be limited to investment falling within subsection (1) above.
- (8) A notice under subsection (6) above may direct a society to dispose of an investment which it could not have acquired except under subsection (2) above.
- (9) Subject to subsection (8) above, a society may retain any investment which it could only have acquired under subsection (2) above.
- (10) The Commission may, by a subsequent notice to the society, revoke a notice under this section at any time when it appears to it that the society again falls within subsection (3) or (4) above.
- (11) On serving a notice under subsection (6) or (10) above on a society the Commission shall send a copy of it to the central office.

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(12) The central office shall keep a copy of such a notice in the public file of the society.

### **15 Holding of land for purposes other than investment.**

An incorporated friendly society may acquire and hold land—

- (a) for the purpose of carrying on any of its activities; or
- (b) for the purpose of enabling a subsidiary of the society, or a body jointly controlled by it, to conduct its business;

and may dispose of, or otherwise deal with, any land so held by it.

### **16 Assistance to subsidiaries and jointly controlled bodies.**

(1) An incorporated friendly society may provide its subsidiaries or bodies which it jointly controls with any of the following services—

- (a) loans of money, with or without security and whether or not at interest;
- (b) the use of services or property, whether or not for payment;
- (c) grants of money, whether or not repayable; and
- (d) guarantees of the discharge of their liabilities.

(2) An incorporated friendly society may make payments towards the discharge of the liabilities of any of its subsidiaries.

### **17 Loans to assured members.**

(1) An incorporated friendly society may advance to a member of at least one full year's standing any sum not exceeding one half of the amount of an assurance of his life, on the written security of himself and two satisfactory sureties or, in Scotland, cautioners for repayment.

(2) The amount so advanced, with all interest on it, may be deducted from the sum assured, without prejudice in the meantime to the operation of the security.

(3) A person's membership of a registered friendly society before the society's incorporation is to be taken into account in calculating his standing for the purposes of this section.

### *Benefit terms*

### **18 Terms on which benefits are available.**

(1) The terms on which an incorporated friendly society provides any benefit shall be—

- (a) specified in its rules; or
- (b) determined in a manner specified in its rules.

(2) If the terms on which a benefit is provided are not specified in the society's rules, the society—

- (a) shall make copies of them available free of charge to members of the society at every office of the society; and
- (b) shall send, free of charge, copies of them to any member of the society who demands them.

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- (3) If, on demand made of it under subsection (2) above, a society fails, in accordance with that subsection, to make available or, as the case may be, within 7 days of the demand, to send to a person a copy of the terms on which a benefit is provided, the society shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (4) Schedule 9 to this Act shall have effect in relation to nominations by members of incorporated friendly societies and related matters.

### *Dissolution and winding up*

## **19 Modes of dissolution and winding up.**

- (1) An incorporated friendly society—
  - (a) may be dissolved by consent of the members; or
  - (b) may be wound up voluntarily or by the court,
 in accordance with this Part of this Act; and an incorporated friendly society may not, except where it is dissolved by virtue of section 85(4), 86(5) or 90(9) below, be dissolved or wound up in any other manner.
- (2) An incorporated friendly society which is in the course of dissolution by consent, or is being wound up voluntarily, may be wound up by the court.

## **20 Dissolution by consent.**

- (1) An incorporated friendly society may be dissolved by an instrument of dissolution.
- (2) An instrument of dissolution shall only have effect if it is approved by special resolution.
- (3) An instrument of dissolution shall set out—
  - (a) the liabilities and assets of the society in detail;
  - (b) the number of members, and the nature of their interests in the society;
  - (c) the claims of creditors, and the provision to be made for their payment;
  - (d) the intended appropriation or division of the funds and property of the society;
  - (e) the names of one or more persons to be appointed as trustees for the purposes of the dissolution, and their remuneration.
- (4) An instrument of dissolution may be altered, but the alteration shall only have effect if it is approved by special resolution.
- (5) The provisions of this Act shall continue to apply in relation to an incorporated friendly society as if the trustees appointed under the instrument of dissolution were the committee of management of the society.
- (6) The trustees shall—
  - (a) within 15 days of the passing of a special resolution approving an instrument of dissolution, give notice to the central office of the fact and the date of commencement of the dissolution, enclosing a copy of the instrument; and
  - (b) within 15 days of the passing of a special resolution approving an alteration of such an instrument, give notice to the central office of the fact, enclosing a copy of the altered instrument;

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and if the trustees fail to comply with this subsection, they shall each be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

- (7) An instrument of dissolution or an alteration to such an instrument shall be binding on all members of the society as from the date on which the copy of the instrument or altered instrument, as the case may be, is placed on the public file of the society under subsection (12) below.
- (8) The trustees shall, within 28 days from the termination of the dissolution, give notice to the central office of the fact and the date of the termination, enclosing an account and balance sheet signed and certified by them as correct, and showing—
  - (a) the assets and liabilities of the society at the commencement of the dissolution; and
  - (b) the way in which those assets and liabilities have been applied and discharged.
- (9) If the trustees fail to comply with subsection (8) above they shall each be guilty of an offence and liable on summary conviction—
  - (a) to a fine not exceeding level 2 on the standard scale; and
  - (b) in the case of a continuing offence, to an additional fine not exceeding one-tenth of that level for every day during which the offence continues.
- (10) Except with the consent of the Commission, no instrument of dissolution or alteration to such an instrument shall be of any effect if the purpose of the proposed dissolution or alteration is to effect or facilitate the transfer of the society's engagements to any other friendly society or to a company.
- (11) Any provision in a resolution or document that members of an incorporated friendly society proposed to be dissolved shall accept membership of some other body in or towards satisfaction of their rights in the dissolution shall be conclusive evidence of such purpose as is mentioned in subsection (10) above.
- (12) The central office shall keep in the public file of the society any notice or other document received by it under subsection (6) or (8) above and shall record in that file the date on which the notice or document is placed in it.

## **21 Voluntary winding up.**

- (1) An incorporated friendly society may be wound up voluntarily under the applicable winding up legislation if it resolves by special resolution that it be wound up voluntarily.
- (2) A copy of any special resolution passed for the voluntary winding up of an incorporated friendly society shall be sent by the society to the central office within 15 days after it is passed; and the central office shall keep the copy in the public file of the society.
- (3) A copy of any such resolution shall be annexed to every copy of the memorandum or of the rules issued after the passing of the resolution.
- (4) If an incorporated friendly society fails to comply with subsection (2) or (3) above, the society shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

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- (5) For the purposes of this section, a liquidator of the society shall be treated as an officer of it.

## **22 Winding up by court: grounds and petitioners.**

- (1) An incorporated friendly society may be wound up under the applicable winding up legislation by the court on any of the following grounds, that is to say, if—
- (a) the society has by special resolution resolved that it be wound up by the court;
  - (b) the number of members is reduced below 7;
  - (c) the number of members of the committee of management is reduced below 2;
  - (d) the society has not commenced business within a year from its incorporation or has suspended its business for a whole year;
  - (e) the society exists for an illegal purpose;
  - (f) the society is unable to pay its debts; or
  - (g) the court is of the opinion that it is just and equitable that the society should be wound up.
- (2) Except as provided by subsection (3) below or the applicable winding up legislation, a petition for the winding up of an incorporated friendly society may be presented by—
- (a) the Commission;
  - (b) the society or its committee of management;
  - (c) any creditor or creditors (including any contingent or any prospective creditor); or
  - (d) any contributory or contributories,
- or by all or any of those parties, together or separately.
- (3) A contributory may not present a petition unless the number of members is reduced below 7 or he has been a contributory for at least six months before the winding up.
- (4) In this section “contributory” has the meaning assigned to it by paragraph 9 of Schedule 10 to this Act.

## **23 Application of winding up legislation to incorporated friendly societies.**

- (1) In this section “the companies winding up legislation” means the enactments applicable in relation to England and Wales, Scotland and Northern Ireland which are specified in paragraph 1 of Schedule 10 to this Act (including any enactment which creates an offence by any person arising out of acts or omissions occurring before the commencement of the winding up).
- (2) In its application to the winding up of an incorporated friendly society, by virtue of section 21(1) or 22(1) above, the companies winding up legislation shall have effect with the modifications effected by Parts I to III of Schedule 10 to this Act; and the supplementary provisions of Part IV of that Schedule also have effect in relation to such a winding up and in relation to a dissolution by consent.
- (3) In section 21 and 22 above “the applicable winding up legislation” means the companies winding up legislation as so modified.



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## 24 Continuation of long term business.

- (1) This section has effect in relation to the winding up of an incorporated friendly society which carries on long term business (including any reinsurance business).
- (2) The liquidator shall, unless the court otherwise orders, carry on the long term business of the society with a view to its being transferred as a going concern under this Act; and, in carrying on that business, the liquidator may agree to the variation of any contracts of insurance in existence when the winding up order is made but shall not effect any new contracts of insurance.
- (3) If the liquidator is satisfied that the interests of the creditors in respect of liabilities of the society attributable to its long term business require the appointment of a special manager of the society's long term business, he may apply to the court, and the court may on such application appoint a special manager of that business to act during such time as the court may direct, with such powers (including any of the powers of a receiver or manager) as may be entrusted to him by the court.
- (4) Section 177(5) of the <sup>M3</sup>Insolvency Act 1986 or, as the case may be, Article 151 of the <sup>M4</sup>Insolvency (Northern Ireland) Order 1989 shall apply to a special manager appointed under subsection (3) above as it applies to a special manager appointed under that section or that Article.
- (5) The court may, if it thinks fit and subject to such conditions (if any) as it may determine, reduce the amount of the contracts made by the society in the course of carrying on its long term business.
- (6) The court may, on the application of the liquidator, a special manager appointed under subsection (3) above or the Commission appoint an independent actuary to investigate the long term business of the society and to report to the liquidator, the special manager or the Commission, as the case may be, on the desirability or otherwise of that business being continued and on any reduction in the contracts made in the course of carrying on that business that may be necessary for its successful continuation.

### Marginal Citations

**M3** 1986 c. 45.

**M4** S.I.1989/2405 (N.I.19).

## 25 Power of court to declare dissolution void.

- (1) Where an incorporated friendly society has been dissolved under section 20 above or following a winding up, the court may, at any time within 12 years after the date on which the society was dissolved, make an order under this section declaring the dissolution to have been void.
- (2) An order under this section may be made, on such terms as the court thinks fit, on an application by the trustees under section 20 above or the liquidator, as the case may be, or by any other person appearing to the court to be interested.
- (3) When an order under this section is made, such proceedings may be taken as might have been taken if the society had not been dissolved.

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- (4) The person on whose application the order is made shall, within 7 days of its being so made, or such further time as the court may allow, furnish the central office with a copy of the order; and the central office shall keep the copy in the public file of the society.
- (5) If a person fails to comply with subsection (4) above, he shall be guilty of an offence and liable on summary conviction—
  - (a) to a fine not exceeding level 3 on the standard scale; and
  - (b) in the case of a continuing offence, to an additional fine not exceeding one-tenth of that level for every day during which the offence continues.
- (6) In this section “the court” means—
  - (a) in relation to a society whose registered office is in England and Wales, the High Court;
  - (b) in relation to a society whose registered office is in Scotland, the Court of Session; and
  - (c) in relation to a society whose registered office is in Northern Ireland, the High Court in Northern Ireland.

## 26 Cancellation of registration.

- (1) Where the central office is satisfied that an incorporated friendly society has been dissolved under section 20 above or following a winding up, the central office shall cancel the society’s registration under this Act.
- (2) Where the central office is satisfied, with respect to an incorporated friendly society—
  - (a) that a certificate of incorporation has been obtained for the society by fraud or mistake; or
  - (b) that the society has ceased to exist,  
<sup>[F3</sup>or
  - (c) in the case of a society to which section 37(2) or (3) below applies, that the principal place of business of the society is outside the United Kingdom,] the central office may cancel the registration of the society.
- (3) Without prejudice to subsection (2) above, the central office may, if it thinks fit, cancel the registration of an incorporated friendly society at the request of the society, evidenced in such manner as the central office may direct.
- (4) Before cancelling the registration of an incorporated friendly society under subsection (2) above, the central office shall give to the society not less than two months’ previous notice, specifying briefly the grounds of the proposed cancellation.
- (5) Where the registration of an incorporated friendly society is cancelled under subsection (2) above, the society may appeal—
  - (a) where the registered office of the society is situated in England and Wales, to the High Court;
  - (b) where that office is situated in Scotland, to the Court of Session; or
  - (c) where that office is situated in Northern Ireland, to the High Court in Northern Ireland;
 and on any such appeal the court may, if it thinks it just to do so, set aside the cancellation.

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- (6) Where the registration of a society is cancelled under subsection (2) or (3) above, then, subject to the right of appeal under subsection (5) above, the society, so far as it continues to exist, shall cease to be a society incorporated under this Act.
- (7) Subsection (6) above shall not affect any liability actually incurred by an incorporated friendly society; and any such liability may be enforced against the society as if the cancellation had not taken place.
- (8) Any cancellation of the registration of an incorporated friendly society under this section shall be effected in writing signed by the central office.
- (9) As soon as practicable after the cancellation of the registration of an incorporated friendly society under this section the central office shall cause notice thereof to be published in the London Gazette, the Edinburgh Gazette or the Belfast Gazette according to the situation of the society's registered office, and if it thinks fit, in one or more newspapers.

#### Textual Amendments

- F3** S. 26(2)(c) and the word "or" immediately preceding it inserted (18.7.1996) by S.I. 1996/1669, reg. 14(1)

## PART III

### MANAGEMENT AND ADMINISTRATION

#### *Committee of management and other officers*

#### **27 Committee of management.**

- (1) Every friendly society shall have a committee of management with at least 2 members.
- (2) The committee of management shall appoint one of its members to be chairman of the committee.
- (3) Members of the committee of management shall (unless co-opted on to the committee) be elected to office in accordance with the rules of the society.
- (4) The committee of management may co-opt as a member of the committee (whether as an additional member or to fill any vacancy) any person—
  - (a) who appears to the committee to be fit and proper to be a member, and
  - (b) who has not failed, having been nominated at an election held within the preceding 12 months, to be elected as a member of the committee;and such a person may be co-opted notwithstanding that he is not a member of the society.
- (5) Part I of Schedule 11 to this Act shall have effect in relation to committees of management and Part II shall have effect with regard to dealings with members of committees of management of friendly societies and registered branches.

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#### Commencement Information

- 15** S. 27 wholly in force; s. 27 not in force at Royal Assent see s. 126(2); s. 27 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; s. 27(5) in force to the extent specified for all remaining purposes at 13.9.1993 by S.I. 1993/2213, art. 2(1), Sch. 2; s. 27 in force to the extent not already in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

### 28 Chief executive and secretary.

- (1) Every friendly society shall have a chief executive and a secretary.
- (2) The chief executive of a friendly society shall be a person appointed by the committee of management who (whether alone or jointly with one or more other persons) is responsible under the immediate authority of the committee for the conduct of the business of the society.
- (3) The secretary of a friendly society shall be appointed by the committee of management or, if the rules of the society so provide, elected to office in accordance with the rules.
- (4) The committee of management of a friendly society shall take all reasonable steps to secure that the person appointed as chief executive has the requisite knowledge and experience to discharge the functions of his office.
- (5) The offices of chief executive and secretary may be held by the same person.
- (6) Anything required or authorised to be done by or to the secretary or chief executive of a friendly society may, if the office is vacant or there is for any other reason no secretary or chief executive capable of acting, be done by or to—
  - (a) any assistant or deputy secretary or assistant or deputy chief executive, as the case may be; or
  - (b) if there is no assistant or deputy capable of acting, any member of the society's staff who is authorised generally or specially for that purpose by the committee of management.

#### Commencement Information

- 16** S. 28 wholly in force; s. 28 not in force at Royal Assent see s. 126(2); s. 28 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; s. 28 in force to the extent not already in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

### 29 Notification of officers to central office.

- (1) Where a person becomes or ceases to be a member of the committee of management of a friendly society, the society shall within one month give notice of that fact, including the information specified in subsection (2) below, to the central office.
- (2) The notice shall state the person's full name and address and the date on which he became, or ceased to be, a member of the committee and, in the case of a person becoming a member, the date of his birth.
- (3) Where a person becomes or ceases to be the chief executive or the secretary of a friendly society, the society shall within one month give notice of that fact to the central

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office, stating the person's full name and address and the date on which he became, or ceased to be, chief executive or secretary.

- (4) If a friendly society fails to comply with subsection (1) or (3) above, it shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (5) On receipt of a notice under this section, the central office shall record the name of the person to whom the notice relates and the date on which he began to hold, or, as the case may be, ceased to hold office, in the public file of the society.

#### Commencement Information

- 17** S. 29 wholly in force; s. 29 not in force at Royal Assent see s. 126(2); s. 29 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; s. 29 in force to the extent not already in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

### *Meetings and resolutions*

## **30 Meetings and resolutions.**

Schedule 12 to this Act shall have effect with respect to meetings and resolutions of friendly societies and registered branches.

#### Commencement Information

- 18** S. 30 wholly in force; s. 30 not in force at Royal Assent see s. 126(2); s. 30 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; s. 30 in force to the extent specified for all remaining purposes at 13.9.1993 by S.I. 1993/2213, art. 2(1), Sch. 2; s. 30 in force to the extent not already in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

## **PART IV**

### **AUTHORISATION OF FRIENDLY SOCIETIES' BUSINESS**

#### *Restriction on carrying on unauthorised business*

## **31 Restriction on carrying on unauthorised insurance or non-insurance business.**

- (1) Subject to subsections (2) and (3) below, a friendly society shall not carry on in the United Kingdom any insurance business or non-insurance business unless it is authorised by the Commission to do so.
- (2) A friendly society which—
  - (a) carried on, before the commencement of this section—
    - (i) insurance business of any description that did not require to be authorised under the 1987 Regulations; or
    - (ii) non-insurance business of any description; and

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- (b) is not authorised by the Commission to carry on business of that description after that commencement,  
 may carry on without authorisation business of that description consisting of the carrying out of contracts effected by the society before that commencement.
- (3) A friendly society may without authorisation effect an insurance contract, or a contract for non-insurance benefits, in pursuance of a term in a subsisting contract which the society may, by virtue of subsection (2) above, carry out without authorisation.
- (4) A friendly society which carries on any business in contravention of subsection (1) above shall be guilty of an offence and liable—
  - (a) on conviction on indictment, to a fine;
  - (b) on summary conviction, to a fine not exceeding the statutory maximum.

#### Commencement Information

**I9** S. 31 wholly in force 1.4.1995; s. 31 not in force at Royal Assent see s.126(2); s. 31 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; s. 31 in force for certain purposes at 1.1.1994 by S.I. 1993/2213, art. 2(2)(3); s. 31 in force for certain purposes at 1.7.1994 by S.I. 1993/2213, art. 2(4); s. 31 in force for certain purposes at 1.1.1995 by S.I. 1993/3226, art. 2(2); S. 31 in force for certain purposes at 1.11.1994 and for all remaining purposes at 1.4.1995 by S.I. 1994/2543 arts. 2(1), (2)

#### *Authorisation to carry on business*

### 32 Grant of authorisation by Commission: general.

- (1) The Commission may, subject to this Part of this Act, authorise friendly societies to carry on in the United Kingdom any class, or any part of a class, of insurance business and any description of non-insurance business.
- (2) Where, on an application duly made under this section or section 33 below, the Commission determines to grant authorisation to a friendly society, it shall do so in writing in terms specifying—
  - (a) each class of insurance business,
  - (b) in relation to any class of such business the whole of which is not covered, each part of the class, and
  - (c) each description of non-insurance business,
 the carrying on of which is covered by the authorisation.
- (3) Authorisation may be restricted to industrial assurance business; and a friendly society is not authorised to carry on industrial assurance business unless the terms of its authorisation expressly specify such business.
- [<sup>F4</sup>(4) Authorisation entitles a friendly society to carry on business anywhere in the United Kingdom unless, in the case of a society which is not one to which section 37(2) or (3) below applies, the terms of its authorisation are at its request expressly restricted to a part of the United Kingdom.]
- (5) Authorisation may be granted to a friendly society unconditionally or subject to written conditions to be complied with by the society as provided by section 34 below.

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- (6) Schedule 13 to this Act shall have effect in relation to the making and determination of applications for authorisation, the imposition of conditions and the withdrawal of authorisation.
- (7) An authorisation granted to a friendly society by the Chief Registrar under regulation 5 or 6 of the 1987 Regulations which is in force immediately before the commencement of section 31 above shall have effect as if it were an authorisation granted by the Commission under this section which authorised the society to carry on insurance business of such classes (or such parts of classes) as correspond to the business specified in the authorisation.
- (8) Where an application for authorisation under the 1987 Regulations has not been decided before the commencement of subsection (1) above, the Chief Registrar shall send to the Commission the information submitted by the society or otherwise received by him in relation to the application; and the application shall be treated as being an application under this section.
- (9) In this Part of this Act “authorisation” (except where the context otherwise requires) means an authorisation which is granted by the Commission under this section or deemed by this section to have been so granted; and “authorise” and “authorised” shall be construed accordingly.

#### Textual Amendments

**F4** S. 32(4) substituted (1.9.1994) by S.I. 1994/1984 reg. 4

#### Commencement Information

**I10** S. 32 wholly in force; s. 32 not in force at Royal Assent see s. 126(2); s. 32 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; s. 32(1)-(6)(8)-(9) in force for all remaining purposes at 13.9.1993 by S.I. 1993/2213, art. 2(1), Sch. 2; s. 32(7) in force for all remaining purposes at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

### 33 Applications from certain existing friendly societies.

- (1) A friendly society which—
  - (a) is not authorised and has not made any previous application for authorisation;
  - (b) was, before the commencement of section 32 above, carrying on in the United Kingdom any insurance or non-insurance business; and
  - (c) was, immediately before that commencement, neither required to be authorised under the 1987 Regulations nor subject to an order under section [F578(1) of the 1970 Act] (power of Chief Registrar to suspend business of friendly societies);may apply under this section for authorisation to continue to carry on any business it was carrying on before that commencement.
- (2) If the Commission is satisfied, on an application duly made under this section—
  - (a) that it has received adequate information about the society; and
  - (b) that there is no reason to believe that the interests of the members of the society require refusal of the application;it shall, subject to section 37 below, authorise the society to carry on any class (or part of a class) of insurance business, and any description of non-insurance business,



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which corresponds to any business carried on by the society immediately before the commencement of section 32 above.

#### Textual Amendments

**F5** Words in s. 33(1)(c) substituted (1.1.1994) by S.I. 1993/3226, art. 3, Sch.3

#### Commencement Information

**I11** S. 33 wholly in force; s. 33 not in force at Royal Assent see s. 126(2); s. 33 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; s. 33 in force for all remaining purposes at 13.9.1993 by S.I. 1993/2213, art. 2(1), Sch. 2

### 34 Grant of unconditional or conditional authorisation.

(1) On an application duly made by a friendly society (“the society”), the Commission shall, subject to section 37 below, grant unconditional or conditional authorisation, or refuse to grant authorisation, in accordance with the following provisions of this section.

[<sup>F6</sup>(1A) The Commission shall refuse to grant authorisation to a society which is or, if authorisation were granted, would be a society to which section 37(2) or (3) below applies if it appears to the Commission that the principal place of business of the society is outside the United Kingdom.

<sup>F6</sup>(1B) The Commission shall also refuse to grant authorisation to a society which is or, if authorisation were granted, would be a society to which section 37(2) or (3) below applies if it appears to the Commission that—

- (a) the society is an undertaking which is closely linked with any person; and
- (b) the society’s close links with that person, or any matters relating to any non-EEA laws or administrative provisions to which that person is subject, are such as would prevent the effective exercise by the Commission of its functions under this Act in relation to the society;

and in this subsection “non-EEA laws” means laws of a country or territory outside the European Economic Area and “non-EEA administrative provisions” shall be construed accordingly.]

(2) [<sup>F6</sup>Subject to subsections (1A) and (1B) above,]The Commission shall grant unconditional authorisation if it is satisfied that—

- (a) the chairman of the committee of management, the secretary and the chief executive of the society are each fit and proper persons to hold their respective offices [<sup>F7</sup>and, in the case of a society to which section 37(2) or (3) below applies, each controller of the society is a fit and proper person to be such a controller];
- (b) the members of the committee of management, with the secretary and chief executive, have the capacity and intention to direct the affairs of the society in accordance with the criteria of prudent management;
- (c) the society is likely to comply with any requirements of this Act which relate to the business to be covered by the authorisation; and
- (d) the interests of the members of the society will be adequately protected without the imposition of conditions.



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- (3) Subject to subsection (4) below, if the Commission is not satisfied as mentioned in subsection (2) above, it shall refuse to grant authorisation.
- (4) [<sup>F6</sup>Subject to subsections (1A) and (1B) above,] Where the Commission is not satisfied as mentioned in subsection (2)(b), (c) and (d) above but is satisfied that the imposition of conditions will secure—
- (a) the direction of the affairs of the society in accordance with the criteria of prudent management;
  - (b) the likelihood of compliance by the society with any requirements of this Act which relate to the business to be covered by the authorisation; and
  - (c) the adequate protection of the interests of the members of the society,
- it shall grant authorisation subject to such conditions as it thinks fit for securing those objects.
- (5) The conditions that may be so imposed may—
- (a) relate to any class (or part of a class) or description of business in respect of which authorisation is sought;
  - (b) require the society to take steps or to refrain from adopting a particular course of action or to restrict the scope of its business in a particular way;
  - (c) require the society to take steps with regard to the activities of any subsidiary or body jointly controlled by the society.
- (6) Without prejudice to the generality of subsection (5) above, conditions imposed under subsection (4) above may—
- (a) impose limitations on the effecting of contracts of insurance or contracts for non-insurance benefits or the accepting of new members;
  - (b) require the removal of an officer of the society or of any registered branch;
  - (c) where the society has branches, require the society to take steps with regard to the activities of any registered branch.
- (7) Conditions imposed under subsection (4) above—
- (a) may be added to or varied from time to time by agreement between the Commission and the society; and
  - (b) may be revoked at any time by the Commission if it is satisfied that they are no longer needed for the purpose for which they were imposed;
- and, on adding to, varying or revoking any such conditions, the Commission shall (unless it considers it unnecessary to do so by reason of the nature of the changes) send to the secretary of the society a statement of the terms of all the subsisting conditions to which its authorisation is subject.
- (8) [<sup>F8</sup>Subsections (1A) to (7) above] above apply in relation to applications for authorisation made under section 33 above with the omission—
- (a) of subsection (2)(a) and (b);
  - (b) of the reference to subsection (2)(b) in subsection (4); and
  - (c) of subsection (4)(a).
- (9) [<sup>F8</sup>Subsections (1A) to (7) above] above apply in relation to a society applying for authorisation to carry on both long term and general business by virtue of section 37(8) below—

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- (a) with the substitution, in subsection (2), for the words “unconditional authorisation”, of the words “authorisation subject only to the conditions required by section 37 below”;
- (b) with the insertion in subsections (2)(d) and (4), after the words “imposition of”, of the word “further”.

#### Textual Amendments

- F6** S. 34(1A)(1B) inserted (18.7.1996) by S.I. 1996/1669, reg. 15(1)  
 Words in s. 34(2)(4) inserted (18.7.1996) by S.I. 1996/1669, reg. 15(1)
- F7** Words in s. 34(2)(a) inserted (1.9.1994) by S.I. 1994/1984 reg. (5)
- F8** Words in s. 34(8) substituted (18.7.1996) by S.I. 1996/1669, reg. 15(2)  
 Words in s. 34(9) substituted (18.7.1996) by S.I. 1996/1669, reg. 15(2)

#### Commencement Information

- I12** S. 34 wholly in force; s. 34 not in force at Royal Assent see s. 126(2); s. 34 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; s. 34 in force for all remaining purposes at 13.9.1993 by S.I. 1993/2213, art. 2(1), Sch. 2

### 35 Extension of current authorisation.

- (1) This section applies where an authorised friendly society applies under section 32 above for authorisation to carry on insurance business of a class (or part of a class), or non-insurance business of a description, which is not covered by the society’s current authorisation.
- (2) On such an application, the conditions which the Commission may impose under section 34 above include—
  - (a) conditions relating to any business covered by the society’s current authorisation; and
  - (b) where the current authorisation is subject to conditions, conditions which vary the current conditions (whether by adding to, amending or replacing any of them).
- (3) Where the Commission determines to grant authorisation on such an application, it shall be granted in terms including all current terms of the society’s authorisation (including any that were otherwise unaffected by the determination); and those terms shall have effect in place of the previously subsisting terms.

#### Commencement Information

- I13** S. 35 wholly in force; s. 35 not in force at Royal Assent see s. 126(2); s. 35 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; s. 35 in force for all remaining purposes at 13.9.1993 by S.I. 1993/2213, art. 2(1), Sch. 2

### 36 Imposition of conditions on current authorisation.

- (1) If the Commission considers it expedient to do so, it may (in accordance with Part II of Schedule 13 to this Act)—
  - (a) impose conditions on a friendly society’s authorisation, or

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- (b) where an authorisation is subject to conditions, impose conditions which vary the current conditions (whether by adding to, amending or replacing any of them);  
and the conditions that may be so imposed include any condition that might be imposed on the grant of authorisation.
- (2) Without prejudice to the generality of subsection (1) above, conditions so imposed may require—
  - (a) the submission to the Commission of a plan for the restoration of a sound financial position or a short-term financial scheme;
  - (b) modification of the plan or scheme (or the plan or scheme as previously modified) if the Commission considers it inadequate; and
  - (c) the implementation of the plan or scheme if the Commission consider it adequate.
- (3) Subsection (7) of section 34 above applies to conditions imposed under this section as it applies to conditions imposed under that section.

#### Commencement Information

**I14** S. 36 wholly in force; s. 36 not in force at Royal Assent see s. 126(2); s. 36 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; s. 36 in force for all remaining purposes at 13.9.1993 by S.I. 1993/2213, art. 2(1), Sch. 2

#### [<sup>F9</sup>36A Directions for deeming conditions to have been imposed.

- (1) Subsection (2) below applies where—
  - (a) it appears to the Commission that there has been or is, on the part of an authorised friendly society to which section 37(2) or (3) below applies or its committee of management, a failure to satisfy the 8th criterion in section 50(3) below; and
  - (b) the Commission proposes, on that ground, to impose conditions under section 36 above on the society's authorisation.
- (2) If the Commission considers it expedient to do so in order to protect the interests of members of the society, the Commission may direct that, for the period—
  - (a) beginning with service of notice of the proposal under paragraph 7(1) or 8(2) of Schedule 13 to this Act, and
  - (b) ending with service of the Commission's decision notice,the proposed conditions shall be deemed to have been imposed under section 36 above on the society's authorisation.
- (3) In subsection (2) above "the Commission's decision notice" means—
  - (a) in relation to a notice of the proposal under paragraph 7(1) of Schedule 13 to this Act, notice of the Commission's decision under paragraph 7(5) of that Schedule or notice of an alternative proposal under paragraph 8(2) of that Schedule;
  - (b) in relation to a notice of the proposal under paragraph 8(2) of that Schedule, notice of the Commission's decision under paragraph 8(6) of that Schedule or notice of an alternative proposal under the said paragraph 8(2).

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- (4) The Commission may revoke a direction under this section if it is satisfied that the direction is no longer needed for the purpose for which it was imposed.
- (5) The provisions of this Act (so far as applicable)—
- (a) apply in relation to a decision of the Commission to give a direction under this section as they apply in relation to a decision of the Commission to impose conditions under section 36 above, and
  - (b) apply to conditions which, by virtue of such a direction, are deemed to have been imposed under that section as they apply to conditions so imposed.]

#### Textual Amendments

**F9** S. 36A inserted (1.1.1994) by S.I. 1993/2519, reg. 2(1)

#### Modifications etc. (not altering text)

**C3** S.36A(2) excluded (20.7.2001) by S.I. 2001/2636, art. 45(3)

### *Restrictions on business of certain authorised societies*

#### **37 Restriction on combinations of business.**

- (1) <sup>F10</sup>Subject to subsections (1A) and (7A) below], an authorised friendly society to which subsection (2) or (3) below applies may not carry on business falling into more than one of the following categories, namely—
- (a) long term business;
  - (b) general business; and
  - (c) non-insurance business;

and, accordingly, the Commission shall not grant such a society authorisation to do so.

<sup>F11</sup>(1A) Nothing in subsection (1) above shall prevent an authorised friendly society to which subsection (2) or (3) below applies from carrying on, or being authorised to carry on, both long term business and general business of either or both of classes 1 and 2 of Head B of Schedule 2 to this Act.]

- (2) This subsection applies to a friendly society which carries on long term business—
- (a) if its rules do not contain provision for calling up additional contributions, for reducing benefits or for claiming assistance from other persons who have undertaken to provide it; or
  - (b) if its annual contribution income from long term business exceeded 500,000 ECU for 3 consecutive years and it is not the subject of a direction under subsection (5) below;

and, for the purposes of paragraph (b) above, years ending before 1st January 1985 shall be disregarded.

- (3) This subsection applies to a friendly society which carries on general business—
- (a) if its rules do not contain provision for calling up additional contributions or for reducing benefits; or

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- (b) if its annual contribution income from general business in any previous year exceeded 1,000,000 ECU and it is not the subject of a direction under subsection (5) below;

and, for the purposes of paragraph (b) above, years ending before 1st January 1993 shall be disregarded.

- (4) In subsections (2) and (3) above a reference to a year, in relation to annual contribution income, is a reference to any financial year of a society for which, at the relevant time, accounts have been or ought to have been prepared.

- (5) The Commission may, if it is satisfied that it is consistent with the international obligations of the United Kingdom to do so, direct that a friendly society—

- (a) which is, by virtue only of paragraph (b) of subsection (2) above, a society to which that subsection applies; or
- (b) which is, by virtue only of paragraph (b) of subsection (3) above, a society to which that subsection applies;

shall, unless the direction is revoked, be treated as not being a society to which subsection (2) or, as the case may be, subsection (3) above applies.

- (6) If—

- (a) the Commission has given a direction under subsection (5) above in relation to a society such as is mentioned in subsection (5)(a) above; and
- (b) the society's annual contribution income from long term business exceeds 500,000 ECU for 3 consecutive years ending after a date specified in the direction,

the Commission shall revoke the direction.

- (7) If—

- (a) the Commission has given a direction in relation to a society such as is mentioned in subsection (5)(b) above; and
- (b) the society's annual contribution income from general business in a year ending after a date specified in the direction exceeded 1,000,000 ECU,

the Commission shall revoke the direction.

[<sup>F12</sup>(7A) Where a friendly society to which subsection (2) or (3) above applies was on 15th March 1979 carrying on long term and general business in the United Kingdom, the society may (if authorised to do so) carry on any class (or part of a class) of long term or general business.

- (8) Where a friendly society to which subsection (2) or (3) above applies is authorised by virtue of subsection (1A) or (7A) above to carry on long term and general business in the United Kingdom—

- (a) the Commission shall (whether or not other conditions are imposed) impose such conditions on the society's authorisation as the Commission thinks fit for securing that the society's long term business and general business are kept separate; and
- (b) those conditions shall, subject to the exceptions mentioned in subsection (9) below, require that the assets representing the funds maintained in respect of the society's long term business or, as the case may be, its general business are to be generally applicable for the purposes of that business only.]

- (9) The exceptions mentioned in subsection (8) above are—

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- (a) that assets representing funds in respect of long term business may be transferred so as to be available for general business if—
  - (i) they represent the excess of the long term business funds over the society's liabilities in respect of that business; or
  - (ii) the transfer is by way of reimbursement of expenditure borne by other assets in respect of long term business; and
- (b) that assets representing funds in respect of general business may be transferred so as to be available for long term business if they represent the excess of the general business funds over the society's liabilities in respect of that business.

#### Textual Amendments

- F10** Words in s. 37(1) substituted (1.1.1994) by S.I. 1993/2519, reg. 3(1)
- F11** S. 37(1A) inserted (1.1.1994) by S.I. 1993/2519, reg. 3(2)
- F12** S. 37(7A)(8) substituted (1.1.1994) for s. 37(8) by S.I. 1993/2519, reg. 3(3)

#### Modifications etc. (not altering text)

- C4** S. 37(4) excluded (1.5.1993) by S.I. 1993/932, reg. 7

#### Commencement Information

- I15** S. 37 wholly in force; s. 37 not in force at Royal Assent see s. 126(2); s. 37 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; s. 37 in force for all remaining purposes at 13.9.1993 by S.I. 1993/2213, art. 2(1), Sch. 2

### 38 Restriction on commercial business.

- (1) An authorised friendly society to which section 37(2) or (3) applies shall not carry on any commercial business otherwise than in connection with or for the purposes of its insurance business.
- (2) Subsection (1) above shall not prevent a friendly society which was on 15th March 1979 carrying on long term business and a savings business in the United Kingdom from continuing to carry on the savings business.
- (3) Subsection (1) above has effect without prejudice to any stricter obligations imposed on friendly societies under this Part; and nothing in this section shall be taken to imply that a friendly society may carry out any activity other than for purposes permitted by this Act (or, in the case of registered societies, the 1974 Act) and the constitution of the society.

#### Commencement Information

- I16** S. 38 wholly in force; s. 38 not in force at Royal Assent see s. 126(2); s. 38 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; s. 38 in force for all remaining purposes at 13.9.1993 by S.I. 1993/2213, art. 2(1), Sch. 2

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### *Powers of Commission in relation to authorised societies*

#### **39 Power to direct application for fresh authorisation.**

- (1) If, with respect to an authorised friendly society, the Commission has reason to believe—
  - (a) that the society's business is being, or will in the future be, conducted—
    - (i) in a way that may not adequately protect the interests of members of the society; or
    - (ii) so as not to comply with the requirements of this Act which relate to the business for which the society's authorisation was granted; or
  - (b) that by reason of any increase in the volume of its long term or its general business it is appropriate for the society's affairs to be re-examined;it may by notice direct the society to make within such period as is specified in the notice an application under section 32 above for fresh authorisation.
- (2) The period so specified shall not be shorter than 3 nor longer than 6 months beginning with the date of the notice; but the Commission may, on representations being made to it, extend or further extend the period within which the application is to be made.
- (3) A notice under subsection (1) above shall state the grounds on which the Commission decided to give the direction.
- (4) The business covered by, and the conditions imposed on, a society's fresh authorisation need not be the same as that covered by, or those imposed on, the previous one.
- (5) If the Commission refuses to grant fresh authorisation, it may specify in the notice of its refusal a date for the expiry of the current authorisation; and the authorisation shall expire on that date.
- (6) The making of an application for fresh authorisation shall not preclude the Commission, at any time while the application is pending, from exercising any power under this Part of this Act in relation to the society; but if it gives a direction under section 41 below, the proceedings on the application shall abate.

#### **Commencement Information**

**I17** S. 39 wholly in force; s. 39 not in force at Royal Assent see s. 126(2); s. 39 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; s. 39 in force for all remaining purposes at 13.9.1993 by S.I. 1993/2213, art. 2(1), Sch. 2

#### **40 Withdrawal of authorisation in respect of new business.**

- (1) Subject to the following provisions of this section, the Commission may by notice direct—
  - (a) that a friendly society authorised to carry on insurance business shall, from a date specified in the direction, cease to be authorised to effect contracts of insurance, or contracts of a class (or part of a class) so specified; or
  - (b) that a friendly society authorised to carry on non-insurance business shall, from a date specified in the direction, cease to be authorised to effect contracts for non-insurance benefits, or contracts of a description so specified.

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- (2) The Commission shall give such a direction in relation to a friendly society if—
- (a) in the case of an incorporated society, a special resolution has been passed for its voluntary winding up;
  - (b) an order to wind up the society has been made;
  - (c) an event declared by the rules of the society to be the termination of the society has happened;
  - (d) an instrument of dissolution has been executed as mentioned in section 93(1)(b) of the 1974 Act or a special resolution approving an instrument of dissolution under section 20 above has been passed; or
  - (e) in the case of a registered society, the Commission has made an award under section 95(3) or 95A(1) of the 1974 Act for the dissolution of the society.
- (3) The Commission may give such a direction in relation to a friendly society at the request of the society or if—
- (a) it appears to the Commission that the society has failed to satisfy an obligation to which it is subject by virtue of the <sup>M5</sup>Industrial Assurance Act 1923, the 1974 Act, the <sup>M6</sup>Industrial Assurance (Northern Ireland) Order 1979 or this Act;
  - (b) there exists a ground on which the Commission would be prohibited from granting authorisation to the society;
  - (c) it appears to the Commission to be expedient to make the proposed direction in order to protect the interests of members of the society;
  - (d) the authorisation was subject to conditions and it appears to the Commission that the society has not complied with a condition;
  - (e) it appears to the Commission that information furnished to it on behalf of the society or, in connection with an application for authorisation, by or on behalf of an officer of the society is false in a material particular, misleading or inaccurate;
  - (f) it appears to the Commission that a friendly society has failed to satisfy an obligation to which it is subject by virtue of any provision of the law of a country or territory outside the United Kingdom; <sup>F13</sup> . . .
  - (g) the society, having been directed to apply for fresh authorisation under section 39 above, has either failed to make such an application within the period allowed or been refused fresh authorisation covering the effecting of new contracts of any description covered by the society's previous authorisation [<sup>F14F13</sup>or
  - <sup>F14</sup>(h) the society is a society to which section 37(2) or (3) above applies and has not effected any contracts of insurance, or any contracts of insurance of a class (or part of a class), for a period of six months or more.]
- (4) A direction under this section shall not prevent a friendly society from effecting an insurance contract, or a contract for non-insurance benefits, in pursuance of a term of a subsisting contract of that description.
- (5) A direction under this section or section 41 below—
- (a) shall be given in accordance with Part II of Schedule 13 to this Act, and
  - (b) may not be revoked or varied,
- but has effect without prejudice to the subsequent grant to the society of authorisation to carry on any business to which the direction relates.



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#### Textual Amendments

**F13** Word in [S. 40\(3\)\(f\)](#) omitted (1.9.1994) by virtue of [S.I. 1994/1984](#) reg. 6

**F14** [S. 40\(3\)\(h\)](#) and the word “or” immediately preceding it inserted (1.9.1994) by [S.I. 1994/1984](#), [reg. 6](#)

#### Modifications etc. (not altering text)

**C5** [S. 40\(5\)\(b\)](#) excluded (20.7.2001) by [S.I. 2001/2636](#), [arts. 1\(2\)\(b\)](#), 46(3)

#### Commencement Information

**I18** [S. 40](#) wholly in force; [s. 40](#) not in force at Royal Assent see [s. 126\(2\)](#); [s. 40](#) in force for certain purposes at 13.1.1993 by [S.I. 1993/16](#), [art. 2](#), [Sch. 1](#); [s. 40](#) in force for all remaining purposes at 13.9.1993 by [S.I. 1993/2213](#), [art. 2\(1\)](#), [Sch. 2](#)

#### Marginal Citations

**M5** [1923 c.8.](#)

**M6** [S.I. 1979/1574 \(N.I.13\)](#)

## 41 Withdrawal of authorisation to carry on insurance business.

- (1) Where the Commission is satisfied that a friendly society which is authorised to carry on insurance business—
- (a) has ceased to carry on
    - [<sup>F15</sup>(i) in the case of a society to which section 37(2) or (3) above applies, in the European Community;
    - (ii) in any other case, in the United Kingdom,]any insurance business, or insurance business of any class (or of any part of a class) specified in the society's authorisation; or
  - (b) has not, since the grant of authorisation to carry on insurance business of any class (or part of a class), carried on
    - [<sup>F15</sup>(i) in the case of a society to which section 37(2) or (3) above applies, in the European Community;
    - (ii) in any other case, in the United Kingdom,]any insurance business or insurance business of that class (or part of a class) and at least twelve months has elapsed since that grant;
- the Commission may by notice direct that the society shall cease to be authorised to carry on insurance business or, as the case may be, insurance business of that class (or part of a class).
- (2) Where the Commission is satisfied that a friendly society which is authorised to carry on non-insurance business—
- (a) has ceased to carry on in the United Kingdom any non-insurance business or non-insurance business of a description specified in the authorisation; or
  - (b) has not, since the grant of authorisation to carry on non-insurance business of any description, carried on in the United Kingdom any non-insurance business or non-insurance business of that description, and at least twelve months has elapsed since that grant;
- the Commission may direct that it shall cease to be authorised to carry on non-insurance business or, as the case may be, non-insurance business of that description.

**Status:** Point in time view as at 01/08/1996. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** Friendly Societies Act 1992 is up to date with all changes known to be in force on or before 25 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (3) For the purposes of this section a friendly society shall be taken to have ceased to carry on business, or business of a particular class or description, if at no time
- [<sup>F16</sup>(a) in the case of a society to which section 37(2) or (3) above applies, during the preceding six months;
  - (b) in any other case, during a financial year of the society which began and ended during the currency of the authorisation,]
- did it carry on business or, as the case may be, business of that class or description.

#### Textual Amendments

**F15** S. 41(1) words substituted (1.9.1994) by S.I. 1994/1984 reg. 7(1)

**F16** S. 41(3) words substituted (1.9.1994) by 1994/1984 reg. 7(2)

#### Commencement Information

**I19** S. 41 wholly in force; s. 41 not in force at Royal Assent see s. 126(2); s. 41 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; s. 41 in force for all remaining purposes at 13.9.1993 by S.I. 1993/2213, art. 2(1), Sch. 2

### *Supplementary*

#### **42 Contracts effected in contravention of section 31(1).**

- (1) Where a contract of insurance or for non-insurance benefits is entered into between a friendly society and a member in contravention of section 31(1) above the member may, subject to subsection (2) below, elect—
- (a) to enforce the contract; or
  - (b) to recover any money paid by him under the contract, together with compensation for any loss sustained by him as a result of having parted with it; and the compensation so recoverable shall be such as the parties may agree or as any court of competent jurisdiction may, on the application of either party, determine.
- (2) Any such court may allow money paid by a member under a contract to which subsection (1) applies to be retained by the friendly society if it is satisfied—
- (a) that the society reasonably believed that its entering into the contract did not constitute a contravention of section 31(1) above; and
  - (b) that it is just and equitable for the money to be retained.
- (3) A member who recovers the money paid under a contract to which subsection (1) above applies—
- (a) shall not be entitled to any benefits under the contract; and
  - (b) shall repay any money and return any other property received by him under the contract;
- and, where any property so received has passed to a third party, the reference in this subsection to that property shall be construed as a reference to its value at the time at which it was received by the member.
- (4) A contravention of subsection (1) of section 31 above shall not make a contract of insurance or contract for non-insurance benefits illegal or invalid to any greater extent than is provided in this section; and a contravention of that subsection in respect of a

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contract of insurance shall not affect the validity of any reinsurance contract entered into in respect of that contract.

#### Commencement Information

**I20** S. 42 wholly in force; s. 42 not in force at Royal Assent see s. 126(2); s. 42 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; s. 42 in force for all remaining purposes at 13.9.1993 by S.I. 1993/2213, art. 2(1), Sch. 2

### 43 Interpretation of Part IV.

In this Part of this Act—

“authorisation” and related expressions shall be construed in accordance with section 32(9) above;

“class”, in relation to insurance business, means a class specified in Schedule 2 to this Act;

“contract for non-insurance benefits” means a contract effected in the course of carrying on any non-insurance business;

“friendly society”, in relation to a registered friendly society with branches, means the central body and the branches of the society;

“industrial assurance business” has the meaning given in section 1(2) of the <sup>M7</sup>Industrial Assurance Act 1923 or Article 3(1) of the <sup>M8</sup>Industrial Assurance (Northern Ireland) Order 1979;

“the 1987 Regulations” means the <sup>M9</sup>Friendly Societies (Long Term Insurance Business) Regulations 1987.

#### Commencement Information

**I21** S. 43 wholly in force; s. 43 not in force at Royal Assent see s. 126(2); s. 43 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; s. 43. in force for all remaining purposes at 13.9.1993 by S.I. 1993/2213, art. 2(1), Sch. 2

#### Marginal Citations

**M7** 1923 c.8.

**M8** S.I. 1979/1514 (N.I.13).

**M9** S.I.1987/2132.

## PART V

### REGULATION OF FRIENDLY SOCIETIES’ BUSINESS

#### *Preliminary*

### 44 Appointment of actuary by societies with long term business.

(1) Subject to subsection (3) below, every friendly society which carries on long term business in the United Kingdom shall not later than the end of the relevant period appoint an actuary as actuary to the society; and whenever an appointment under

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this section comes to an end, the society shall as soon as practicable make a fresh appointment.

- (2) In subsection (1) above “the relevant period” means—
  - (a) if the society is carrying on long term business on the day when this section comes into force, the period of one month beginning with that day; and
  - (b) if it is not carrying on long term business on that day, the period of one month beginning with the day on which it begins to carry on such business.
- (3) The Commission may direct that a friendly society shall not be subject to the duty imposed by subsection (1) above if it considers it inappropriate that the society should be subject to it.
- (4) A society making an appointment under this section shall serve on the Commission a notice stating that fact and the name and qualifications of the person appointed and that he has accepted the appointment.
- (5) If an appointment under this section comes to an end, the society shall serve on the Commission a notice stating that fact and the name of the person concerned.
- (6) A notice under subsection (4) above shall be served not later than the end of the period of 14 days commencing with the day on which the appointment is accepted.
- (7) A notice under subsection (5) above shall be served not later than the end of the period of 14 days commencing with the day on which the appointment comes to an end.
- (8) No person is qualified for appointment under this section unless he possesses qualifications prescribed by the Commission in regulations.

**Modifications etc. (not altering text)**

C6 S. 44(2)(a) excluded (1.1.1994) by S.I. 1993/3084, [reg.10](#)

**Commencement Information**

I22 S. 44 wholly in force; s. 44 not in force at Royal Assent see s. 126(2); s. 44 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, [Sch. 1](#); s. 44(8) in force for all remaining purposes at 13.9.1993 by S.I. 1993/2213, art. 2(1), [Sch. 2](#); s. 44 in force to the extent not already in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), [Sch. 5](#)

**45 Valuation of assets and liabilities.**

- (1) Any determination of the value of any assets or the amount of any liabilities of a friendly society which is required for the purposes of any provision of this Part of this Act shall be made in accordance with regulations made by the Commission with the consent of the Treasury.
- (2) Without prejudice to the generality of subsection (1) above, regulations under this section may provide that, for any specified purpose, assets or liabilities of any specified class or description shall be left out of account or taken into account only to a specified extent.

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### Commencement Information

**I23** S. 45 wholly in force; s. 45 not in force at Royal Assent see s. 126(2); s. 45 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; s. 45 in force for all remaining purposes at 13.9.1993 by S.I. 1993/2213, art. 2(1), Sch. 2

## Actuarial investigations

### 46 Annual investigation into condition of certain societies.

- (1) A friendly society which is authorised under section 32 above to carry on long term business and which—
  - (a) is a society to which subsection 37(2) above applies; or
  - (b) is a society of a description prescribed by regulations,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.
- (2) The first investigation into a society's financial condition under this section shall be—
  - (a) in the case of a friendly society to which section 37(2) above applies which—
    - (i) is a registered friendly society that was authorised under the <sup>M10</sup>Friendly Societies (Long Term Insurance Business) Regulations 1987; or
    - (ii) is an incorporated friendly society which was formerly a registered friendly society so authorised,an investigation into its condition at a date not later than 12 months after the date to which the accounts of the society were made up for the purposes of the last investigation under regulation 11 of those regulations;
  - (b) in the case of any other friendly society to which section 37(2) above applies, an investigation into its condition at a date not later than 12 months after the date on which it became such a society or the commencement of this section, whichever is later; and
  - (c) in the case of a friendly society which is of a description prescribed in regulations under subsection (1)(b) above, an investigation into its condition at a date not later than 12 months after it became such a society or the coming into operation of the regulations, whichever is later.
- (3) When such an investigation has been made, the society shall—
  - (a) cause an abstract of the actuary's report of the investigation to be made; and
  - (b) send three copies of that abstract to the Commission within the period of 6 months beginning with the date to which the accounts of the society were made up for the purposes of the investigation or such further period (not exceeding 3 months) as the Commission may by notice to the society direct;and one of those copies shall be signed by such persons as may be prescribed by regulations.
- (4) The Commission shall consider the abstract, and if it appears to the Commission to be inaccurate or incomplete in any respect, it shall communicate with the society with a view to the correction of any such inaccuracies and the supply of deficiencies.

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- (5) An investigation under this section shall include—
- (a) a valuation of the liabilities of the society attributable to its long term business; and
  - (b) a determination of any excess over those liabilities of the assets representing the fund or funds maintained by the society in respect of that business and, where any rights of any long term policy holders to participate in profits relate to particular parts of such a fund, a determination of any excess of assets over liabilities in respect of each of those parts.

<sup>F17</sup>(6) . . . . .

- (7) The form and contents of any abstract <sup>F17</sup> . . . under this section shall be such as the Commission may direct; and a direction under this subsection may be given to societies of a specified description or to a specified society.
- (8) Regulations under this section shall be made by the Commission with the consent of the Treasury.

**Textual Amendments**

- F17** S. 46(6) repealed (1.8.1996) by S.I. 1996/1188 art. 4(a)  
 Words in s. 46(7) repealed (1.8.1996) by S.I. 1996/1188 art. 4(b)

**Commencement Information**

- I24** S. 46 wholly in force; s. 46 not in force at Royal Assent see s. 126(2); s. 46 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; s. 46(1)(3)(8) in force for all remaining purposes at 13.9.1993 by S.I. 1993/2213, art. 2(1), Sch. 2; s. 46 in force to the extent not already in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

**Marginal Citations**

- M10** S.I.1987/2132.

**47 Triennial investigations into condition of certain societies.**

- (1) Subject to the following provisions of this section, a friendly society which—
- (a) is not a society to which section 46 above applies and carries on insurance business; or
  - (b) is a society to which that section applies and carries on general business;
- shall, at least once in every period of 3 years, cause an investigation to be made by the appropriate actuary into the financial condition of the society in respect of its insurance business.
- (2) Where an investigation under this section is carried out, the society shall cause an abstract of the actuary's report to be made and sent to the Commission within 6 months of the date to which the accounts of the society were made up for the purposes of that investigation or such further period (not exceeding 6 months) as the Commission may by notice to the society direct.
- (3) The first investigation into a society's financial condition under this section shall be—
- (a) in the case of a registered friendly society, or an incorporated friendly society which was formerly a registered friendly society, an investigation into its condition at a date not later than 3 years after—

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- (i) the commencement of this section; or
    - (ii) the date as at which its assets and liabilities were last valued under section [F18]34 of the 1970 Act],  
whichever is earlier; or
  - (b) in the case of any other incorporated friendly society, an investigation into its condition at a date not later than 3 years after the date on which it is registered.
- (4) Subject to subsection (5) below, a friendly society shall send to the Commission, not later than 6 months after each anniversary of the date to which the accounts of the society were made up for the purposes of the last investigation into its financial condition under this section—
- (a) a certificate given by the appropriate actuary that there has been no material change in its financial condition in respect of its insurance business since it sent the last abstract under subsection (2) above; or
  - (b) a statement by the appropriate actuary that he is unable to give such a certificate.
- (5) A society is not under the duty imposed by subsection (4) above if, before a date by which a certificate or statement must be sent, a further investigation under this section has been carried out and the requisite abstract has been sent to the Commission.
- (6) If a society sends the Commission a statement under subsection (4)(b) above, it shall be the society's duty to cause an investigation to be carried out under this section; and in such a case—
- (a) the date to which the society's accounts are made up for the purposes of the investigation shall be the latest anniversary of the date to which its accounts were made up for the purposes of the last investigation under this section; and
  - (b) the abstract required by subsection (2) above shall be sent to the Commission within 6 months of the date by which that statement was required to be sent under subsection (4) above.
- (7) An investigation under this section into the financial condition of a society which falls within subsection (1)(a) above shall include—
- (a) a valuation of the liabilities of the society attributable to its insurance business; and
  - (c) a determination of any excess over the liabilities so attributable of the assets representing the fund or funds maintained by the society in respect of its insurance business and, where any rights of any long term policy holders to participate in profits relate to particular parts of such a fund, a determination of any excess of assets over liabilities in respect of each of those parts.
- (8) An investigation under this section into the financial condition of a society falling within subsection (1)(b) above shall include—
- (a) a valuation of the liabilities of the society attributable to its general business; and
  - (b) a determination of any excess over the liabilities so attributable of the assets representing the fund or funds maintained by the society in respect of that business.
- (9) The form and contents of any abstract under this section shall be such as the Commission may direct; and such a direction may be given to societies of a specified description or to a specified society.



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- (10) The Commission may dispense with the requirements of subsections (1) to (6) above in respect of societies to whose purposes, or the nature or scale of whose insurance business, it may deem those provisions inapplicable.
- (11) The Commission may dispense with the requirements of subsections (1) to (6) above in respect of any particular insurance business of a society if, in the Commission's opinion, those provisions are inapplicable to that business because of its nature or scale or the manner in which it is carried on.
- (12) In relation to any society on which a partial exemption is conferred under subsection (11) above, subsections (1) to (8) above shall have effect as if—
- (a) references to the financial condition of the society excluded its condition in relation to the business to which the partial exemption relates; and
  - (b) subsections (7) and (8) referred only to the assets and liabilities other than those attributable to that business.
- (13) The Commission may direct that this section shall have effect, in relation to societies of a specified description or to a specified society, as if for any reference to 3 years there were substituted a reference to 5 years.
- (14) A direction under subsection (12) or (13) above may make such transitional provision as the Commission considers appropriate.

#### Textual Amendments

**F18** Words in s. 47(3)(a)(ii) substituted (1.1.1994) by S.I. 1993/3226, art. 3, Sch.3

#### Commencement Information

**I25** S. 47 wholly in force; s. 47 not in force at Royal Assent see s. 126(2); s. 47 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; s. 47 in force for all remaining purposes at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

### *Margins of solvency*

#### **48 Margins of solvency in relation to insurance business of certain societies.**

- (1) This section applies to a friendly society which—
- (a) carries on long term business<sup>F19</sup> . . . and falls within subsection (2) of section 37 above;
  - (b) carries on general business<sup>F19</sup> . . . and falls within subsection (3) of that section; or
  - (c) not being a society to which either of those subsections applies, carries on insurance business in the United Kingdom and is of any such description as may be prescribed by regulations.
- (2) A society to which this section applies shall maintain a margin of solvency in respect of its insurance business of such amount as may be prescribed by or determined in accordance with regulations made for the purposes of this section.
- (3) If such a society fails to comply with a requirement to maintain a margin of solvency, the society—



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- (a) shall at the request of the Commission submit to it a plan for the restoration of a sound financial position;
  - (b) shall propose modifications to the plan (or the plan as previously modified) if the Commission considers it inadequate;
  - (c) shall give effect to any plan accepted by the Commission as adequate.
- (4) Where a friendly society carries on both long term and general business, subsection (2) above shall have effect as if the requirement to maintain a margin of solvency were a requirement to maintain separate margins in respect of each of those two kinds of business.
- (5) For the purposes of this Act a margin of solvency, in relation to a friendly society, is the excess of the value of the society's assets over the amount of its liabilities.
- (6) Regulations under this section may—
  - (a) make different provision with respect to societies of different descriptions;
  - (b) prescribe different margins of solvency with respect to different descriptions of business carried on by societies;
  - (c) prescribe the descriptions of assets or liabilities that are to be taken into account in determining whether a margin of solvency is being maintained; and
  - (d) prescribe different criteria for determining whether a margin of solvency is being maintained by reference to the different descriptions of long term or general business which may be carried on by societies.
- (7) Regulations under this section shall be made by the Commission with the consent of the Treasury.

#### Textual Amendments

- F19** Words in s. 48(1)(a) ceased to have effect (1.9.1994) by virtue of S.I. 1994/1984 reg. 8  
Words in s. 48(1)(b) ceased to have effect (1.9.1994) by virtue of S.I. 1994/1984 reg. 8

#### Commencement Information

- I26** S. 48 wholly in force; s. 48 not in force at Royal Assent see s. 126(2); s. 48 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; s. 48(1)(2)(6)(7) in force for certain purposes at 13.9.1993 by S.I. 1993/2213, art. 2(1), Sch. 4; s. 48 in force for all remaining purposes at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

## 49 Failure to maintain prescribed margin of solvency.

- (1) If the margin of solvency maintained by a friendly society in respect of its insurance business falls below such amount as may be prescribed by or determined in accordance with regulations made for the purposes of this section by the Commission with the consent of the Treasury, the society shall at the request of the Commission submit to it a short-term financial scheme.
- (2) A friendly society that has submitted a scheme to the Commission under subsection (1) above shall propose modifications to the scheme (or the scheme as previously modified) if the Commission considers it inadequate, and shall give effect to any scheme accepted by it as adequate.
- (3) Where a friendly society carries on both long term and general business, subsection (1) above shall have effect as if the reference to the margin of solvency maintained by the

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society were a reference to the margin of solvency maintained in respect of each of those two kinds of business.

#### Commencement Information

**I27** S. 49 wholly in force; s. 49 not in force at Royal Assent see s. 126(2); s. 49 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; s. 49(1) in force for all remaining purposes at 13.9.1993 by S.I. 1993/2213, art. 2(1), Sch. 2; s. 49 in force to the extent not already in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

#### [<sup>F20</sup> Adequacy of assets and premiums]

#### Textual Amendments

**F20** Cross heading inserted (1.9.1994) by S.I. 1994/1984 reg. 9

#### [49A <sup>F21</sup> Adequacy of assets.

- (1) A friendly society to which section 37(2) or (3) above applies which has entered into contracts of insurance shall secure—
  - (a) that its liabilities under those contracts, other than liabilities in respect of linked benefits, are covered by assets of appropriate safety, yield and marketability having regard to the classes of business carried on; and
  - (b) without prejudice to the generality of paragraph (a) above, that its investments are appropriately diversified and adequately spread and that excessive reliance is not placed on investments of any particular category or description.
- (2) A friendly society to which section 37(2) above applies which has entered into a linked long term contract shall secure that, as far as practicable, its liabilities under the contract in respect of linked benefits are covered as follows—
  - (a) if those benefits under the contract are linked to the value of units in an undertaking for collective investments in transfer- able securities or to the value of assets contained in an internal fund, by those units or assets;
  - (b) if those benefits under the contract are linked to a share index or other reference value not mentioned in paragraph (a) above, by units which represent that reference value, or by assets of appropriate safety, yield and marketability which correspond, as nearly as may be, to the assets on which that reference value is based.
- (3) A friendly society to which section 37(2) above applies which has entered into a linked long term contract shall also secure that its liabilities under the contract in respect of linked benefits are covered by assets of a description prescribed by regulations under section 56 below.
- (4) In this section—
 

“linked benefits”, in relation to a linked long term contract, means benefits payable under the contract which are 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);

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“linked long term contract” means a contract the effecting of which constitutes the carrying on of insurance business falling within class III in head A in Schedule 2 to this Act.]

#### Textual Amendments

**F21** S. 49A inserted (1.9.1994) by S.I. 1994/1984 reg. 9

### [<sup>F22</sup>49B Adequacy of premiums in respect of long term insurance.

- (1) Before entering into a contract the effecting of which constitutes the carrying on of long term business, a friendly society to which section 37(2) above applies shall satisfy itself that the aggregate of—
  - (a) the premiums payable under the contract and the income which will be derived from them; and
  - (b) any other resources of the society which are available for the purpose, will be sufficient, on reasonable actuarial assumptions, to meet all commitments arising under or in connection with the contract.
- (2) A friendly society to which section 37(2) above applies shall not rely on other resources for the purposes of subsection (1) above in such a way as to jeopardise the solvency of the society in the long term.]

#### Textual Amendments

**F22** S. 49B inserted (1.9.1994) by S.I. 1994/1984 reg. 10

### *Criteria of prudent management*

#### 50 The criteria of prudent management.

- (1) If it appears to the Commission—
  - (a) that there has been or is, on the part of a friendly society or its committee of management, a failure to satisfy any one or more of the following criteria of prudent management; or
  - (b) that the society’s officers do not have the capacity and intention to conduct its affairs so as to satisfy those criteria,it shall be entitled to assume for the purposes of its relevant prudential powers that it is expedient to exercise the powers in order to protect the interests of members of the society.
- (2) The prudential powers relevant for the purposes of this section are its powers—
  - (a) under section 34 above to impose conditions on a society’s authorisation;
  - (b) under section 40 above to give a direction by virtue of subsection (3)(c);
  - (c) under section 51 below to make an order forbidding the acceptance of new members;
  - (d) under section 53 below, to give a direction;
  - (e) under section 90 below, to order a transfer of the society’s engagements.

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- (3) For the purposes of this Act, the criteria of prudent management are—
- (1) Maintenance of any margin of solvency required by section 48 above.
  - (2) Maintenance of liquid assets sufficient to meet the liabilities of the society as they become due.
  - (3) Maintenance of the requisite accounting records and systems of control of business and of inspection and report.
  - (4) Direction and management—
    - (a) by a sufficient number of persons who are fit and proper to be members of the committee of management or, as the case may be, other officers, in their respective positions,
    - (b) conducted by them, with prudence and integrity, in the interests of the members of the society.
  - (5) In relation to insurance business, direction and management which, in addition to satisfying the other requirements as to direction and management, is such as to fulfil the reasonable expectations of members of the society as to the conduct of such business.
  - (6) Conduct of the society's activities with adequate professional skills.
  - (7) Supervision of the activities—
    - (a) of any subsidiary of the society or of any body of which the society has joint control; and
    - (b) of any registered branch of the society;
 with due care and diligence in the interests of the members of the society and without detriment to the conduct of the society's activities.
  - [<sup>F23</sup>(8) In the case of a society to which section 37(2) or (3) applies, direction and management which, in addition to satisfying the other requirements as to direction and management, is such as to secure compliance with any obligation imposed on the society by any provision (whether of the law of any part of the United Kingdom or of the law of another EEA State) which—
    - (a) gives effect to the general insurance or life Directives; or
    - (b) is otherwise applicable to the insurance activities of the society.]
  - (4) Nothing in this section implies that it is improper for a determination for any purpose of the Commission's relevant prudential powers to take account of factors other than the criteria in subsection (3) above.
  - (5) In considering whether a society has satisfied the 7th criterion in subsection (3) above, the Commission shall have regard to the extent to which the operation of the subsidiary, jointly controlled body or registered branch is undertaken in accordance with [<sup>F24</sup>the other 7 criteria] in that subsection so far as they are relevant.
  - (6) A failure to satisfy any of the first 3 criteria in subsection (3) above shall be treated, for the purposes of this section, as a failure on the part of a society's committee of management prudently to conduct the affairs of the society.
  - (7) A failure on the part of an authorised friendly society to comply with any conditions to which its authorisation under section 32 above is subject shall be treated, for the purposes of this section, as a failure on the part of the society's committee of management prudently to conduct the affairs of the society.

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- (8) Any carrying on by a friendly society of an activity beyond its powers shall be treated, for the purposes of this section, as a failure on the part of the society's committee of management prudently to conduct the affairs of the society.
- (9) Any carrying on of activities which are beyond its powers—
- (a) by a subsidiary of, or a body jointly controlled by, an incorporated friendly society; or
  - (b) by a registered branch of a registered friendly society,
- shall be treated for the purposes of this section as a failure on the part of the society's committee of management to supervise the activities of the subsidiary, jointly controlled body or registered branch with due care and diligence.
- (10) The following provisions apply for the interpretation of the list of criteria in subsection (3) above in their application to a friendly society, that is to say—
- “activities” includes activities the society proposes to carry on;
  - “requisite”, with reference to accounting records and systems of control, means such as are required by section 68 below; and
  - “sufficient” with reference to the number of members of a committee of management or of other officers, means sufficient having regard to the range and scale of the society's business.

#### Textual Amendments

**F23** S. 50(3): eighth criterion substituted (1.9.1994) by S.I. 1994/1984 reg. 11(1)

**F24** Words in s. 50(5) substituted (1.1.1994) by S.I. 1993/2519, reg. 2(3)

#### Commencement Information

**I28** S. 50 wholly in force; s. 50 not in force at Royal Assent see s. 126(2); s. 50 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; s. 50 in force for all remaining purposes at 13.9.1993 by S.I. 1993/2213, art. 2(1), Sch. 2

### *Powers of Commission*

#### **51 Power to forbid acceptance of new members.**

- (1) Subject to the provisions of this section, if the Commission considers it expedient to do so in the interests of the members or potential members of a friendly society, it may give the society a direction forbidding it to accept any new members.
- (2) If the Commission proposes to give such a direction, it shall serve on the society a notice stating that it proposes to give a direction.
- (3) A notice under subsection (2) above shall specify the grounds for the proposed direction.
- (4) The Commission shall consider any representations made by the society within such period (not being less than one month) from the date on which the society is served with the notice as the Commission may allow and, if the society so requests, shall afford to it an opportunity of being heard by the Commission within that period.

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- (5) The Commission may not give a direction unless all the grounds for giving it are those, or among those, which were specified in the notice served on the society under subsection (2) above.
- (6) On giving a direction, the Commission shall—
  - (a) serve notice of it on the society, specifying the grounds for making it;
  - (b) publish notice of it in one or more of the London, Edinburgh and Belfast Gazettes and in any such other ways as it considers appropriate; and
  - (c) send a copy of it to the central office.
- (7) A society which contravenes a direction given to it under this section shall be guilty of an offence and shall be liable—
  - (a) on conviction on indictment, to a fine; and
  - (b) on summary conviction, to a fine not exceeding the statutory maximum.
- (8) The central office shall keep a copy of a direction given to a friendly society under this section in the public file of the society.

#### Commencement Information

**I29** S. 51 wholly in force; s. 51 not in force at Royal Assent see s. 126(2); s. 51 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; s. 51 in force for all remaining purposes at 28.4.1993 by S.I. 1993/1186, art. 2(2), Sch. 2

## 52 Applications to court.

- (1) Where the Commission has reason to believe that any of the conditions mentioned in subsection (2) below is satisfied, it may present a petition to the High Court for the winding up of the society under the applicable winding up legislation.
- (2) The conditions referred to in subsection (1) above are—
  - (a) that a friendly society is carrying on activities that are not activities which such a society is permitted by this Act or the 1974 Act to carry on;
  - (b) that the society is not carrying on any activity falling within Schedule 2 to this Act;
  - <sup>F25</sup>(c) that the society is failing to satisfy any obligation to which it is subject by virtue of any provision of the law of any EEA State other than the United Kingdom which—
    - (i) gives effect to the general insurance or life Directives; or
    - (ii) is otherwise applicable to the insurance activities of the society in that State;
  - (d) that a subsidiary of an incorporated friendly society or a body jointly controlled by such a society is carrying on activities other than those mentioned in Schedule 7 to this Act;

and a court shall not make an order for the winding up of a society by virtue of this section unless it is satisfied that one or more of those conditions is satisfied.
- (3) Where the Commission has reason to believe that any of the conditions mentioned in subsection (4) below is satisfied, it may make an application to the High Court for an order under subsection (5) below.

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- (4) The conditions referred to in subsection (3) above are—
- (a) any of the conditions mentioned in subsection (2) above; or
  - (b) that an incorporated friendly society has taken part in forming or has acquired control of a body corporate jointly with any person other than another incorporated friendly society without the consent of the Commission;
- and a court shall not make an order under subsection (5) below unless it is satisfied that one or both of the conditions mentioned in this subsection is satisfied.
- (5) An order under this subsection is an order directing the society to modify its business as directed in the order or to take such other steps as may be so directed or, where the condition mentioned in subsection (4)(b) above is satisfied, an order directing the society to cease jointly controlling the body corporate.
- (6) Where a court makes an order under subsection (5) above, the Commission shall send a copy of it to the central office and the central office shall keep the copy in the public file of the society.
- (7) The power to present a petition or to make an application for an order under subsection (5) above is available to the Commission whether or not it has previously presented a petition or made an application for such an order, as the case may be.
- (8) In the application of this section to a friendly society whose registered office is in Scotland or Northern Ireland, references to the High Court shall be read as references to the Court of Session or, as the case may be, the High Court in Northern Ireland.
- (9) In this section “the applicable winding up legislation”, in relation to an incorporated friendly society, has the same meaning as in section 23 above and, in relation to a registered friendly society, means Part V of the <sup>M11</sup>Insolvency Act 1986 or (where the society’s registered office is in Northern Ireland) Part VI of the <sup>M12</sup>Insolvency (Northern Ireland) Order 1989.

#### Textual Amendments

**F25** S. 52(2)(c) substituted (1.9.1994) by S.I. 1994/1984 reg. 12

#### Commencement Information

**I30** S. 52 wholly in force; s. 52 not in force at Royal Assent see s. 126(2); s. 52 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; s. 52 in force for all remaining purposes at 28.4.1993 by S.I. 1993/1186, art. 2(2), Sch. 2

#### Marginal Citations

**M11** 1986 c.45.

**M12** S.I. 1989/2405 (N.I. 19).

### [52A] <sup>F26</sup> Prohibition on disposal of assets.

- (1) Where the Commission has reason to believe that any of the conditions mentioned in subsection (2) below is satisfied in relation to a friendly society to which section 37(2) or (3) applies, it may apply to the court for an injunction restraining, or in Scotland an interdict prohibiting, the society from disposing of or otherwise dealing with any of its assets to the value of its EC liabilities.



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- (2) The conditions referred to in subsection (1) above are—
- (a) that the Commission has given (and not revoked) a direction in respect of the society under section 40 above; or
  - (b) that the society has failed to satisfy an obligation to which it is or was subject by virtue of section 48, 49, 49A above or Part III of the Friendly Societies (Insurance Business) Regulations 1994<sup>M13</sup>; or
  - (c) that a submission by the society to the Commission of an account or statement specifies, as the amount of any liabilities of the society, an amount appearing to the Commission to have been determined otherwise than in accordance with—
    - (i) valuation regulations; or
    - (ii) where no such regulations are applicable, generally accepted accounting concepts, bases and policies or other generally accepted methods appropriate for friendly societies,
 and a court shall not make an order under this section unless it is satisfied that one or more of those conditions are satisfied.
- (3) Where a court makes an order under this section, it may by subsequent orders make provision for such incidental, consequential and supplementary matters as are necessary to enable the Commission to perform its functions under this Act.
- (4) The jurisdiction conferred by this section shall be exercisable by the High Court and the Court of Session.
- (5) In this section any reference to an EC liability is a reference to a liability of the business carried on by the society in the European Community.]

#### Textual Amendments

**F26** S. 52A added (1.9.1994) by S.I. 1994/1984 reg. 13

#### Marginal Citations

**M13** S.I. 1994/1981.

### 53 Residual power to impose requirements for protection of members.

- (1) If the Commission considers it expedient to do so in order to protect the interests of members of a friendly society which does not require authorisation under section 32 above, it may direct the society to take such action as appears to the Commission to be appropriate, having regard to any risk—
- (a) that the society may be unable to meet its liabilities; or
  - (b) that it will not be managed in the interests of its members.
- (2) The power conferred by this section shall not be exercised in such a way as to restrict the society's freedom to dispose of its assets except where the ground for intervention arises out of the submission by the society to the Commission of an account or statement specifying, as the amount of any liabilities of the society, an amount appearing to the Commission to have been determined otherwise than in accordance with—
- (a) valuation regulations; or



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- (b) where no such regulations are applicable, generally accepted accounting concepts, bases and policies or other generally accepted methods appropriate for friendly societies.

#### Commencement Information

**I31** S. 53 wholly in force; s. 53 not in force at Royal Assent see s. 126(2); s. 53 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; s. 53 in force for all remaining purposes at 28.4.1993 by S.I. 1993/1186, art. 2(2), Sch. 2

## 54 Supervision of activities of subsidiaries etc.

- (1) In this section “friendly society group” means an incorporated friendly society, subsidiaries of that society and bodies jointly controlled by it.
- (2) If it appears to the Commission that the activities of subsidiaries of an incorporated friendly society or bodies jointly controlled by it are or may become disproportionate to those of the friendly society group as a whole, it may direct the society—
  - (a) to take or refrain from taking steps specified in the direction with a view to securing that the activities in question cease to be or do not become disproportionate; or
  - (b) to take steps so specified with a view to securing—
    - (i) that it ceases to have control or joint control of any subsidiary or jointly controlled body in question; or
    - (ii) that any such subsidiary or jointly controlled body is wound up.
- (3) If it appears to the Commission that any activity of a subsidiary of an incorporated friendly society or of a body jointly controlled by such a society is unsuitable for a member of a friendly society group, it may direct the society—
  - (a) to take steps specified in the direction with a view to securing that that activity ceases; or
  - (b) to take steps so specified with a view to securing—
    - (i) that it ceases to have control or joint control of the subsidiary or jointly controlled body; or
    - (ii) that the subsidiary or jointly controlled body is wound up.
- (4) A direction under this section may specify when the society is to comply with it and may do so by reference to a date, the end of a period or the happening of an event.
- (5) A society given a direction under this section must—
  - (a) comply with the direction; or
  - (b) convert itself into a company in accordance with Part VIII of this Act.
- (6) The Commission may by notice to the society vary or revoke a direction under this section.
- (7) If a society requests the Commission to notify it as to whether in the opinion of the Commission it has complied with a direction under this section, the Commission shall comply with the request.

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- (8) The Commission may issue to incorporated friendly societies (or to any description of such societies) such general guidance as it thinks appropriate as to circumstances in which a direction under this section is or is not likely to be given.
- (9) The Commission shall send to the central office a copy—
- (a) of a direction under this section;
  - (b) of a notice under subsection (6) above; or
  - (c) of a notification under subsection (7) above;
- and the central office shall keep a copy in the public file of the society.

#### Commencement Information

**I32** S. 54 wholly in force; s. 54 not in force at Royal Assent see s. 126(2); s. 54 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; s. 54 in force for all remaining purposes at 28.4.1993 by S.I. 1993/1186, art. 2(2), Sch. 2

## 55 Supervision of group insurance business.

- (1) This section applies where a friendly society carries on any group insurance business providing benefits for or in respect of a group of persons who are not members of the society.
- (2) If it appears to the Commission that the business so carried on is or may become disproportionate to the other activities of the society (including any group insurance business carried on for the provision of benefits for or in respect of persons who are members of the society), it may direct the society to take or refrain from taking steps specified in the direction with a view to securing that the group business in question ceases to be or does not become disproportionate.
- (3) Subsections (4) to (9) of section 54 above shall apply in relation to a direction under this section as they apply to a direction under that section.

#### Commencement Information

**I33** S. 55 wholly in force; s. 55 not in force at Royal Assent see s. 126(2); s. 55 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; s. 55 in force for all remaining purposes at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

## [55A]<sup>F27</sup> Supervision of controllers.

- (1) Schedule 13A to this Act shall have effect for making provision for or in connection with the supervision by the Commission of controllers of friendly societies to which section 37(2) or (3) above applies.
- (2) In this Act—
- “controller”, in relation to a friendly society to which section 37(2) or (3) of this Act applies, means a person who, either alone or with any associate or associates—
- (a) is entitled to exercise or control the exercise of 10 per cent. or more of the voting power at any general meeting of the society; or

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- (b) is able to exercise a significant influence over the management of the society by virtue of an entitlement to exercise, or to control the exercise of, the voting power at any general meeting of the society;
- “notifiable voting rights”, in relation to a friendly society to which section 37(2) or (3) above applies, means voting rights which, if acquired by any person, will result in his becoming a 10 per cent. controller, a 20 per cent. controller, a 33 per cent. controller, a 50 per cent. controller or a majority controller of the society.
- (3) In this section and Schedule 13A to this Act, in relation to a friendly society to which section 37(2) or (3) above applies—
- “10 per cent. controller” means a controller in whose case the percentage referred to in paragraph (a) of the definition of “controller” in subsection (2) above is 10 or more but less than 20;
- “20 per cent. controller” means a controller in whose case that percentage is 20 or more but less than 33;
- “33 per cent. controller” means a controller in whose case that percentage is 33 or more but less than 50;
- “50 per cent. controller” means a controller in whose case that percentage is 50;
- “majority controller” means a controller in whose case that percentage is more than 50.]

#### Textual Amendments

**F27** S. 55A added (1.9.1994) by S.I. 1994//1984 reg. 14(1)

## 56 Linked long-term insurance contracts.

- (1) Regulations may be made by the Commission, with the consent of the Treasury, as respects the matters specified in subsection (2) below, in relation to contracts made by friendly societies the effecting of which constitutes the carrying on of insurance business falling within class III in head A in Schedule 2 to this Act.
- (2) Regulations under this section may make provision for—
- restricting the descriptions of property or the indices of the value of property by reference to which benefits under the contracts may be determined;
  - restricting the proportion of those benefits which may be determined by reference to property of a specified description or a specified index;
  - regulating the manner in which and the frequency with which property of any description is to be valued for the purpose of determining those benefits and the times at which reference is to be made for that purpose to any index of the value of property;
  - requiring friendly societies that enter into such contracts to appoint valuers for carrying out valuations of property of any description for the purpose of determining benefits under the contracts (being valuers who comply with the prescribed requirement as to qualifications and independence from the society) and to furnish the Commission with the prescribed information in relation to such appointments;

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- (e) requiring societies that enter into such contracts to furnish in such manner and at such times or intervals as may be prescribed such information relating to the value of the benefits under the contracts as may be prescribed, whether by sending notices to their members, depositing statements with the Commission, publication in the press or otherwise;
  - (f) requiring societies that enter into such contracts to furnish to the Commission in such manner and at such times or intervals as may be prescribed, such information certified in such manner as may be prescribed with respect to so much of their business as is concerned with the contracts or with any class or description of the contracts, and enabling the Commission to publish such information in such ways as it thinks appropriate.
- (3) Regulations made for the purposes of subsection (2)(e) above may, in relation to notices required to be sent to members of friendly societies, impose requirements (whether as to type, size, colour or disposition of lettering, quality or colour of paper, or otherwise) for securing that such notices are easily legible.
- (4) The Commission may, on the application of any friendly society, alter the requirements of regulations under this section so as to adapt those requirements to the circumstances of that society or to any particular kind of contract entered into or proposed to be entered into by that society.
- (5) Regulations under this section may, to such extent as may be specified in them, apply in relation to contracts entered into before the coming into operation of the regulations, including contracts entered into before the passing of this Act.
- (6) In this section “prescribed” means prescribed by regulations under this section.

#### **Commencement Information**

**I34** S. 56 wholly in force; s. 56 not in force at Royal Assent see s. 126(2); s. 56 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; s. 56 in force for all remaining purposes at 28.4.1993 by S.I. 1993/1186, art. 2(2), Sch. 2

#### *Covering of risks situated in another member State*

#### **[<sup>F28</sup>57 Recognition of societies in accordance with insurance Directives.**

Schedule 13B to this Act shall have effect for making provision for or in connection with the recognition in other EEA States of friendly societies to which section 37(2) or (3) of this Act applies.]

- (2) After Schedule 13A to that Act insert Schedule 2 to these Regulations (recognition of friendly societies in other EEA States), as Schedule 13B.
- (3) If a friendly society to which section 37(2) or (3) of the 1992 Act applies was immediately before the commencement date lawfully carrying on direct insurance business of a class or part of a class in a member State other than the United Kingdom through an overseas branch in that State, it shall be treated for the purposes of that Act as if the requirements of paragraph 1 of Schedule 13B to that Act had been complied with in relation to insurance business of that class or part of a class.

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- (4) If a friendly society to which section 37(2) or (3) of the 1992 Act applies was immediately before the commencement date lawfully providing insurance of a class or part of a class in a member State other than the United Kingdom through an establishment in another member State, it shall be treated for the purposes of that Act as if the requirements of paragraph 5 of Schedule 13B to that Act had been complied with in relation to insurance of that class or part of a class.
- (6) Regulation 4 of the Friendly Societies (Amendment) Regulations 1993 (which is superseded by this regulation) shall cease to have effect.

#### Textual Amendments

**F28** S. 57 substituted (1.9.1994) by S.I. 1994/1984 reg. 15(1)

#### [57A] <sup>F29</sup> Notification by Commission of measures taken by it.

- (1) This section applies where the Commission is considering taking or has taken any measures in relation to a friendly society to which section 37(2) or (3) above applies which—
  - (a) carries on insurance business through an overseas branch in an EEA State other than the United Kingdom; or
  - (b) provides insurance in an EEA State other than the United Kingdom through an establishment in another EEA State.
- (2) The Commission—
  - (a) shall, if required by Article 24 of the first life Directive or Article 20 of the first general insurance Directive, or by any other provision of the life or general insurance Directives to do so, notify any supervisory authority of such a State of those measures or proposed measures; and
  - (b) may, if it is satisfied that it is expedient to do so, request that authority to take similar measures in relation to the friendly society.
- (3) In this section “measure” includes imposing conditions which prohibit the disposals of assets and exercising any power conferred by this Part of the Act.]

#### Textual Amendments

**F29** S. 57A substituted (1.9.1994) by S.I. 1994/1984 reg. 16

### *Appeals*

#### <sup>F30</sup>58 Rights of appeal.

- (1) A friendly society which is aggrieved by a decision of the Commission—
  - (a) to refuse to grant authorisation under section 32 above,
  - (b) to impose conditions, or as to the conditions imposed, under section 34 or 36 above,
  - (c) to withdraw authorisation under section 40 or 41 above,
  - (d) to give a direction under section 51 above; or

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- (e) to give a direction to the society, or as to the steps specified in a direction, under section 54 or 55 above,  
 may appeal against the decision to a tribunal constituted in accordance with section 59 below.
- (2) Any person in relation to whom the Commission, in deciding to refuse to grant authorisation, to impose conditions or to withdraw authorisation—
- (a) makes a determination that he is not a fit and proper person to hold or, as the case may be, to remain in an office in the society in question, or
  - (b) imposes a requirement that he be removed from an office in the society,
- may appeal against the decision so far as it relates to that determination or requirement.
- (3) The withdrawal of a society's authorisation shall not have effect—
- (a) until the end of the period within which an appeal can be brought against the Commission's decision to withdraw that authorisation; and
  - (b) if such an appeal is brought, until it is determined or withdrawn.
- (4) Where the Commission decides to refuse to grant authorisation to a society on an application made in pursuance of a direction under section 39 above, the society's authorisation shall not expire under subsection (5) of that section—
- (a) until the end of the period within which an appeal can be brought against the decision not to grant authorisation; and
  - (b) if such an appeal is brought, until it is determined or withdrawn.
- (5) A direction under section 51, 54 or 55 above shall not have any effect until—
- (a) the end of the period within which an appeal can be brought against the Commission's decision to give the direction or as to any steps specified in the direction; and
  - (b) if such an appeal is brought, until it is determined or withdrawn.
- (6) Subject to any order of the tribunal made under section 59(6) below, an appeal under subsection (1)(b) or (2) above shall not affect the operation, pending the determination of the appeal, of any condition which is the subject of the appeal.
- (7) Subject to subsection (8) below, no determination of an appeal brought by any person under subsection (2) above shall affect any decision of the Commission on the ground of (or on grounds including) the determination made in relation to that person or, as the case may be, the failure of the society to comply with the requirement imposed in relation to that person.
- (8) The tribunal may revoke a decision of the Commission to impose a condition which is the subject of an appeal under subsection (2) above in so far as it seeks to prevent the person making the appeal from holding, or continuing to hold, office in the society.

#### Textual Amendments

**F30** S. 58A substituted (17.8.2001 for specified purposes and otherwise 1.12.2001) for ss. 58-61 by S.I. 2001/2617, arts. 2, 8(1), 13(1), **Sch. 3 para. 75** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**



**Status:** Point in time view as at 01/08/1996. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** Friendly Societies Act 1992 is up to date with all changes known to be in force on or before 25 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

VALID FROM 17/08/2001

### **[<sup>F31</sup>58A Notices, hearings and appeals.**

- (1) If the Authority proposes—
  - (a) to give a direction to a society under section 54 or section 55, or to vary such a direction other than at the request of the society, or
  - (b) to give a direction in relation to a society under section 90,  
it must give the society a warning notice.
- (2) The warning notice must set out the terms of the direction which the Authority proposes to give and, in the case of a proposal to give a direction under section 54 or 55, any provisions which the Authority proposes to include in the direction by virtue of section 54(4) (including that provision as applied by section 55(3)).
- (3) If the Authority decides—
  - (a) to give a direction to a society under section 54 or section 55, or to vary such a direction other than at the request of the society, or
  - (b) to give a direction in relation to a society under section 90,  
it must give the society a decision notice.
- (4) The decision notice must set out the terms of the direction which the Authority has decided to give and, in the case of a decision to give a direction under section 54 or 55, any provisions to be included in the direction by virtue of section 54(4) (including that provision as applied by section 55(3)).
- (5) A society to whom a decision notice is given under this section may refer the matter to the Financial Services and Markets Tribunal.
- (6) Part XXVI of the Financial Services and Markets Act 2000 (notices) is to be treated as applying in respect of warning notices and decision notices given under this section as it applies in respect of warning notices and decision notices given under that Act, subject to subsection (8) below.
- (7) The provisions of Part IX of the Financial Services and Markets Act 2000 (hearings and appeals) are to be treated as applying in respect of references to the Financial Services and Markets Tribunal made under this section as they apply in respect of references made to that Tribunal under that Act.
- (8) In the application of Part XXVI of that Act in respect of warning notices and decision notices given under this section—
  - (a) section 388(1)(e)(i) (which requires a decision notice to indicate any right given under that Act to refer a decision to the Tribunal) is to be read as if, for the words “this Act”, there were substituted “the Friendly Societies Act 1992”;
  - (b) section 388(2) (which makes provision for the type of action to which a decision notice may relate if it was preceded by a warning notice) is to be read as if, for the word “Part”, there were substituted “section”;
  - (c) section 390(4) (which provides for the content of a final notice about an order) is to be read as if—
    - (i) for the words “an order” there were substituted “a direction”, and

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- (ii) for the words “the order”, in both places where they appear, there were substituted “the direction”; and
- (d) section 392 (application of sections 393 (third party rights) and 394 (access to Authority material)) is to be read as if—
  - (i) paragraph (a) of that section contained a reference to a warning notice given under subsection (1) above, and
  - (ii) paragraph (b) of that section contained a reference to a decision notice given under subsection (3) above.]

#### Textual Amendments

**F31** S. 58A substituted (17.8.2001 for specified purposes and otherwise 1.12.2001) for ss. 58-61 by S.I. 2001/2617, arts. 2, 8(1), 13(1), **Sch. 3 para. 75** (with art. 13(3), Sch. 5); S.I. 2001/3538, art. 2(1)

#### <sup>F32</sup>59 Determination of appeals.

- (1) Where an appeal is brought under section 58 above, a tribunal to determine the appeal shall be constituted in accordance with subsection (2) below.
- (2) The tribunal shall consist of—
  - (a) a chairman appointed by the Lord Chancellor or, where the society concerned has its registered office in Scotland, by the Lord Chancellor in consultation with the Lord Advocate; and
  - (b) two other members appointed by the Treasury.
- (3) The chairman shall be a person who—
  - (a) has a seven year general qualification, within the meaning of the <sup>M14</sup>Courts and Legal Services Act 1990;
  - (b) is an advocate or solicitor in Scotland of at least seven years' standing; or
  - (c) is a member of the Bar of Northern Ireland or solicitor of the Supreme Court of Northern Ireland of at least seven years' standing;
 and the other two members shall be persons appearing to the Treasury to have experience of accountancy, the business of insurance or the business of friendly societies.

[<sup>F33</sup>(3A) A person shall not be appointed after the day on which he attains the age of 70 to be the chairman of a tribunal under this section.]

- (4) Subject to subsection (5) below, on any appeal against a decision of the Commission the question for the determination of the tribunal shall be whether, for the reasons adduced by the appellant, the decision was unlawful or not justified by the evidence on which it was based.
- (5) In the case of an appeal against a decision to give a direction under section 54 or 55 above—
  - (a) the tribunal shall, on the evidence adduced before it, reconsider the decision to give the direction and the steps specified in the direction (according to the extent of the appeal);
  - (b) if the tribunal determines that such a direction should not be given, it shall reverse the decision; and



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- (c) if the tribunal determines that those steps should not be so specified, it may give the Commission such guidance as it thinks fit as to what the appropriate steps might be.
- (6) The tribunal may, on the application of the friendly society concerned, order that the operation of any condition which is the subject of an appeal by the society be suspended pending the determination of the appeal.
- (7) The tribunal may confirm or reverse the decision which is the subject of the appeal but shall not have power to vary it except by directing the Commission—
  - (a) in the case of an appeal against a decision to refuse to grant authorisation, to determine conditions to which the grant of authorisation is to be subject;
  - (b) in the case of an appeal against the imposition of conditions or as to the conditions imposed by the decision, to determine conditions or different conditions subject to which the authorisation is to be granted or is to continue, as the case may be;
  - (c) in the case of an appeal against a decision to withdraw authorisation, to determine conditions or different conditions subject to which the authorisation is to continue in force, as the case may be;
  - (d) in the case of an appeal against a decision as to the steps specified in a direction under section 54 or 55 above, to determine, having taken account of any guidance given under subsection (5) above, the steps which are to be so specified.
- (8) Where by virtue of subsection (7)(d) above the tribunal directs the Commission to determine the steps to be specified in the direction, the society may appeal against the steps so specified.
- (9) Where by virtue of subsection (7) above the tribunal directs the Commission to determine conditions or different conditions—
  - (a) the Commission shall in accordance with section 34 or 36 above impose such conditions as it thinks fit; and
  - (a) paragraphs 7 and 8 of Schedule 13 to this Act shall apply subject to the modifications made by paragraph 9 of that Schedule;and the society may appeal to the tribunal against any condition so imposed.
- (10) On any such appeal the tribunal may confirm or reverse the Commission's decision with respect to the conditions which are the subject of the appeal or may direct the Commission to determine different conditions; and where by virtue of this subsection the tribunal directs the Commission to determine different conditions, subsection (9) above shall apply as it applies where the tribunal gives such a direction by virtue of subsection (7) above.
- (11) Where the tribunal reverses a decision of the Commission to refuse to grant authorisation, it shall direct the Commission to grant it; and where the tribunal reverses a decision of the Commission to make the grant of authorisation subject to conditions, it shall direct the Commission to grant it unconditionally.
- (12) Notice of a tribunal's determination, together with a statement of its reasons, shall be given to the appellant and to the Commission; and unless the tribunal has directed the Commission to determine conditions or, in any other case, the tribunal directs otherwise, the determination shall come into operation when the notice is given to the appellant.

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- (13) The Treasury may out of money provided by Parliament pay to the persons appointed as members of a tribunal under this section such fees and allowances in respect of expenses as the Treasury may determine and any other expenses incurred for the purposes of this section.

#### Textual Amendments

- F32** S. 58A substituted (17.8.2001 for specified purposes and otherwise 1.12.2001) for ss. 58-61 by S.I. 2001/2617, arts. 2, 8(1), 13(1), **Sch. 3 para. 75** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**
- F33** S. 59(3A) inserted (31.3.1995) by 1993 c. 8, s. 26, **Sch. 6 para.68** (with Sch. 7 paras. 2(2), 3(2), 4); S.I. 1995/631, **art. 2**

#### Modifications etc. (not altering text)

- C7** S. 59 restricted (31.3.1995) by 1993 c. 8, s. 26(8)(j) (with Sch. 7 paras. 2(2), 3(2), 4); S.I. 1995/631, **art. 2**
- S. 59: power to transfer functions conferred (19.5.1999) by S.I. 1999/678, **art. 2(1), Sch.**
- C8** S. 59(2)(a): power to transfer certain functions conferred (1.7.1999) by S.I. 1999/1750, arts. 1(1), 2, **Sch. 1**

#### Marginal Citations

- M14** 1990 c. 41.

### <sup>F34</sup>60 Costs, procedure and evidence.

- (1) A tribunal may give such directions as it thinks fit for the payment of costs or expenses by any party to an appeal.
- (2) On an appeal under section 58(2) above the friendly society in relation to which the determination was made, or upon which the requirement was imposed, shall be entitled to be heard.
- (3) The Treasury may make regulations with respect to appeals under section 58 above; and those regulations may in particular make provision—
  - (a) as to the period within which and the manner in which such appeals are to be brought;
  - (b) as to the manner in which such appeals are to be conducted, including provision for any hearing to be held in private;
  - (c) for requiring any person, on tender of the necessary expenses of his attendance, to attend and give evidence or produce documents in his custody or under his control and for authorising the administration of oaths to witnesses;
  - (d) for granting to any person such discovery or inspection of documents or right to further particulars as might be granted by a county court in England and Wales or Northern Ireland or, in Scotland, for granting to any person such recovery or inspection of documents as might be granted by the sheriff;
  - (e) for enabling an appellant to withdraw an appeal or the Commission to withdraw its opposition to an appeal and for the consequences of any such withdrawal;
  - (f) for taxing or otherwise settling any costs or expenses directed to be paid by the tribunal and for the enforcement of any such direction;

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- (g) for enabling any functions in relation to an appeal to be discharged by the chairman of the tribunal; and
  - (h) as to any other matter connected with such appeals.
- (4) Regulations under this section with respect to appeals where the friendly society concerned has its registered office in Scotland shall be made by the Lord Advocate.
- (5) A person who, having been required in accordance with regulations under this section to attend and give evidence, fails without reasonable excuse to attend or give evidence shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (6) A person who intentionally alters, suppresses, conceals, destroys or refuses to produce any document which he has been required to produce in accordance with regulations under this section, or which he is liable to be so required to produce, shall be liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or both;
  - (b) on summary conviction, to a fine not exceeding the statutory maximum.

#### Textual Amendments

**F34** S. 58A substituted (17.8.2001 for specified purposes and otherwise 1.12.2001) for ss. 58-61 by S.I. 2001/2617, arts. 2, 8(1), 13(1), **Sch. 3 para. 75** (with art. 13(3), Sch. 5); S.I. 2001/3538, art. 2(1)

#### Modifications etc. (not altering text)

**C9** S. 60: power to transfer functions conferred (19.5.1999) by S.I. 1999/678, art. 2(1), **Sch.**

**C10** S. 60(4): power to transfer certain functions conferred (1.7.1999) by S.I. 1999/1750, arts. 1(1), 2, **Sch. 1**

### <sup>F35</sup>61 Further appeals on points of law.

- (1) An appeal shall lie to the High Court at the instance of the friendly society or other person concerned or of the Commission on any question of law arising from any decision of a tribunal under section 59 above; and if the court is of the opinion that the decision was erroneous in law, it shall remit the matter to the tribunal for re-hearing and determination by it.
- (2) In the application of this section to a friendly society whose registered office is in Scotland or Northern Ireland, references to the High Court shall be construed as references to the Court of Session or, as the case may be, the High Court in Northern Ireland.
- (3) No appeal to the Court of Appeal or to the Court of Appeal in Northern Ireland shall be brought from a decision under subsection (1) above except with the leave of that court or of the court or judge from whose decision the appeal is brought.
- (4) An appeal shall lie, with the leave of the Court of Session or the House of Lords, from any decision of the Court of Session under this section, and such leave may be given on such terms as to costs, expenses or otherwise as the Court of Session or the House of Lords may determine.

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### Textual Amendments

**F35** S. 58A substituted (17.8.2001 for specified purposes and otherwise 1.12.2001) for ss. 58-61 by S.I. 2001/2617, arts. 2, 8(1), 13(1), **Sch. 3 para. 75** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**

## *Information*

### **62 Powers to obtain information and documents etc.**

- (1) This section applies to information, documents or other material, or explanations of matters which relate to—
- (a) the activities or the plans for future development of a friendly society; or
  - (b) the activities or the plans for future development of a subsidiary of or body jointly controlled by an incorporated friendly society;
- and, in relation to the imposition of requirements under this section, “the purposes of its supervisory functions” means the purposes of the discharge by the Commission of any of its functions under this Act.
- (2) This section does not authorise any requirement in relation to information, documents or other material to be imposed on a subsidiary of or body jointly controlled by an incorporated friendly society unless that subsidiary or body carries on business in the United Kingdom; but a requirement may be imposed under this section on a friendly society in relation to information, documents or other material in the possession or control of a subsidiary of or body jointly controlled by the society which does not carry on business in the United Kingdom.
- (3) Subject to subsection (2) above, the Commission may by notice to a friendly society or to a subsidiary of, or body jointly controlled by, an incorporated friendly society, require the body to which it is addressed—
- (a) to furnish to it, within a specified period or at a specified time or times, such specified information as the Commission considers it needs for the purposes of its supervisory functions;
  - (b) to produce to it, at a specified time and place, such specified documents or other material as the Commission considers it needs for the purposes of its supervisory functions;
  - (c) to provide to it, within a specified period, such explanations of specified matters as the Commission considers it needs for the purposes of its supervisory functions;
  - (d) to furnish to it, within a specified period, a report by an accountant or actuary approved by the Commission on, or on specified aspects of, information or documents or other material furnished or produced to the Commission.
- (4) Where by virtue of subsection (3)(a), (b) or (c) above the Commission has power to require the furnishing of any information, the production of any document or material or the provision of any explanation by a friendly society, the Commission shall have the like power as regards any person who—
- (a) is or has been an officer, employee or agent of the society [<sup>F36</sup>or, in the case of a society to which section 37(2) or (3) above applies, a controller or manager of the society], or

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- (b) in the case of documents or material, appears to the Commission to have the document or material in his possession or under his control.
- (5) Where by virtue of subsection (3)(a), (b) or (c) above the Commission has power to require the furnishing of any information, the production of any document or material or the provision of any explanation by a subsidiary of or body jointly controlled by an incorporated friendly society, the Commission shall have the like power as regards any person who—
- (a) is or has been an officer, employee or agent of the subsidiary or jointly controlled body, or
  - (b) in the case of documents or material, appears to the Commission to have the document or material in his possession or under his control.
- [<sup>F37</sup>(5A) Any person authorised by the Commission may, on producing if required evidence of his authority, enter any premises occupied by—
- (a) any body which is a friendly society to which section 37(2) or (3) above applies, or is a subsidiary of, or body jointly controlled by, such a society, and on which a notice has been served under subsection (3) above; or
  - (b) any person who is or has been a controller, manager, officer, employee or agent of such a society, or of a subsidiary of, or body jointly controlled by, such a society, and on whom a notice has been served under subsection (4) or (5) above,
- for the purpose of obtaining the information or documents required by the notice and exercising the powers conferred by subsection (3) above.]
- (6) Where any person from whom production of a document or material is required under subsection (4) or (5) above claims a lien on the document or material, the production of it shall be without prejudice to the lien.
- (7) Nothing in the foregoing provisions of this section shall compel the production—
- (a) by a barrister, solicitor, advocate or licensed conveyancer of a document or material contained in a privileged communication or, in Scotland, a communication which is protected from disclosure on the ground of confidentiality, made by him or to him in that capacity or the furnishing of information contained in such communication so made;
  - (b) by a person who is not a barrister or solicitor of a document or material contained in a communication made by him or to him which is privileged by virtue of section 63 of the <sup>M15</sup>Courts and Legal Services Act 1990 or the furnishing of information contained in such a communication; or
  - (c) by an independent qualified conveyancer, an executry practitioner or a recognised financial institution of a document or material contained in a communication made by him or to him which is protected from disclosure by virtue of section 22 of the <sup>M16</sup>Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 or the furnishing of information contained in such a communication.
- (8) Where, by virtue of subsection (3), (4) or (5) above, the Commission requires the production by a friendly society or other body or any other person of documents or material, the Commission may—
- (a) if the documents or material are not produced, require that person to state, to the best of his knowledge and belief, where the documents or material are;
  - (b) if the documents or material are produced, take copies of or extracts from them and require that person or any other person who is or has been an officer,

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employee or agent of the friendly society or other body, as the case may be, to provide an explanation of the documents or material.

- (9) Any person who, when required to do so under this section, fails without reasonable excuse to furnish any information or report, to produce any documents or material, or to provide any explanation or make any statement, shall be guilty of an offence and liable on summary conviction—
- (a) to a fine not exceeding level 5 on the standard scale; and
  - (b) in the case of a continuing offence, to an additional fine not exceeding one tenth of that level for every day during which the offence continues.
- (10) Any friendly society which furnishes any information, provides any explanation or makes any statement which is false or misleading in a material particular, shall be guilty of an offence and liable—
- (a) on conviction on indictment, to a fine; and
  - (b) on summary conviction to a fine not exceeding the statutory maximum.
- (11) Any person who knowingly or recklessly furnishes any information, provides any explanation or makes any statement which is false or misleading in a material particular shall be guilty of an offence and liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine or both; and
  - (b) on summary conviction, to a fine not exceeding the statutory maximum.
- (12) In this section—
- “specified” means specified in a notice under this section; and
- “agent”, in relation to a friendly society or a subsidiary of, or body jointly controlled by, an incorporated friendly society, includes its bankers, accountants, solicitors and auditors and the appropriate actuary.

#### Textual Amendments

**F36** S. 62(4)(a) words substituted (1.9.1994) by S.I. 1994/1984 reg. 17(1)

**F37** S. 62(5A) inserted (1.9.1994) by S.I. 1994/1984, reg. 17(2)

#### Commencement Information

**I35** S. 62 wholly in force; s. 62 not in force at Royal Assent see s. 126(2); s. 62 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; s. 62 in force for all remaining purposes at 28.4.1993 by S.I. 1993/1186, art. 2(2), Sch. 2

#### Marginal Citations

**M15** 1990 c. 41.

**M16** 1990 c. 40.

VALID FROM 17/08/2001

#### <sup>F38</sup> 62A Entry of premises under warrant under section 176 of the Financial Services and Markets Act 2000.

- (1) A justice of the peace may issue a warrant under section 176 of the Financial Services and Markets Act 2000 if satisfied on information on oath given by or on behalf of

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the Authority, an authorised officer within the meaning of section 62(3A) above, or a person appointed as an investigator under section 65(1) below or as an inspector under section 66(1) below, that there are reasonable grounds for believing that the first or second set of conditions below is satisfied.

(2) The first set of conditions is that—

- (a) there are on the premises specified in the warrant information, documents or other material in relation to which a requirement has been imposed on any person under section 62(3), (3A), (4) or (5) above or section 67(3) below, or which it is the duty of any person to produce under section 65(3) or 67(2) below, and
- (b) that person has failed (wholly or in part) to comply with that requirement or, having been requested to do so, has failed (wholly or in part) to comply with that duty.

(3) The second set of conditions is that—

- (a) there are on the premises specified in the warrant information, documents or other material in relation to which a requirement could be imposed on any person under section 62(3), (3A), (4) or (5) above or section 67(3) below, or which any person could be requested to produce in compliance with the duty imposed on them by section 65(3) or 67(2) below, and
- (b) if such a requirement were imposed, or such a request made,—
  - (i) it would not be complied with, or
  - (ii) any information, documents or other material to which it related would be removed, tampered with or destroyed.]

#### Textual Amendments

**F38** S. 62A inserted (17.8.2001 for specified purposes and otherwise 1.12.2001) by S.I. 2001/2617, art. 2, 13(1), Sch. 3, Pt. 1 para 77 (with art. 13(3), Sch. 5); S.I. 2001/3538, art. 2(1)

### <sup>F39</sup> 63 Confidentiality of certain information.

(1) Subject to section 64 below, no restricted information which relates to the business or other affairs of a friendly society, a registered branch of a friendly society or any other person shall be disclosed (otherwise than to an officer or employee of the primary recipient) by—

- (a) the primary recipient; or
- (b) any person obtaining the information directly or indirectly from him, without the consent of the person from whom the primary recipient obtained the information and, if different, the person to whom it relates.

(2) For the purposes of this section—

“the primary recipient” means the Commission, the Chief Registrar, the central office or any officer or servant of any such person; and

“restricted information” means information which is obtained by the primary recipient for the purposes of, or in the discharge of his functions under, this Act or the 1974 Act;



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

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

#### Textual Amendments

**F39** S. 63A substituted (17.8.2001 for specified purposes and otherwise 1.12.2001) for ss. 63, 64 by S.I. 2001/2617, arts. 2, 8(1), 13(1), **Sch. 3 para. 78** (with art. 13(3), Sch. 5); S.I. 2001/3538, art. 2(1)

#### Commencement Information

**I36** S. 63 wholly in force; s. 63 not in force at Royal Assent see s. 126(2); s. 63 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, **Sch. 1**; s. 63 in force for all remaining purposes at 28.4.1993 by S.I. 1993/1186, art. 2(2), **Sch. 2**

VALID FROM 17/08/2001

#### <sup>F40</sup>63A Disclosure of information.

- (1) For the purposes of sections 348 to 353 of the Financial Services and Markets Act 2000 (restrictions on disclosure of confidential information)—
  - (a) information to which this section applies is to be treated as confidential information; and
  - (b) in relation to such information, each of the following is a primary recipient—
    - (i) the Authority;
    - (ii) any person who is or has been employed by the Authority; and
    - (iii) any person appointed by the Authority to carry out functions under this Act or the 1974 Act.
- (2) This section applies to information which—
  - (a) relates to the business or other affairs of a friendly society, a registered branch of a friendly society or any other person;
  - (b) was received by a primary recipient (within the meaning of subsection (1)(b)) for the purposes of, or in the discharge of, any functions of the Authority under any provision made by or under this Act or the 1974 Act; and
  - (c) is not excluded information by virtue of subsection (4).
- (3) It is immaterial for the purposes of subsection (2) whether or not the information was received—
  - (a) by virtue of a requirement to provide it imposed by or under this Act;



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(b) for other purposes as well as purposes mentioned in that subsection.

(4) Information is excluded information if—

- (a) it has been made available to the public by virtue of being disclosed in any circumstances in which, or for any purposes for which, disclosure is not precluded by section 348 of the Financial Services and Markets Act 2000 (restrictions on disclosure of confidential information); or
- (b) it is in the form of a summary or collection of information so framed that it is not possible to ascertain from it information relating to any particular person.]

#### Textual Amendments

**F40** S. 63A substituted (17.8.2001 for specified purposes and otherwise 1.12.2001) for ss. 63, 64 by S.I. 2001/2617, art. 2, 8(1), 13(1), Sch. 3, Pt. 1 para. 78 (with art. 13(3), Sch. 5); S.I. 2001/3538, art. 2(1)

### <sup>F39</sup> 63 Confidentiality of certain information.

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

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#### Textual Amendments

**F39** S. 63A substituted (17.8.2001 for specified purposes and otherwise 1.12.2001) for ss. 63, 64 by S.I. 2001/2617, arts. 2, 8(1), 13(1), **Sch. 3 para. 78** (with art. 13(3), Sch. 5); S.I. 2001/3538, art. 2(1)

#### Commencement Information

**I36** S. 63 wholly in force; s. 63 not in force at Royal Assent see s. 126(2); s. 63 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, **Sch. 1**; s. 63 in force for all remaining purposes at 28.4.1993 by S.I. 1993/1186, art. 2(2), **Sch. 2**

### 64 Exceptions from restrictions on disclosure.

- (1) Information which is restricted information for the purposes of section 63 above may be disclosed—
- (a) to any person with a view to the institution of, or otherwise for the purposes of, relevant proceedings;
  - (b) if it is information which is or has been available to the public from other sources;
  - (c) in the form of a summary or collection of information so framed as not to enable information related to any particular body or person to be ascertained from it;
  - (d) to the extent that it is information which is provided for the purpose, under any provision of this Act or the 1974 Act, of its being made available to the public in any manner;
  - (e) in pursuance of any Community obligation;
  - (f) for the purpose of facilitating the discharge by the Commission, the Chief Registrar or the central office of any of their functions under this Act or the 1974 Act;
  - (g) to the Treasury, if the disclosure is made for the purpose of facilitating the discharge of any functions of the Treasury under this Act or the 1974 Act or otherwise in the interests of members of friendly societies or in the public interest;
  - (h) for the purpose of enabling or assisting any person appointed investigator under section 65 below or inspector under section 66 below to discharge his duties under that section; or
  - (i) for the purpose of facilitating the discharge by the auditors of a friendly society of their duties to the Commission.
- (2) For the purposes of subsection (1)(a) above “relevant proceedings” are—
- (a) any criminal proceedings;
  - (b) any civil proceedings by or at the relation of or against the Commission or the Chief Registrar arising out of the discharge of any of their functions under this Act or the 1974 Act;
  - (c) any disciplinary proceedings relating to—
    - (i) the exercise by a solicitor, auditor, accountant, actuary or valuer of his professional duties;
    - (ii) the discharge by a public servant of his duties;
- and in paragraph (c) above “public servant” means an officer or servant of the Crown (including an officer or servant of the Crown in right of Her Majesty’s Government

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in Northern Ireland) or of any public or other authority designated for the purpose by order made by the Treasury.

(3) Nothing in section 63 above prohibits the disclosure of information to the Secretary of State or the Department of Economic Development in Northern Ireland in circumstances where it is desirable or expedient—

(a) that the information should be disclosed in the interests of members of a friendly society or in the public interest; or

(b) it is desirable or expedient that the information should be disclosed for the purpose of facilitating the discharge—

(i) by the Secretary of State, of any functions of his under the enactments relating to companies, insurance companies, or insolvency or under the <sup>M17</sup>Financial Services Act 1986 or any provision of Parts II, III or VII of the <sup>M18</sup>Companies Act 1989; or

(ii) by the Department, of any of its functions relating to companies or insolvency, or under Part III of the <sup>M19</sup>Companies (Northern Ireland) Order 1990 or Part II or V of the <sup>M20</sup>Companies (No. 2) (Northern Ireland) Order 1990;

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

[<sup>F41</sup>(3A) Nothing in section 63 above prohibits the disclosure of information to the Treasury in circumstances where it is desirable or expedient that the information should be disclosed for the purpose of facilitating the discharge by the Treasury of any functions of theirs under the Financial Services Act 1986 or under Part III or Part VII of the Companies Act 1989 nor does that section prohibit further disclosure of the information by the Treasury with the consent of the Commission.]

(4) Nothing in section 63 above prohibits the disclosure of information to an authority mentioned in subsection (5) below (a “relevant authority”) in circumstances where, in the opinion of the Commission, it is desirable or expedient that the information should be disclosed—

(a) in the interests of members of a friendly society or in the public interest; or

(b) with a view to facilitating the discharge by the authority, of any functions of the authority (including functions in relation to proceedings) mentioned in that subsection (“relevant functions”);

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

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

<i>Authority</i>	<i>Functions</i>
[ <sup>F42</sup> 1.] An inspector appointed under Part XIV of the Companies Act 1985, Part XV of the Companies (Northern Ireland) Order 1986 or section 94 or 177 of the Financial Services Act 1986.	Functions under that Part or that section or Article.
[ <sup>F42</sup> 2.] A person authorised to exercise powers under section 44 of the Insurance Companies Act 1982,	Functions under that section or Article.

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section 447 of the Companies Act 1985, section 106 of the Financial Services Act 1986 or section 84 of the Companies Act 1989 or Article 440 of the Companies (Northern Ireland) Order 1986.

[<sup>F423</sup>.]The Policyholders Protection Board.

Functions under the Policyholders Protection Act 1975.

[<sup>F424</sup>.]A designated agency within the meaning of the Financial Services Act 1986.

Functions under that Act or Part VII of the Companies Act 1989.

[<sup>F425</sup>.]A transferee body or the competent authority within the meaning of the Financial Services Act 1986.

Functions under that Act.

[<sup>F426</sup>.]A body administering a scheme under section 54 of the Financial Services Act 1986.

Functions under the scheme.

[<sup>F427</sup>.]A recognised self-regulating organisation, recognised professional body, recognised investment exchange, recognised clearing house, or recognised self-regulating organisation for friendly societies (within the meaning of the Financial Services Act 1986).

Functions in its capacity as an organisation, body, exchange or clearing house recognised under that Act.

[<sup>F428</sup>.]The Bank of England.

Functions under the Banking Act 1987 and any other functions.

[<sup>F429</sup>.] A body established by order under section 46 of the Companies Act 1989.

Functions under Part II of that Act.

[<sup>F430</sup>.] A recognised supervisory or qualifying body (within the meaning of Part II of the Companies Act 1989 or Part III of the Companies (Northern Ireland) Order 1990).

Functions as such a body or functions in relation to disciplinary proceedings against auditors.]

[<sup>F4211</sup>.]The Industrial Assurance Commissioner for Northern Ireland.

Functions under the enactments relating to industrial assurance.

[<sup>F4212</sup>.]The Insurance Brokers Registration Council.

Functions under the Insurance Brokers (Registration) Act 1977.

[<sup>F4213</sup>.]The Official Receiver or the Official Receiver for Northern Ireland.

Functions under the enactments relating to insolvency.

[<sup>F44</sup> 14A recognised professional body (within the meaning of section 391 of the Insolvency Act 1986 or Article 350 of the Insolvency (Northern Ireland) Order 1989).

Functions in its capacity as such a body under that Act or that Order or functions in relation to disciplinary proceedings against insolvency practitioners (within the meaning of that Act or that Order).]

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[ <sup>F42</sup> 15.]The Building Societies Commission.	Functions under the Building Societies Act 1986.
[ <sup>F42</sup> 16.]The Director-General of Fair Trading.	Functions under the Financial Services Act 1986.
[ <sup>F45</sup> 17]An actuary exercising functions under this Act.	Those functions.
<sup>F45</sup> 18The Institute of Actuaries or the Faculty of Actuaries.	Supervisory functions in relation to actuaries exercising functions under this Act.]

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- (6) The Commission, with the consent of the Treasury, may by order—
- (a) amend the Table in subsection (5) above so as to—
    - (i) add any public or other authority to the Table and specify the relevant functions of that authority;
    - (ii) remove any authority from the Table; or
    - (iii) add functions to, or remove functions from, those which are relevant functions in relation to an authority specified in the Table;
  - (b) restrict the circumstances in which information may, by virtue of subsection (4) above, be disclosed or further disclosed; and
  - (c) impose conditions subject to which the information may be disclosed or further disclosed.
- (7) Nothing in section 63 above prohibits the disclosure to an overseas regulatory authority of information for the purpose of assisting that authority in the discharge of its functions.
- [<sup>F46</sup>(7A) In the case of restricted information which relates to the business or other affairs of a friendly society to which section 37(2) or (3) above applies, no disclosure may be made by virtue of subsection (1), (3), (4) or (7) above unless the disclosure appears to be in accordance with—
- (a) Article 16 of the third general insurance Directive; or
  - (b) Article 15 of the third life Directive.]
- (8) In this section—
- “authority” includes any body (corporate or unincorporate) which is charged with the regulation of the carrying on of any description of financial or insurance business or the practice of any profession to which the carrying on of such business is incidental;
  - “overseas regulatory authority” means any government department or public or other authority in a country or territory outside the United Kingdom which is charged under the law of that country or territory with the regulation of companies, insurance companies, financial services, banking or any business corresponding to the business which may be carried on by friendly societies (or their subsidiaries); and
  - “regulation”, in relation to any public or other authority, means regulation in the public interest or for the protection of private interests.

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#### Textual Amendments

**F41** S. 64(3A) inserted (7.6.1992) by S.I. 1992/1315, art. 10(1), Sch. 4 para. 14.

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- F42** Entries in table in s. 64(5) numbered 1-16 (18.7.1996) by S.I. 1996/1669, **reg. 16(1)**
- F43** Entry 10 in s. 64(5) has been substituted (18.7.1996) by S.I. 1996/1669, **reg. 16(2)(a)** (with saving in s. 16(3))
- F44** Entry 14 in s. 64(5) substituted (18.7.1996) by S.I. 1996/1669, **reg. 16(2)(b)** (with saving in s. 16(3))
- F45** Entries 17 and 18 in s. 64(5) inserted (18.7.1996) by S.I. 1996/1669, **reg. 16(2)(c)** (with saving in s. 16(3))
- F46** S. 64(7A) inserted (1.9.1994) by S.I. 1994/1984, **reg. 18**

#### Commencement Information

- I37** S. 64 wholly in force; s. 64 not in force at Royal Assent see s. 126(2); s. 64 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, **Sch. 1**; s. 64 in force for all remaining purposes at 28.4.1993 by S.I. 1993/1186, art. 2(2), **Sch. 2**

#### Marginal Citations

- M17** 1986 c. 60.
- M18** 1989 c. 40.
- M19** S.I. 1990/593 (N.I. 5).
- M20** S.I. 1990/1504 (N.I. 10).

*Inspections etc.*

## 65 Investigations on behalf of Commission.

- (1) If it appears to the Commission desirable to do so for the purpose of its supervisory functions in relation to a friendly society, the Commission may appoint one or more competent persons to investigate and report to it on the state and conduct of the activities of the society, or any particular aspect of those activities.
- [<sup>F47</sup>(1A) Where a person has notified the Commission under paragraph 1 or 2 of Schedule 13A to this Act of his intention to become a controller of or to acquire notifiable voting rights in a friendly society to which section 37(2) or (3) above applies, the Commission may, if it appears to it desirable to do so, appoint one or more competent persons to investigate and report to it on whether, if that person became such a controller or acquired such voting rights, the criteria of prudent management would be fulfilled with respect to the society.]
- (2) If a person appointed under subsection (1) [<sup>F47</sup> or (1A)] above thinks it necessary for the purposes of his investigation, he may also investigate the activities of any body corporate which is or has at any relevant time been a subsidiary of, or jointly controlled by, the society under investigation.
- (3) It shall be the duty of every person who is or has been an officer, employee and agent of a friendly society or other body which is under investigation—
- (a) to produce to the persons appointed under subsection (1) [<sup>F47</sup> or (1A)] above all records, books and papers relating to the body concerned which are in his custody or power; and
  - (b) to attend before those persons when required to do so;
  - (c) to answer any question which is put to him by those persons with respect to any friendly society or other body which is under investigation,
- and otherwise to give to those persons all assistance in connection with the investigation which he is reasonably able to give.

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[<sup>F47</sup>(3A) A person appointed under subsection (1) or (1A) above may enter any premises occupied by a friendly society to which section 37(2) or (3) above applies or any subsidiary of or body jointly controlled by such a society which is being investigated by him under this section; but he shall not do so without prior notice in writing unless he has reasonable cause to believe that if such a notice were given any documents whose production could be required would be removed, tampered with or destroyed.]

(4) A person who, without reasonable excuse—  
(a) fails to produce any records, books or papers which it is his duty to produce under subsection (3)(a) above; or  
(b) fails to comply with his duty under subsection (3)(b) or (c) above;  
shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(5) A person who is or has been an officer, employee or agent of a friendly society or other body and who knowingly or recklessly furnishes to any person appointed under subsection (1) [<sup>F47</sup>or (1A)] above any information which is false or misleading in a material particular, shall be guilty of an offence and liable—  
(a) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or both; and  
(b) on summary conviction, to a fine not exceeding the statutory maximum.

[<sup>F47</sup>(5A) In relation to a friendly society to which section 37(2) or (3) above applies, any reference in subsection (3) or (5) above to a person who is or has been an officer shall be read as including a reference to a person who is or has been a controller or manager.]

(6) In this section—  
“agent”, in relation to a friendly society or other body whose activities are under investigation, includes its bankers, accountants, solicitors and auditors and the appropriate actuary;  
“the purposes of its supervisory functions”, in relation to the Commission, has the same meaning as in section 62 above.

#### Textual Amendments

- F47** S. 65(1A) inserted (1.9.1994) by S.I. 1994/1984 reg. 19(1)  
Words in s. 65(2)(3) inserted (1.9.1994) by S.I. 1994/1984 reg. 19(2)  
S. 65(3A) inserted (1.9.1994) by S.I. 1994/1984 reg. 19(3)  
Words in s. 65(5) inserted (1.9.1994) by S.I. 1994/1984 reg. 19(4)  
S. 65(5A) inserted (1.9.1994) by S.I. 1994/1984 reg. 19(5)

#### Commencement Information

- I38** S. 65 wholly in force; s. 65 not in force at Royal Assent see s. 126(2); s. 65 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; s. 65 in force for all remaining purposes at 28.4.1993 by S.I. 1993/1186, art. 2(2), Sch. 2

## 66 Inspections and special meetings: general.

(1) In the circumstances mentioned in subsection (2) below, the Commission may—  
(a) appoint one or more competent inspectors to investigate and report on the affairs of a friendly society; or

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- (b) call a special meeting of a friendly society to consider its affairs; or
  - (c) appoint (whether on the same or on different occasions) an inspector or inspectors and call a special meeting for those purposes;
- and, in the circumstances mentioned in subsection (3) below, the investigation or consideration may extend to the affairs of any body corporate which is or at any relevant time has been a subsidiary of or jointly controlled by the society concerned.
- (2) The powers conferred by subsection (1) above may be exercised either—
- (a) on the application of the requisite number of members of the society concerned; or
  - (b) where the Commission is of the opinion that an investigation should be held into the affairs of the society, or that the affairs of the society call for consideration by a meeting of its members;
- but paragraph (a) above shall not apply to a registered society with branches (regardless of the number of members) except with the consent of the central body of that society.
- (3) The powers conferred by subsection (1) above may be exercised so as to extend the investigation or consideration to the affairs of a body which is or has been a subsidiary of or jointly controlled by a friendly society either—
- (a) where an application referred to in subsection (2)(a) above so requests; or
  - (b) where the Commission is of the opinion that it is necessary for the purposes of the investigation into or consideration of the affairs of the friendly society that the affairs of the subsidiary or other body should also be investigated or considered.
- (4) Where the inspectors are of the opinion mentioned in subsection (3)(b) above in relation to a subsidiary of or a body jointly controlled by the society under investigation they may, with the consent of the Commission, extend their investigation to the affairs of the subsidiary or other body and make their report accordingly.
- (5) For the purposes of subsections (1) to (3) above the requisite number of members—
- (a) in the case of a friendly society having more than 1,000 members, is 100; and
  - (b) in the case of any other friendly society, is one-tenth of the whole number of members of the society.
- (6) Where an application is made as mentioned in subsection (2) above—
- (a) the application shall be supported by such evidence as the Commission may require for the purpose of showing that the applicants have good reason for making the application and are not actuated by malicious, frivolous, vexatious or scandalous motives;
  - (b) such notice of the application shall be given to the society concerned and, if the application extends to the affairs of a subsidiary of or body jointly controlled by that society, to that subsidiary or other body, as the Commission may direct;
  - (c) the Commission may require the applicants to give security for payment of the costs of the investigation or meeting before the inspector is appointed or the meeting is called subject, in the case of the costs of an investigation, to an amount not exceeding the corresponding Companies Act limit; and
  - (d) as regards the expenses of or incidental to the investigation or meeting—
    - (i) in the case of an investigation (in whichever way instituted), the expenses shall be defrayed in the first instance by the Commission



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- but without prejudice to its rights to contribution under section 67(10) below;
- (ii) in the case of a meeting, the expenses shall be defrayed by the applicants, or out of the funds of the society, or by the members or officers or former members or officers of the society, in such proportions as the Commission may direct.
- (7) Before exercising its powers under subsection (1) above in a case falling within subsection (2)(b) above, the Commission shall inform the society of the action which it proposes to take and the grounds for that action, and the society shall, within 14 days of receiving the information, be entitled to give the Commission an explanatory statement in writing by way of a reply.
- (8) Where the Commission proposes to exercise its powers under subsection (1) above in a case falling within subsection (3)(b) above, subsection (7) above shall apply in relation to the subsidiary or jointly controlled body as it applies in relation to the society.
- (9) Inspectors appointed under this section shall, in addition to having the powers which are necessary for or incidental to the discharge of their functions under this section, have the power specified in section 67 below.
- (10) Where a special meeting is called under this section—
- (a) the Commission may—
- (i) direct at what time and place the meeting is to be held and what matters are to be discussed and determined at the meeting; and
- (ii) direct which members may attend and vote at the meeting, and may give such other directions as it thinks fit with respect to the call, holding and conduct of the meeting;
- (b) the Commission may appoint a person to be chairman at the meeting or, in default of such an appointment, the meeting may appoint its own chairman;
- (c) the meeting shall have all the powers of a meeting called according to the rules of the society;
- and the provisions of this subsection and any direction given under it shall have effect notwithstanding anything in the rules of the society.
- (11) In this section “the corresponding Companies Act limit”, in relation to security for the payment of the costs of an investigation, is £5,000 or such other sum as is specified for the time being in an order under section 431(4) of the <sup>M21</sup>Companies Act 1985 or Article 424(4) of the <sup>M22</sup>Companies (Northern Ireland) Order 1986.

#### Commencement Information

**I39** S. 66 wholly in force; s. 66 not in force at Royal Assent see s. 126(2); s. 66 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; s. 66 in force for all remaining purposes at 28.4.1993 by 1993/1186, art. 2(2), Sch. 2

#### Marginal Citations

**M21** 1985 c. 6.

**M22** S.I. 1986/1032 (N.I. 6).

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## 67 **Inspections: supplementary provision.**

(1) In this section—

“the body under investigation” means—

- (i) the friendly society whose affairs are the subject of the investigation, or
- (ii) the friendly society, and each subsidiary of or body jointly controlled by the society, whose affairs are so subject,

as the case may be;

“the inspectors” means the person appointed by the Commission under section 66 above to conduct the investigation;

“the investigation” means the investigation under section 66 above which the inspectors have been appointed to hold;

and references to officers, employees or agents include past, as well as present, officers, employees or agents; and “agents”, in relation to a friendly society or any subsidiary of or body jointly controlled by an incorporated friendly society, includes its bankers, accountants, solicitors and auditors and the appropriate actuary.

(2) When the inspectors have been appointed, it is the duty of all officers, employees and agents of the body under investigation—

- (a) to produce to the inspectors all documents and material of or relating to the body under investigation which are in their custody or power;
- (b) to attend before the inspectors when required to do so; and
- (c) otherwise to give the inspectors all assistance in connection with the investigation which they are reasonably able to give.

(3) If the inspectors consider that a person other than an officer, employee or agent of the body under investigation is or may be in possession of information concerning its affairs, they may require that person to produce to them any documents or material in his custody or power relating to the body under investigation, to attend before them and otherwise to give them all assistance in connection with the investigation which he is reasonably able to give; and it is that person’s duty to comply with the requirement.

(4) The inspectors may examine on oath the officers, employees and agents of the body under investigation, and any such person as is mentioned in subsection (3) above, in relation to the affairs of the body under investigation, and may administer an oath accordingly.

(5) An answer given by a person to a question put to him under the foregoing provisions of this section may be used in evidence against him.

(6) If an officer, employee or agent of the body under investigation or any such person as is mentioned in subsection (3) above—

- (a) refuses to produce any document or material which it is his duty under this section to produce; or
- (b) refuses to attend before the inspectors when required to do so; or
- (c) refuses to answer any question put to him by the inspectors with respect to the affairs of the body under investigation,

the inspectors may certify the refusal in writing to the High Court; and the court may thereupon enquire into the case and, after hearing any witnesses who may be produced against or on behalf of the alleged offender and after hearing any statement which may be offered in defence, may punish the offender in like manner as if he had been guilty of contempt of the court.

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- (7) The inspectors may, and if so directed by the Commission shall, make interim reports to the Commission, but they may at any time in the course of the investigation, without making an interim report, inform the Commission of matters coming to their knowledge as a result of the investigation tending to show that an offence has been committed.
- (8) The Commission may, if it thinks fit—
- (a) send a copy of any report made by the inspectors to the body whose affairs are or were the subject of the investigation;
  - (b) furnish a copy of any such report on request and on payment of the prescribed fee to—
    - (i) any member of the body whose affairs are or were the subject of the investigation;
    - (ii) the auditors of that body;
    - (iii) any person whose conduct is referred to in the report;
    - (iv) any other person whose financial interests appear to the Commission to be affected by matters dealt with in the report, whether as creditor or otherwise; and
  - (c) cause the report to be printed and published.
- (9) A copy of a report of inspectors appointed under section 66 above to hold an investigation under that section, certified by the Commission to be a true copy, is admissible in any legal proceedings as evidence of the opinion of the inspectors in relation to any matter contained in the report; and a document purporting to be such a certificate shall be received in evidence and be deemed to be such a certificate, unless the contrary is proved.
- (10) The Commission shall be entitled to be repaid the expenses of the investigation defrayed by it under section 66(6)(d) above as provided in the following paragraph, that is to say—
- (a) by the applicants for the investigation, to such extent (if any) as the Commission may direct;
  - (b) by any body whose affairs were the subject of the investigation, to such extent (if any) as the Commission may direct;
  - (c) by any person convicted of an offence in proceedings instituted as a result of the investigation, to such extent (if any) as the court by or before which he was convicted may order;
- and a person liable under any one of paragraphs (a) to (c) above is entitled to contribution from any other person liable under the same paragraph, according to the amount of their respective liabilities under it.
- [<sup>F48</sup>(10A) In relation to a friendly society to which section 37(2) or (3) above applies—
- (a) any reference in subsection (1), (2) or (4) above to officers shall be read as including a reference to controllers or managers; and
  - (b) any reference in subsection (3) or (6) above to an officer shall be read as including a reference to a controller or manager.]
- (11) In the application of this section to a friendly society whose registered office is in Scotland or Northern Ireland, any reference to the High Court shall be read as a reference to the Court of Session or, as the case may be, to the High Court in Northern Ireland.

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#### Textual Amendments

**F48** S. 67(10A) inserted (1.9.1994) by S.I. 1994/1984 reg. 20

#### Commencement Information

**I40** S. 67 wholly in force; s. 67 not in force at Royal Assent see s. 126(2); s. 67 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; s. 67 in force for all remaining purposes at 28.4.1993 by S.I. 1993/1186, art. 2(2), Sch. 2

### [67A <sup>F49</sup> Information for members.

Schedule 13C to this Act shall have effect for requiring friendly societies to which section 37(2) or (3) above applies to furnish members with the information there mentioned.]

#### Textual Amendments

**F49** S. 67A inserted (1.9.1994) by S.I. 1994/1984 reg. 21(1)

### [<sup>F50</sup> 67B Statutory notice.

- (1) Subject to subsection (7) below, unless the requirements of subsection (2) below are fulfilled no friendly society to which section 37(2) above applies shall enter into a contract the effecting of which constitutes—
  - (a) the carrying on of long term business in the United Kingdom; or
  - (b) the provision there of long term insurance.
- (2) The requirements of this subsection are that—
  - (a) the society sends by post to the other party to the contract, at or before the time when it is entered into, a statutory notice in relation to that contract; or
  - (b) a representative of the society gives such notice to that party at that time.
- (3) Where a statutory notice is sent to the other party to the proposed contract before the time when it is entered into, the society shall, not later than 14 days after the contract has become binding, inform the party in writing that it has done so.
- (4) For the purposes of this section a statutory notice is a notice which—
  - (a) contains such matters (and no others) and is in such form as may be prescribed by regulations made under section 2(2) of the European Communities Act 1972<sup>M23</sup> and complies with such requirements (whether as to type, size, colour or disposition of lettering, quality or colour of paper, or otherwise) as may be so prescribed for securing that the notice is easily legible; and
  - (b) has annexed to it a form of notice of cancellation of such description as may be so prescribed for use under section 67C below.
- (5) The Commission may, on the application of a friendly society, alter the requirements in relation to the notice referred to in subsection (4)(a) above so as to adapt those requirements to the circumstances of that society or to any particular kind of contract proposed to be entered into by that society.

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- (6) Any society which contravenes this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale but, without prejudice to section 67C(2) below, no contract shall be invalidated by reason of the fact that the society has contravened this section in relation to that contract.
- (7) Subsection (1) above does not apply to—
- (a) a contract the effecting of which by the society constitutes the carrying on of investment business (within the meaning of the Financial Services Act 1986<sup>M24</sup>);
  - (b) a contract the effecting of which by the society constitutes the carrying on of industrial assurance business;
  - (c) a contract the other party to which is habitually resident in a member State other than the United Kingdom;
  - (d) a contract the other party to which is not an individual;
  - (e) a contract of term assurance effected for a period of six months or less; or
  - (f) a contract of reinsurance.
- (8) In sections 67C and 67D below “statutory notice” has the same meaning as in this section.]

#### Textual Amendments

**F50** S. 67B inserted (1.9.1994) by S.I. 1994/1984 reg. 22

#### Marginal Citations

**M23** 1972 c.68.

**M24** 1986 c.60.

### [<sup>F51</sup>67C Right to withdraw from transaction.

- (1) A person who has received a statutory notice in relation to a contract may, before the expiration of the fourteenth day after that on which he is informed in writing that the contract has become binding, serve a notice of cancellation on the friendly society.
- (2) A person to whom a friendly society to which section 37(2) above applies ought to have, but has not, sent a statutory notice in relation to a contract may serve a notice of cancellation on the society; but if the society sends him a statutory notice in relation to the contract before he has served a notice of cancellation under this subsection, then without prejudice to his right to serve a notice of cancellation under subsection (1) above, his right to do so under this subsection shall cease.
- (3) A notice of cancellation may, but need not, be in the form annexed to the statutory notice and shall have effect if, however expressed, it indicates the intention of the person serving it to withdraw from the transaction in relation to which the statutory notice was or ought to have been sent.
- (4) Where a person serves a notice of cancellation, then—
- (a) if at the time when the notice is served the contract has been entered into, the notice shall operate so as to rescind the contract;
  - (b) in any other case, the service of the notice shall operate as a withdrawal of any offer to enter into the contract which is contained in, or implied by, any

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proposal made to the society by the person serving the notice of cancellation and as notice to the society that any such offer is withdrawn.

- (5) Where a notice of cancellation operates to rescind a contract or as the withdrawal of an offer to enter into a contract—
- (a) any sum which the person serving the notice has paid in connection with the contract (whether by way of premium or otherwise and whether to the society or to a person who is the agent of the society for the purpose of receiving that sum) shall be recoverable from the society by the person serving the notice;
  - (b) any sum which the society has paid under the contract shall be recoverable by him from the person serving the notice.
- (6) Any sum recoverable under subsection (5) above shall be recoverable in any court of competent jurisdiction.]

**Textual Amendments**

**F51** S. 67C inserted (1.9.1994) by S.I. 1994/1984 reg. 23

**[<sup>F52</sup>67D Service of notice of cancellation.**

- (1) For the purposes of section 67C above a notice of cancellation—
- (a) shall be deemed to be served on the society if it is sent by post addressed to any person specified in the statutory notice as a person to whom a notice of cancellation may be sent, and is addressed to that person at an address so specified; and
  - (b) where paragraph (a) above applies, shall be deemed to be served on the society at the time when it is posted.
- (2) Subsection (1) above shall have effect without prejudice to the service of a notice of cancellation (whether by post or otherwise) in any way in which the notice could be served apart from that subsection, whether the notice is served on the society or on a person who is the agent of the society for the purpose of receiving such a notice.
- (3) A notice of cancellation which is sent by post to a person at his proper address, otherwise than in accordance with subsection (1) above, shall be deemed to be served on him at the time when it is posted.
- (4) So much of section 7 of the Interpretation Act 1978 as relates to the time when service is deemed to have been effected shall not apply to a notice of cancellation.]

**Textual Amendments**

**F52** S. 67D inserted (1.9.1994) by S.I. 1994/1984 reg. 24

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## PART VI

### ACCOUNTS AND AUDIT

#### *Records and systems*

#### **68 Accounting records and systems of business control.**

- (1) Every friendly society and every registered branch shall—
  - (a) cause accounting records to be kept; and
  - (b) establish and maintain systems of control of its business and records and of inspection and report,  
in accordance with this section.
- (2) The accounting records must be sufficient to show and explain the transactions of the society or branch and—
  - (a) disclose, with reasonable accuracy and promptness, the financial position of the society or branch at any time;
  - (b) enable the committee of management properly to discharge the duties imposed on them by or under this Act or the 1974 Act and their function of direction of the affairs of the society or branch; and
  - (c) enable the society or branch properly to discharge the duties imposed on it by or under this Act or the 1974 Act,  
and must be kept in an orderly manner.
- (3) The accounting records shall in particular contain—
  - (a) entries from day to day of all sums received and paid by the society or branch and the matters in respect of which they are received or paid;
  - (b) entries from day to day of every transaction entered into by the society or branch which will or there is reasonable ground for expecting may give rise to liabilities or assets of the society or branch other than insignificant assets or liabilities in respect of the management of the society or branch; and
  - (c) a record of the assets and liabilities of the society or branch.
- (4) The system of control which is to be established and maintained by a friendly society or a registered branch is a system for the control of the conduct of its activities in accordance with this Act and the decisions of the committee of management and for the control of the accounting and other records of its activities.
- (5) The system of inspection and report which is to be established and maintained by a friendly society or registered branch is a system of inspection on behalf of and report to the committee of management on the operation of the system of control of the activities of the society or branch and records required by subsection (1)(b) above.
- (6) The systems of control and of inspection and report must be such as to—
  - (a) enable the committee of management properly to discharge the duties imposed on them by or under this Act or the 1974 Act and their functions of direction of the affairs of the society or branch; and
  - (b) enable the society or branch properly to discharge the duties imposed on it by or under this Act or the 1974 Act;

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and no such system of control shall be treated as established or maintained unless there is kept available to the committee of management a detailed statement in writing of the system as in operation for the time being.

(7) Without prejudice to the generality of subsection (6) above, the systems of control and of inspection and report must be such as to secure that the activities of the society or branch are so conducted and its records so kept that—

- (a) the information necessary to enable the committee of management and the society or branch to discharge their duties and functions is sufficiently accurate, and is available with sufficient regularity or at need and with sufficient promptness, for those purposes; and
- (b) the information regularly obtained by or furnished to the Commission under or for the purposes of this Act is sufficiently accurate for the purpose for which it is obtained or furnished and is regularly furnished;

and in this subsection, in its application in relation to the Commission, “regularly” includes that regularity requested by or agreed with the Commission.

(8) The accounting records shall be kept at the registered office of the society or branch or at such other place or places as the committee of management thinks fit, and shall at all times be open to inspection by the committee of management.

(9) Accounting records shall be preserved for 6 years from the date on which they were made.

(10) Where an incorporated friendly society has subsidiaries or jointly controls other bodies, the society shall also secure that such accounting records are kept and such systems of control and of inspection and report are established and maintained by them as will enable the society to comply with the requirements of this section in relation to the business of the society and those subsidiaries and jointly controlled bodies.

(11) The committee of management of every friendly society shall within the period of 6 months beginning with the end of each financial year make and send to the Commission a statement of their opinion whether the requirements of this section have been complied with in respect of that year by the society and also, in the case of a registered friendly society with registered branches, by each of those branches, and the statement shall be signed by the chairman on behalf of the committee of management and by the chief executive.

#### Commencement Information

**I41** S. 68 wholly in force; s. 68 not in force at Royal Assent see s. 126(2); s. 68 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; s. 68 in force for all remaining purposes at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

### *Annual accounts of friendly societies and registered branches*

#### **69 Duty to prepare accounts.**

(1) The committee of management of a friendly society or registered branch shall prepare for each financial year of the society or branch—

- (a) a balance sheet as at the last day of the year, and
- (b) an income and expenditure account.



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- (2) Except as provided by regulations under subsection (4) below, if at the end of its financial year an incorporated friendly society has subsidiaries, the committee of management shall also prepare group accounts.
- (3) Group accounts shall be consolidated accounts comprising—
  - (a) a consolidated balance sheet dealing with the state of affairs of the society and its subsidiaries; and
  - (b) a consolidated income and expenditure account dealing with the income and expenditure of the society and its subsidiaries.
- (4) The Commission may by regulations made with the consent of the Treasury exempt specified descriptions of incorporated friendly societies with subsidiaries from any duty to prepare group accounts.
- (5) Regulations under subsection (4) above may exempt societies by reference to any criterion and may make different provision for different descriptions of societies.

#### Commencement Information

**I42** S. 69 wholly in force; s. 69 not in force at Royal Assent see s. 126(2); s. 69 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; s. 69 in force for all remaining purposes at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

## 70 Contents and form of annual accounts.

- (1) The annual accounts of a friendly society or a registered branch shall conform to the requirements of this section and regulations made under it.
- (2) The balance sheet shall give a true and fair view of the state of the affairs of the society or branch as at the end of the financial year.
- (3) The income and expenditure account shall give a true and fair view of the income and expenditure of the society or branch for the financial year.
- (4) Subsections (2) and (3) above, in their application to the group accounts of an incorporated friendly society, are to be read as referring to the society and (so far as it concerns the members of the society) the subsidiaries dealt with in the group accounts.
- (5) The annual accounts shall also contain, whether in the form of notes or otherwise, such supplementary information as is prescribed.
- (6) The Commission shall, by regulations made with the consent of the Treasury, make provision with respect to the contents and the form of the annual accounts.
- (7) Without prejudice to the generality of subsections (5) and (6) above, the regulations may—
  - (a) prescribe accounting principles and rules;
  - (b) require corresponding information for a preceding financial year;
  - (c) require the accounts of incorporated friendly societies to deal also with bodies jointly controlled by them;
  - (d) require the accounts to give particulars of the emoluments, pensions, compensation for loss of office and financial interests of members of the

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- committee of management, other officers and employees of prescribed descriptions of the society;
- (e) add to the classes of documents to be comprised in the annual accounts;
  - (f) make provision as to the matters to be included in any document so added;
  - (g) modify the requirements of this Part of this Act as to the matters to be stated in any document comprised in the annual accounts; and
  - (h) reduce the classes of documents to be comprised in the annual accounts;
- and the regulations may make different provision for different cases.
- (8) Where compliance with regulations under this section would not be sufficient to give a true and fair view, the necessary additional information shall be given in the accounts or in a note to them.
- (9) If in special circumstances compliance with any provisions contained in regulations is inconsistent with the requirement to give a true and fair view, the committee of management shall depart from that provision to the extent necessary to give a true and fair view.
- (10) Particulars of any such departure, the reasons for it and its effect shall be given in a note to the accounts.
- (11) It is the duty of every member of the committee of management, other officer and employee of a society or registered branch as respects whom prescribed particulars are by virtue of subsection (7)(d) above required to be given in the accounts to give notice to the society of such matters as may be necessary to enable the society to give those particulars in the accounts.

#### Commencement Information

**I43** S. 70 wholly in force; s. 70 not in force at Royal Assent see s. 126(2); s. 70 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; s. 70(5)(6)(7) in force for all remaining purposes at 13.9.1993 by S.I. 1993/2213, art. 2(1), Sch. 2; s. 70(1)-(4)(8)-(11) in force for all remaining purposes at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

#### *Committee of management's annual report*

### **71 Report on a friendly society's affairs by the committee of management.**

- (1) The committee of management of a friendly society shall prepare for submission to the annual general meeting of the society a report on the activities of the society containing—
- (a) a fair review of the development of the activities of the society during the financial year and of its position at the end of it; and
  - (b) such information relating to such aspects of the activities of the society as may be prescribed by regulations made by the Commission with the consent of the Treasury; and
  - (c) a statement whether any and, if so, what activities carried on during the year by the society are believed to have been carried on outside its powers.
- (2) Where an incorporated friendly society has subsidiaries or jointly controls other bodies, the report shall—

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- (a) contain such information relating to such aspects of the activities of any subsidiaries or bodies which it jointly controls as may be prescribed by regulations made by the Commission with the consent of the Treasury;
  - (b) review the development of any such subsidiaries and bodies during the year and their position at the end of it; and
  - (c) contain a statement whether any and, if so, what activities carried on during the year by any of its subsidiaries or by any body which it jointly controls are believed to have been carried on outside the powers of the subsidiary or jointly controlled body.
- (3) If a report under this section does not contain the prescribed information or the information in the report is not given in accordance with the regulations, each member of the committee of management shall be guilty of an offence and liable—
- (a) on conviction on indictment, to a fine; and
  - (b) on summary conviction, to a fine not exceeding the statutory maximum.

#### Commencement Information

**I44** S. 71 wholly in force; s. 71 not in force at Royal Assent see s. 126(2); s. 71 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; s. 71(1)(2) in force for certain purposes 13.9.1993 by S.I. 1993/2213, art. 2(1), Sch. 4; s. 71 in force for all remaining purposes at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

### Auditors

#### 72 Auditors' appointment, tenure, qualifications, etc.

- (1) Every friendly society and every registered branch shall at each annual general meeting appoint an auditor or auditors to hold office from the conclusion of that meeting until the conclusion of the next annual general meeting.
- (2) Schedule 14 to this Act has effect as regards—
- (a) the appointment of auditors;
  - (b) their qualifications and grounds of disqualification;
  - (c) the resignation and removal of auditors; and
  - (d) the remuneration of auditors.

#### Commencement Information

**I45** S. 72 partly in force; s. 72 not in force at Royal Assent see s. 126(2); s. 72 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; s. 72(1) in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5; s. 72(2) in force for certain purposes at 13.9.1993 by S.I. 1993/2213, art. 2(1), Schs. 2, 3; s. 72(2) in force (except to the extent that it relates to any provision in Sch. 14 para. 7 not yet in force) at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

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### *Auditors' report on annual accounts*

#### **73 Auditors' report.**

- (1) The auditors of a friendly society 95.or of a registered branch shall make a report to the members on the annual accounts which are to be laid before the society or branch at the annual general meeting during their tenure of office.
- (2) The auditors of a friendly society or registered branch shall, in preparing their report, carry out such investigations as will enable them to form an opinion as to—
  - (a) whether proper accounting records have been kept under section 68 above;
  - (b) whether satisfactory systems of control of the business and records of the society or branch and of inspection and report under that section have been maintained; and
  - (c) whether the annual accounts are in agreement with the accounting records;
 and, if the auditors are of the opinion that proper accounting records have not been kept, they shall state that fact in their report.
- (3) If the auditors fail to obtain all the information and explanations and the access to documents which, to the best of their knowledge and belief, are necessary for the purposes of their audit, they shall state that fact in their report.
- (4) The auditors shall, in their report, also make a report to the members on the report of the committee of management, in so far as subsection (7) below requires them to do so.
- (5) The auditors' report shall state whether in the auditors' opinion the annual accounts have been properly prepared in accordance with this Act and the regulations made under it and in particular whether a true and fair view is given—
  - (a) in the case of the income and expenditure account, of the income and expenditure of the society or branch for the financial year; and
  - (b) in the case of the balance-sheet, of the state of the affairs of the society or branch as at the end of the financial year; and
  - (c) in the case of the group accounts of an incorporated friendly society, of the state of affairs as at the end of the financial year of the society and any subsidiaries of the society.
- (6) Subsection (5) above, in its application to the group accounts of an incorporated friendly society, is to be read as referring to the society and (so far as it concerns the members of the society) the subsidiaries dealt with in the group accounts.
- (7) The auditors' report, in so far as it deals with the report of the committee of management, shall state whether in the auditors' opinion it has been prepared in accordance with this Act and the regulations made under it and whether the information given in the report of the committee of management is consistent with the accounting records and the annual accounts for the financial year.

#### **Modifications etc. (not altering text)**

C11 S. 73(5)(b) excluded (1.4.1995) by S.I. 1995/710, reg. 4(2)

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#### Commencement Information

**I46** S. 73 wholly in force; s. 73 not in force at Royal Assent see s. 126(2); s. 73 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; s. 73 in force for all remaining purposes at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

### 74 Signature of auditors' report.

- (1) The auditors' report to the members of a friendly society or registered branch shall state the names of the auditors and be signed by them.
- (2) The copies of the auditors' report which are sent to the Commission or the central office under section 78(1) or (2) below shall be signed by the auditors.
- (3) Every copy of the auditors' report which is laid before the society or branch in general meeting, sent to the Commission or the central office or is otherwise circulated, published or issued shall state the names of the auditors.
- (4) If a copy of the auditors' report—
  - (a) is laid before the society or branch, sent to the Commission or central office or otherwise circulated, published or issued, without the required statement of the auditors' names; or
  - (b) is sent to the Commission or the central office without being signed as required by this section,the society or branch and every officer of it who is in default is guilty of an offence and liable on conviction on indictment to a fine.
- (5) References in this section to signature by the auditors are, where the office of auditor is held by a body corporate or partnership, to signature in the name of the body corporate or partnership by a person authorised to sign on its behalf.

#### Commencement Information

**I47** S. 74 wholly in force; s. 74 not in force at Royal Assent see s. 126(2); s. 74 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; s. 74 in force for all remaining purposes at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

### 75 Auditors' rights to information and to attend meetings.

- (1) The auditors of a friendly society are entitled—
  - (a) to access at all times to the books, accounts and vouchers of the society;
  - (b) to require from the officers of the society such information and explanations as they think necessary for the performance of their duties as auditors;
  - (c) to receive from the society—
    - (i) notice of any general meeting of the society and of any matter relating to the business of such a meeting of which notice is given (by whatever means) to the society's members; and
    - (ii) copies of any communications sent to the society's members with respect to any such meeting; and
  - (d) to attend any general meeting of the society and to be heard on any part of the business of the meeting which concerns them as auditors;

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and the auditors of a registered branch have the corresponding rights to those specified in paragraphs (a) to (d) above, with the substitution for references to the society of references to the branch.

- (2) The right to attend or be heard at a meeting is exercisable in the case of a body corporate or partnership by an individual authorised by it in writing to act as its representative at the meeting.
- (3) An officer of a friendly society is guilty of an offence if he knowingly or recklessly makes to the society's auditors a statement (whether written or oral) which—
  - (a) conveys or purports to convey any information or explanations which the auditors require, or are entitled to require, as auditors of the society; and
  - (b) is misleading, false or deceptive in a material particular.
- (4) An officer of a registered branch is guilty of an offence if he knowingly or recklessly makes to the auditors of the branch a statement (whether written or oral) which—
  - (a) conveys or purports to convey any information or explanations which the auditors require, or are entitled to require, as auditors of the branch; and
  - (b) is misleading, false or deceptive in a material particular.
- (5) A person guilty of an offence under subsection (3) or (4) above is liable —
  - (a) on conviction on indictment, to imprisonment for a term not exceeding 2 years, or to a fine, or to both; and
  - (b) on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum, or to both.
- (6) It shall be the duty of a subsidiary of a friendly society which is—
  - (a) a company within the meaning of the <sup>M25</sup>Companies Act 1985 incorporated in Great Britain; or
  - (b) a company within the meaning of the <sup>M26</sup>Companies (Northern Ireland) Order 1986 incorporated in Northern Ireland,

and of the auditors of such a subsidiary to give to the auditors of the society such information and explanations as those auditors may reasonably require for the purposes of their duties as auditors of that society.

- (7) If—
  - (a) a subsidiary to which subsection (6) above applies fails to comply with that subsection; or
  - (b) an auditor of such a subsidiary fails without reasonable excuse to comply with that subsection,

the subsidiary or auditor is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

- (8) An incorporated friendly society having a subsidiary to which subsection (6) above does not apply shall, if required by its auditors to do so, take all such steps as are reasonably open to it to obtain from the subsidiary such information and explanations as they may reasonably require for the purposes of their duties as auditors of that society.
- (9) If an incorporated friendly society fails to comply with subsection (8) above, it is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

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#### Commencement Information

**I48** S. 75 wholly in force; s. 75 not in force at Royal Assent see s. 126(2); s. 75 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; s. 75 in force for all remaining purposes at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

#### Marginal Citations

**M25** 1985 c.6.

**M26** S.I. 1986/1032 (N.I.6).

## 76 Approval and signing of accounts.

- (1) The annual accounts of a friendly society or a registered branch shall be approved by the committee of management.
- (2) The accounts so approved shall be signed by the secretary of the society or branch; and the signature shall be on the balance sheet.
- (3) Every copy of the balance sheet which is laid before the society or branch in general meeting, or is otherwise circulated, published or issued, shall state the name of the secretary of the society or branch.
- (4) The copy of the balance sheet of a friendly society or a registered branch which is sent to the Commission or to the central office under section 78 below shall be signed by the secretary of the society or branch.
- (5) If annual accounts of a society or branch are approved which do not comply with the requirements of this Act, every member of the committee of management who is party to their approval and who knows that they do not comply or is reckless as to whether they comply is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

For this purpose every member of the committee at the time the accounts are approved shall be taken to be a party to their approval unless he shows that he took all reasonable steps to prevent their being approved.

- (6) If a copy of the balance sheet of a society or branch—
  - (a) is laid before the society or branch, or otherwise circulated, published or issued, without the balance sheet having been signed as required by this section or without the required statement of the signatory's name being included; or
  - (b) is sent to the Commission or to the central office without being signed as required by this section,

the society or branch and every officer of it who is in default is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

#### Commencement Information

**I49** S. 76 wholly in force; s. 76 not in force at Royal Assent see s. 126(2); s. 76 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; s. 76 in force for all remaining purposes at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

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## **77 Information on appointed actuary to be annexed to balance sheet.**

- (1) This section applies to any copy of a friendly society's balance sheet which—
- (a) is furnished to the Commission or the central office under section 78 below or at its or their request;
  - (b) is laid before the society at its annual general meeting; or
  - (c) is furnished to a member at his request.
- (2) Subject to the provisions of this section, a friendly society shall annex to each copy of its balance sheet to which this section applies as respects every person who, at any time during the financial year to which the balance sheet relates, was its appointed actuary, a statement of the following information—
- (a) whether the actuary was a member of the society or any subsidiary of the society at any time during that year;
  - (b) particulars of any pecuniary interest of the actuary in any transaction between the actuary and the society or any subsidiary of the society and subsisting at any time during that year or, in the case of transactions of a minor character, a general description of such interests;
  - (c) the aggregate amount of any remuneration and the value of any other benefits other than a pension or other future or contingent benefit under any contract of service of the actuary with, or contract for services by the actuary to, the society or any subsidiary of the society, receivable by the actuary in respect of any period in that year; and
  - (d) a general description of any other pecuniary benefit (including any pension and other future contingent benefit) received by the actuary from the society or any subsidiary of the society in that year or receivable by him from the society or any such subsidiary,
- together with a statement that the society has made a request to the actuary to furnish to it the particulars specified in this subsection and identifying any particulars furnished pursuant to the request.
- (3) Subsection (2) above applies in relation—
- (a) to the actuary's spouse;
  - (b) to a partner of the actuary;
  - (c) to any child or step-child of the actuary who is under 18;
  - (d) to any person (other than the society concerned or any subsidiary of that society) of whom the actuary is an employee; and
  - (e) to any body corporate (other than the society concerned or any subsidiary of that society) of which the actuary is a director or which is controlled by him,
- as it applies in relation to the actuary.
- (4) For the purposes of subsection (3) above, an actuary shall be taken to control a body corporate if he is a person—
- (a) in accordance with whose directions or instructions the directors of that body corporate or of a body corporate of which it is a subsidiary are accustomed to act; or
  - (b) who, either alone or with any other person falling within that subsection, is entitled to exercise or controls the exercise of, one-third or more of the voting power at any general meeting of the body corporate or of a body corporate of which it is a subsidiary.



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- (5) If a friendly society fails to annex the statement required by subsection (2) above to a copy of its balance sheet to which this section applies, the society concerned shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

#### Commencement Information

**I50** S. 77 wholly in force; s. 77 not in force at Royal Assent see s. 126(2); s. 77 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; s. 77 in force for all remaining purposes at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

### *Laying and furnishing of accounts and reports*

#### **78 Laying and furnishing of accounts and reports.**

- (1) The committee of management of a friendly society shall in each year—
- lay before the society at the annual general meeting; and
  - send to the Commission and to the central office not later than 30th June or 14 days before that meeting, whichever is earlier,
- copies of the annual accounts for the last financial year, the report of the committee of management for that year and the auditors' report on those accounts.
- (2) The committee of management of a registered branch shall in each year—
- lay before the branch at the annual general meeting; and
  - send to the Commission and to the central office not later than 30th June or 14 days before that meeting, whichever is earlier,
- copies of the annual accounts for the last financial year and the auditors' report on those accounts.
- (3) Every friendly society shall, as from the date by which at the latest its committee of management is required by subsection (1) above to send them to the Commission—
- make copies of the annual accounts, the report of the committee of management and the auditors' report available free of charge to members of the society at every office of the society; and
  - send, free of charge, copies of those documents to any member of the society who demands them;
- and that duty shall cease, as respects those accounts, when the society comes to be under the same duty in respect of the accounts for the next financial year.
- (4) Every registered branch shall, as from the date by which at the latest its committee of management is required by subsection (2) above to send them to the Commission—
- make copies of the annual accounts and the auditors' report available free of charge to members of the branch at every office of the branch; and
  - send, free of charge, copies of those documents to any member of the branch who demands them;
- and that duty shall cease, as respects those accounts, when the branch comes to be under the same duty in respect of the accounts for the next financial year.
- (5) If default is made in complying with subsection (1) or (2) above, every person who was a member of the committee of management of the society or, as the case may be,

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the branch, at any time during the relevant period shall be guilty of an offence and liable on summary conviction—

- (a) to a fine not exceeding level 5 on the standard scale; and
  - (b) in the case of a continuing offence, to an additional fine not exceeding one-tenth of that level for every day during which the offence continues.
- (6) If, on demand made of it under subsection (3) or (4) above, a friendly society or registered branch fails, in accordance with that subsection, to make available or, as the case may be, within 7 days of the demand, to send to a person a copy of the annual accounts, the society or branch shall be guilty of an offence and liable on summary conviction—
- (a) to a fine not exceeding level 3 on the standard scale; and
  - (b) in the case of a continuing offence, to an additional fine not exceeding one-tenth of that level for every day during which the offence continues.
- (7) In subsection (5) above “the relevant period” means the period beginning at the end of the last financial year and ending with the date which falls 14 days before the annual general meeting following the end of that year.
- (8) The central office shall keep the copies of documents received by it from a friendly society under subsection (1) above in the public file of the society.

#### Commencement Information

**I51** S. 78 wholly in force; s. 78 not in force at Royal Assent see s. 126(2); s. 78 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; s. 78 in force for all remaining purposes at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

## 79 Auditors’ duties to Commission and related rights.

- (1) The auditors of a friendly society shall, unless they are exempt from the requirements of this section, make a report to the Commission, as respects each financial year of the society, on the conduct of the activities of the society in that year in relation to the matters specified in subsection (2) below.
- (2) The auditors’ report shall deal with—
- (a) the accounting records kept by the society under section 68 above; and
  - (b) the systems of control of its business and records and of inspection and report maintained under that section.
- (3) The report shall state the auditors’ opinion as respects the matters specified in subsection (2) above as follows, that is to say—
- (a) as regards the accounting records of the society, whether or not they comply with the requirements of section 68 above and, if not, specifying each requirement not complied with and the respects in which it was not complied with;
  - (b) as regards the system of control of its business and records, whether or not the system complies with the requirements of section 68 above and, if not, specifying each requirement not complied with and the respects in which it was not complied with;
  - (c) as regards the system of inspection and report, whether or not the system complies with the requirements of section 68 above and, if not, specifying

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each requirement not complied with and the respects in which it was not complied with.

- (4) Where an incorporated friendly society had, at any time during the year to which the report relates, subsidiaries or jointly controlled other bodies, the auditors' report shall deal also with and contain corresponding statements of their opinion as to compliance with the requirements of section 68 above in its application to incorporated friendly societies having subsidiaries or jointly controlling other bodies.
- (5) The auditors of a friendly society shall send their report under this section to the society and, subject to subsection (6) below, shall do so within the period of 6 months beginning with the end of the financial year to which it relates, and the society shall, within the period of 9 months so beginning, send the report to the Commission together with such comments as the committee of management thinks fit to make.
- (6) A friendly society may allow its auditors a longer period in which to send their report than that specified in subsection (5) above, but not so as to prevent the society from complying with the duty imposed on it by that subsection as regards the Commission.
- (7) If the committee of management of a friendly society makes any comments to the Commission under subsection (5) above, the committee shall cause a copy of the comments to be sent to the auditors before they send them to the Commission with the report under that subsection.
- (8)
  - [<sup>F53</sup>The following, namely—
  - (a) the auditors of a friendly society;
  - (b) an accountant appointed to make a report under section 62(3)(d) above by a friendly society to which section 37(2) or (3) above applies; and
  - (c) the auditors of any body with which a friendly society to which section 37(2) or (3) above applies is closely linked by control where either—
    - (i) they are also the auditors of the society; or
    - (ii) one of them is an accountant appointed by the society to make a report under section 62(3)(d) above,]

if they are satisfied that it is expedient to do so in order to protect the interests of members of the society or if they are requested to do so by the Commission on its being so satisfied, shall be entitled, notwithstanding any obligation of confidence incumbent on them and whether or not to do so would be contrary to the interests of the society, to furnish information to the Commission relating to the conduct of the activities of the society or, in the case of an incorporated friendly society, the business of any of its subsidiaries or any body of which it has joint control.
- (9) The Treasury may by order impose on [<sup>F53</sup>such persons as are mentioned in paragraph (a), (b) or (c) of subsection (8) above] an obligation to furnish to the Commission, in such circumstances as may be prescribed in the order, relevant information available to them of such descriptions as may be prescribed in the order; and it shall be the duty of [<sup>F53</sup>any such person] to furnish information to which the obligation extends notwithstanding any obligation of confidence incumbent on him.
- (10) In subsection (9) above, “relevant information” means information relating to the conduct of the business of friendly societies or their subsidiaries or bodies of which they have joint control.

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- (11) Subject to subsection (12) below, the auditors of a friendly society are exempt from the requirements of this section if the auditors of that society do not need to be members of a recognised supervisory body.
- (12) The Commission may direct that the auditors of a society specified in the direction whose auditors would otherwise be exempt from the requirements of this section shall not be exempt from those requirements.

#### Textual Amendments

**F53** Words in s. 79(8) substituted (18.7.1996) by S.I. 1996/1669, reg. 17(1)

Words in s. 79(9) substituted (18.7.1996) by S.I. 1996/1669, reg. 17(2)

#### Commencement Information

**I52** S. 79 wholly in force; s. 79 not in force at Royal Assent see s. 126(2); s. 79 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; s. 79 in force for all remaining purposes at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

## PART VII

### DISPUTES

#### *Disputes relating to friendly societies*

#### **80 Determination of certain disputes by arbitration.**

- (1) Subject to the following provisions of this section, any dispute between—
- a member or person claiming through a member or under the rules of a friendly society or registered branch and the society or branch;
  - a person aggrieved who has ceased to be a member of a friendly society or registered branch, or a person claiming through such a person, and the society or branch or an officer of the society or branch;
  - a registered branch and the society of which it is a registered branch;
  - an officer of a registered branch and the society of which it is a registered branch; or
  - two or more registered branches, or any of their officers,
- shall be determined by arbitration in the manner directed by the rules of the society or branch.
- (2) An application for the enforcement of an award on an arbitration under this section may be made to the county court.
- (3) An award made in such an arbitration shall, in Scotland—
- subject to subsection (4) below, be final; and
  - be enforceable as if it were an extract registered decree arbitral bearing a warrant for execution issued by the sheriff.

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- (4) An arbiter who has made an award in an arbitration under this section shall, on the application of a party to such arbitration, state a case for the opinion of the Court of Session on any question of law.
- (5) If the parties to a dispute of a description specified in subsection (1) above agree that it shall be determined by the county court or, in Scotland, the sheriff, it may be so determined instead of being determined by arbitration under this section.
- (6) If—
- (a) a party to a dispute of a description specified in subsection (1) above applies to the society or branch in accordance with the rules for determination of the dispute by arbitration;
  - (b) no such determination has been made within the period of 40 days beginning with the day on which the application was made; and
  - (c) either party applies for determination of the dispute by the county court or, in Scotland, the sheriff,
- the dispute may be so determined.
- (7) If the society has registered branches—
- (a) the period of 40 days shall not begin to run until application has been made in succession to all the bodies entitled to determine the dispute by arbitration in accordance with the rules; but
  - (b) the rules may not require a greater delay than 3 months between each successive determination by such a body.
- (8) In this section “dispute”—
- (a) includes any dispute arising on the question whether a member or person aggrieved is entitled to be, or to continue to be, a member or to be reinstated as a member; but
  - (b) in the case of a person who has ceased to be a member does not (except as provided in paragraph (a) above) include any dispute other than one on a question which arose while he was a member, or arises out of his membership; and
  - (c) does not include a dispute between parties mentioned in subsection (1)(a) or (b) above which has arisen as a result of and incidentally to a dispute between a member, or person aggrieved who has ceased to be a member and a person claiming through him or under the rules of a society or branch.

## **81 Complaints by members of friendly societies.**

- (1) Nothing in section 80 above shall affect the power of a friendly society or registered branch—
- (a) to establish internal procedures for the resolution of complaints; or
  - (b) to make, to join with any other persons in making, or to accede to, schemes for the investigation and settlement by an adjudicator of complaints;
- but a society or branch may not prevent a member from referring any dispute to arbitration under that section by purporting to require instead the making of a complaint or the acceptance of any determination of a complaint.
- (2) The Commission shall have the function of promoting the establishment by friendly societies and registered branches of—

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- (a) internal complaints procedures; and
- (b) schemes for the investigation and settlement of complaints;

and, in particular, the Commission may issue such guidance on those matters to friendly societies and registered branches as it thinks fit.

(3) In this section—

“accede”, in relation to a scheme, means assume the obligations and rights of membership of the scheme;

“complaint” includes any complaint made by a member about action of a friendly society or branch which constitutes (in relation to that member) unfair treatment, maladministration or breach of any contractual or other duty and causes him pecuniary loss or inconvenience;

“member” in relation to a friendly society or branch includes any person who is or was a member of the society or branch or is claiming through a member or under the rules; and

“action” includes omissions.

## 82 Disputes arising out of loans of surplus funds to societies of different description.

(1) Where—

- (a) a registered friendly society or a registered branch (“the lender”) has made or agreed to make advances under section 50 of the 1974 Act to another society or branch (“the borrower”); and
- (b) the lender is by reason of this empowered by the rules of the borrower to take part in the government or control of the borrower,

subject to subsection (3) below, section 80 above shall apply in relation to the determination of a dispute between the lender and the borrower relating to such an advance or agreement or to the rights of the lender or an officer of the lender under the rules of the borrower, as if the borrower were a branch of the lender.

- (2) In the application of section 80 above to any such dispute, references in that section to the rules of the society are references to the rules of the borrower.
- (3) Section 80 above shall not prevent the bringing of legal proceedings for the determination of any such dispute unless, before the commencement of the proceedings, application has been made for a reference under the rules of the borrower.
- (4) Proceedings for the determination of any such dispute may be brought in a county court or, in Scotland, before the sheriff, whether or not the court would apart from this subsection have jurisdiction to entertain them.
- (5) The reference in subsection (1) above to advances under section 50 of the 1974 Act includes, in the case of a society formerly registered in Northern Ireland, a reference to advances made under section 42 of the<sup>M27</sup> Friendly Societies Act (Northern Ireland) 1970.

### Commencement Information

**I53** S. 82 wholly in force; s. 82 not in force at Royal Assent see s. 126(2); s. 82(1)-(4) in force at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 2; s. 82(5) in force at 1.1.1994 by S.I. 1993/3226, art. 2(1), Sch. 2

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#### Marginal Citations

M27 1970 c. 31 (N.I.).

### *Disputes relating to industrial and provident societies*

#### **83 Disputes relating to industrial and provident societies.**

The following subsection shall be substituted for subsection (2) of section 60 of the <sup>M28</sup>Industrial and Provident Societies Act 1965 (decision of dispute)—

- “(2) The county court or, in Scotland, the sheriff may determine a dispute in a registered society if—
- (a) both parties to the dispute consent; or
  - (b) the rules of the society concerned contain no directions as to disputes.”.

#### Marginal Citations

M28 1965 c. 12.

### *Disputes under National Savings Bank Act 1971 and National Debt Act 1972*

#### **84 Disputes under the National Savings Bank Act 1971 and National Debt Act 1972.**

- (1) The jurisdiction as to disputes such as are mentioned—
- (a) in subsection (1) of section 10 of the <sup>M29</sup>National Savings Bank Act 1971 (disputes between the Director of Savings and depositors etc); and
  - (b) in subsection (1) of section 5 of the <sup>M30</sup>National Debt Act 1972 (disputes between the Director and the holder of any stock registered in the National Savings Stock Register or a person claiming to be entitled to any such stock), shall be exercisable by a person (“the adjudicator”) appointed by the Treasury.
- (2) The adjudicator shall be a person who—
- (a) has a seven year general qualification, within the meaning of the <sup>M31</sup>Courts and Legal Services Act 1990;
  - (b) is an advocate or solicitor in Scotland of at least seven years’ standing; or
  - (c) is a member of the bar of Northern Ireland or solicitor of the Supreme Court of Northern Ireland of at least seven years’ standing.
- (3) Subject to subsections (4) and (5) below, the adjudicator shall hold and vacate office in accordance with the terms of his appointment.
- (4) A person may at any time resign office as adjudicator by giving the Treasury a signed notice stating that he resigns that office.
- (5) The adjudicator may be removed from office by the Chancellor of the Exchequer on the ground of incapacity or misbehaviour.
- (6) The Treasury may pay, or make such payments towards the provision of, such remuneration, pensions, allowances or gratuities to the adjudicator as the Treasury may determine.

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- (7) The Chancellor of the Exchequer may appoint for the adjudicator such staff as he thinks fit with such remuneration and other terms and conditions of service as he thinks fit.
- (8) Payments under this section shall be made out of money provided by Parliament.

#### Commencement Information

**I54** S. 84 wholly in force at 1.1.1993 see s. 126(2) and S.I. 1992/3117, art. 2(i).

#### Marginal Citations

**M29** 1971 c. 29.

**M30** 1972 c. 65.

**M31** 1990 c. 41.

## PART VIII

### AMALGAMATIONS, TRANSFERS OF ENGAGEMENTS AND CONVERSION OF FRIENDLY SOCIETIES INTO COMPANIES

#### Commencement Information

**I55** Pt. VIII (ss. 85-92) wholly in force; Pt. VIII not in force at Royal Assent see s. 126(2); Pt. VIII in force at 13.9.1993 by S.I. 1993/2213, art. 2(1), Sch. 3

### *Amalgamations*

#### **85 Amalgamation of friendly societies.**

- (1) Any two or more friendly societies may, in accordance with this Part of this Act, amalgamate by establishing an incorporated friendly society as their successor.
- (2) In order to establish a society as their successor, friendly societies proposing to amalgamate must—
- (a) comply with the applicable requirements of Part I of Schedule 15 to this Act;
  - (b) take the steps required by paragraph 1(2) of Schedule 3 to this Act;
  - (c) each approve the proposed amalgamation and the terms on which it is to take place by special resolution; and
  - (d) obtain the confirmation of the Commission of the amalgamation;
- and, on obtaining that confirmation, the successor may be registered and incorporated under this Act.
- (3) If the Commission confirms the amalgamation and the successor society is registered under this Act, the certificate of incorporation issued by the central office shall specify a date as the transfer date for that amalgamation.
- (4) On the transfer date—



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- (a) all the property, rights and liabilities of each society participating in the amalgamation shall become by virtue of this subsection the property, rights and liabilities of the successor society; and
  - (b) each such society shall be dissolved;
- but the transfer from each such society effected by paragraph (a) above shall be deemed to have been effected immediately before the dissolution of that society.
- (5) Where a friendly society is dissolved by subsection (4)(b) above, its registration under this Act or the 1974 Act shall be cancelled by the central office.
  - (6) Schedule 15 to this Act has effect for supplementing this section.

### *Transfers of engagements*

## **86 Transfer of engagements by or to friendly society.**

- (1) A friendly society may, in accordance with this Part of this Act, transfer its engagements to any extent to any of the following persons, that is to say—
  - (a) to another friendly society;
  - (b) to an industrial and provident society;
  - (c) to a company within the meaning of the <sup>M32</sup>Companies Act 1985 or the <sup>M33</sup>Companies (Northern Ireland) Order 1986 incorporated in Great Britain or Northern Ireland;
  - (d) in relation to engagements the fulfilment of which will constitute the carrying on of insurance business, to any other person who is an insurance company (within the meaning of the <sup>M34</sup>Insurance Companies Act 1982);
  - (e) in relation to engagements the fulfilment of which will not constitute the carrying on of insurance business, to a person (or body of persons) who is not of a description specified in paragraph (a), (b) or (c) above.
- (2) A friendly society, in order to transfer any of its engagements, must—
  - (a) comply with the applicable requirements of Part I of Schedule 15 to this Act;
  - (b) resolve to transfer the engagements by special resolution;
  - (c) if the transfer is of some but not all of its engagements, resolve to do so by an affected members' resolution;
  - (d) record the extent of the transfer as so resolved in an instrument of transfer of engagements; and
  - (e) obtain the confirmation of the Commission of the transfer;and, on obtaining that confirmation, the instrument of transfer of engagements may be registered under subsection (4) below.
- (3) Where it is proposed to transfer the engagements of one friendly society to another friendly society, the proposed transferee, in order to undertake to fulfil them, must—
  - (a) comply with the applicable requirements of Part I of Schedule 15 to this Act and, if required, with sections 87 and 88 below; and
  - (b) resolve to undertake to fulfil the engagements by special resolution or, if the Commission consents to that mode of proceeding, by resolution of the committee of management.
- (4) Where the Commission confirms a transfer of engagements, the central office shall, on the application of the society proposing to transfer them and the proposed transferee—

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- (a) register a copy of the instrument of transfer of engagements; and
  - (b) issue a registration certificate to the transferee,
- and a registration certificate shall specify a date as the transfer date for that transfer.
- (5) On the transfer date—
- (a) the property, rights and liabilities of the society transferring its engagements shall by virtue of this subsection become, to the extent provided in the instrument of transfer of engagements, the property, rights and liabilities of the transferee; and
  - (b) if the transfer is of all the society’s engagements, the society shall be dissolved; but the transfer shall be deemed to have been effected immediately before any such dissolution.
- (6) The central office shall keep a copy of the instrument and of the registration certificate issued under subsection (4) above—
- (a) where the transferee is a friendly society, in the public file of that society;
  - (b) in any other case, in the public file of the society transferring the engagements.
- (7) Where a friendly society is dissolved by subsection (5)(b) above, its registration under this Act or the 1974 Act shall be cancelled by the central office.
- (8) Where it is proposed that any engagements of a person other than a friendly society should be transferred to a friendly society, the proposed transferee, in order to undertake to fulfil them, must resolve to do so by special resolution.
- (9) For the purposes of this section—
- (a) an “affected members’ resolution” is a resolution approving a transfer of engagements which is passed by the appropriate majority of those members whose contracts with the society are included in the transfer and who are entitled to vote on the resolution; and
  - (b) the “appropriate majority” means a majority consisting of not less than three quarters of those who vote on the resolution (in person or by proxy) at a meeting of the society or in a postal ballot;
- and sub-paragraphs (1)(b) and (c), (4), (5) and (6) of paragraph 7 of Schedule 12 to this Act shall apply to an affected members’ resolution as they apply to a special resolution.
- (10) Delegate voting may not take place on an affected members’ resolution; and where the rules of a friendly society provide for delegate voting on any matter, they must provide for voting by individual members on such resolutions.
- (11) Schedule 15 to this Act has effect for supplementing this section.

#### **Marginal Citations**

**M32** 1985 c.6.

**M33** S.I. 1986/1032 (N.I.6).

**M34** 1982 c. 50.

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## 87 Actuary's report as to margin of solvency.

- (1) This section applies where a friendly society (“the transferor”) proposes to transfer any of its engagements under section 86 above to another friendly society (“the transferee”).
- (2) Where—
  - <sup>F54</sup>(a) the fulfilment of any of the engagements to be transferred will constitute—
    - (i) in the case of a transferor to which subsection (2) or (3) of section 37 above applies, the carrying on of insurance business in one or more member States, or
    - (ii) in the case of a transferor to which neither of those subsections applies, the carrying on of insurance business in the United Kingdom, and]
  - (b) the transferee will, after taking the proposed transfer into account, be under a duty to maintain the margin of solvency required by section 48 above;,  
the transferee shall furnish the Commission with a report by the appropriate actuary as to whether it will immediately after the proposed transfer, possess that margin of solvency.
- (3) Where—
  - (a) the fulfilment of any of the engagements will constitute the carrying on of long-term business, and
  - (b) a report is not required to be furnished under subsection (2) above,  
the Commission may direct the transferee to furnish the Commission with a report by the appropriate actuary as to whether it will, immediately after the proposed transfer, possess an excess of assets over liabilities.
- (4) The appropriate actuary has a right of access at all times to the books, accounts and vouchers of the transferor and of the transferee, and is entitled to require from the officers of either society such information and explanations as he thinks necessary to enable him to prepare a report under this section.
- (5) If the appropriate actuary fails to obtain all the information and explanations and the access to documents which, to the best of his knowledge and belief, are necessary for the purposes of a report under this section, he shall state that fact in his report.
- (6) An officer of a transferor or of the transferee shall be guilty of an offence if he knowingly or recklessly makes to the appropriate actuary a statement (whether written or oral) which—
  - (a) conveys or purports to convey any information or explanations which he requires, or is entitled to require, for the purposes of a report under this section; and
  - (b) is misleading, false or deceptive in a material particular.
- (7) A person guilty of an offence under subsection (6) above is liable—
  - (a) on conviction on indictment, to imprisonment for a term not exceeding 2 years, or to a fine, or to both; and
  - (b) on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum, or to both.

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#### Textual Amendments

**F54** S. 87(2)(a) substituted (1.9.1994) by S.I. 1994/1984 reg. 26(1)

### 88 Actuary’s report on transfer of long term business.

- (1) This section applies where—
- [<sup>F55</sup>(a) a friendly society (“a transferor society”) proposes to transfer to any person engagements the fulfilment of which will constitute—
- (i) in the case of a society to which subsection (2) or (3) of section 37 above applies, the carrying on of long term business in one of more member States; or
- (ii) in the case of a society to which neither of those subsections applies, the carrying on of long term business in the United Kingdom; or]
- (b) a friendly society (a “transferee society”) proposes to undertake to fulfil any such engagements to be transferred to it from another friendly society.
- (2) The Commission may direct a transferor society or a transferee society to furnish the Commission with a report by an independent actuary on the terms of the proposed transfer and as to his opinion on the likely effects of the transfer on the members of the society who are long term policyholders.
- (3) A friendly society which is directed to furnish a report under this section shall, on payment of a reasonable fee, furnish a copy of the report to any person who asks for one at any time before the transfer in question is confirmed by the Commission.
- (4) Subsections (4) to (7) of section 87 above shall apply in relation to an actuary preparing a report under this section as they apply to the appropriate actuary preparing a report under that section.
- (5) In this section—
- “independent actuary”, in relation to a transfer of engagements, means an actuary who is not the appropriate actuary of a friendly society participating in the transfer;
- “long term policyholder” means a member whose contract with a friendly society is a contract the effecting of which by the society constituted the carrying on of long term business.

#### Textual Amendments

**F55** S. 88(1)(a) substituted (1.9.1994) by S.I. 1994/1984 reg. 27

### 89 Power of Commission to alter requirements for transfer by friendly society.

- (1) If the Commission is satisfied that it is expedient to do so in the interests of the members or potential members of a friendly society, it may give a direction under this section (“a direction”)—
- (a) modifying the requirements of subsection (2)(b) and (c) of section 86 above; and
- (b) modifying or disapplying the requirements of Part I of Schedule 15 to this Act,

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in relation to a particular proposed transfer or to all transfers made by the society after the making of the direction.

- (2) A direction may not modify the requirements of section 86(2) above so as to permit a society to resolve to make a transfer by a resolution passed by less than a majority, or to require more than a three-quarters majority, of those voting on the resolution.
- (3) The Commission shall not give a direction unless—
  - (a) an application has been made to it by not less than 10 per cent. of the members of the society concerned or, in the case of a society with more than 1000 members, by not less than 100 members of the society;
  - (b) not less than one month before giving the direction the Commission has served on the society concerned a notice stating that it proposes to make a direction and specifying the considerations which have led it to conclude that it would be expedient to give it;
  - (c) the Commission has considered any representations made by the society with respect to the notice mentioned in paragraph (b) above within such period (not being less than one month) from the date on which the society was served with the notice as the Commission may allow; and
  - (d) if the society so requests, the Commission has afforded to it an opportunity of being heard by it within that period.
- (4) If the Commission considers it expedient to do so in the interests of the members or potential members of the society concerned, it may vary or revoke a direction by a further direction.
- (5) On giving a direction in relation to a society, the Commission shall serve on the society a copy of the direction, specifying the considerations which have led it to conclude that it is expedient to give the direction; but the Commission may not give a direction unless all the considerations so specified were those, or among those, which were specified in the notice served on the society under subsection (3) above.
- (6) Notice of a direction shall be published by the Commission in one or more of the London Gazette, the Belfast Gazette or the Edinburgh Gazette, as it thinks appropriate, and in such other ways as appear to the Commission expedient for informing the public.
- (7) The Commission shall send a copy of a direction to the central office and the central office shall keep the copy in the public file of the society concerned.

## **90 Power of Commission to effect transfer of engagements.**

- (1) Subject to the following provisions of this section the Commission may give a direction under this section (“a direction”) providing for the transfer of such of the engagements of a friendly society (“the society”) as are specified in the order to a person so specified (“the transferee”).
- (2) The Commission may give a direction if—
  - (a) it considers that—
    - (i) the society is unable to manage its affairs satisfactorily in relation to the engagements specified in the order; and
    - (ii) a transfer of those engagements would be expedient to protect the interests of the members of the society; and

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- (b) the proposed transferee has complied with paragraph 1 of Schedule 15 to this Act and has resolved to undertake to fulfil the engagements by special resolution or, if the Commission consents to that mode of proceeding, by resolution of the committee of management;
- but the Commission may direct that paragraph (b) above shall be modified in relation to a particular proposed transfer (but not to permit a society to resolve to undertake to fulfil the engagements by less than a majority or more than a three-quarters majority of those voting).
- (3) The Commission may not give a direction if, were the transfer to be proposed to be made under section 86 above, it would be precluded from confirming it by any provision of paragraphs 13 to 17 of Schedule 15 to this Act.
- (4) Before giving a direction, the Commission shall—
- (a) serve on the society a notice stating that it proposes to give the direction and specifying the considerations which have led it to conclude that giving the direction would be expedient to protect the interests of the members of the society; and
  - (b) publish notice of the proposed direction in one or more of the London Gazette, the Belfast Gazette or the Edinburgh Gazette, as it thinks appropriate, and, if it thinks appropriate, in one or more newspapers.
- (5) A notice published in pursuance of subsection (4)(b) above shall—
- (a) state that any interested party has the right to make representations to the Commission with respect to the proposed direction;
  - (b) specify a date determined by the Commission before which any written representations or notice of a person's intention to make oral representations must be received by the Commission; and
  - (c) specify a date determined by the Commission as the day on which it intends to hear any oral representations.
- (6) After the date specified in pursuance of subsection (5)(b) above, the Commission shall—
- (a) determine the time and place at which oral representations may be made;
  - (b) give notice of that determination to the society and the proposed transferee and to any persons who have given notice of their intention to make oral representations; and
  - (c) send copies of the written representations received by the Commission to the society concerned and the proposed transferee.
- (7) The Commission shall allow the society and the proposed transferee an opportunity to comment on the written representations, whether at a hearing or in writing before the expiration of such period as the Commission specifies in a notice to it.
- (8) If the Commission gives a direction it shall furnish a copy to the central office, who shall—
- (a) register that copy; and
  - (b) issue a registration certificate to the transferee;
- and the registration certificate shall specify a date as the transfer date for the transfer.
- (9) On the transfer date—

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- (a) the property, rights and liabilities of the society shall by virtue of this subsection become, to the extent provided in the direction, the property, rights and liabilities of the transferee; and
  - (b) if the transfer is of all the society's engagements, the society shall be dissolved; but the transfer shall be deemed to have been effected before any such dissolution.
- (10) The central office shall keep a copy of a direction and of the registration certificate—
- (a) if the transferee is a friendly society, in the public file of that society;
  - (b) in any other case, in the public file of the society transferring the engagements.
- (11) Where a friendly society is dissolved by subsection (9)(b) above, its registration under this Act or the 1974 Act shall be cancelled by the central office.

### [<sup>F56</sup>90A Issue of certificates by Commission.

- (1) Where it is proposed to execute an instrument by which—
- (a) an EC company, or a non-EC company whose head office is in an EFTA State, is to transfer to a friendly society to which section 37(2) or (3) above applies all its rights and obligations under such long term or general policies, or long term or general policies of such descriptions, as may be specified in the instrument; or
  - (b) a Swiss general insurance company is to transfer to such a friendly society all its rights and obligations under such general policies, or general policies of such descriptions, as may be so specified,

the Commission may, if it is satisfied that the transferee possesses (after taking the proposed transfer into account) the margin of solvency required by section 48 above, issue a certificate to that effect.

- (2) In this section—

“EC company”, “non-EC company” and “Swiss general insurance company” have the same meanings as in the Insurance Companies Act 1982;

“general policy” means a policy evidencing a contract (other than a contract of reinsurance) the effecting of which by the transferor constituted the carrying on of general business of any class;

“long term policy” means a policy evidencing a contract (other than a contract of reinsurance) the effecting of which by the transferor constituted the carrying on of long term business of any class.]

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#### Textual Amendments

**F56** S. 90A added (1.9.1994) by S.I. 1994/1984 reg. 28

### Conversions

#### 91 Conversion of friendly society into company.

- (1) A friendly society may, in accordance with this Part of this Act, convert itself into a company registered under the <sup>M35</sup>Companies Act 1985 or the <sup>M36</sup>Companies (Northern Ireland) Order 1986 (“a company”).

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- (2) In order to convert itself into a company a friendly society must—
- (a) comply with the applicable requirements of Part I of Schedule 15 to this Act ;
  - (b) approve the proposed conversion, the terms on which it is to take place and the proposed memorandum and articles of association for the company by special resolution; and
  - (c) obtain the confirmation of the Commission of the conversion;
- and, on obtaining that confirmation, the society may apply for registration as a company.
- (3) The terms on which the conversion of a friendly society into a company is to take place may include provision for part of the funds of the society or the company to be distributed among, or for other rights in relation to shares in the company to be conferred on, members of the society.
- (4) Where—
- (a) a special resolution of a society contains the particulars required by the Companies Act 1985 or the Companies (Northern Ireland) Order 1986 to be contained in—
    - (i) the memorandum of association of a company; or
    - (ii) the articles of association of a company; and
  - (b) a copy of the resolution has been registered at the central office,
- a copy of that resolution under the seal and stamp of the central office shall have the same effect as a memorandum of association or, as the case may be, as articles of association, which have been duly signed under the <sup>M37</sup>Companies Act 1985 or the <sup>M38</sup>Companies (Northern Ireland) Order 1986.
- (5) On the registration of a friendly society as a company the registration of the society under this Act or the 1974 Act shall be cancelled by the central office.
- (6) Where a friendly society converts into a company the terms approved by the society and confirmed by the Commission shall, in so far as they provide for the conferral of rights on members or officers of the society, be enforceable as if they had been the subject of an agreement between the society and those members and officers.
- (7) Registration of a friendly society as a company shall not affect any right or claim subsisting against the society or any penalty incurred by the society; and for the purpose of enforcing any such right, claim or penalty, the society may be sued and proceeded against in the same manner as if it had not become registered as a company.
- (8) The Commission, with the consent of the Treasury, may make regulations providing for the regulation of the conversion of friendly societies into companies; and such regulations may, in particular make provision—
- (a) for and in connection with the transition from regulation by and under this Act or the 1974 Act to regulation by and under any other enactments on a society's ceasing to be registered under that Act; and
  - (b) for the treatment, in the hands of the company into which a friendly society has converted, of the property, rights and liabilities of the society immediately before its conversion and for the modification of any enactment in its application to any such property, rights and liabilities.
- (9) Schedule 15 to this Act has effect for supplementing this section.



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#### Marginal Citations

- M35 1985 c.6.
- M36 S.I. 1986/1032 (N.I.6).
- M37 1985 c.6.
- M38 S.I. 1986/1032 (N.I.6).

### Supplementary

#### 92 Compensation for loss of office.

- (1) Subject to subsection (3) below, the terms of—
  - (a) an amalgamation under section 85 above,
  - (b) a transfer of engagements of a friendly society under section 86 above, or
  - (c) a conversion under section 91 above,may include provision for compensation for loss of office or diminution of emoluments attributable to the amalgamation, transfer or conversion to be paid by a participating friendly society to or in respect of any of the persons mentioned in subsection (2) below.
- (2) Those persons are—
  - (a) the officers of the society which is to pay the compensation;
  - (b) in the case of an amalgamation or transfer, the officers of any other participating society;
  - (c) in the case of a transfer, the officers of any other person participating in the transfer; and
  - (d) the appointed actuary (if any) of any society participating in the amalgamation or transfer.
- (3) Any such provision as is mentioned in subsection (1) above must be approved by the society which is to pay the compensation by a special resolution separate from any resolution approving the other terms of the amalgamation, transfer or conversion.
- (4) If compensation which has not been authorised in accordance with subsection (3) above is received by an officer, it shall be repaid.
- (5) In this section—
  - “compensation” includes the provision of benefits in kind;
  - “loss of office” includes, in relation to an officer of an incorporated friendly society holding office by virtue of his position in the society in a subsidiary of the society or body jointly controlled by the society, the loss of that office; and
  - “participating society”, in relation to an amalgamation or transfer, means a friendly society participating in the amalgamation or transfer and, in relation to the conversion of a friendly society, that society.

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## PART IX

### MISCELLANEOUS

#### *Societies registered under 1974 Act*

#### **93 Registration of societies under 1974 Act.**

- (1) No society may be registered under the <sup>M39</sup>1974 Act after the commencement of this section.
- (2) Subject to section 7 of the 1974 Act, a society registered under the 1974 Act immediately before the commencement of this section (an “existing society”) shall continue as a registered society in accordance with the provisions of that Act.
- (3) Nothing in subsection (1) above shall be taken as preventing the registration after the commencement of this section of a branch of an existing society as a registered branch.
- (4) Nothing in this Act shall be taken as preventing—
  - (a) the performance by an existing friendly society of any contract which is in force immediately before the commencement of this section; or
  - (b) the carrying on by such a society of any social or benevolent activity which is not inconsistent with the other activities of the society.
- (5) Before the end of the transitional period each existing friendly society shall—
  - (a) by special resolution agree upon the alterations to be made to its rules so that they conform to this Act and the 1974 Act; and
  - (b) send to the central office [<sup>F57</sup>three] copies of the rules as altered each signed by the secretary and accompanied by a statutory declaration by the secretary that that agreement was effected by a resolution passed as a special resolution.
- (6) On agreeing upon any such alteration to its rules a society shall, subject to subsection (7) below, determine the date on which the society intends it to take effect, and any alteration to the society’s rules sent to the central office shall be accompanied by a record specifying that date (in this paragraph referred to as “the specified date”).
- (7) No date shall be specified under subsection (6) above which falls more than six months after the date of the meeting at which the society agreed upon the alteration to its rules.
- (8) The central office, if satisfied that the rules as altered are in conformity with this Act and the 1974 Act, shall retain and register a copy of the altered rules.
- (9) On registering a copy of the altered rules under subsection (8) above, the central office shall—
  - (a) return another copy to the secretary of the society, together with a certificate of registration, and
  - (b) keep another copy with the record of the specified date sent to it under subsection (6) above and a copy of that certificate, in the public file of the society.
- (10) Rules registered under this paragraph shall take effect on the specified date for the rule or, if registration of the rules is not effected until a later date, that later date.

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- (11) If the central office has not, before the end of the transitional period, received from an existing registered friendly society copies of its rules as altered in accordance with subsection (5) above, the society shall be treated as having agreed upon such alteration of its rules as the Commission directs.
- (12) Where the Commission proposes to give a direction under subsection (11) above in relation to a society it shall—
- (a) serve on the society a notice stating that it proposes to give a direction; and
  - (b) consider any representations made by the society within such period (not being less than fourteen days) from the date on which the notice is served as the Commission may allow;
- and, if the society so requests, the Commission shall afford to it an opportunity of being heard by the Commission within that period.
- (13) Where under this section a society is treated as having agreed upon altered rules, the central office shall prepare three copies of rules for the society and shall—
- (a) retain and register one copy,
  - (b) send another to the secretary of the society, together with a certificate of registration, and
  - (c) keep another copy, together with a copy of that certificate, in the public file of the society;
- and the rules so registered shall be for all purposes the rules of the society until amended under the 1974 Act.
- (14) In this section “the transitional period” means the period beginning with the commencement date for this section and expiring with such day as the Commission, with the consent of the Treasury, prescribes by order.
- (15) Subsections (5) to (14) above apply to the rules of a registered branch of an existing friendly society as they apply to the rules of the society.

#### Textual Amendments

**F57** Word in [s. 93\(5\)\(b\)](#) substituted (1.8.1996) by [S.I. 1996/1188](#) art. 5

#### Commencement Information

**I56** [S. 93](#) wholly in force; [s. 93](#) not in force at Royal Assent see [s. 126\(2\)](#); [s. 93\(1\)-\(4\)](#) in force 1.2.1993 by [S.I. 1993/16](#), [art. 2](#), [Sch. 3](#); [s. 93 \(5\)-\(15\)](#) in force at 1.1.1994 by [S.I. 1993/2213](#), [art. 2\(1\)](#), [Sch. 6](#)

#### Marginal Citations

**M39** [1974 c.46](#)

## 94 Registered friendly societies and branches: validation and ratification by members.

- (1) Subject to subsection (3) below, if action not permitted by the rules of a registered friendly society or a registered branch is taken by or on behalf of the society or branch, the action is valid (whether or not it would be valid apart from this subsection) if all the members of the society or branch—
- (a) signified their agreement to it in writing before it was taken; or

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- (b) signified their approval of it in writing before the end of the period of 28 days commencing with the day on which it was taken.
- (2) Subject to subsection (3) below, if a contract between a registered friendly society or branch and its members purports to create rights and obligations as to which the rules of the society or branch do not permit rights and obligations to be created, the contract shall be valid and shall bind all members of the society or branch if all members of the society or branch are parties to it.
- (3) This section does not validate the taking of any action or any term in a contract unless the matter falls within the capacity of a registered friendly society or branch under the 1974 Act or this Act.
- (4) In this section references to the members of a society or branch are to the members entitled to vote at a meeting of the society or branch.

## 95 Amendments of 1974 Act.

Schedule 16 to this Act (which contains amendments to the 1974 Act) shall have effect.

### Commencement Information

**I57** S. 95 partly in force; s. 95 not in force at Royal Assent see s. 126(2); s. 95 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 2; s. 95 in force for certain purposes at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 3; s. 95 in force to the extent specified for all remaining purposes at 13.9.1993 by S.I. 1993/2213, art. 2(1), Sch. 2; s. 95 in force to the extent specified at 13.9.1993 by S.I. 1993/2213, art. 2(1), Sch. 3; s. 95 in force to the extent specified at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 6; s. 95 in force to the extent specified at 1.1.1994 by S.I. 1993/3226, art. 2(1) Sch. 2

### *Societies registered in Northern Ireland*

## 96 Extension of 1974 Act to Northern Ireland.

- (1) The 1974 Act shall extend to Northern Ireland.
- (2) Societies which, immediately before the commencement of subsection (1) above, were societies registered under any provision of section 1 of the <sup>M40</sup>Friendly Societies Act (Northern Ireland) 1970 shall be treated as if they were societies registered under the corresponding provision of section 7 of the 1974 Act.
- (3) A branch of a society registered under that Act of 1970 which is, immediately before the commencement of subsection (1) above, a registered branch of the society under that Act, shall be treated as a branch registered under the 1974 Act.
- (4) In consequence of subsections (1) to (3) above, the Friendly Societies Act (Northern Ireland) 1970 is repealed.

### Marginal Citations

**M40** 1970 c. 31 (N.I.).

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### Other miscellaneous provisions

#### [<sup>F58</sup>97 Insurance protection.

The <sup>M41</sup>Policyholders Protection Act 1975 shall have effect subject to the amendments in Schedule 17 to this Act, being amendments to extend that Act to contracts of insurance with friendly societies.]

##### Textual Amendments

**F58** Ss. 97, 98 shall cease to have effect (17.8.2001 for specified purposes and otherwise *prosp.*) by virtue of S.I. 2001/2617, arts. 2(a), 8(1), 13(1), Sch. 3 para. 104 (with art. 13(3), **Sch. 5**) and repealed (*prosp.*) by S.I. 2001/2617, arts. 2(b), 13(2), Sch. 4 (with art. 13(3), **Sch. 5**)

##### Marginal Citations

**M41** 1975 c. 75.

#### 97 Insurance protection. **U.K.**

The <sup>M121</sup>Policyholders Protection Act 1975 shall have effect subject to the amendments in Schedule 17 to this Act, being amendments to extend that Act to contracts of insurance with friendly societies.

##### Marginal Citations

**M121** 1975 c. 75.

#### 98 Financial services.

The <sup>M42</sup>Financial Services Act 1986 shall have effect subject to the amendments in Schedule 18 to this Act, and in that Schedule—

- (a) the amendments in Part I relate to the provisions of that Act other than Schedule 11; and
- (b) the amendments in Part II relate to Schedule 11 to that Act (friendly societies).

##### Commencement Information

**I58** S. 98 partly in force; s. 98 not in force at Royal Assent see s. 126(2); s. 98 in force for certain purposes at 1.2.1993 by S.I. 1993/16, art. 2, **Sch. 4**; s. 98 in force to the extent specified at 28.4.1993 by S.I. 1993/1186, art. 2(2), **Sch. 2**; s. 98 in force to the extent specified at 1.1.1994 by S.I. 1993/2213, art. 2(1), **Sch. 5**; s. 98 in force to the extent specified at 1.1.1994 by S.I. 1993/3226, art. 2(1), **Sch. 1**

##### Marginal Citations

**M42** 1986 c. 60.

#### 99 Insurance of lives of children under 10.

- (1) Subject to the following provisions of this section, if—

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- (a) after this section comes into force a friendly society or registered branch or an industrial assurance company enters into a contract of insurance under which benefit in excess of £800 is payable on the death of any person; and
  - (b) that person dies under the age of 10,
- the obligation of the society, branch or company as to payment of benefit is only to pay £800 (without prejudice to any person's right to recover part of the premiums paid).
- (2) Subsection (1) above does not apply where the benefit is payable to a person who has an interest in the life of the person on whose death it is payable.
  - (3) The Commission may, with the consent of the Treasury, by order substitute some other sum for the sum for the time being specified in subsection (1) above.
  - (4) In the application of this section to Northern Ireland the references to industrial assurance companies shall be omitted.

## 100 Industrial assurance.

Schedule 19 to this Act (which contains amendments as relating to industrial assurance) shall have effect.

### Commencement Information

**I59** S. 100 partly in force; s. 100 not in force at Royal Assent see s. 126(2); s. 100 in force to the extent specified at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 2; s. 100 in force to the extent specified 1.2.1993 by S.I. 1993/16, art. 2, Schs. 3, 4; s. 100 in force to the extent specified at 28.4.1993 by S.I. 1993/1186, art. 2(2), Sch. 2; s. 100 in force to the extent specified at 13.9.1993 by S.I. 1993/2213, art. 2(1), Sch. 2; s. 100 in force to the extent specified at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 6; s. 100 in force to the extent specified at 1.1.1994 by S.I. 1993/3226, art. 2(1), Sch. 2

## [<sup>F59</sup>101 Law applicable to contracts of insurance with friendly societies.

- (1) The law applicable to a contract of insurance made by a friendly society the effecting of which constitutes general business and which covers risks situated in the United Kingdom or another member State shall be determined—
  - (a) in the case of a society to which section 37(3) above applies, in accordance with Part I of Schedule 20 to this Act; and
  - (b) in any other case, in accordance with that Part of that Schedule as modified by subsection (3) below.
- (2) The law applicable to a contract of insurance made by a friendly society the effecting of which constitutes long term business and which covers commitments or risks situated in the United Kingdom or another member State shall be determined—
  - (a) in the case of a society to which section 37(2) above applies, in accordance with Part II of Schedule 20 to this Act; and
  - (b) in any other case, in accordance with Part I of that Schedule as modified by subsection (3) below.
- (3) For the purposes of paragraph (b) of subsections (1) and (2) above, Part I of Schedule 20 to this Act shall be modified as follows—
  - (a) the words “or central administration”, in each place where they occur, shall be omitted;

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- (b) in paragraph 5(1), for the words from “shall act” to the end there shall be substituted the words “shall apply the general rules of private international law of that part of the United Kingdom concerning contractual obligations”; and
  - (c) in paragraph 5(2), for the words “those provisions” there shall be substituted the words “those rules”.
- (4) The provisions of this section do not apply in relation to a contract of reinsurance.]

#### Textual Amendments

**F59** S. 101 substituted (1.1.1994) by S.I. 1993/2519, reg. 6(1)

## PART X

### GENERAL AND SUPPLEMENTARY

#### General

#### **102 Power to amend, etc. to assimilate to company law or law relating to persons carrying on insurance business.**

- (1) If, on any modification of the statutory provisions in force in Great Britain or Northern Ireland relating—
- (a) to companies; or
  - (b) to persons or bodies of persons, other than friendly societies, whether incorporated or not, carrying on insurance business (including reinsurance business),
- it appears to the Treasury to be expedient to modify the relevant provisions of this Act for the purpose of assimilating the law relating to friendly societies to the law as so modified, the Treasury may, by order, make such modifications of the relevant provisions of this Act as they think appropriate for that purpose.
- (2) The “relevant provisions of this Act” are the following provisions as for the time being in force, that is to say—
- (a) so much of Part II as relates to winding up;
  - (b) Part IV;
  - (c) Part V;
  - (d) Part VI; and
  - (e) Part VIII.
- (3) The power conferred by subsection (1) above includes power to modify the relevant provisions of this Act so as to—
- (a) confer power to make orders, regulations, rules or other subordinate legislation;
  - (b) create criminal offences; or
  - (c) provide for the charging of fees but not any charge in the nature of taxation.
- (4) An order under this section may—

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- (a) make consequential amendments of or repeals in other provisions of this Act; or
- (b) make such transitional or saving provisions as appear to the Treasury to be necessary or expedient.

(5) In this section—

“modification” includes any additions and, as regards modifications of the statutory provisions relating to companies, any modification whether effected by any future Act or by an instrument made after the passing of this Act under an Act whenever passed; and

“statutory provisions” includes the provisions of any instrument made under an Act.

### **103 Power to modify Parts V and VI in relation to particular friendly societies.**

- (1) The Commission may, on the application or with the consent of a friendly society, by order direct that all or any of the provisions of Part V or VI of this Act shall not apply to the society or shall apply to it with such modifications as may be specified in the order.
- (2) An order under this section may be subject to conditions.
- (3) An order under this section may be revoked by the Commission at any time; and the Commission, may at any time vary any such order on the application or with the consent of the society to which it applies.
- <sup>F60</sup>(4) The Commission may, on the application or with the consent of a friendly society, direct in relation to any provision of regulations made for the purposes of Part V or VI of this Act that the provision shall not apply to the society, or shall apply to it with such modifications as may be specified in the direction.
- <sup>F60</sup>(5) A direction under subsection (4) above may be subject to conditions.
- <sup>F60</sup>(6) A direction under subsection (4) above may be revoked by the Commission at any time; and the Commission may at any time vary any such direction on the application or with the consent of the society to which it applies.
- <sup>F60</sup>(7) Where the Commission—
  - (a) makes a direction under subsection (4) above, or
  - (b) revokes or varies such a direction,
 it shall cause the direction, variation or revocation to be entered on a register kept by it for the purposes of this subsection.
- <sup>F60</sup>(8) The register kept for the purposes of subsection (7) above shall be available for inspection on reasonable notice by members of the public.
- <sup>F60</sup>(9) The Commission shall provide to the central office a copy of—
  - (a) any direction made by it under subsection (4) above, and
  - (b) any revocation or variation of any such direction,
 and the central office shall keep the copy in the public file of the society to which it relates.]



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### Textual Amendments

**F60** S. 103(4)-(9) inserted (1.8.1996) by S.I. 1996/1188 art. 6

## 104 Public file of a friendly society.

- (1) The central office shall prepare and maintain a file relating to each friendly society (to be known as the public file) and the file shall—
  - (a) contain the documents or, as the case may be, copies of the documents and the records of the matters directed by or under any provision of this Act to be kept in the public file of the society; and
  - (b) be available for inspection on reasonable notice by members of the public on payment of the fee prescribed under section 114 below.
- (2) Any member of the public shall be entitled, on payment of the fee so prescribed, to be furnished with a copy of all or any of the documents or records kept in the public file of a friendly society.
- (3) The central office may keep in the public file of a registered friendly society any documents relating to a registered branch of the society which correspond to documents relating to the society which it is required to keep on that file.

## 105 Exemptions from stamp duty.

Stamp duty shall not be chargeable upon any document required or authorised by this Act, the 1974 Act or by the constitution of an incorporated friendly society or of a registered friendly society or registered branch.

## 106 Officers and auditors not to be exempted from liability.

- (1) Subject to subsection (3) below, any provision to which this section applies, whether contained in the constitution of a friendly society or in any contract with a friendly society or otherwise, shall be void.
- (2) This section applies to any provision for—
  - (a) exempting any member of the committee of management, other officer, or person employed as auditor of a friendly society from any liability which, by virtue of any rule of law, would otherwise attach to him in respect of the negligence, default, breach of duty or breach of trust of which he may be guilty in relation to the society; or
  - (b) indemnifying any such person against any such liability.
- (3) Subsection (1) above shall not prevent a friendly society—
  - (a) from purchasing and maintaining for such a person insurance against any such liability; or
  - (b) from indemnifying such a person against any liability incurred by him in defending any proceedings (whether criminal or civil) in which judgement is given in his favour or in which he is acquitted.
- (4) Section 727 of the <sup>M43</sup>Companies Act 1985 or Article 675 of the <sup>M44</sup>Companies (Northern Ireland) Order 1986 (each of which empowers the court to grant relief in certain cases of negligence, default, breach of duty or breach of trust) shall apply in

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relation to officers and auditors of a friendly society as it applies in relation to officers and auditors of a company.

- (5) For the purposes of this section a reference to an officer of a friendly society includes a reference to the appropriate actuary.

#### Marginal Citations

**M43** 1985 c. 6.

**M44** S.I. 1986/1032 (N.I. 6).

### 107 Time limit for commencing proceedings.

- (1) Notwithstanding any limitation on the time for the taking of proceedings contained in any enactment, summary proceedings for any offence under this Act may, subject to subsection (2) below, be commenced by the Commission at any time within the period of one year beginning with the date on which evidence sufficient in the opinion of the Commission to justify a prosecution for the offence, comes to its knowledge.
- (2) Nothing in subsection (1) above shall authorise the commencement of proceedings for any offence at a time more than three years after the date on which the offence was committed.
- (3) For the purposes of subsection (1) above a certificate, purporting to be signed by or on behalf of the Commission, as to the date on which such evidence as is mentioned in that subsection came to its knowledge, shall be conclusive evidence of that date.
- (4) In the application of this section to Scotland, in subsection (1) the words “by the Commission” shall be omitted and in this section references to the Commission shall be read as references to the Lord Advocate.
- (5) In the application of this section to Scotland, [F61section 136(1) of the Criminal Procedure (Scotland) Act 1995] shall apply for the purposes of this section as it applies for the purposes of that section.

#### Textual Amendments

**F61** Words in s. 107(5) substituted (1.4.1996) by 1995 c. 40 ss. 5, 7(2), Sch. 4 para. 84

### 108 Offences by bodies corporate, partnerships and unincorporated associations.

- (1) Where an offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of any member of the committee of management, director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and liable to be proceeded against and punished accordingly.
- (2) Where the affairs of a body corporate are managed by the members, subsection (1) above shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

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- (3) Where a partnership is guilty of an offence under this Act, every partner, other than a partner who is proved to have been ignorant of or to have attempted to prevent the commission of the offence, shall also be guilty of that offence and be liable to be proceeded against and punished accordingly.
- (4) Where an unincorporated association (other than a partnership) is guilty of an offence under this Act—
- (a) every officer of the association who is bound to fulfil any duty of which the breach is the offence; or
  - (b) if there is no such officer, every member of the governing body other than a member who is proved to have been ignorant of or to have attempted to prevent the commission of the offence,
- shall also be guilty of the offence and be liable to be proceeded against and punished accordingly.

### 109 Defence of due diligence.

In any proceedings for an offence under this Act, it shall be a defence for a person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence by himself or any person under his control.

### 110 Jurisdiction of magistrates' courts.

- (1) Without prejudice to the provisions of the <sup>M45</sup>Magistrates' Courts Act 1980 or the <sup>M46</sup>Magistrates' Courts (Northern Ireland) Order 1981 as to the jurisdiction of a magistrates' court, in England and Wales or Northern Ireland all summary offences under this Act may be prosecuted—
- (a) where the prosecution is against a friendly society or any officer of a friendly society, before a magistrates' court acting for the petty sessions area in which the registered office of the society is situated; and
  - (b) where the prosecution is against a person other than a friendly society or an officer of a friendly society, before a magistrates' court acting for the petty sessions area in which the person is resident at the time of the institution of the prosecution.
- (2) In the application of subsection (1) above to Northern Ireland—
- (a) for the reference in paragraph (a) to a magistrates' court acting for a petty sessions area there shall be substituted a reference to a magistrates' court acting for a county court division; and
  - (b) paragraph (b) shall be omitted.

#### Marginal Citations

M45 1980 c. 43.

M46 S.I. 1981/165 (N.I. 26).

### 111 Evidence.

- (1) Any document purporting to have been signed by a registrar on behalf of the central office and to be a certificate of incorporation or registration or other document relating

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to a friendly society shall be received in evidence and shall, in the absence of any evidence to the contrary, be deemed to have been signed by a registrar on behalf of the central office.

- (2) Any printed document purporting to be a copy of the rules or memorandum of an incorporated friendly society or the rules of a registered friendly society or a registered branch and certified by the secretary or other officer of the society or branch to be a true copy of its rules or memorandum as registered, shall be received in evidence and shall, in the absence of any evidence to the contrary, be deemed to be a true copy of its rules or memorandum.

## 112 Records of friendly societies.

- (1) Subject to any other provision of this Act or regulations under it, any record to be kept by a friendly society may be kept in any manner.
- (2) Where any such record is not kept by making entries in a bound book, but by some other means, adequate precautions shall be taken for guarding against falsification and facilitating its discovery.
- (3) The power in subsection (1) above includes power to keep the record by recording matters otherwise than in legible form so long as the recording is capable of being reproduced in a legible form; and any duty imposed by or under this Act to allow inspection of, or to furnish a copy of, the record or any part of it is to be treated as a duty to allow inspection of, or to furnish, a reproduction of the recording or of the relevant part of it in a legible form.
- (4) The Commission may, by regulations made with the consent of the Treasury, make such provision in addition to subsection (3) above as it considers appropriate in connection with such records as are kept otherwise than in legible form; and the regulations may make modifications of this Act so far as it relates to the records of friendly societies.
- (5) If default is made in complying with this section the society shall be guilty of an offence and liable on summary conviction—
- (a) to a fine not exceeding level 4 on the standard scale; and
  - (b) in the case of a continuing offence, to an additional fine not exceeding one-tenth of that level for every day during which the offence continues.

### Modifications etc. (not altering text)

**C12** S. 112(4): functions of Friendly societies Commission transferred (17.8.2001 for specified purposes and otherwise 1.12.2001) to the Treasury by S.I. 2001/2617, arts. 2(b), 4(1), **Sch. 1 Pt. II**

## 113 Service of notices.

- (1) This section has effect in relation to any notice, directions or other document required or authorised by or under any provision of this Act or by the rules of a friendly society to be served on any person other than the Commission and the central office but subject, in the case of notices or other documents to be given or sent to members of a friendly society, to any provision of its rules.
- (2) Any such document may be served on the person in question—

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- (a) by delivering it to him;
  - (b) by leaving it at his proper address; or
  - (c) by sending it by post to him at that address.
- (3) Any such document may—
- (a) in the case of a friendly society, be served on the secretary of the society;
  - (b) in the case of a body corporate (other than an incorporated friendly society), be served on the secretary or clerk of that body;
  - (c) in the case of a partnership, be served on any partner;
  - (d) in the case of an unincorporated association, other than a partnership or a registered friendly society or registered branch, be served on any member of its governing body.
- (4) For the purposes of this section and section 7 of the <sup>M47</sup>Interpretation Act 1978 (service of documents) in its application to this section, the proper address of any person is—
- (a) in the case of a friendly society or its secretary, the address of its registered office;
  - (b) in the case of a member of an incorporated friendly society, his registered address;
  - (c) in the case of a member of the committee of management or the chief executive of a friendly society, his officially notified address;
  - (d) in the case of a body corporate (other than an incorporated friendly society), its secretary or clerk, the address of its registered or principal office in the United Kingdom;
  - (e) in the case of an unincorporated association (other than a partnership, registered friendly society or registered branch) or a member of its governing body, its principal office in the United Kingdom;
- and, in any other case, his last-known address (whether of his residence or of a place where he carries on business or is employed).

#### Marginal Citations

M47 1978 c. 30.

### 114 Form of documents and power to prescribe fees.

- (1) The Chief Registrar may, by directions under this subsection, make provision with respect to the form of, and the particulars to be included in, any document to be issued or sent by, or to be sent to, the central office under this Act or the 1974 Act.
- (2) The Treasury may make regulations providing for fees, of such amounts as may be prescribed in the regulations, to be paid to the Chief Registrar for the inspection, or the furnishing of copies, of any documents in the custody of the central office, or in respect of the exercise by the central office of any of its functions, under this Act or the 1974 Act.
- (3) Any amounts received by the Chief Registrar under subsection (2) above shall be applied as an appropriation in aid of money provided by Parliament for the expenses of the Chief Registrar under this Act and the 1974 Act and, in so far as not so applied, shall be paid by the Chief Registrar into the Consolidated Fund.

*Status:* Point in time view as at 01/08/1996. This version of this Act contains provisions that are not valid for this point in time.

*Changes to legislation:* Friendly Societies Act 1992 is up to date with all changes known to be in force on or before 25 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

## 115 Provision as to information supplied for purposes of social security.

- (1) Subject to any exceptions or conditions prescribed by regulations of the Secretary of State, the Secretary of State shall at the request of any person claiming benefit from an incorporated friendly society provide the society for the purposes of the claim with a copy or abstract of any medical certificate relating to that person and supplied by him to the Secretary of State for the purposes of the enactments relating to social security.
- (2) Where the Secretary of State furnishes an incorporated friendly society, in connection with a claim for benefit from the society with information relating to a claim or award under those enactments, the expenses incurred in connection with his doing so by the Secretary of State or any other government department shall be treated as expenses in carrying those enactments into effect.
- [<sup>F62</sup>(3) In this section, references to the Secretary of State shall be construed as including references to the Department of Health and Social Services for Northern Ireland.]

### Textual Amendments

**F62** S. 115(3) inserted (1.4.1995) by S.I. 1995/710, reg. 6

### Interpretation

## 116 Friendly societies etc.

In this Act—

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

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

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

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

### Commencement Information

**I60** Ss. 116-119 wholly in force at 8.6.1992 see s. 126(2) and S.I. 1992/1325, art. 2(c).

## 117 Insurance business etc.

- (1) For the purposes of this Act—

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

[<sup>F63</sup>“commitment” means, in relation to a friendly society to which section 37(2) applies, a commitment represented by insurance business of any class of Head A of Schedule 2 to this Act;]

“insurance business” means long term business and general business but does not include the operations of a society whose benefits vary

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according to the resources available and which require each of its members to contribute on a flat-rate basis;

[<sup>F64</sup>“direct insurance business” means insurance business other than reinsurance business and “direct insurance” shall be construed accordingly;]

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

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

- (2) For the purposes of any provision of Parts IV, V, VI and VIII of this Act, unless the context otherwise requires—
- (a) references to insurance business include references to reinsurance business; and
  - (b) reinsurance business consisting of the effecting and carrying out of a contract of reinsurance of risks of any class shall be taken to constitute the carrying on of insurance business of that class;
- and “reinsurance business” means the effecting and carrying out of contracts of reinsurance.
- (3) For the purposes of this Act the effecting and carrying out of a contract whose principal object is within one class of insurance business, but which contains related and subsidiary provisions within another class or classes, shall be taken to constitute the carrying on of insurance business of the first-mentioned class, and no other, if subsection (4) or (5) below applies to the contract.
- (4) This subsection applies to a contract whose principal object is within any class of long term business, but which contains subsidiary provisions within general business class 1 or 2, if the society concerned is authorised under section 32 above to carry on long term business class I.
- (5) This subsection applies to a contract whose principal object is within one of the classes of general business but which contains subsidiary provisions within another of those classes.
- [<sup>F65</sup>(6) In relation to a contract of insurance entered into by a person on any date with a friendly society to which section 37(3) above applies the effecting of which constitutes general business, or a contract of insurance entered into by a person on any date with a friendly society to which section 37(2) above applies the effecting of which constitutes long term business, references in this Act to the [<sup>F66</sup>member or EEA State] where the risk or commitment is situated shall be construed as follows—
- (a) where that person is an individual, as references to the [<sup>F66</sup>member or EEA State] where he has his habitual place of residence on that date; and
  - (b) in any other case, as references to the [<sup>F66</sup>member or EEA State] where the establishment of that person to which the contract relates is situated on that date.
- (7) In relation to any other contract of insurance with a friendly society, references in this Act to the member State where the risk is situated shall be construed as references to the member State where the person who has entered into the contract has his habitual place of residence.]
- [<sup>F67</sup>(8) In this Act references, in relation to a friendly society to which section 37(2) or (3) above applies, to the provision of insurance in the United Kingdom or any other EEA State are references to either or both of the following—



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- (a) the covering (otherwise than by way of reinsurance) of a risk situated there through an establishment in another EEA State (“the provision of general insurance”); and
  - (b) the covering (otherwise than by way of reinsurance) of a commitment situated there through an establishment in another EEA State (“the provision of long term insurance”).
- (9) In this Act “establishment”, in relation to a friendly society to which section 37(2) or (3) above applies, means the registered office or an overseas branch of the society.

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

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

#### Textual Amendments

- F63** Definition in s. 117(1) inserted (1.1.1994) by [S.I. 1993/2519, reg. 7\(1\)](#)
- F64** Definition in s. 117(1) added (1.9.1994) by [S.I. 1994/1984 reg. 29\(1\)](#)
- F65** [S. 117\(6\)\(7\)](#) substituted (1.1.1994) for s. 177(6) by [S.I. 1993/2519, reg. 7\(2\)](#)
- F66** [S. 117\(6\)](#) words substituted (1.9.1994) by [S.I. 1994/1984 reg. 29\(2\)](#)
- F67** [S. 117\(8\)\(9\)](#) inserted (1.9.1994) by [S.I. 1994/1984 reg. 29\(3\)](#)

#### Commencement Information

- I61** [Ss. 116-119](#) wholly in force at 8.6.1992 see [s. 126\(2\)](#) and [S.I. 1992/1325, art. 2\(c\)](#).

### 118 Financial year of friendly societies.

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

#### Commencement Information

- I62** [Ss. 116-119](#) wholly in force at 8.6.1992 see [s. 126\(2\)](#) and [S.I. 1992/1325, art. 2\(c\)](#).

### 119 General interpretation.

- (1) In this Act, unless the context otherwise requires—
- “the 1974 Act” means the <sup>M48</sup>Friendly Societies Act 1974;
  - “actuary” means an actuary possessing the qualifications prescribed by regulations under section 44 above;



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

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

“the appropriate actuary” means—

- (a) if the society is under the duty imposed by section 44(1) above, the society’s appointed actuary; and
- (b) if it is not under that duty, an actuary appointed to perform the function in question;

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

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

“collecting society” has the same meaning as in the <sup>M49</sup>Industrial Assurance Act 1923 or the <sup>M50</sup>Industrial Assurance (Northern Ireland) Order 1979;

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

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

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

[<sup>F68</sup>“controller” has the meaning given by section 55A above;]

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

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

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

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

[<sup>F69</sup>“EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 <sup>M51</sup> as adjusted by the Protocol signed at Brussels on 17th March 1993 <sup>M52</sup>;

<sup>F69</sup>“EEA State” means a State which is a Contracting Party to the EEA Agreement but, until the EEA Agreement comes into force in relation to Liechtenstein, does not include Liechtenstein;

<sup>F69</sup>“EFTA State” means an EEA State which is not a member State;]

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

“the first general insurance Directive” means Council Directive [73/239/EEC](#) of 24th July 1973 on the coordination of laws, regulations

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and administrative provisions relating to the taking-up and pursuit of the business of direct insurance other than life assurance;

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

[<sup>F70</sup>“the general insurance Directives” means the first general insurance Directive, the second general insurance Directive and the third general insurance Directive as amended, and such other Directives as make provision with respect to the business of direct insurance other than life assurance;]

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

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

[<sup>F71</sup>“the life Directives” means the first life Directive, the second life Directive and the third life Directive as amended, and such other Directives as make provision with respect to the business of direct life assurance;

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

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

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

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

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

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

[<sup>F72</sup>“notifiable voting rights” has the meaning given by section 55A above;]

“officer” means—

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

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

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

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

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

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

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

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

[<sup>F73</sup>“supervisory authority”, in relation to an EEA State other than the United Kingdom, means the authority responsible in that State for supervising insurance companies;

<sup>F73</sup>“the third general insurance Directive” means Council Directive [92/49/EEC](#) of 18th June 1992 <sup>M53</sup> on the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance and amending Directives [73/239/EEC](#) <sup>M54</sup> and [88/357/EEC](#) <sup>M55</sup>;

<sup>F73</sup>“the third life Directive” means Council Directive [92/96/EEC](#) of 10th November 1992 <sup>M56</sup> on the coordination of laws, regulations and administrative provisions relating to direct life assurance and amending Directives [79/267/EEC](#) <sup>M57</sup> and [90/619/EEC](#) <sup>M58</sup>;

“valuation regulations” means regulations under section 45 above.

[<sup>F74</sup>(1A) References in this Act to the first or third general insurance Directive, or to the first or third life Directive, are references to that Directive as amended by the Prudential Supervision Directive (within the meaning of the Financial Institutions (Prudential Supervision) Regulations 1996).

<sup>F74</sup>(1B) References in this Act—

(a) to an undertaking being closely linked with any person, or being closely linked with any person by control; or

(b) to an undertaking’s close links with any person,

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

(2) References in this Act to the “ECU” are to the unit of account of that name defined in Council Regulation (EEC) No.3180/78 as amended; and the exchange rates as between the ECU and pounds sterling to be applied for each year beginning on 31st

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December shall be the rates applicable on the last day of the preceding October for which exchange rates for the currencies of all the member States were published in the Official Journal of the Communities.

#### Textual Amendments

- F68** S. 119(1): definition inserted (1.9.1994) by S.I. 1994/1984 reg. 30(a)  
**F69** S. 119(1): definition inserted (1.9.1994) by S.I. 1994/1984, **reg. 30(b)**  
**F70** S. 119(1): definition substituted (1.9.1994) by S.I. 1994/1984 reg. 30(c)  
**F71** S. 119(1): definitions of “the life Directives” and “manager” substituted for definition of “the life Directives” (1.9.1994) by S.I. 1994/1984, **reg. 30(d)**  
**F72** S. 119(1): definition inserted (1.9.1994) by S.I. 1994/1984, **reg. 30(e)**  
**F73** S. 119(1): definition inserted (1.9.1994) by S.I. 1994/1984, **reg. 30(f)**  
**F74** S. 119(1A)(1B) inserted (18.7.1996) by S.I. 1996/1669, reg. 23, **Sch. 5 para. 6**

#### Commencement Information

- I63** Ss. 116-119 wholly in force at 8.6.1992 see s. 126(2) and S.I. 1992/1325, **art. 2(c)**.

#### Marginal Citations

- M48** 1974 c. 46.  
**M49** 1923 c. 8.  
**M50** S.I. 1979/1574 (N.I. 13).  
**M51** O.J. L1, 3.1.94, page 3.  
**M52** O.J. L1, 3.1.94, page 572.  
**M53** O.J. L228, 11.8.92, page 1.  
**M54** O.J. L228, 16.8.73, page 3.  
**M55** O.J. L172, 4.7.88, page 1.  
**M56** O.J. L360, 9.12.92, page 1.  
**M57** O.J. L63, 13.3.79, page 1.  
**M58** O.J. L330, 29.11.90, page 50.

#### [<sup>F75</sup>119A Meaning of “associate”.

(1) In this Act “associate”, in relation to any person entitled to exercise or control the exercise of voting power in relation to a friendly society to which section 37(2) or (3) above applies, means—

- (a) the wife or husband or minor son or daughter of that person;
- (b) any company of which that person is a director;
- (c) any person who is an employee or partner of that person;
- (d) if that person is a company—
  - (i) any director of that company;
  - (ii) any subsidiary undertaking of that company;
  - (iii) any director or employee of any such subsidiary undertaking; and
- (e) if that person has made an agreement or arrangement with any other person under which they undertake to act together in exercising their voting power in relation to the society, that other person.

(2) In this section—

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

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

“subsidiary undertaking” has the same meaning as in the Insurance Companies Act 1982 <sup>M59</sup>.]

#### Textual Amendments

**F75** S. 119(A) inserted (1.9.1994) by S.I. 1994/1984 reg. 31

#### Marginal Citations

**M59** 1982 c.50.

### [<sup>F76</sup>119B Meaning of “main agent”.

- (1) In this Act “main agent”, in relation to a society to which section 37(2) or (3) above applies, means a person appointed by the society to be its agent in respect of general business in a member State with authority to enter into contracts on behalf of the society in any financial year—
  - (a) without limit on the aggregate amount of premiums; or
  - (b) with a limit in excess of the 10 per cent. of the premium limit as determined in accordance with subsections (3) to (6) below.
- (2) A person shall not be regarded as falling within subsection (1)(a) above unless—
  - (a) the society is of the opinion that the aggregate amount of premiums, on contracts entered into by him on behalf of the society in that year in respect of general business in the member State or States concerned, will be in excess of 10 per cent. of the premium limit as determined in accordance with subsections (3) to (6) below; or
  - (b) the aggregate amount of premiums, on contracts so entered into, actually is in excess of 10 per cent. of that premium limit.
- (3) Subject to subsections (4) to (6) below, the premium limit for the purposes of subsections (1) and (2) above is the aggregate of the amounts of gross premiums shown in the annual accounts relating to the society’s business last sent to the Commission under section 78 above as receivable in respect of general business in the financial year to which the accounts relate.
- (4) If the accounts so sent relate to a financial year which is not a period of 12 months, the aggregate of the amounts of gross premiums shown in the accounts as receivable in that financial year shall be divided by the number of months in the financial year and multiplied by twelve.
- (5) If no accounts have been sent to the Commission under section 78 above the aggregate amount of gross premiums shall be the amount or, if more than one amount, the lower or lowest amount, shown in respect of gross premiums relating to the society’s business in the financial forecast last submitted by the society in accordance with regulations made for the purposes of paragraph 2(2) of Schedule 13 to this Act.
- (6) Any reference in subsection (3) or (5) above to the society’s business is a reference to its business in the member State or States in which the agent has authority to enter into contracts on its behalf.]

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### Textual Amendments

**F76** [S. 119B](#) inserted (1.9.1994) by [S.I. 1994/1984](#) reg. 32

## Supplementary

### 120 Amendments and repeals.

- (1) The enactments specified in Schedule 21 to this Act shall have effect with the amendments made by that Schedule.
- (2) The enactments specified in Schedule 22 to this Act are repealed to the extent specified in the third column of that Schedule.

### Commencement Information

**I64** [S. 120](#) partly in force; [s. 120](#) not in force at Royal Assent see [s. 126\(2\)](#); [s. 120\(1\)](#) partly in force at 1.1.1993 by [S.I. 1992/3117](#), [art. 2\(ii\)](#); [s. 120\(2\)](#) in force to the extent specified at 13.1.1993 by [S.I. 1993/16](#), [art. 2](#), [Sch. 2](#); [s. 120](#) in force to the extent specified at 1.2.1993 by [S.I. 1993/16](#), [art. 2](#), [Sch. 3](#); [s. 120\(2\)](#) in force to the extent specified at 5.2.1993 by [S.I. 1993/197](#), [art. 2](#); [s. 120\(2\)](#) in force to the extent specified at 13.9.1993 by [S.I. 1993/2213](#), [art. 2\(1\)](#), [Sch. 3](#); [s. 120\(2\)](#) in force to the extent specified at 1.1.1994 by [S.I. 1993/2213](#), [art. 2\(1\)](#), [Schs. 5, 6](#); [s. 120](#) in force to the extent specified at 1.1.1994 by [S.I. 1993/3226](#), [art. 2\(1\)](#), [Sch. 2](#); [S. 120\(2\)](#) in force to the extent specified at 1.11.1994 by [S.I. 1994/2543](#), [art. 2\(3\)\(a\)](#)

### 121 Orders and regulations.

- (1) Any power of the Treasury or the Commission to make regulations or an order under this Act is exercisable by statutory instrument.
- (2) Any statutory instrument containing such regulations or such an order, other than an order under section 5 above or section 126 below, shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) Any power conferred by this Act to make such regulations or such an order includes power—
  - (a) to make different provision for different cases; and
  - (b) to make transitional, consequential or supplementary provision.

### Commencement Information

**I65** [S. 121](#) wholly in force at 8.6.1992 see [s. 126\(2\)](#) and [S.I. 1992/1325](#), [art. 2\(d\)](#).

### 122 Expenses.

There shall be paid out of money provided by Parliament—

- (a) any expenses incurred by the Commission which are attributable to the provisions of this Act;

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- (b) any expenses incurred by the Chief Registrar which are attributable to any functions of his or of the central office under this Act;
- (c) any increase attributable to this Act in the sums so payable under any other enactment.

#### Commencement Information

**I66** S. 122 wholly in force at 8.6.1992 see s. 126(2) and S.I. 1992/1325, art. 2(e).

### 123 Power to make transitional, consequential etc. provisions.

- (1) The Treasury may by regulations make such transitional and consequential provisions and such savings as they consider necessary or expedient in preparation for, in connection with, or in consequence of—
  - (a) the coming into force of any provision of this Act; or
  - (b) the operation of any enactment repealed or amended by a provision of this Act during any period when the repeal or amendment is not wholly in force.
- (2) Regulations under this section may make modifications of any enactment contained in this or in any other Act.

#### Commencement Information

**I67** S. 123 wholly in force at 8.6.1992 see s. 126(2) and S.I. 1992/1325, art. 2(f).

### 124 Northern Ireland.

- (1) This Act extends to Northern Ireland.
- (2) Subject to any Order made after the passing of this Act by virtue of subsection (1)(a) of section 3 of the <sup>M60</sup>Northern Ireland Constitution Act 1973, the regulation of friendly societies and the other societies to which the 1974 Act applies shall not be a transferred matter for the purposes of that Act but shall for the purposes of subsection (2) of that section be treated as specified in Schedule 3 to that Act.

#### Marginal Citations

**M60** 1973 c. 36.

### 125 Channel Islands and Isle of Man.

- (1) Her Majesty may by Order in Council direct that any of the provisions of this Act or any instrument made under it shall extend, with such modifications (if any) as may be specified in the Order, to—
  - (a) any of the Channel Islands; or
  - (b) the Isle of Man.
- (2) An Order in Council under this section may make such transitional, incidental or supplementary provision as appears to Her Majesty to be necessary or expedient.



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## 126 Short title and commencement.

- (1) This Act may be cited as the Friendly Societies Act 1992.
- (2) This Act shall come into force on such day as the Treasury may by order appoint and different days may be appointed for different provisions or different purposes.
- (3) An order under subsection (2) above may contain such transitional provisions and savings (whether or not involving the modification of any statutory provision) as appear to the Treasury necessary or expedient in connection with the provisions brought into force.

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### Subordinate Legislation Made

- P1** [S. 126\(2\)](#) power partly exercised (3.6.1992): 8.6.1992 appointed for specified provisions by [S.I. 1992/1325, art. 2](#)
- [s. 126\(2\)](#) power partly exercised (9.12.1992): 1.1.1993 appointed for specified provisions by [S.I. 1992/3117, art. 2](#)
- [S. 126\(2\)](#) power partly exercised (4.1.1993): 13.2.1993 and 1.2.1993 appointed for specified provisions by [S.I. 1993/16](#)
- [S. 126\(2\)](#) power partly exercised (3.2.1993): 5.2.1993 appointed for specified provisions by [S.I. 1993/197](#)
- [S. 126\(2\)](#) power partly exercised (22.4.1993): 28.4.1993 appointed for specified provisions by [S.I. 1993/1186](#)
- [S. 126\(2\)](#) power partly exercised (8.9.1993): 13.9.1993, 1.1.1994 and 1.7.1994 appointed for specified provisions by [S.I. 1993/2213](#)
- [S. 126\(2\)](#) power partly exercised (22.12.1993): 1.1.1994 and 1.1.1995 appointed for specified provisions by [S.I. 1993/3226](#)

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### Commencement Information

- I68** [S. 126](#) wholly in force at 8.6.1992 see [s. 126\(2\)](#) and [S.I. 1992/1325, art. 2](#).



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## SCHEDULES

### SCHEDULE 1

Section 1.

#### THE FRIENDLY SOCIETIES COMMISSION

##### Commencement Information

**I69** Sch. 1 wholly in force at 8.6.1992 see s. 126(2) and S.I. 1992/1325, art. 2(b).

##### *Status*

1 The Commission shall be a body corporate.

##### Commencement Information

**I70** Sch. 1 wholly in force at 8.6.1992 see s. 126(2) and S.I. 1992/1325, art. 2(b).

##### *Tenure of office of member*

- 2
- (1) Subject to the provisions of this paragraph, a person shall hold and vacate office as a member or the chairman or deputy chairman of the Commission in accordance with the terms of the instrument appointing him to that office.
  - (2) A person may at any time resign office as a member or the chairman or deputy chairman of the Commission by giving the Treasury a signed notice stating that he resigns that office.
  - (3) When a member becomes or ceases to be the chairman or deputy chairman, the Treasury may vary the terms of his appointment so as to alter the date on which he is to vacate office as a member.
  - (4) If the chairman or deputy chairman ceases to be a member, he shall cease to be the chairman or deputy chairman, as the case may be.
  - (5) If the Treasury are satisfied—
    - (a) that a member has been absent from meetings of the Commission for a period longer than three consecutive months without the permission of the Commission, or
    - (b) that a member has become bankrupt or made an arrangement with or granted a trust deed for his creditors, or
    - (c) that a member's estate has been sequestrated, or
    - (d) that a member is incapacitated by physical or mental illness, or

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(e) that a member is otherwise unable or unfit to discharge the functions of his office,

the Treasury may declare his office as a member vacant, and shall notify the declaration in such manner as they think fit; and thereupon the office shall become vacant.

**Commencement Information**

**I71** Sch. 1 wholly in force at 8.6.1992 see s. 126(2) and S.I. 1992/1325, art. 2(b).

3 No person who has attained the age of 70 years is eligible to be or to remain a part-time member of the Commission.

**Commencement Information**

**I72** Sch. 1 wholly in force at 8.6.1992 see s. 126(2) and S.I. 1992/1325, art. 2(b).

*Remuneration and pensions, etc. for part-time members*

4 The Commission shall pay to its part-time members such fees for services and such allowances in respect of expenses as may be determined by the Treasury.

**Modifications etc. (not altering text)**

**C13** Sch. para. 4: functions of the Treasury transferred to the Minister (1.4.1995) by S.I. 1995/269 art. 3, Sch. para. 20

**Commencement Information**

**I73** Sch. 1 wholly in force at 8.6.1992 see s. 126(2) and S.I. 1992/1325, art. 2(b).

5 (1) If the Treasury so determine in the case of any person who is or has been a part-time member of the Commission, the Commission shall pay or make arrangements for the payment of such pensions to or in respect of that person as the Treasury may determine.

(2) Where a person who is a part-time member of the Commission ceases to be a member otherwise than on the expiry of his term of office and it appears to the Treasury that there are special circumstances which make it right for that person to receive compensation, the Treasury may direct the Commission to make to that person a payment of such amount as the Treasury may determine.

**Modifications etc. (not altering text)**

**C14** Sch. para. 5: functions of the Treasury transferred to the Minister (1.4.1995) by S.I. 1995/269 art. 3, Sch. para. 20

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#### Commencement Information

**I74** Sch. 1 wholly in force at 8.6.1992 see s. 126(2) and S.I. 1992/1325, art. 2(b).

#### *Parliamentary disqualification*

- 6 (1) In Part II of Schedule 1 to the <sup>M61</sup>House of Commons Disqualification Act 1975 (bodies of which all members are disqualified under that Act) there shall be inserted at the appropriate place the entry: “ The Friendly Societies Commission ”.
- (2) A corresponding amendment shall be made in Part II of Schedule 1 to the <sup>M62</sup>Northern Ireland Assembly Disqualification Act 1975.

#### Commencement Information

**I75** Sch. 1 wholly in force at 8.6.1992 see s. 126(2) and S.I. 1992/1325, art. 2(b).

#### Marginal Citations

**M61** 1975 c. 24.

**M62** 1975 c. 25.

#### *Staff*

- 7 The Commission may appoint such staff as the chairman of the Commission thinks fit, subject to the approval of the Treasury as to numbers and as to terms and conditions of service.

#### Commencement Information

**I76** Sch. 1 wholly in force at 8.6.1992 see s. 126(2) and S.I. 1992/1325, art. 2(b).

#### *Proceedings*

- 8 The quorum of the Commission and the arrangements relating to its meeting shall be such as the Commission may determine.

#### Commencement Information

**I77** Sch. 1 wholly in force at 8.6.1992 see s. 126(2) and S.I. 1992/1325, art. 2(b).

- 9 The validity of any proceedings of the Commission shall not be affected by any vacancy among the members or by any defect in the appointment of a member.

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**Commencement Information**

**I78** Sch. 1 wholly in force at 8.6.1992 see s. 126(2) and S.I. 1992/1325, art. 2(b).

*Performance of functions*

10 (1) With the exception specified in sub-paragraph (2) below, the Commission may authorise any member or members of the Commission to perform on behalf of the Commission such of the Commission's functions (including the power conferred by this paragraph) as are specified in the authorisation.

(2) The Commission shall not delegate any power exercisable by statutory instrument.

**Commencement Information**

**I79** Sch. 1 wholly in force at 8.6.1992 see s. 126(2) and S.I. 1992/1325, art. 2(b).

11 The <sup>M63</sup>Statutory Instruments Act 1946 shall apply to all powers of the Commission of making statutory instruments under this Act as if the Commission were a Minister of the Crown.

**Commencement Information**

**I80** Sch. 1 wholly in force at 8.6.1992 see s. 126(2) and S.I. 1992/1325, art. 2(b).

**Marginal Citations**

**M63** 1946 c. 36.

12 In Schedule 2 to the <sup>M64</sup>Parliamentary Commissioner Act 1967 (which lists the departments etc. subject to investigation under that Act) there shall be inserted in the appropriate place in alphabetical order the words " Friendly Societies Commission "

**Commencement Information**

**I81** Sch. 1 wholly in force at 8.6.1992 see s. 126(2) and S.I. 1992/1325, art. 2(b).

**Marginal Citations**

**M64** 1967 c. 13.

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### *Instruments*

- 13 The fixing of the common seal of the Commission shall be authenticated by the signature of the chairman or deputy chairman or by some other person authorised by the Commission to act for that purpose.

#### **Commencement Information**

**I82** Sch. 1 wholly in force at 8.6.1992 see s. 126(2) and S.I. 1992/1325, art. 2(b).

- 14 (1) A document purporting to be duly executed under the seal of the Commission shall be received in evidence and shall, unless the contrary is proved, be deemed to be so executed.
- (2) A document purporting to be signed on behalf of the Commission shall be received in evidence and shall, unless the contrary is proved, be deemed to be so signed.

#### **Commencement Information**

**I83** Sch. 1 wholly in force at 8.6.1992 see s. 126(2) and S.I. 1992/1325, art. 2(b).

### *Execution of documents in Scotland*

- 15 (1) This paragraph shall have effect as regards the execution of documents in Scotland.
- (2) For any purpose other than those mentioned in sub-paragraph (3) below, a document is validly executed by the Commission if it is signed on its behalf by the chairman or deputy chairman or by a person authorised to sign the document on its behalf.
- (3) For the purposes of any enactment or rule of law relating to the authentication of documents, a document is validly executed by the Commission if it is subscribed on its behalf by being executed in accordance with the provisions of sub-paragraph (2) above.
- (4) A document which bears to have been executed by the Commission in accordance with sub-paragraph (3) above shall, in relation to such execution, be a probative document if—
- (a) the subscription of the document bears to have been attested by at least one witness; or
  - (b) the document bears to be sealed with the seal of the Commission.

#### **Commencement Information**

**I84** Sch. 1 wholly in force at 8.6.1992 see s. 126(2) and S.I. 1992/1325, art. 2(b).

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## SCHEDULE 2

Sections 5 and 7.

### THE ACTIVITIES OF A FRIENDLY SOCIETY

A. Long term business of one or more of the following classes:

<i>Number</i>	<i>Description</i>	<i>Nature of business</i>
I	Life and annuity	Effecting and carrying out contracts of insurance on human life or contracts to pay annuities on human life, but excluding (in each case) contracts within Class III below.
II	Marriage and birth	Effecting and carrying out contracts of insurance to provide a sum on marriage or on the birth of a child, being contracts expressed to be in effect for a period of more than one year.
III	Linked long term	Effecting and carrying out contracts of insurance on human life or contracts to pay annuities on human life where the benefits 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 contracts) or by reference to fluctuation in, or in an index of, the value of property of any description (whether or not so specified).
IV	Permanent health	Effecting and carrying out contracts of insurance providing specified benefits against risks of persons becoming incapacitated in consequence of sustaining injury as a result of an accident or of an accident of a specified class or of sickness or infirmity, being contracts that:  (a) are expressed to be in effect for a period of not less than five years, or until the normal retirement age for

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		the persons concerned, or without limit of time, and
		(b) either are not expressed to be terminable by the insurer, or are expressed to be so terminable only in special circumstances mentioned in the contract.
V	Tontines	Effecting and carrying out tontines.
VI	Capital redemption	Effecting and carrying out capital redemption contracts.
VII	Pension fund management	Effecting and carrying out— (a) contracts to manage the investments of pension funds; or (b) contracts of the kind mentioned in paragraph (a) above that are combined with contracts of insurance covering either conservation of capital or payment of a minimum interest.

B. General business of one or more of the following classes:

<i>Number</i>	<i>Description</i>	<i>Nature of business</i>
1	Accident	Effecting and carrying out contracts of insurance providing fixed pecuniary benefits or benefits in the nature of indemnity (or a combination of both) against risks of the person insured: (a) sustaining injury as the result of an accident or of an accident of a specified class, or (b) dying as the result of an accident or of an accident of a specified class, or (c) becoming incapacitated in consequence of disease or of disease of a specified class, inclusive of contracts relating to industrial injury and occupational disease but

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2	Sickness	<p>exclusive of contracts falling within Class 2 below or within Class IV in head A of this Schedule (permanent health).</p> <p>Effecting and carrying out contracts of insurance providing fixed pecuniary benefits or benefits in the nature of indemnity (or a combination of the two) against risks of loss to the persons insured attributable to sickness or infirmity, but exclusive of contracts falling within Class IV in head A of this Schedule.</p>
3	Miscellaneous financial loss	<p>Effecting and carrying out contracts of insurance against any of the following risks, namely:</p> <ul style="list-style-type: none"> <li>(a) risks of loss to the persons insured attributable to their being unemployed, or</li> <li>(b) risks of loss to the persons insured attributable to their being in distressed circumstances, or</li> <li>(c) risks of loss to the persons insured attributable to sickness or infirmity,</li> </ul> <p>but exclusive of contracts falling within Class 2 above or Class IV in head A of this Schedule.</p>

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C. Business, not falling within the descriptions of insurance business in head A or B above, consisting of the effecting and carrying out of contracts in accordance with which benefits are provided—

(a) for the relief or maintenance of any persons during sickness or when in distressed circumstances; or

(b) to meet the funeral expenses of any persons.

D. Activities carried out in accordance with the society's rules (or with arrangements made under the rules) whereby discretionary benefits are provided—

(a) for the education of any persons;



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(b) for the relief or maintenance of any persons during sickness, when out of employment or when in distressed circumstances; or

(c) for the funeral expenses of any persons.

### SCHEDULE 3

Section 5.

#### ESTABLISHMENT, INCORPORATION AND CONSTITUTION OF INCORPORATED FRIENDLY SOCIETIES

##### *Requirements for establishment and incorporation*

- 1 (1) Any 7 or more persons may establish a society under this Act by taking the following steps—
- (a) agreeing upon the purposes of the society and upon the extent of its powers in a memorandum the provisions of which comply with the requirements of this Schedule;
  - (b) agreeing upon rules for the regulation of the society which comply with the requirements of this Schedule; and
  - (c) sending to the central office 3 copies of the memorandum and the rules, each copy signed by at least 7 of those persons (or, if there are only 7, by all of them) and (unless the secretary is to be elected) by the intended secretary.
- (2) Where two or more friendly societies propose to amalgamate under section 85 above, they shall establish their successor society by—
- (a) agreeing upon the purposes of their successor and upon the extent of its powers in a memorandum the provisions of which comply with the requirements of this Schedule;
  - (b) agreeing upon rules for the regulation of their successor which comply with the requirements of this Schedule;
  - (c) each approving the memorandum and the rules by special resolution; and
  - (d) sending to the central office 3 copies of the rules and of the memorandum, each copy signed by the secretary of each of the societies participating in the amalgamation.
- (3) Where copies of the memorandum and the rules are sent to the central office in accordance with sub-paragraph (1)(c) or (2)(d) above, the central office, if satisfied that—
- (a) the memorandum and the rules are in conformity with this Act; and
  - (b) the intended name of the society is not, in its opinion, undesirable,
- shall register the society and issue it with a certificate of incorporation.
- (4) The central office shall not register a society as the successor society to any friendly societies proposing to amalgamate unless it is satisfied that the Commission has confirmed the proposed amalgamation under section 85 above.
- [<sup>F77</sup>(5) The central office shall not register a society which, if it were registered and authorised, would be a society to which section 37(2) or (3) above applies if the central office is satisfied that the principal place of business of the society is to be

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situated outside the United Kingdom; and in this sub-paragraph “authorised” has the same meaning as in Part IV of this Act.]

#### Textual Amendments

**F77** Sch. 3 para. 1(5) inserted (18.7.1996) by S.I. 1996/1669, reg. 14(2)

#### Commencement Information

**I85** Sch. 3 para. 1 wholly in force; Sch. 3 para. 1 not in force at Royal Assent see s. 126(2); Sch. 3 para. 1 in force at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 3

- 2 (1) A registered friendly society may be incorporated under this Act only if the following steps are taken—
- (a) the proposal to apply for incorporation is submitted to the members of the society for their consent by the procedure required for a proposal to amend the rules (or, in the case of a society with branches, the general rules) of the society;
  - (b) consent to the application is given in accordance with that procedure;
  - (c) the society agrees, in accordance with that procedure—
    - (i) upon the purposes of the society after incorporation, and upon the extent of its powers, in a memorandum the provisions of which comply with the requirements of this Schedule; and
    - (ii) upon rules for the regulation of the society after incorporation which comply with the requirements of this Schedule; and
  - (d) there are sent to the central office—
    - (i) 3 copies of the memorandum and the rules, each signed by at least 7 members and by the secretary of the society; and
    - (ii) a statutory declaration by the secretary that the steps mentioned in paragraphs (a) and (b) above were taken.
- (2) Where copies of the memorandum, the rules and the statutory declaration are sent to the central office in accordance with paragraph (c) of sub-paragraph (1) above, the central office, if satisfied that—
- (a) the steps mentioned in sub-paragraph (1)(a) and (b) were taken;
  - (b) the provisions of the memorandum and the rules are in conformity with this Act; <sup>F78</sup> . . .
  - (c) the name proposed for the society after incorporation is not, in its opinion, undesirable,
- shall register the society and issue it with a certificate of incorporation.
- [<sup>F79F78</sup> and
- (d) in the case of a society to which section 37(2) or (3) above applies, the principal place of business of the society is situated in the United Kingdom,.]

#### Textual Amendments

**F78** Word in Sch. 3 para. 2(2)(b) omitted (18.7.1996) by virtue of S.I. 1996/1669, reg. 14(3)

**F79** Sch. 3 para. 2(2)(d) and the word “and” immediately preceding it inserted (18.7.1996) by S.I. 1996/1669, reg. 14(3)

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#### Commencement Information

**I86** Sch. 3 para. 2 wholly in force; Sch. 3 para. 2 not in force at Royal Assent see s. 126(2); Sch. 3 para. 2 in force at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 3

- 3 On registering a society under paragraph 1 or 2 above, the central office shall—
- (a) retain and register one copy of the memorandum and of the rules;
  - (b) return another copy to the secretary of the society, together with a certificate of registration; and
  - (c) keep another copy, a copy of the certificate of incorporation and a copy of the certificate of registration of the memorandum and the rules, in the public file of the society.

#### Commencement Information

**I87** Sch. 3 para. 3 wholly in force; Sch. 3 para. 3 not in force at Royal Assent see s. 126(2); Sch. 3 para. 3 in force at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 3

#### *The memorandum*

- 4 (1) The memorandum of an incorporated friendly society shall—
- (a) specify the name of the society;
  - (b) state whether the registered office of the society is to be situated in England and Wales, or in Scotland, or in Northern Ireland;
  - (c) specify the address of its registered office;
  - (d) state the purposes of the society and the extent of its powers; and
  - (e) if any of those purposes are to include the carrying on of any business outside the United Kingdom, state with respect to those purposes that that is the case.
- (2) The choice stated in a society's memorandum in pursuance of sub-paragraph (1)(b) above may not be altered by the society.
- (3) In this Act, in relation to an incorporated friendly society, "memorandum" means the memorandum registered under paragraph 3 above, including the record of any alteration under paragraph 6 below.

#### Commencement Information

**I88** Sch. 3 para. 4 wholly in force; Sch. 3 para. 4 not in force at Royal Assent see s. 126(2); Sch. 3 para. 4 in force at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 3

#### *The rules*

- 5 (1) The rules of an incorporated friendly society shall provide for the matters specified in the Table in sub-paragraph (3) below.
- (2) Nothing in this paragraph shall be taken to authorise any provision in the rules of a society which is inconsistent with, or rendered void by, this Act (or any instrument made under it).

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(3) The Table referred to in sub-paragraph (1) above is as follows:—

TABLE OF MATTERS TO BE COVERED BY THE RULES

- (1) The terms of admission of members and the manner in which membership is to cease.
- (2) If the terms on which a benefit is provided are not in the rules, the manner in which they are to be determined.
- (3) Any forfeitures which may be imposed on any member.
- (4) The consequences of non-payment of any subscription.
- (5) The manner of remunerating the auditors.
- (6) As respects the officers—
  - (a) the manner of their election or appointment and their removal;
  - (b) the manner of remunerating them; and
  - (c) the circumstances in which pensions may be awarded to persons by virtue of their office and the method of determining the terms of such pensions.
- (7) The powers and duties of the committee of management.
- (8) The investment of the funds of the society.
- (9) The manner in which disputes are to be settled.
- (10) If the society has a common seal, the form, custody and use of the seal.
- (11) The calling and holding of meetings and, in particular—
  - (a) the right to requisition meetings;
  - (b) the right to move resolutions at meetings;
  - (c) the manner in which notice of meetings, and of any resolutions to be moved at meetings, is to be given;
  - (d) the procedure to be observed at meetings;
  - (e) the form of notice for the convening of a meeting;
  - (f) the voting rights of members, the right to demand a poll and the manner in which a poll is to be taken.
- (12) The entitlement of members to participate in the distribution of any surplus assets after payments to creditors, on the winding up, or dissolution by consent, of the society.
- (13) The procedure for altering the society's memorandum and rules.

**Commencement Information**

**189** Sch. 3 para. 5 wholly in force; Sch. 3 para. 5 not in force at Royal Assent see s. 126(2); Sch. 3 para. 5 in force at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 3

*Requirements for alteration of memorandum and rules*

- 6 (1) An incorporated friendly society may in the manner prescribed by its rules alter the memorandum or rules of the society by the addition, rescission or variation of any provision.
- (2) Sub-paragraph (1) above does not apply to any alteration to which section 13(6) above applies or which is prohibited by paragraph 4(2) above.

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- (3) An alteration to the name or registered office of an incorporated friendly society shall (instead of being effected under this paragraph) be effected under paragraph 9 or 12 below; and it is not necessary to alter the memorandum or rules of such a society by reason only that its name or registered office is changed.
- (4) Where a society makes an alteration of its memorandum or rules under this paragraph, it shall send to the central office—
  - (a) 3 copies of a record of the alteration signed by the secretary; and
  - (b) a statutory declaration by the secretary that the alteration was made in accordance with the procedure prescribed by the society’s rules.
- (5) On making an alteration of its memorandum or rules under this paragraph the society shall determine the date on which it intends the alteration to take effect; and the record of the alteration shall specify that date (in this paragraph referred to as “the specified date”).
- (6) Where copies of a record of an alteration of a society’s memorandum or rules are sent to the central office under sub-paragraph (4) above and the central office is satisfied that the alteration is in conformity with this Act, the central office shall—
  - (a) retain and register one of the copies;
  - (b) return another to the secretary of the society together with a certificate of registration of the alteration; and
  - (c) keep another copy, together with a copy of the certificate of registration of the alteration, in the public file of the society.
- (7) An alteration of the memorandum or rules of a society under this paragraph shall not take effect until the specified date or, if the alteration is registered under sub-paragraph (6) above on a later date, the date on which the certificate of registration is issued.
- (8) If an incorporated friendly society arranges for the publication in consolidated form of its memorandum or rules as altered for the time being—
  - (a) it shall send a copy to the central office; and
  - (b) the central office shall keep the copy in the public file of the society;
 but the central office shall not register the copy.
- (9) If an incorporated friendly society fails, within the period of 3 months beginning with the date on which an alteration to its memorandum or rules is made, to comply with sub-paragraph (4) above, the society shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

#### Commencement Information

**190** Sch. 3 para. 6 wholly in force; Sch. 3 para. 6 not in force at Royal Assent see s. 126(2); Sch. 3 para. 6 in force at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 3

#### Membership

- 7 A person under 18—
  - (a) may, if the rules do not otherwise provide, be admitted as a member of an incorporated friendly society and, if he is over 16 by himself, and if he is

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- under 16 by his parent or guardian, execute all instruments and give all receipts necessary to be executed or given under the rules;
- (b) may not vote or hold any office in the society; and
  - (c) may not nominate, or join in nominating, a person for election as a member of the committee of management, or (if the secretary is elected) as secretary, of the society.

#### Commencement Information

**191** Sch. 3 para. 7 wholly in force; Sch. 3 para. 7 not in force at Royal Assent see s. 126(2); Sch. 3 para. 7 in force at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 3

#### *Liability of members*

- 8 (1) The liability of a member of an incorporated friendly society is limited to the amount of any subscription to the society which is outstanding.
- (2) No subscription of a member of an incorporated friendly society shall be recoverable at law except on the winding up of the society.

#### Commencement Information

**192** Sch. 3 para. 8 wholly in force; Sch. 3 para. 8 not in force at Royal Assent see s. 126(2); Sch. 3 para. 8 in force at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 3

#### *Name*

- 9 (1) The name of an incorporated friendly society must have "Limited" as its last word, except that, if the society is to be registered with a memorandum stating that its registered office is to be situated in Wales, the name may have "cyfyngedig" (the Welsh equivalent of "Limited") as its last word.
- (2) <sup>F80</sup> .....
- (3) If the society has a common seal, it shall bear the registered name of the society.
- (4) An incorporated friendly society may change its name by a resolution of the society in general meeting after the giving of such notice as is required for a special resolution.
- (5) Where a society changes its name under this paragraph, notice of the change shall be sent to the central office and, unless it is of the opinion that the changed name is undesirable, the central office shall—
- (a) register the notice of the change of name;
  - (b) issue the society with a certificate of registration; and
  - (c) keep a copy of the certificate of registration in the public file of the society.
- (6) A change of name shall not take effect until the date on which the certificate of registration under sub-paragraph (5) above is issued or such later date as may be specified in the certificate.

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- (7) A change of name shall not affect the rights and obligations of the society, of any of its members or of any other person concerned.

#### Textual Amendments

**F80** Sch. 3 para. 9(2) repealed (1.8.1996) by S.I. 1996/1188 art. 7

#### Commencement Information

**I93** Sch. 3 para. 9 partly in force; Sch. 3 para. 9 not in force at Royal Assent see s. 126(2); Sch. 3 para. 9(1)(3)-(7) in force 2.1.1993 by S.I. 1993/16, art. 2, Sch. 3

- 10 (1) Every incorporated friendly society shall have its name mentioned in legible characters—
- (a) in all its business letters, its notices and its other official publications;
  - (b) in all its bills of parcels, invoices, receipts and letters of credit; and
  - (c) in all bills of exchange, promissory notes, endorsements, cheques and orders for money or goods purporting to be signed by or on behalf of the society.
- (2) Where the name of an incorporated friendly society does not include the words “friendly society”, the fact that it is an incorporated friendly society shall be shown in legible characters in all documents such as are mentioned in sub-paragraph (1) above.

#### Commencement Information

**I94** Sch. 3 para. 10 wholly in force; Sch. 3 para. 10 not in force at Royal Assent see s. 126(2); Sch. 3 para. 10 in force at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 3

### *Offences relating to society's name*

- 11 (1) If an incorporated friendly society—
- (a) fails, within the period of 3 months beginning with the date on which a resolution changing its name is passed, to send to the central office the notice required by paragraph 9(5) above; or
  - (b) fails to comply with paragraph 10(1) or (2) above;
- the society shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (2) If an officer of an incorporated friendly society or a person on its behalf—
- (a) issues or authorises the issue of any business letter, notice or other official publication of the society or any bill of parcels, invoice, receipt or letter of credit of the society in which the society's name is not mentioned as required by paragraph 10(1) above; or
  - (b) signs or authorises to be signed on behalf of the society any bill of exchange, promissory note, endorsement, cheque or order for money or goods in which the society's name is not so mentioned,
- he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale; and, in the case of the conduct mentioned in paragraph (b) above, he is further personally liable to the holder of the bill of



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exchange, promissory note, cheque or order for money or goods for the amount of it (unless it is duly paid by the society).

- (3) If an officer of an incorporated friendly society whose name does not include the words “friendly society” or a person on its behalf—
- (a) issues or authorises the issue of any such document as is mentioned in sub-paragraph (2)(a) above, and the fact that it is an incorporated friendly society is not shown in legible characters in the document; or
  - (b) signs or authorises to be signed on behalf of the society any such document as is mentioned in sub-paragraph (2)(b) above, and the fact that it is an incorporated friendly society is not shown in legible characters in the document,

he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale; and, in the case of the conduct mentioned in paragraph (b) above, he is further personally liable to the holder of the bill of exchange, promissory note, cheque or order for money or goods for the amount of it (unless it is duly paid by the society).

#### **Commencement Information**

**I95** Sch. 3 para. 11 wholly in force; Sch. 3 para. 11 not in force at Royal Assent see s. 126(2); Sch. 3 para. 11 in force at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 3

#### *Change of registered office*

- 12 (1) An incorporated friendly society may change its registered office in such manner as its rules prescribe or, if the rules do not provide for that matter, by a resolution of the society in general meeting after the giving of such notice as is required for a special resolution.
- (2) Notice of any such change shall be sent to the central office and the central office shall—
- (a) register the notice of the change of registered office;
  - (b) issue the society with a certificate of registration; and
  - (c) keep a copy of the certificate of registration in the public file of the society.
- (3) A change of registered office shall not take effect until the date on which the certificate of registration under sub-paragraph (2) above is issued or such later date as may be specified in the certificate.
- (4) If an incorporated friendly society fails, within the period of 3 months beginning with the date on which a resolution changing its registered office is passed, to send to the central office the notice required by sub-paragraph (2) above, the society shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

#### **Commencement Information**

**I96** Sch. 3 para. 12 wholly in force; Sch. 3 para. 12 not in force at Royal Assent see s. 126(2); Sch. 3 para. 12 in force at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 3



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### *Societies to supply copies of rules etc*

- 13 (1) An incorporated friendly society shall, on demand, give a copy of its statutory documents—
- (a) free of charge, to any member of the society to whom a copy of those documents has not previously been given; and
  - (b) to any other person, upon payment of such fee as the society may require, not exceeding the prescribed amount.
- (2) The reference in sub-paragraph (1) above to a copy of an incorporated friendly society's statutory documents is a reference to—
- (a) a printed copy of the society's rules for the time being, with a copy of the certificate of incorporation of the society annexed to it; and
  - (b) a printed copy of the memorandum of the society for the time being.
- (3) If an incorporated friendly society fails to comply with the requirements of sub-paragraph (1) above, the society shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (4) In sub-paragraph (1) above the "prescribed amount" means £1 or such other amount as the Commission prescribes by order.

#### **Commencement Information**

**I97** Sch. 3 para. 13 wholly in force; Sch. 3 para. 13 not in force at Royal Assent see s. 126(2); Sch. 3 para. 13 in force at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 3

### *Register of members*

- 14 (1) Every incorporated friendly society shall maintain a register of the names and addresses of the members of the society.
- (2) The register shall be kept at the registered office or at such other place or places as the committee of management thinks fit.
- (3) A society which was previously a registered friendly society need not enter in the register the address of a member who became a member before its incorporation while it has no address for him and his whereabouts are unknown.
- (4) Where it appears to an incorporated friendly society that the registered address shown in the register for a member is no longer current, the society—
- (a) may remove that address from the register; and
  - (b) need not enter in the register an address for that member while it has no address for him and his whereabouts are unknown.
- (5) If an incorporated friendly society contravenes sub-paragraph (1) above, the society shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (6) For the purposes of this Act "registered address", in relation to a member of an incorporated friendly society, means—

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- (a) the address shown in the register mentioned under this paragraph, except in a case where paragraph (b) below applies;
- (b) where the member has requested that communications from the society be sent to some other address, that other address.

**Commencement Information**

**I98** Sch. 3 para. 14 wholly in force; Sch. 3 para. 14 not in force at Royal Assent see s. 126(2); Sch. 3 para. 14 in force at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 3

*Inspection of records by members*

- 15 (1) Subject to sub-paragraph (2) below, a member or person having an interest in the funds of an incorporated friendly society may inspect the records at all reasonable hours at the registered office of the society or at any other place where they are kept.
- (2) Unless he is an officer of the society or is specially authorised by resolution of the society to do so, a member or such a person shall not have the right to inspect the loan account of any other member without the written consent of that member.

**Commencement Information**

**I99** Sch. 3 para. 15 wholly in force; Sch. 3 para. 15 not in force at Royal Assent see s. 126(2); Sch. 3 para. 15 in force at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 3

SCHEDULE 4

Section 6.

INCORPORATION OF REGISTERED FRIENDLY SOCIETIES: SUPPLEMENTARY

*Preliminary*

- 1 (1) This Schedule has effect in relation to an incorporated friendly society (“the incorporated society”) which was formerly a registered friendly society (“the registered society”); and in this Schedule “incorporation” means the incorporation of that society.
- (2) In this Schedule “branch”, in relation to the registered society, means any registered or unregistered branch of the society and, in relation to the incorporated society, means a group of members provided for by the rules of the society—
- (a) which is under the control, and bound to contribute to the funds, of the society; and
  - (b) which has its own funds and other property vested in trustees and administered (in accordance with its rules) by the members of the group themselves, or through its own committee or other officers.
- (3) In this Schedule references to an agreement include references to any agreement (whether in writing or not) and any deed, bond or other instrument.

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- (4) Nothing in section 6 above or this Schedule shall be taken as affecting any power or liability of a branch of a registered friendly society to secede or to be expelled from that society.

*Schemes under section 6(5)*

- 2 (1) This paragraph applies to a registered society with branches which proposes—
- (a) that the incorporated society will have branches; and
  - (b) that any of those branches is to be treated as a continuation of a branch of the registered society.
- (2) The registered society may, by the procedure required to amend the rules of the society, approve a scheme under subsection (5) of section 6 above (a “scheme”) identifying property, rights and liabilities of a branch which are to continue to be property, rights and liabilities of the branch (as a branch of the incorporated society) and so are to be excluded from transfer under subsection (4) of that section.
- (3) A scheme—
- (a) may deal with property, rights and liabilities of one or more branches of the registered society; and
  - (b) may, instead of specifying any property, rights and liabilities of a branch of the registered society, refer to all the property, rights and liabilities referable to such part of its activities as is specified in the scheme.
- (4) A scheme may not identify for exclusion from transfer under section 6(4) above any property, rights or liabilities of a branch of the registered society which are referable only to an activity of the branch which a branch of the incorporated society would (by virtue of section 7(5) above) be unable to carry on on its own behalf.
- (5) On making a scheme the registered society shall send to the central office—
- (a) 4 copies of the scheme, each signed by the secretary;
  - (b) a statutory declaration by the secretary that the scheme was duly approved by the society;
  - (c) in the case of a scheme identifying any property, rights or liabilities of a branch which was (immediately before incorporation) carrying on any insurance or non-insurance business, a certificate from the appropriate actuary that the incorporated society will, on incorporation, possess sufficient assets to meet such of the liabilities to be transferred to the society from that branch as are referable to that business.
- (6) On receiving copies of a scheme, the central office shall, if satisfied that the society has duly approved the scheme—
- (a) retain and register one copy of the scheme;
  - (b) return another copy to the secretary of the registered society, together with a certificate of registration;
  - (c) keep another copy in the public file of the registered society and, after incorporation, in the public file of the incorporated society;
- and the central office shall not register the incorporated society under this Act until after it has registered the scheme.

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*Effect of incorporation on registered society*

- 3 (1) Subject to the provisions of this Act, the incorporated society shall be treated after incorporation as the same person as the registered society.
- (2) Without prejudice to the generality of sub-paragraph (1) above, any agreement made, transaction effected or other thing done by, to or in relation to the registered society which is in force or effective immediately before incorporation shall have effect as if made, effected or done by, to or in relation to the incorporated society; and, accordingly, references to the society—
- (a) in any agreement;
  - (b) in any process or other document issued, prepared or employed for the purposes of any proceeding before any court or other tribunal or authority; and
  - (c) in any other document whatsoever (other than an enactment) relating to or affecting any property, right or liability of the society,
- shall be taken as referring to the incorporated society.
- 4 On incorporation of the registered society—
- (a) a person who was immediately before incorporation a member of the registered society shall be a member of the incorporated society;
  - (b) any appointment as trustee or treasurer of the society shall determine; and
  - (c) all other persons who were officers of the registered society shall become officers, holding corresponding offices, of the incorporated society;
- but paragraph (c) above is without prejudice to anything done by the society after incorporation as respects the election or appointment of members of its committee of management and its other officers.
- 5 Any agreement made by the registered society which is in force immediately before incorporation shall have effect as if—
- (a) for references to members of the registered society there were substituted references to members of the incorporated society;
  - (b) for references to officers of the registered society (other than its trustees or treasurer) there were substituted references to the corresponding officers of the incorporated society;
  - (c) for references to the trustees of the registered society there were substituted references to the incorporated society; and
  - (d) for references to the treasurer of the registered society there were substituted references to such person as the incorporated society may appoint or in default of appointment to the officer of that society who corresponds as nearly as may be to the treasurer.
- 6 It is hereby declared for the avoidance of doubt that—
- (a) any contract of employment with the registered society in force immediately before incorporation is merely modified by the substitution of the name of the incorporated society as the employer (and is not terminated or varied in any other way);
  - (b) any period of employment with the registered society shall count for all purposes as a period of employment with the incorporated society; and
  - (c) the rights and liabilities referred to in section 6 above include any rights and liabilities subsisting immediately before incorporation—

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- (i) under any agreement or arrangement for the payment of pensions, allowances or gratuities; or
  - (ii) under the law of any country or territory outside the United Kingdom.
- 7 (1) The final financial year of the registered friendly society shall be such period not exceeding 12 months as expires immediately before its incorporation.
- (2) Anything which, if it had not been incorporated, would be required to be done by the registered society at a time after its incorporation shall be done by the incorporated society.
- (3) If the incorporated friendly society fails to do anything which it is required to do by virtue of sub-paragraph (2) above, the society and its officers shall be subject to the sanctions to which the registered friendly society and its officers would have been subject if the society had failed to do it.

*Effect of incorporation on branches of registered society*

- 8 (1) This paragraph applies where the property, rights and liabilities of a branch of the registered society (“the branch”) are all transferred to the incorporated society by section 6(4) above.
- (2) The provisions of paragraphs 3 to 7 above shall apply in relation to the branch as they apply in relation to the registered society—
  - (a) with the omission from paragraph 4 of the words following “shall determine”; and
  - (b) in paragraph 5, with the substitution for references to the members, officers, trustees or treasurer of the society of references to the corresponding officers of the branch;and the branch shall be deemed to be dissolved immediately after the transfer of its property, rights and liabilities to the incorporated society.
- 9 (1) This paragraph applies where the property, rights and liabilities of a branch of the registered society are all excluded by virtue of a scheme from transfer to the incorporated society.
- (2) On incorporation of the registered society, the property, rights and liabilities of the branch shall continue as property, rights and liabilities of the branch (as a branch of the incorporated society).
- (3) The branch of the incorporated society shall be treated as a continuation of the branch of the registered society; and so on incorporation—
  - (a) any member of the branch shall continue as a member; and
  - (b) any trustee, treasurer or other officer of the branch immediately before incorporation shall continue in office;but paragraphs (a) and (b) above are without prejudice to anything done after incorporation as respects the membership and officers of the branch.
- 10 (1) This paragraph applies where some of the property, rights and liabilities of a branch of the registered society are transferred to the incorporated society by section 6(4) above and some are excluded from transfer by virtue of a scheme.

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- (2) As respects the property, rights and liabilities transferred from the branch to the incorporated society, the provisions of paragraphs 3, 5, 6 and 7 above shall apply in relation to the branch as they apply in relation to the registered society—
  - (a) with, in paragraph 5, the substitution for references to the members, officers, trustees or treasurer of the society of references to the corresponding officers of the branch; and
  - (b) with the omission of paragraph 7(1).
- (3) On incorporation of the registered society, the property, rights and liabilities of the branch which are excluded from transfer shall continue as property, rights and liabilities of the branch (as a branch of the incorporated society).
- (4) As respects the property, rights and liabilities so excluded, the branch shall, after incorporation of the registered society, be treated as a continuation of the branch of the registered society; and so on incorporation—
  - (a) any member of the branch shall continue as a member; and
  - (b) any trustee, treasurer or other officer of the branch shall continue in office;
 but paragraphs (a) and (b) above are without prejudice to anything done after incorporation as respects membership and officers of the branch.

#### *Consequences of transfer*

- 11 No transfer effected by section 6 above shall give rise to any liability to stamp duty.
- 12
- (1) The action mentioned in the following provisions of this paragraph shall be taken not later than the end of the period of 90 days beginning with the day on which the registered society is incorporated.
  - (2) The persons who were the trustees and treasurer of the registered society immediately before its incorporation shall deliver to the incorporated society—
    - (a) any property of the society held by them; and
    - (b) any documents relating to the property, rights and liabilities of the registered society or its financial affairs.
  - (3) The persons who were the trustees and treasurer of any branch of the registered society immediately before its incorporation shall deliver to the incorporated society—
    - (a) any property (formerly property of the branch) which is transferred to the society by section 6(4) above; and
    - (b) any documents relating to such of the property, rights or liabilities of the branch as are so transferred.
  - (4) The Public Trustee shall, if he held property on trust for the registered society immediately before its incorporation, deliver to the incorporated society any property so held by him and any documents relating to it.
  - (5) Nothing in this Act shall have effect to relieve the former trustees or treasurer of a registered friendly society or branch or the Public Trustee from any liability arising from acts or omissions before the incorporation of the society.

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## SCHEDULE 5

Section 7.

### ADDITIONAL ACTIVITIES OF INCORPORATED SOCIETIES

#### *Introductory*

- 1 An incorporated friendly society may do anything mentioned in the following provisions of this Schedule in the manner directed by the society's rules.

#### *Loans out of separate loan fund*

- 2 (1) An incorporated friendly society may, out of any separate loan fund to be formed by contributions or deposits from its members, make loans to members on their personal security, with or without sureties or, in Scotland, cautioners, subject to the restrictions in sub-paragraphs (2) to (4) below.
- (2) A loan shall not at any time be made out of money contributed otherwise than for the purpose of the loan fund.
- (3) A member shall not be capable of holding any interest in the loan fund exceeding £800.
- (4) The society shall not—
- (a) make any loan to a member on personal security beyond the amount fixed by the rules, or make any loan which, together with any money owing by a member to the society, exceeds £200; or
  - (b) hold at any one time on deposit from its members any money beyond the amount fixed by the rules, and the amount so fixed shall not exceed two thirds of the total sums owing to the society by the members who have borrowed from the loan fund.
- (5) The Commission may by order made with the consent of the Treasury amend sub-paragraph (3) or (4) above to substitute, for the sum for the time being specified in that sub-paragraph, such greater sum as is specified in the order.

#### *Power to set up funds for purchasing Government Securities*

- 3 (1) An incorporated friendly society may set up and administer a fund for the purchase, on behalf of members contributing thereto, of Defence Bonds, National Savings Certificates, Ulster Savings Certificates or such other securities of Her Majesty's Government as the Commission may prescribe.
- (2) A society may allow persons to become members of the society for the purpose only of contributing to a fund set up by virtue of this paragraph.
- (3) Any securities prescribed, before the commencement of this paragraph, for the purposes of section 47 of the 1974 Act shall be treated as having been prescribed under sub-paragraph (1) above.

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*Investment of funds in housing association*

- 4 (1) An incorporated friendly society may invest funds of the society in subscribing for any of the share or loan capital of a housing association (within the meaning of the Housing Associations Act 1985) other than shares or debentures not fully paid up at the time of issue.
- (2) This paragraph has effect without prejudice to any power the society may have by virtue of section 14 above.

*Accumulation of members' surplus contributions*

- 5 An incorporated friendly society may accumulate at interest, for the use of any member, any surplus of his contributions to the funds of the society which may remain after providing for any assurance in respect of which they are paid and for the withdrawal of the accumulations.

*Subscriptions to other bodies*

- 6 An incorporated friendly society may subscribe out of its funds to any hospital, infirmary, charitable or provident institution, any annual or other sum which may be necessary to secure to members of the society and their families the benefits of that institution.
- 7 An incorporated friendly society may contribute to the funds and take part in the government of any other friendly society.

SCHEDULE 6

Section 7.

MAKING OF CONTRACTS AND EXECUTION OF  
DOCUMENTS BY INCORPORATED FRIENDLY SOCIETIES

*England and Wales and Northern Ireland*

- 1 Under the law of England and Wales and Northern Ireland a contract may be made—
- (a) by an incorporated friendly society, by writing under its common seal; or
  - (b) on behalf of an incorporated friendly society, by any person acting under its authority, express or implied;
- and any formalities required by law in the case of a contract made by an individual also apply, unless a contrary intention appears, to a contract made by or on behalf of an incorporated friendly society.
- 2 (1) The following provisions have effect with respect to the execution of documents by an incorporated friendly society under the law of England and Wales and of Northern Ireland.
- (2) A document is executed by an incorporated friendly society by the affixing of its common seal.
  - (3) An incorporated friendly society need not have a common seal, however, and the following sub-paragraphs apply whether it does or not.



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- (4) A document signed by a member of the committee of management and the secretary of an incorporated friendly society, or by 2 members of the committee of management, and expressed (in whatever form of words) to be executed by the society has the same effect as if executed under the common seal of the society.
- (5) A document executed by an incorporated friendly society which makes it clear on its face that it is intended by the person or persons making it to be a deed has effect, upon delivery, as a deed; and it shall be presumed, unless a contrary intention is proved, to be delivered upon its being so executed.
- (6) In favour of a purchaser a document shall be deemed to have been duly executed by an incorporated friendly society if it purports to be signed by a member of the committee of management and the secretary of the society, or by 2 members of the committee of management, and, where it makes it clear on its face that it is intended by the person or persons making it to be a deed, to have been delivered upon its being executed.
- (7) In sub-paragraph (6) above a “purchaser” means a purchaser in good faith for valuable consideration and includes a lessee, mortgagee or other person who for valuable consideration acquires an interest in property.

#### *Scotland*

- 3 (1) The following provisions have effect with respect to the execution of documents by an incorporated friendly society under the law of Scotland.
- (2) For any purpose other than those mentioned in sub-paragraph (3) below, a document is validly executed by an incorporated friendly society if it is signed on behalf of the society by a member of the committee of management or by the secretary of the society or by a person authorised to sign the document on its behalf.
- (3) For the purposes of any enactment or rule of law relating to the authentication of documents under the law of Scotland, a document is validly executed by an incorporated friendly society if it is subscribed on behalf of the society by—
  - (a) 2 members of the committee of management of the society;
  - (b) a member of that committee and the secretary of the society; or
  - (c) 2 persons authorised to subscribe the document on behalf of the society,notwithstanding that such subscription is not attested by witnesses and the document is not sealed with the society’s common seal.
- (4) A document which bears to be executed by an incorporated friendly society in accordance with sub-paragraph (3) above is, in relation to such execution, a probative document.
- (5) Notwithstanding any other provision of this paragraph, an incorporated friendly society need not have a common seal.
- (6) For the purposes of any enactment providing for a document to be executed by an incorporated friendly society by affixing its common seal or referring (in whatever terms) to a document so executed, a document signed or subscribed on behalf of the society by—
  - (a) 2 members of the committee of management of the society;
  - (b) a member of the committee and the secretary of the society; or
  - (c) 2 persons authorised to subscribe the document on behalf of the society,

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shall have effect as if executed under the common seal of the society.

- (7) In this paragraph “enactment” includes an enactment contained in a statutory instrument.
- (8) Sub-paragraphs (2) and (3) above are—
- (a) without prejudice to any other method of execution of documents by incorporated friendly societies permitted by any enactment or rule of law; and
  - (b) subject to any other enactment making express provision, in relation to incorporated friendly societies, as to the execution of a particular type of document.

## SCHEDULE 7

Section 13.

### ACTIVITIES WHICH MAY BE CARRIED ON BY A SUBSIDIARY OF OR BODY JOINTLY CONTROLLED BY AN INCORPORATED FRIENDLY SOCIETY

#### *Activities*

- 1 The establishment and management of personal equity plans within the meaning of the <sup>M65</sup>Finance Act 1986.

#### **Marginal Citations**

**M65** 1986 c. 41.

VALID FROM 19/10/1998

- [<sup>F81</sup>1A The establishment and management, or arranging for the establishment and management, of individual savings accounts; and in this paragraph “individual savings accounts” means plans of a kind referred to in section 333(1A) of the Income and Corporation Taxes Act 1988 <sup>F82</sup>.]

#### **Textual Amendments**

**F81** [Sch. 7, para. 1A](#) inserted (19.10.1998) by [S.I. 1998/2328](#) art. 2

**F82** 1988 c. 1. Subsection (1A) was added to s. 333 by section 75(1) of the [Finance Act 1998 \(c. 36\)](#). [The Individual Savings Accounts Regulations 1998 \(S.I. 1998/1870\)](#) make detailed provision for the operation of individual savings accounts. Other relevant regulations are S.I.s 1998/1869, 1998/1871 and 1998/1872.

- 2 The establishment and management of unit trust schemes within the meaning of the <sup>M66</sup>Financial Services Act 1986.

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**Marginal Citations**

**M66** 1986 c. 60.

- 3 The carrying on of long-term or general business.
- 4 Arranging for the provision of, or giving advice as to, insurance of any description.
- 5 Arranging for the provision of credit, whether as agents for the borrower or the person providing credit and the provision of services in connection with current loan agreements to the person providing credit.
- 6 The provision of fund management services for trustees of pension funds.
- 7 The administration of estates and the execution of trusts of wills.
- 8 The provision of executry services (within the meaning of Part II of the <sup>M67</sup>Law Reform (Miscellaneous Provisions) (Scotland) Act 1990) where the subsidiary or body is an executry practitioner (within the meaning of that Part of that Act) and the administration of testamentary trusts.

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**Marginal Citations**

**M67** 1990 c. 40.

- 9 The establishment and management of—
- (a) sheltered housing,
  - (b) residential homes for the elderly,
  - (c) hospitals, or
  - (d) nursing homes or mental nursing homes (within the meaning of the <sup>M68</sup>Registered Homes Act 1984) or, in Northern Ireland, nursing homes (within the meaning of the <sup>M69</sup>Nursing Homes and Nursing Agencies Act (Northern Ireland) 1971),
- and the provision of medical, administrative or other services for persons owning or managing any of them.

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**Marginal Citations**

**M68** 1984 c. 23.

**M69** 1971 c. 32 (N.I.).

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- 10 The provision of administrative services for friendly societies or other bodies whose business consists of any activity falling within paragraphs 1 to 9 above [<sup>F83</sup> or paragraph 11 or 12 below].

**Textual Amendments**

**F83** Words in [Sch. 7 para. 10](#) inserted (1.1.1996) by [S.I. 1995/3062](#) art. 2(a)

- [<sup>F84</sup>11 The carrying on of a business which is a deposit-taking business within the meaning of the Banking Act 1987 <sup>M70</sup> but only to the extent that money which is received as a deposit, or money which is lent, is received from, or lent to, an individual.]

**Textual Amendments**

**F84** [Sch. 7 para. 11](#) inserted (1.1.1996) by [S.I. 1995/3062](#) art. 2(b)

**Marginal Citations**

**M70** [1987 c.22](#)

- [<sup>F85</sup>12 The carrying on of insurance business which is general business within the meaning of the Insurance Companies Act 1982 <sup>M71</sup> but only to the extent that a contract of insurance which is effected or carried out is a contract which is effected with an individual.]

**Textual Amendments**

**F85** [Sch. 7 para. 12](#) inserted (1.1.1996) by [S.I. 1995/3062](#) art. 2(b)

**Marginal Citations**

**M71** [1982 c.50](#)

VALID FROM 06/01/1997

- [<sup>F86</sup>13 The establishment and management of investment companies with variable capital falling within regulation 3(1) of the Open-Ended Investment Companies (Investment Companies with Variable Capital) Regulations 1996 <sup>M72</sup> (an open-ended investment company).]

**Textual Amendments**

**F86** [Sch. 7 para. 13](#) inserted (6.1.1997) by [S.I. 1996/3009](#), [art. 2\(c\)](#)

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#### Marginal Citations

M72 S.I. 1996/2827.

VALID FROM 06/01/1997

[<sup>F87</sup>14 The establishment and management of companies which are approved as investment trusts for the purposes of section 842 of the Income and Corporation Taxes Act 1988 <sup>M73</sup>.]

#### Textual Amendments

F87 Sch. 7 para. 14 inserted (1.6.1997) by S.I. 1996/3009 art. 2(c)

#### Marginal Citations

M73 1988 c. 1.

VALID FROM 01/12/1998

[<sup>F88</sup>15 Arranging for the provision of banking services by a UK institution or a European institution, and providing services in pursuance of such arrangements; and in this paragraph “UK institution” and “European institution” have the same meaning as in the Banking Co-ordination (Second Council Directive) Regulations 1992 <sup>F89</sup>, and “banking services” means such services as are ordinarily provided in the course of or in connection with a business which is a deposit-taking business for the purposes of the Banking Act 1987 <sup>F90</sup>.]

#### Textual Amendments

F88 Sch. 7 para. 15 inserted (1.12.1998) by S.I. 1998/2696, art. 2(c)

F89 S.I. 1992/3218.

F90 1987 c. 22.

## SCHEDULE 8

Section 13.

### PROVISIONS SUPPLEMENTARY TO SECTION 13

- 1 The provisions of this Schedule explain expressions used in section 13 above and otherwise supplement that section.
- 2 In section 13(9)(a) and (c) the references to the voting rights in a body corporate are to the rights conferred on shareholders in respect of their shares or, in the case of a body corporate not having a share capital, on members, to vote at general meetings of the body corporate on all, or substantially all, matters.

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- 3 (1) For the purposes of section 13(9)(a) and (c) the reference to the right to appoint or remove a majority of the board of directors is to the right to appoint or remove directors holding a majority of the voting rights at meetings of the board on all, or substantially all, matters.
- (2) Without prejudice to the generality of subsection (9)(a) and (c) of section 13—
- (a) an incorporated friendly society shall be treated for the purposes of subsection (9)(a) as having the right to appoint to a directorship if—
- (i) a person’s appointment to it follows necessarily from his appointment as an officer of the society, or
- (ii) the directorship is held by the society itself; and
- (b) an incorporated friendly society and some other person together shall be treated for the purposes of section 13(9)(c) as having the right to appoint to a directorship if—
- (i) in a case where that other person is a body corporate, a person’s appointment to the directorship follows necessarily from his appointment both as an officer of the society and as a director of that body or, where it does not have directors, as a member of its managing body, or
- (ii) the directorship is held jointly by the society and that other person; and a right to appoint or remove which is exercisable only with the consent or concurrence of another person shall be left out of account unless no other person has a right to appoint or, as the case may be, remove in relation to that directorship.

VALID FROM 01/12/2001

- [<sup>F913A</sup>(1) A body is to be treated for the purposes of section 13(9) as having the right to appoint to a directorship if—
- (a) a person’s appointment to the directorship follows necessarily from his appointment as an officer of that body; or
- (b) the directorship is held by the body itself.
- (2) A body (“B”) and some other person (“P”) together are to be treated, for the purposes of section 13(9), as having the right to appoint to a directorship if—
- (a) P is a body corporate which has directors and a person’s appointment to the directorship follows necessarily from his appointment both as an officer of B and a director of P;
- (b) P is a body corporate which does not have directors and a person’s appointment to the directorship follows necessarily from his appointment both as an officer of B and as a member of P’s managing body; or
- (c) the directorship is held jointly by B and P.
- (3) For the purposes of section 13(9), a right to appoint (or remove) which is exercisable only with the consent or agreement of another person must be left out of account unless no other person has a right to appoint (or remove) in relation to that directorship.
- (4) Nothing in this paragraph is to be read as restricting the effect of section 13(9).]

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### Textual Amendments

**F91** Sch. 8 para. 3A inserted (1.12.2001) by 2000 c. 8, ss. 334, 336, 338, **Sch. 18 para. 14(3)**; S.I. 2001/3538, art. 2(1)

- 4 Rights which are exercisable only in certain circumstances shall be taken into account only—
- (a) when the circumstances have arisen, and for so long as they continue to obtain, or
  - (b) when the circumstances are within the control of the person having the rights;
- and rights which are normally exercisable but are temporarily incapable of exercise shall continue to be taken into account.
- 5 Rights held by a person in a fiduciary capacity shall be treated as not held by him.
- 6 Rights held by a person as nominee for another shall be treated as held by the other; and rights shall be regarded as held as nominee for another if they are exercisable only on his instructions or with his consent or concurrence.
- 7 Rights attached to shares held by way of security shall be treated as held by the person providing the security—
- (a) where apart from the right to exercise them for the purpose of preserving the value of the security, or of realising it, the rights are exercisable only in accordance with his instructions;
  - (b) where the shares are held in connection with the granting of loans as part of normal business activities and apart from the right to exercise them for the purpose of preserving the value of the security, or of realising it, the rights are exercisable only in his interests.
- 8 Rights shall be treated as held by an incorporated friendly society if they are held by any of its subsidiaries; and nothing in paragraph 6 or 7 above shall be construed as requiring rights held by an incorporated friendly society to be treated as held by any of its subsidiaries.
- 9 For the purposes of paragraph 7 above rights shall be treated as being exercisable in accordance with the instructions or in the interests of an incorporated friendly society if they are exercisable in accordance with the instructions of or, as the case may be, in the interests of any subsidiary of that society.
- 10 The voting rights in a body corporate shall be reduced by any rights held by the body itself.
- 11 References in any provision of paragraphs 5 to 10 above to rights held by a person include rights falling to be treated as held by him by virtue of any other provision of those paragraphs but not rights which by virtue of any such provision are to be treated as not held by him.

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## SCHEDULE 9

Section 18.

### NOMINATIONS BY MEMBERS OF INCORPORATED FRIENDLY SOCIETIES AND RELATED MATTERS

- 1
- (1) Subject to the following provisions of this paragraph, a member of an incorporated friendly society who is not under the age of 16 years may by writing under his hand delivered at or sent to the registered office of the society, or made in a book kept at that office, nominate a person or persons to whom any sum of money payable by the society on the death of that member or any specified amount of money so payable, shall be paid at his decease.
  - (2) The total amount which may be nominated under this paragraph shall not exceed the relevant maximum, that is to say, £5,000 or such higher amount as, by virtue of an order under section 6 of the <sup>M74</sup>Administration of Estates (Small Payments) Act 1965, may for the time being apply for the purposes of the enactments specified in subsection (1) of that section.
  - (3) The sum payable on the death of a member by an incorporated friendly society shall include sums of money contributed to or deposited in the separate loan fund, together with interest on them, and any sum of money accumulated for the use of the member under the provisions of this Act, together with interest on it.
  - (4) A person nominated under this paragraph must not at the date of the nomination be an officer or employee of the society unless he is the husband, wife, father, mother, child, brother, sister, nephew or niece of the nominator.
  - (5) Nominations so made may be revoked or varied by any similar document under the hand of the nominator delivered, sent, or made as mentioned in sub-paragraph (1) above.
  - (6) The marriage of a member of the society shall operate as a revocation of any nomination previously made by that member under this paragraph.
  - (7) Where a society has paid money to a nominee in ignorance of a marriage subsequent to the nomination, the receipt of the nominee shall be a valid discharge to the society.

#### Marginal Citations

**M74** 1965 c. 32.

- 2
- (1) Subject to sub-paragraph (2) below, on receiving satisfactory proof of the death of a nominator, an incorporated society shall pay to his nominee or nominees the amount due to the deceased or, as the case may be, the amount specified in the nomination.
  - (2) The total amount paid by an incorporated friendly society by virtue of a nomination (whether in favour of one nominee or more) shall not exceed the relevant maximum referred to in paragraph 1(2) above.
  - (3) The receipt of a nominee over 16 years of age for any amount paid in accordance with this paragraph shall be valid.
- 3
- (1) If any member of an incorporated friendly society entitled from its funds to a sum not exceeding the relevant maximum referred to in paragraph 1(2) above dies without having made any nomination of that sum then subsisting, the society may, without letters of administration or probate of any will or, in Scotland, without any grant of



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confirmation, distribute the sum among such persons as appear to the society, upon such evidence as the society may deem satisfactory, to be entitled by law to receive that sum.

- (2) A payment made by an incorporated friendly society under this Schedule shall be valid and effectual against any demand made upon the society by any other person, but the next of kin or personal representatives of the deceased member shall have a remedy for recovery of the money paid under paragraph 2(1) above against the person who has received that money.

## SCHEDULE 10

Section 23.

### APPLICATION OF COMPANIES WINDING UP LEGISLATION TO INCORPORATED FRIENDLY SOCIETIES

#### PART I

##### GENERAL MODE OF APPLICATION

- 1 The enactments which comprise the companies winding up legislation (referred to in this Schedule as “the enactments”) are the provisions of—
- (a) Parts IV, VI, VII, XII and XIII of the <sup>M75</sup>Insolvency Act 1986, or
  - (b) Parts V, VI, XI and XII of the <sup>M76</sup>Insolvency (Northern Ireland) Order 1989, and, in so far as they relate to offences under any such enactment, sections 430 and 432 of, and Schedule 10 to, that Act or Article 373 of, and Schedule 7 to, that Order.

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**Marginal Citations**

**M75** 1986 c. 45.

**M76** S.I. 1989/2405 (N.I.19).

- 2 Subject to the following provisions of this Schedule, the enactments apply to the winding up of incorporated friendly societies as they apply to the winding up of companies registered under the <sup>M77</sup>Companies Act 1985 or (as the case may be) the <sup>M78</sup>Companies (Northern Ireland) Order 1986.

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**Marginal Citations**

**M77** 1985 c. 6.

**M78** S.I. 1986/1032 (N.I.6).

- 3 (1) Subject to the following provisions of this Schedule, the enactments shall, in their application to incorporated friendly societies, have effect with the substitution—
- (a) for “company” of “incorporated friendly society”;
  - (b) for “directors” of “committee of management”;
  - (c) for “the registrar of companies” or “the registrar” of “the central office”;

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- (d) for “the articles” of “ the rules ”.
- (2) Subject to the following provisions of this Schedule in the application of the enactments to incorporated friendly societies—
- (a) every reference to the officers, or to a particular officer, of a company shall have effect as a reference to the officers, or to the corresponding officer, of the incorporated friendly society and as including a person holding himself out as such an officer;
  - (b) every reference to a director of a company shall be construed as a reference to a member of the committee of management; and
  - (c) every reference to an administrator, an administration order, an administrative receiver, a shadow director or a voluntary arrangement shall be omitted.
- 4 (1) Where any of the enactments as applied to incorporated friendly societies requires a notice or other document to be sent to the central office, it shall have effect as if it required the central office to keep the notice or document in the public file of the society and to record in that file the date on which the notice or document is placed in it.
- (2) Where any of the enactments, as so applied, refers to the registration, or to the date of registration, of such a notice or document, that enactment shall have effect as if it referred to the placing of the notice or document in the public file or (as the case may be) to the date on which it was placed there.
- 5 Any enactment which specifies a sum altered by order under section 416 of the <sup>M79</sup>Insolvency Act 1986 or Article 362 of the <sup>M80</sup>Insolvency (Northern Ireland) Order 1989 (powers to alter monetary limits) applies with the effect of the alteration.

#### Marginal Citations

**M79** 1986 c. 45.

**M80** S.I. 1989/2405 (N.I.19).

## PART II

### MODIFIED APPLICATION OF INSOLVENCY ACT 1986 PARTS IV AND XII

#### *Preliminary*

- 6 In this Part of this Schedule, Part IV of the Insolvency Act 1986 is referred to as “Part IV”; and that Act is referred to as “the Act”.

#### *Members of a friendly society as contributories in winding up*

- 7 (1) Section 74 (liability of members) of the Act is modified as follows.
- (2) In subsection (1), the reference to any past member shall be omitted.
- (3) Paragraphs (a) to (d) of subsection (2) shall be omitted; and so shall subsection (3).

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- (4) The extent of the liability of a member of an incorporated friendly society in a winding up shall not exceed the extent of his liability under paragraph 8 of Schedule 3 to this Act.
- 8 Sections 75 to 78 and 83 in Chapter I of Part IV (miscellaneous provisions not relevant to incorporated friendly societies) do not apply.
- 9 (1) Section 79 (meaning of “contributory”) of the Act does not apply.
- (2) In the enactments as applied to an incorporated friendly society, “contributory”—
- (a) means every person liable to contribute to the assets of the society in the event of its being wound up; and
  - (b) for the purposes of all proceedings for determining, and all proceedings prior to the determination of, the persons who are to be deemed contributories, includes any person alleged to be a contributory; and
  - (c) includes persons who are liable to pay or contribute to the payment of—
    - (i) any debt or liability of the incorporated friendly society being wound up; or
    - (ii) any sum for the adjustment of rights of members among themselves; or
    - (iii) the expenses of the winding up;
- but does not include persons liable to contribute by virtue of a declaration by the court under section 213 (imputed responsibility for fraudulent trading) or section 214 (wrongful trading) of the Act.

#### *Voluntary winding up*

- 10 (1) Section 84 of the Act does not apply.
- (2) In the enactments as applied to an incorporated friendly society, the expression “resolution for voluntary winding up” means a resolution passed under section 21(1) above.
- 11 Section 88 shall have effect with the omission of the words from the beginning to “and”.
- 12 (1) Subsection (1) of section 89 shall have effect as if for the words from the beginning to “meeting” there were substituted the words—
- “(1) Where it is proposed to wind up an incorporated friendly society voluntarily, the committee of management (or, in the case of an incorporated friendly society whose committee of management has more than two members, the majority of them) may at a meeting of the committee”.
- (2) The reference to the directors in subsection (2) shall be construed as a reference to members of the committee of management.
- 13 Section 90 shall have effect as if for the words “directors’ statutory declaration under section 89” there were substituted the words “statutory declaration made under section 89 by members of the committee of management”.
- 14 Sections 95(1) and 96 shall have effect as if the word “directors” were omitted from each of them.
- 15 In subsection (1) of section 101 (appointment of liquidation committee) of the Act, the reference to functions conferred on a liquidation committee by or under that

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Act shall have effect as a reference to its functions by or under that Act as applied to incorporated friendly societies.

- 16 (1) Section 107 (distribution of property) of the Act does not apply; and the following applies in its place.
- (2) Subject to the provisions of Part IV relating to preferential payments, an incorporated friendly society’s property in a voluntary winding up shall be applied in satisfaction of the society’s liabilities to creditors *pari passu* and, subject to that application, in accordance with the rules of the society.
- 17 Sections 110 and 111 (liquidator accepting shares, etc. as consideration for sale of company property) of the Act do not apply.

*Winding up by the court*

- 18 In sections 117 (High Court and county court jurisdiction) and 120 (Court of Session and sheriff court jurisdiction) of the Act, each reference to a company’s share capital paid up or credited as paid up shall have effect as a reference to the amount of the contribution or subscription income of an incorporated friendly society as shown by the latest balance sheet.
- 19 Section 122 (circumstances in which company may be wound up by the court) of the Act does not apply.
- 20 Section 124 (application for winding up) of the Act does not apply.
- 21 (1) In section 125 (powers of court on hearing of petition) of the Act, subsection (1) applies with the omission of the words from “but the court” to the end of the subsection.
- (2) The conditions which the court may impose under section 125 of the Act include conditions for securing—
  - (a) that the incorporated friendly society be dissolved by consent of its members under section 20 above; or
  - (b) that the society amalgamates with, or transfers all or any of its engagements to, another friendly society under section 85 or 86 above, or
  - (c) that the society converts itself into a company under section 91 above,
 and may also include conditions for securing that any default which occasioned the petition be made good and that the costs, or in Scotland the expenses, of the proceedings on that petition be defrayed by the person or persons responsible for the default.

[<sup>F92</sup>22 .....]

**Textual Amendments**  
**F92** Sch. 2 para. 22 repealed (N.I.) (7.2.1994) by 1993 c. 49, s. 182(1), Sch. 4 Pt.I; S.R. 1994/17, art. 2

[<sup>F93</sup>23 If, before the presentation of a petition for the winding up by the court of an incorporated friendly society, an instrument of dissolution under section 20 above is placed in the society’s public file, section 129(1) (commencement of winding up by the court) of the Act shall also apply in relation to the date on which the notice is so placed and to any proceedings in the course of the dissolution as it applies to the commencement date for, and proceedings in, a voluntary winding up.]

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### Textual Amendments

**F93** Sch. 2 para. 23 repealed (N.I.) (7.2.1994) by 1993 c. 49, s. 182(1), Sch. 4 Pt.I; S.R. 1994/17, art. 2

- 24 (1) Section 130 of the Act (consequences of winding-up order) shall have effect with the following modifications.
- (2) Subsections (1) and (3) shall be omitted.
- (3) An incorporated friendly society shall, within 15 days of a winding-up order being made in respect of it, give notice of the order to the central office; and the central office shall keep the notice in the public file of the society.
- (4) If an incorporated friendly society fails to comply with sub-paragraph (3) above, it shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- 25 Section 140 (appointment of liquidator by court in certain circumstances) of the Act does not apply.
- 26 In the application of sections 141(1) and 142(1) (liquidation committees), of the Act to incorporated friendly societies, the references to functions conferred on a liquidation committee by or under that Act shall have effect as references to its functions by or under that Act as so applied.
- 27 The conditions which the court may impose under section 147 (power to stay or sist winding up) of the Act shall include those specified in paragraph 21(2) above.
- 28 Section 154 (adjustment of rights of contributories) of the Act shall have effect with the modification that any surplus is to be distributed in accordance with the rules of the society.
- 29 In section 165(2) (liquidator's powers) of the Act, the reference to an extraordinary resolution shall have effect as a reference to a special resolution.

### *Winding up: general*

- 30 Section 187 (power to make over assets to employees) of the Act does not apply.
- 31 (1) In section 201 (dissolution: voluntary winding up) of the Act, subsection (2) applies without the words from "and on the expiration" to the end of the subsection and, in subsection (3), the word "However" shall be omitted.
- (2) Sections 202 to 204 (early dissolution) of the Act do not apply.
- 32 In section 205 (dissolution: winding up by the court) of the Act, subsection (2) applies with the omission of the words from "and, subject" to the end of the subsection; and in subsections (3) and (4) references to the Secretary of State shall have effect as references to the Commission.

### *Penal provisions*

- 33 Sections 216 and 217 of the Act (restriction on re-use of name) do not apply.

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- 34 (1) Sections 218 and 219 (prosecution of delinquent officers) of the Act do not apply in relation to offences committed by members of an incorporated friendly society acting in that capacity.
- (2) Sections 218(5) of the Act and subsections (1) and (2) of section 219 of the Act do not apply.
- (3) The references in subsections (3) and (4) of section 219 of the Act to the Secretary of State shall have effect as references to the Commission; and the reference in subsection (3) to section 218 of the Act shall have effect as a reference to that section as supplemented by paragraph 35 below.
- 35 (1) Where a report is made to the prosecuting authority (within the meaning of section 218) under section 218(4) of the Act, in relation to an officer of an incorporated friendly society, he may, if he thinks fit, refer the matter to the Commission for further enquiry.
- (2) On such a reference to it the Commission shall exercise its power under section 65(1) above to appoint one or more investigators to investigate and report on the matter.
- (3) An answer given by a person to a question put to him, in exercise of the powers conferred by section 65 above on a person so appointed, may be used in evidence against the person giving it.

*Preferential debts*

- 36 Section 387 (meaning in Schedule 6 of “the relevant date”) of the Act applies with the omission of subsections (2) and (4) to (6).

**PART III**

MODIFIED APPLICATION OF INSOLVENCY (NORTHERN IRELAND) ORDER 1989

*Preliminary*

- 37 In this Part of this Schedule, Part V of the <sup>M81</sup>Insolvency (Northern Ireland) Order 1989 is referred to as “Part V”; and that Order is referred to as “the Order”.

**Marginal Citations**

**M81** S.I. 1989/2405 (N.I.19)

*Members of a friendly society as contributories in winding up*

- 38 (1) Article 61 (liability of members) of the Order is modified as follows.
- (2) In paragraph (1), the reference to any past member shall be omitted.
- (3) Sub-paragraphs (a) to (d) of paragraph (2) shall be omitted; and so shall paragraph (3).

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- (4) The extent of the liability of a member of an incorporated friendly society in a winding up shall not exceed the extent of his liability under paragraph 8 of Schedule 3 to this Act.
- 39 Articles 62 to 65 and 69 of the Order (miscellaneous provisions not relevant to incorporated friendly societies) do not apply.
- 40 (1) Article 13 (meaning of “contributory”) of the Order does not apply.
- (2) In the enactments as applied to an incorporated friendly society “contributory”—
- (a) means every person liable to contribute to the assets of the society in the event of its being wound up; and
  - (b) for the purposes of all proceedings for determining, and all proceedings prior to the determination of, the persons who are to be deemed contributories, includes any person alleged to be a contributory; and
  - (c) includes persons who are liable to pay or contribute to the payment of—
    - (i) any debt or liability of the incorporated friendly society being wound up; or
    - (ii) any sum for the adjustment of rights of members among themselves; or
    - (iii) the expenses of the winding up;
- but does not include persons liable to contribute by virtue of a declaration by the court under Article 177 (imputed responsibility for fraudulent trading) or Article 178 (wrongful trading) of the Order.

#### *Voluntary winding up*

- 41 (1) Article 70 of the Order does not apply.
- (2) In the enactments as applied to an incorporated friendly society, the expression “resolution for voluntary winding up” means a resolution passed under section 21(1) above.
- 42 Article 74 shall have effect with the omission of the words from the beginning to “and”.
- 43 (1) Paragraph (1) of Article 75 shall have effect as if for the words from the beginning to “meeting” there were substituted the words—
- “(1) Where it is proposed to wind up an incorporated friendly society voluntarily, the committee of management (or, in the case of an incorporated friendly society whose committee of management has more than two members, the majority of them) may at a meeting of the committee”.
- (2) The reference to the directors in paragraph (2) shall be construed as a reference to members of the committee of management.
- 44 Article 76 shall have effect as if for the words “directors’ statutory declaration in accordance with Article 75” there were substituted the words “statutory declaration made in accordance with Article 75 by members of the committee of management”.
- 45 Article 81(1) and 82 shall have effect as if the word “directors” were omitted from each of them.
- 46 In paragraph (1) of Article 87 (appointment of liquidation committee) of the Order, the reference to functions conferred on a liquidation committee by or under that

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Order shall have effect as a reference to its functions by or under that Order as applied to incorporated friendly societies.

- 47 (1) Article 93 (distribution of property) of the Order does not apply; and the following applies in its place.
- (2) Subject to the provisions of Part V relating to preferential payments, an incorporated friendly society's property in a voluntary winding up shall be applied in satisfaction of the society's liabilities to creditors *pari passu* and, subject to that application, in accordance with the rules of the society.
- 48 Articles 96 and 97 (liquidator accepting shares, etc. as consideration for sale of company property) of the Order do not apply.

#### *Winding up by the High Court*

- 49 Article 102 (circumstances in which company may be wound up by the High Court) of the Order does not apply.
- 50 Article 104 (application for winding up) of the Order does not apply.
- 51 (1) In Article 105 (powers of High Court on hearing of petition) of the Order, paragraph (1) applies with the omission of the words from "but the Court" to the end of the paragraph.
- (2) The conditions which the Court may impose under Article 105 of the Order include conditions for securing—
- (a) that the incorporated friendly society be dissolved by consent of its members under section 20 above; or
  - (b) that the society amalgamates with, or transfers its engagements to, another friendly society under section 85 or 86 above; or
  - (c) that the society converts itself to a company under section 91 above,
- and may also include conditions for securing that any default which occasioned the petition be made good and that the costs of the proceedings on that petition be defrayed by the person or persons responsible for the default.
- 52 Article 106 (power of court, between petition and winding-up order, to stay or restrain proceedings against company) of the Order has effect with the omission of paragraph (2).
- 53 If, before the presentation of a petition for the winding up by the High Court of an incorporated friendly society, an instrument of dissolution under section 20 is placed in the society's public file, Article 109(1) (commencement of winding up by the High Court) of the Order shall also apply in relation to the date on which the notice is so placed and to any proceedings in the course of the dissolution as it applies to the commencement date for, and proceedings in, a voluntary winding up.
- 54 (1) Article 110 of the Order (consequences of winding-up order) shall have effect with the following modifications.
- (2) Paragraphs (1) and (3) shall be omitted.
- (3) An incorporated friendly society shall, within 15 days of a winding-up order being made in respect of it, give notice of the order to the central office; and the central office shall keep the notice in the public file of the society.



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(4) If an incorporated friendly society fails to comply with sub-paragraph (3) above, it shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

55 Article 119 (appointment of liquidator by High Court in certain circumstances) of the Order does not apply.

56 In the application of Article 120(1) (liquidation committees), of the Order to incorporated friendly societies, the references to functions conferred on a liquidation committee by or under that Order shall have effect as references to its functions by or under that Order as so applied.

57 The conditions which the High Court may impose under Article 125 (power to stay winding up) of the Order shall include those specified in paragraph 51(2) above.

58 Article 132 (adjustment of rights of contributories) of the Order shall have effect with the modification that any surplus is to be distributed in accordance with the rules of the society.

59 Article 140(2) (liquidator's powers) of the Order, the reference to an extraordinary resolution shall have effect as a reference to a special resolution.

#### *Winding up: general*

60 Article 158 (power to make over assets to employees) of the Order does not apply.

61 (1) In Article 166 (dissolution: voluntary winding up) of the Order, paragraph (2) applies without the words from "and on the expiration" to the end of the paragraph and, in paragraph (3), the word "However" shall be omitted.

(2) Articles 167 and 168 (early dissolution) of the Order do not apply.

62 In Article 169 (dissolution: winding up by the High Court) of the Order, paragraph (1) applies with the omission of the words from "and, subject" to the end of the paragraph; and in paragraphs (2) and (3) references to the Department shall have effect as references to the Commission.

#### *Penal provisions*

63 Articles 180 and 181 of the Order (restriction on re-use of name) do not apply.

64 (1) Articles 182 and 183 (prosecution of delinquent officers) of the Order do not apply in relation to offences committed by members of an incorporated friendly society acting in that capacity.

(2) Articles 182(4) and 183(1) and (2) of the Order do not apply.

(3) The references in paragraph (3) and (5) of Article 183 of the Order to the Department shall have effect as references to the Commission; and the reference in paragraph (3) to Article 182 of the Order shall have effect as a reference to that Article as supplemented by paragraph 65 below.

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- 65 (1) Where a report is made to the prosecuting authority (within the meaning of Article 182) under Article 182(5) of the Order, in relation to an officer of an incorporated friendly society, he may, if he thinks fit, refer the matter to the Commission for further enquiry.
- (2) On such a reference to it the Commission shall exercise its power under section 65(1) above to appoint one or more investigators to investigate and report on the matter.
- (3) An answer given by a person to a question put to him in exercise of the powers conferred by section 65 above on a person so appointed may be used in evidence against the person giving it.

*Preferential debts*

- 66 Article 347 (meaning in Schedule 4 of “the relevant date”) of the Order applies with the omission of paragraphs (2) and (4) to (6).

**PART IV**

SUPPLEMENTARY

*Dissolution of incorporated friendly society after winding up*

- 67 (1) Where an incorporated friendly society has been wound up voluntarily, it is dissolved as from 3 months from the date of the placing in the public file of the society of the return of the final meetings of the society and its creditors made by the liquidator under—
- (a) section 94 or 106 of the <sup>M82</sup>Insolvency Act 1986 (as applied to incorporated friendly societies), or on such other date as is determined in accordance with section 201 of that Act; or
- (b) Article 80 or 92 of the <sup>M83</sup>Insolvency (Northern Ireland) Order 1989 (as so applied), or on such other date as is determined in accordance with Article 166 of that Order.
- (2) Where an incorporated friendly society has been wound up by the court, it is dissolved as from 3 months from the date of the placing in the public file of the society of the liquidator’s notice under—
- (a) section 172(8) of the <sup>M84</sup>Insolvency Act 1986 (as applied to incorporated friendly societies) or on such other date as is determined in accordance with section 205 of that Act; or
- (b) Article 146(7) of the Insolvency (Northern Ireland) Order 1989 (as so applied) or on such other date as is determined in accordance with Article 169 of that Order.

**Marginal Citations**

**M82** 1986 c. 45.

**M83** S.I. 1989/2405 (N.I.19)

**M84** 1986 c. 45.

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- 68 (1) Sections 654 to 658 of the <sup>M85</sup>Companies Act 1985 or Articles 605 to 609 of the <sup>M86</sup>Companies (Northern Ireland) Order 1986 (provisions as to corporate property as bona vacantia), shall have the same effect in relation to the property of a dissolved incorporated friendly society (whether dissolved under section 20 above or following its winding up) as they have in relation to the property of a dissolved company, but with the following modifications.
- (2) Paragraph 3(1) above shall apply to those sections for the purpose of their application to incorporated friendly societies.
- (3) Subsection (2) of section 654 and subsections (1) and (3) of section 655 apply without the words “or 653”; and the references in those subsections to section 651 shall have effect as references to section 25 above.
- (4) Paragraph (2) of Article 605 and paragraph (1) of Article 606 apply without the words “or 604”; and the references in those paragraphs to Article 602 shall have effect as references to section 25 above.

**Marginal Citations**

**M85** 1985 c. 6.

**M86** S.I. 1986/1032 (N.I.6)

*Insolvency rules and fees*

- 69 (1) Rules may be made under—
- (a) section 411 of the Insolvency Act 1986; or
- (b) Article 359 of the Insolvency (Northern Ireland) Order 1989,
- for the purpose of giving effect, in relation to incorporated friendly societies, to the provisions of the applicable winding up legislation.
- (2) An order made by the competent authority under section 414 of the Insolvency Act 1986 may make provision for fees to be payable under that section in respect of proceedings under the applicable winding-up legislation and the performance by the official receiver or the Secretary of State of functions under it.
- (3) An order made by the competent authority under Article 361 of the Insolvency (Northern Ireland) Order 1989 may make provisions for fees to be payable under that section in respect of proceedings under the applicable winding-up legislation and the performance by the official receiver in Northern Ireland or the Department of Economic Development in Northern Ireland of functions under it.

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## SCHEDULE 11

Section 27.

## COMMITTEE OF MANAGEMENT: SUPPLEMENTARY

## PART I

## ELIGIBILITY AND RETIREMENT OF COMMITTEE MEMBERS

*Preliminary*

- 1 (1) This Part of this Schedule applies in relation to members of the committee of management of a friendly society (“the society”); and in this Schedule—
- “the committee” means the committee of management of the society;
- “the compulsory retirement age”, where the rules of the society make the provision authorised by paragraph 3(1) below, means the age prescribed for that purpose in its rules;
- “the normal retirement age” means 70 years or such lesser age as the rules of the society may prescribe as the normal retirement age for members of its committee.
- (2) For the purposes of this Act the date of a person’s election to office as a member of the committee, where the rules of the society provide for election by postal ballot, is the date of the meeting at which the declaration of the result of the ballot is made.

**Commencement Information**

**I100** Sch. 11 para. 1 wholly in force; Sch. 11 para. 1 not in force at Royal Assent see s. 126(2); Sch. 11 para. 1 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 11 para. 1 in force to the extent not already in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

*Eligibility to be elected committee member*

- 2 Subject to paragraph 3 below, paragraph 7 of Schedule 3 to this Act and to the rules of the society, any person is eligible to be elected as a member of the committee.

**Commencement Information**

**I101** Sch. 11 para. 2 wholly in force; Sch. 11 para. 2 not in force at Royal Assent see s. 126(2); Sch. 11 para. 2 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 11 para. 2 in force to the extent not already in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

- 3 (1) The rules of the society may require the members of the committee to retire at a prescribed age without eligibility for re-election or reappointment; and, if the age so prescribed is no greater than the age which is the normal retirement age for members of the committee, sub-paragraph (3) below shall have no application to the society.
- (2) If the rules of the society make the provision authorised by sub-paragraph (1) above, a person who has attained the age so prescribed shall not be eligible to be elected as a member of the committee.

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- (3) Except in the case mentioned in sub-paragraph (1) above, if a person has attained the normal retirement age for the society, he shall not be eligible to be elected as a member of the committee unless—
- (a) he has been approved as eligible to be so elected by resolution of the committee; and
  - (b) his age and the reasons for the committee's approval of his eligibility have been notified to every person entitled to vote at the election.
- (4) If a friendly society, in a case where its committee has approved as eligible for election a person who has attained the normal retirement age, fails to notify every person entitled to vote at the election, the society shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale; but no such failure shall invalidate the election.

#### Commencement Information

**I102** Sch. 11 para. 3 wholly in force; Sch. 11 para. 3 not in force at Royal Assent see s. 126(2); Sch. 11 para. 3 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 11 para. 3 in force to the extent not already in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

#### *Eligibility to be co-opted committee member*

- 4 No person may be co-opted as a member of the committee who has attained the normal retirement age or the compulsory retirement age (where that age is less than the normal retirement age).

#### Commencement Information

**I103** Sch. 11 para. 4 wholly in force; Sch. 11 para. 4 not in force at Royal Assent see s. 126(2); Sch. 11 para. 4 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 11 para. 4 in force to the extent not already in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

#### *Notice to society of age of committee member*

- 5 (1) A person who holds office as, or is to his knowledge nominated for election or proposed for co-option to the committee as, a member of the committee shall, not later than 28 days before he attains the normal retirement age or, as the case may be, the compulsory retirement age for members of the committee, give the society notice of the date on which he will attain that age.
- (2) A person who fails to give to a friendly society a notice required, in relation to that society, by sub-paragraph (1) above shall be guilty of an offence and liable on summary conviction—
- (a) to a fine not exceeding level 3 on the standard scale; and
  - (b) in the case of a continuing offence, to an additional fine not exceeding one-tenth of that level for every week during which the offence continues.

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#### Commencement Information

**I104** Sch. 11 para. 5 wholly in force; Sch. 11 para. 5 not in force at Royal Assent see s. 126(2); Sch. 11 para. 5 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 11 para. 5 in force to the extent not already in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

#### *Retirement of elected committee members*

- 6 (1) A member of the committee shall retire from office—
- (a) in any case not provided for by paragraph (b) below, sub-paragraph (2) below or rules under sub-paragraph (3) below, at the fifth annual general meeting of the society following the date of his election; and
  - (b) in a case where he had attained the normal retirement age at his election, at the next annual general meeting following that date.
- (2) A member of the committee attaining the normal retirement age or, as the case may be, the compulsory retirement age shall, subject to any provision of the rules for earlier retirement, retire from office at the next annual general meeting of the society.
- (3) The rules of the society, if they provide for the retirement by rotation of members of its committee, may provide that a person elected to fill a vacant seat on the committee must retire at the annual general meeting at which, in accordance with the rules for retirement by rotation, the seat is to fall vacant.
- (4) Sub-paragraph (3) above applies to any vacancy arising when an elected member ceases to hold office for any reason before the annual general meeting at which (disregarding his age) the seat is due to fall vacant.

#### Commencement Information

**I105** Sch. 11 para. 6 wholly in force; Sch. 11 para. 6 not in force at Royal Assent see s. 126(2); Sch. 11 para. 6 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 11 para. 6 in force to the extent not already in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

#### *Retirement of co-opted members*

- 7 (1) A person who is co-opted as a member of the committee shall cease to hold office at the end of the permitted period unless he is elected to office as a member of the committee within that period.
- (2) For the purposes of sub-paragraph (1) above “the permitted period”, with reference to the tenure of office of a co-opted member of the committee, is the period beginning with the date of his appointment and ending with the declaration of the next election of members of the committee conducted after his appointment or the expiration of the period of 16 months beginning with the date of his appointment, whichever first occurs.

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### Commencement Information

**I106** Sch. 11 para. 7 wholly in force; Sch. 11 para. 7 not in force at Royal Assent see s. 126(2); Sch. 11 para. 7 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 11 para. 7 in force to the extent not already in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

## PART II

### DEALINGS WITH MEMBERS OF COMMITTEE OF MANAGEMENT

- 8 (1) Sections 312 (payment for loss of office etc) and 316(3) (supplementary) of the <sup>M87</sup>Companies Act 1985 shall have effect as if any reference in them to a director of a company included a reference to a member of the committee of management of a friendly society or a registered branch but with the substitution in section 316(3) of a reference to section 312 for the reference to sections 312 to 315.
- (2) Articles 320 (payment for loss of office etc) and 324(3) (supplementary) of the <sup>M88</sup>Companies (Northern Ireland) Order 1986 shall have effect as if any reference in them to a director of a company included a reference to a member of the committee of management of a friendly society or a registered branch but with the substitution in Article 324(3) of a reference to Article 320 for the reference to Articles 320 to 323.

### Commencement Information

**I107** Sch. 11 para. 8 wholly in force; Sch. 11 para. 8 not in force at Royal Assent see s. 126(2); Sch. 11 para. 8 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 11 para. 8 in force to the extent not already in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

### Marginal Citations

**M87** 1985 c. 6.

**M88** S.I.1986/1032 (N.I.6).

- 9 (1) The following provisions of the <sup>M89</sup>Building Societies Act 1986—
- (a) section 62 (prohibition of tax-free payments to directors);
  - (b) section 63 (disclosure of interests in contracts and other transactions);
  - (c) section 64 (substantial property transactions);
  - (d) section 65 (restriction on loans etc);
  - (e) section 66 (sanctions);
  - (f) section 68 (records of loans etc) with Schedule 9;
  - (g) section 69 (disclosure and record of related businesses); and
  - (h) section 70 (interpretation),
- shall have effect as if any reference to a director of a building society included a reference to a member of the committee of management of a friendly society or registered branch.
- (2) The provisions mentioned in sub-paragraph (1) above shall have effect in their application to such members with the substitution—
- (a) of a reference to a friendly society or registered branch for every reference to a building society; and



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- (b) of a reference to the committee of management for every reference to the directors or board of directors.
- (3) Section 65 shall in addition have effect in its application to them—
  - (a) with the omission of subsection (1)(c); and
  - (b) with the substitution in subsection (1)(d) of the words “ loan or disposal of property ” for the words “loan, disposal of property or payment”.
- (4) Section 69 shall in addition have effect with the substitution—
  - (a) of the following subsection for subsection (3)—
    - “(3) The following are relevant services—
      - (a) legal services;
      - (b) accountancy services;
      - (c) services of a broker in respect of the society’s insurance business;
      - (d) reinsurance of the society’s insurance business;
      - (e) any other services designated as relevant services.”; and
    - (b) of a reference to Part II of this Schedule for every reference in subsection (7) to Schedule 10 to the Building Societies Act.
- (6) The requisite particulars of the business of a business associate of a friendly society or registered branch are accordingly those set out in paragraphs 10 to 12 or 13 to 15 below.

#### **Commencement Information**

**I108** [Sch. 11 para. 9](#) wholly in force; [Sch. 11 para. 9](#) not in force at Royal Assent see [s. 126\(2\)](#); [Sch. 11 para. 9](#) in force for certain purposes at 13.1.1993 by [S.I. 1993/16, art. 2, Sch. 1](#); [Sch. 11 para. 9](#) in force to the extent not already in force at 1.1.1994 by [S.I. 1993/2213, art. 2\(1\), Sch. 5](#)

#### **Marginal Citations**

**M89** [1986 c. 53.](#)

#### *Requisite particulars where no adoption of this Part*

- 10 Where the business associate of the society or branch provides legal services the requisite particulars of its business in any financial year are the following—
- (a) the aggregate amount of the fees paid to it by the society or branch concerned for the provision of legal services; and
  - (b) the aggregate amount of any fees paid to it by the society or branch in consideration of the provision of management services to the society or branch.

#### **Commencement Information**

**I109** [Sch. 11 para. 10](#) wholly in force; [Sch. 11 para. 10](#) not in force at Royal Assent see [s. 126\(2\)](#); [Sch. 11 para. 10](#) in force for certain purposes at 13.1.1993 by [S.I. 1993/16, art. 2, Sch. 1](#); [Sch. 11 para. 10](#) in force to the extent not already in force at 1.1.1994 by [S.I. 1993/2213, art. 2\(1\), Sch. 5](#)



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- 11 Where the business associate of the society or branch provides accountancy services the requisite particulars of its business in any financial year are the following—
- (a) the aggregate amount of the fees paid to it by the society or branch for the provision of accountancy services; and
  - (b) the aggregate amount of any fees paid to it by the society or branch in consideration of the provision of management services to the society or branch.

**Commencement Information**

**I110** Sch. 11 para. 11 wholly in force; Sch. 11 para. 11 not in force at Royal Assent see s. 126(2); Sch. 11 para. 11 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 11 para. 11 in force to the extent not already in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

- 12 Where the business associate of the society or branch arranges for the provision of insurance broking services, the requisite particulars of its business in any financial year are the following—
- (a) the aggregate of the amounts paid to it by the society or branch by way of commission; and
  - (b) the aggregate amount of any fees paid to it by the society or branch in consideration of the provision of management services to the society or branch.

**Commencement Information**

**I111** Sch. 11 para. 12 wholly in force; Sch. 11 para. 12 not in force at Royal Assent see s. 126(2); Sch. 11 para. 12 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 11 para. 12 in force to the extent not already in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

*Requisite particulars on adoption of this Part*

- 13 Where the business associate of the society or branch provides legal services, the requisite particulars of its business in any financial year are the following—
- (a) the prescribed band within which falls the estimated aggregate amount of the fees paid to it by the society or branch for the provision of legal services; and
  - (b) the prescribed band within which falls the estimated aggregate amount of any fees paid to it by the society or branch in consideration of the provision of management services to the society or branch.

**Commencement Information**

**I112** Sch. 11 para. 13 wholly in force; Sch. 11 para. 13 not in force at Royal Assent see s. 126(2); Sch. 11 para. 13 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 11 para. 13 in force to the extent not already in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

- 14 Where the business associate of the society or branch provides accountancy services the requisite particulars of its business in any financial year are the following—

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- (a) the prescribed band within which falls the estimated aggregate amount of the fees paid to it by the society or branch for the provision of accountancy services; and
- (b) the prescribed band within which falls the estimated aggregate amount of any fees paid to it by the society or branch in consideration of the provision of management services to the society or branch.

#### Commencement Information

**I113** Sch. 11 para. 14 wholly in force; Sch. 11 para. 14 not in force at Royal Assent see s. 126(2); Sch. 11 para. 14 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 11 para. 14 in force to the extent not already in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

- 15 Where the business associate of the society or branch provides insurance broking services the requisite particulars of its business in any financial year are the following—
- (a) the prescribed band within which falls the estimated aggregate of the amounts paid to it by or by way of commission; and
  - (b) the prescribed band within which falls the estimated aggregate amount of any fees paid to it by the society or branch in consideration of the provision of management services to the society or branch.

#### Commencement Information

**I114** Sch. 11 para. 15 wholly in force; Sch. 11 para. 15 not in force at Royal Assent see s. 126(2); Sch. 11 para. 15 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 11 para. 15 in force to the extent not already in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

#### *Power to prescribe bands*

- 16 (1) The Commission, with the consent of the Treasury, may by order prescribe, for the purposes of the provisions of this Part of this Schedule, series of monetary amounts by reference to limits specified in the order; and, in any such provision, “prescribed band” means, in relation to monetary amounts, any series of monetary amounts so prescribed for the purposes of that provision.
- (2) The power conferred by this paragraph includes power to prescribe different series of monetary amounts for the purposes of different provisions.

#### Commencement Information

**I115** Sch. 11 para. 16 wholly in force; Sch. 11 para. 16 not in force at Royal Assent see s. 126(2); Sch. 11 para. 16 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 11 para. 16 in force for all remaining purposes at 13.9.1993 by S.I. 1993/2213, art. 2(1), Sch. 2

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## SCHEDULE 12

Section 30.

### MEETINGS AND RESOLUTIONS

#### *Annual general meeting*

- 1 (1) Every friendly society and registered branch shall in each year hold a general meeting as its annual general meeting (in addition to any other meetings in that year).
- (2) Not more than 15 months shall elapse between the date of one annual general meeting and that of the next.
- (3) If an incorporated friendly society holds its first annual general meeting within 18 months of its incorporation, it need not hold it in the year of its incorporation or in the following year.
- (4) If a registered friendly society or registered branch holds its first annual general meeting within 18 months of its registration under the 1974 Act, it need not hold it in the year of its registration or in the following year.

#### **Commencement Information**

**I116** Sch. 12 para. 1 wholly in force; Sch. 12 para. 1 not in force at Royal Assent see s. 126(2); Sch. 12 para. 1 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 12 para. 1 in force to the extent not already in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

- 2 (1) A meeting to be held as the annual general meeting of a friendly society or registered branch shall be specified as such in any notice calling it.
- (2) Notwithstanding anything in the rules of a friendly society or registered branch, the business which may be dealt with at the annual general meeting includes any resolution (whether a special resolution or not).

#### **Commencement Information**

**I117** Sch. 12 para. 2 wholly in force; Sch. 12 para. 2 not in force at Royal Assent see s. 126(2); Sch. 12 para. 2 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 12 para. 2 in force to the extent not already in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

- 3 (1) If a friendly society or registered branch fails to hold a meeting as its annual general meeting in accordance with paragraph 1 above, the society or branch shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (2) If such default is made, the Commission may—
  - (a) call, or direct the calling of, an annual general meeting, and
  - (b) give such ancillary or consequential directions as it thinks expedient, including directions modifying or supplementing the operation of the rules of the society concerned in relation to the calling, holding and conducting of the meeting.

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- (3) If default is made in complying with any directions of the Commission given under this paragraph, the society or branch concerned shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

#### Commencement Information

**I118** Sch. 12 para. 3 wholly in force; Sch. 12 para. 3 not in force at Royal Assent see s. 126(2); Sch. 12 para. 3 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 12 para. 3 in force to the extent not already in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

#### *Notice for calling meetings*

- 4 (1) A meeting of a friendly society or registered branch must be called by not less than 14 days' notice to members, or such longer period as the rules may require, expiring—
- (a) with the date of the meeting; or
  - (b) where proxy voting is permitted, with such earlier date as may be specified by the society, under its rules, as the final date for the receipt of instruments appointing proxies to vote at the meeting;
- and the notice to members of a meeting shall be given in such manner as is prescribed by the rules of the society or branch.
- (2) Where the rules of a friendly society do not provide for the giving of individual notices to those entitled (when the notice is given) to vote at meetings of any description, the rules may provide for the giving of notice of such meetings by advertisement.
- (3) If the rules provide for the giving of notice of any meetings by advertisement, the rules must include provision requiring the necessary advertisements to be inserted—
- (a) in at least one newspaper circulating in the areas in which the members of the society reside; or
  - (b) where the membership of the society is drawn from a professional body or wholly or mainly from persons who are or have been engaged in a particular trade, profession or vocation, in an appropriate professional journal,
- as the rules may provide.
- (4) The rules of a friendly society or registered branch may provide—
- (a) for adjourned meetings to be called without notice or with such notice as the rules may require;
  - (b) for meetings to be held at a specified time and place, on such dates as are prescribed by the rules, either without further notice or with such notice as the rules may require;
- and sub-paragraphs (1) to (3) above shall not apply to meetings held by virtue of such provision.
- (5) This paragraph is without prejudice to any requirement under the rules of a friendly society or registered branch as to the giving of notice of special resolutions to be moved, or any other business to be transacted, at a meeting of the society or branch.

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#### Commencement Information

**I119** Sch. 12 para. 4 wholly in force; Sch. 12 para. 4 not in force at Royal Assent see s. 126(2); Sch. 12 para. 4 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 12 para. 4 in force to the extent not already in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

#### *Members' entitlement to vote on resolutions*

- 5
- (1) Subject to sub-paragraph (2) below, any provision in the rules of a friendly society or registered branch is void to the extent that it would have the effect of making the voting rights conferred on members by the rules conditional upon the amount of their subscriptions.
  - (2) Sub-paragraph (1) above shall not apply to any provision in the rules excluding or limiting the voting rights of members by reference to the amount of their subscriptions in such cases or circumstances as the Commission may by regulations prescribe.
  - (3) In this section “subscription” includes a contribution payment falling to be made by a member.

#### Commencement Information

**I120** Sch. 12 para. 5 wholly in force; Sch. 12 para. 5 not in force at Royal Assent see s. 126(2); Sch. 12 para. 5 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 12 para. 5 in force to the extent not already in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

#### *Right to demand a poll*

- 6
- (1) Any provision contained in the rules of a friendly society or registered branch shall be void in so far as it would have the effect either—
    - (a) of excluding the right to demand a poll at a meeting of the society on any question other than the election of a chairman of the meeting or the adjournment of the meeting; or
    - (b) of making ineffective a demand for a poll on any such question which is made by not less than 10 members who are entitled to vote at the meeting or, in the case of a society whose rules provide for delegate voting, 5 delegates who are so entitled.
  - (2) The reference in sub-paragraph (1)(b) above to members includes a reference, where the rules allow the appointment of proxies, to persons who are duly appointed on behalf of members entitled to attend and vote at the meeting.

#### Commencement Information

**I121** Sch. 12 para. 6 wholly in force; Sch. 12 para. 6 not in force at Royal Assent see s. 126(2); Sch. 12 para. 6 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 12 para. 6 in force to the extent not already in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

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### *Special resolutions*

- 7 (1) No resolution of a friendly society shall be passed as a special resolution unless—
- (a) it is required to be so passed by or under any provision of this Act or the 1974 Act or by the rules of the society;
  - (b) at least 14 day’s notice, or such longer period as the rules may require, expiring—
    - (i) with the date of the meeting at which the resolution is to be moved; or
    - (ii) where proxy voting is permitted, with such earlier date as may be specified by the society, under its rules, as the final date for the receipt of instruments appointing proxies to vote at the meeting;
 

is given to members in such manner as is prescribed by the rules; and
  - (c) any such notice (or, in the case of a postal ballot, the ballot papers) includes a statement that the resolution will not be effective unless it is passed as a special resolution;
- and, in this Act, “special resolution” means a resolution so passed.
- (2) Subject to sub-paragraph (3) below, a resolution of a friendly society shall not be effective as a special resolution unless it is passed by not less than three-quarters of the number of the members of the society entitled to vote on it and voting either (in person or by proxy) on a poll at a meeting of the society or in a postal ballot.
- (3) Where the rules of a friendly society provide for delegate voting, a resolution shall not be effective as a special resolution unless it is passed by not less than three quarters of the number of delegates entitled to vote on the resolution and voting on a poll at a meeting or in a postal ballot.
- (4) Where the rules of a friendly society do not provide for the giving of individual notices to those entitled (when the notice is given) to vote on special resolutions of any description, the rules may provide for the giving of notice by advertisement.
- (5) If the rules provide for the giving of notice of any special resolutions by advertisement, the rules must include provision requiring the necessary advertisements to be inserted—
- (a) in at least one newspaper circulating in the areas in which the members of the society reside; or
  - (b) where the membership of the society is drawn from a professional body or wholly or mainly from persons who are or have been engaged in a particular trade, profession or vocation, in an appropriate professional journal,
- as the rules may provide.
- (6) Proxy voting shall be permitted (notwithstanding anything to the contrary in a society’s rules) on any resolution which is to be moved as a special resolution at any meeting of a friendly society other than a meeting of delegates; and the procedure adopted by the society for such proxy voting shall comply with any requirements prescribed in regulations by the Commission.

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#### Commencement Information

**I122** Sch. 12 para. 7 wholly in force; Sch. 12 para. 7 not in force at Royal Assent see s. 126(2); Sch. 12 para. 7 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 12 para. 7 in force for all remaining purposes at 13.9.1993 by S.I. 1993/2213, art. 2(1), Sch. 2

#### *Postal ballots*

- 8 (1) The rules of a friendly society or registered branch may provide for the voting—
- (a) in an election of the committee of management or, where applicable, of the secretary, or
  - (b) on any resolution (whether special or not),
- to be conducted in all, or in any particular, circumstances by postal ballot; and in this Act “ballot” or “postal ballot” in relation to an election or a resolution of the society or branch, means a postal ballot taking place by virtue of those rules.
- (2) Where a postal ballot is to take place, the following provisions of this paragraph have effect.
- (3) Notice of a postal ballot shall be given not less than 14 nor more than 56 days before the date which the society or branch specifies as the final date for the receipt of completed ballot papers (referred to in this paragraph as “the voting date”).
- (4) Subject to the provisions of this Act, notice of a postal ballot shall be given to every member of the society or branch who would be entitled to vote in the election or on the resolution if the voting date for the election or the resolution fell on the date of the notice.
- (5) Notice of a postal ballot—
- (a) shall contain such other notices relating to the election or resolution; and
  - (b) shall be accompanied by such other documents,
- as would be required to be given or sent to a member in connection with the election or resolution had it been intended to hold the election or vote on the resolution at a meeting instead of by postal ballot with the exception, however, of any notice relating to voting by proxy at a meeting.

#### Commencement Information

**I123** Sch. 12 para. 8 wholly in force; Sch. 12 para. 8 not in force at Royal Assent see s. 126(2); Sch. 12 para. 8 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 12 para. 8 in force to the extent not already in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

#### *Resolutions requiring special notice*

- 9 (1) Where by any provision of this Act special notice is required of a resolution, the resolution is not effective unless notice of the intention to move it has been given to the friendly society concerned at least 28 days before the meeting at which it is moved.
- (2) The friendly society concerned shall give its members notice of any such resolution at the same time and in the same manner as is required by its rules for notice of the



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meeting or, if that is not practicable, shall give them notice (either by advertisement in a newspaper having an appropriate circulation or in any other mode allowed by the society's rules) at least 14 days before the meeting.

- (3) If, after notice of the intention to move such a resolution has been given to the society, a meeting is called for a date 28 days or less after the notice has been given, the notice is deemed properly given, though not given within the time required.

#### **Commencement Information**

**I124** Sch. 12 para. 9 wholly in force; Sch. 12 para. 9 not in force at Royal Assent see s. 126(2); Sch. 12 para. 9 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 12 para. 9 in force to the extent not already in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

## SCHEDULE 13

Section 32.

### AUTHORISATION: SUPPLEMENTARY PROVISIONS

#### PART I

#### APPLICATIONS FOR AUTHORISATION

##### *Preliminary*

- 1 (1) In this Part of this Schedule “application” means an application by a friendly society for authorisation and, in relation to any application, “the society” means the friendly society making the application.
- (2) For the purposes of this Part of this Schedule “officer”, in relation to a registered friendly society, does not include a trustee of the society.

#### **Commencement Information**

**I125** Sch. 13 wholly in force; Sch. 13 not in force at Royal Assent see s. 126(2); Sch. 13 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 13 in force for all remaining purposes at 13.9.1993 by S.I. 1993/2213, art. 2(1), Sch. 2

##### *Procedure for granting authorisation*

- 2 (1) An application shall be made in such manner as the Commission may specify, either generally or in any particular case.
- (2) Subject to sub-paragraph (3) below, the society must submit to the Commission such proposals as to the manner in which it proposes to carry on business, such financial forecasts and such other information as may be required by or in accordance with regulations made by the Commission with the consent of the Treasury.



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- (3) Where the application is made under section 33 above the society shall, instead of submitting the information mentioned in sub-paragraph (2) above, furnish the Commission with the documents referred to in sub-paragraph (4) below and such other information as the Commission may request.
- (4) The documents referred to in sub-paragraph (3) above are—
  - (a) a statement by the society, signed by its secretary and certified by its appropriate actuary or some other independent person acceptable to the Commission, which describes—
    - (i) the insurance business carried on by the society in the United Kingdom immediately before the commencement of section 32 above (and stating, in relation to each description of insurance business, the class specified in head A or B of Schedule 2 to this Act into which that description falls); and
    - (ii) the non-insurance business carried on by it in the United Kingdom at that time;
  - (b) where any solvency requirements imposed by or under this Act are applicable to the society, a statement by the society's appropriate actuary that, in his opinion, the society complies with those requirements; and
  - (c) a statement made jointly by each member of the committee of management, the secretary and the chief executive that the affairs of the society are directed in accordance with the criteria of prudent management and will continue to be so.
- (5) The Commission shall decide an application within 6 months of receiving the information referred to in sub-paragraph (2) above or, in the case of an application under section 33 above, the documents and other information mentioned in sub-paragraph (3) above.

#### Commencement Information

**I126** Sch. 13 wholly in force; Sch. 13 not in force at Royal Assent see s. 126(2); Sch. 13 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 13 in force for all remaining purposes at 13.9.1993 by S.I. 1993/2213, art. 2(1), Sch. 2

- 3 (1) If on an application the Commission proposes to impose conditions, the provisions of paragraphs 7 and 8 below shall apply.
- (2) If the Commission proposes to refuse to grant authorisation, it shall serve a notice on the society stating—
  - (a) that it proposes to refuse to grant authorisation;
  - (b) the grounds for the proposed refusal; and
  - (c) that the society may make representations with respect to the proposed refusal within such period of not less than 28 days as may be specified in the notice and that, if the society so requests, the Commission will afford to it an opportunity of being heard by the Commission within that period.
- (3) If the grounds for the proposed refusal include the ground that a person is not a fit and proper person to hold office in the society, the Commission shall also serve the notice specified in sub-paragraph (2) above on the person concerned giving him the

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like right to make representations and to be heard with respect to his fitness and propriety for office.

- (4) If, on an application made by virtue of section 33 above, the grounds for the proposed refusal include the ground that the Commission is not satisfied that a statement referred to in paragraph 2(4)(b) or (c) above is accurate, it shall also serve the notice specified in sub-paragraph (2) above on the person or, as the case may be, each person who made the statement giving him the like right to make representations and to be heard with respect to the accuracy of his statement.
- (5) The Commission shall, before reaching a decision on the application, consider any representations made to it in accordance with sub-paragraph (2), (3) or (4) above.
- (6) If, on an application for authorisation, the Commission refuses to grant authorisation it shall serve—
- (a) on the society and each of its officers;
  - (b) on any other person on whom a notice was served under sub-paragraph (4) above,
- a notice stating the Commission's decision and the grounds for it.
- (7) The non-receipt by an officer or other person of a notice of a matter under this paragraph does not affect the validity of any action on the part of the Commission.

#### **Commencement Information**

**I127** Sch. 13 wholly in force; Sch. 13 not in force at Royal Assent see s. 126(2); Sch. 13 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 13 in force for all remaining purposes at 13.9.1993 by S.I. 1993/2213, art. 2(1), Sch. 2

#### *Offences in connection with application*

- 4 (1) A friendly society which furnishes any information or makes any statement which is false or misleading in a material particular in connection with an application shall be guilty of an offence and liable—
- (a) on conviction on indictment, to a fine; and
  - (b) on summary conviction, to a fine not exceeding the statutory maximum.
- (2) Any person who knowingly or recklessly furnishes any information or makes any statement which is false or misleading in a material particular in connection with an application shall be guilty of an offence and liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or both; and
  - (b) on summary conviction, to a fine not exceeding the statutory maximum.

#### **Commencement Information**

**I128** Sch. 13 wholly in force; Sch. 13 not in force at Royal Assent see s. 126(2); Sch. 13 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 13 in force for all remaining purposes at 13.9.1993 by S.I. 1993/2213, art. 2(1), Sch. 2

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### *Terms of authorisation: supplementary*

- 5 (1) On granting authorisation to a friendly society the Commission shall send a copy of the terms of the authorisation—
- (a) to the secretary of the society; and
  - (b) to the central office;
- and the central office shall keep a copy of those terms in the public file of the society.
- (2) Where the terms of a society's authorisation are superseded by the grant of authorisation—
- (a) on an application to which section 35 above applies, or
  - (b) on an application required by a direction under section 39 above,
- the central office shall, on placing the copy of the terms of the authorisation on the public file of the society under sub-paragraph (1) above, indicate on the copy of the previous terms kept on that file that they have been superseded.

#### **Commencement Information**

**I129** Sch. 13 wholly in force; Sch. 13 not in force at Royal Assent see s. 126(2); Sch. 13 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 13 in force for all remaining purposes at 13.9.1993 by S.I. 1993/2213, art. 2(1), Sch. 2

## **PART II**

### **IMPOSITION OF CONDITIONS AND WITHDRAWAL OF AUTHORISATION**

#### *Preliminary*

- 6 (1) In this Part of this Schedule “the society” means—
- (a) in relation to the imposition of conditions on the grant of authorisation, the friendly society making the application for authorisation; and
  - (b) in relation to the imposition of conditions on a current authorisation, the friendly society on whose authorisation the Commission proposes to impose conditions.
- (2) For the purposes of this Part of this Schedule “officer”, in relation to a registered friendly society, does not include a trustee of the society.

#### **Commencement Information**

**I130** Sch. 13 wholly in force; Sch. 13 not in force at Royal Assent see s. 126(2); Sch. 13 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 13 in force for all remaining purposes at 13.9.1993 by S.I. 1993/2213, art. 2(1), Sch. 2

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### *Imposition of conditions*

- 7 (1) If the Commission proposes to impose conditions, it shall serve on the society and on each of its officers a notice stating—
- (a) that the Commission proposes to impose conditions;
  - (b) what conditions the Commission proposes to impose;
  - (c) the grounds for their imposition; and
  - (d) that the society may make representations with respect to the proposed imposition of the conditions within such period of not less than 14 days as may be specified in the notice and that, if it so requests, the Commission will afford to it an opportunity of being heard by the Commission within that period.
- (2) If any condition proposed to be imposed on the society includes a requirement for a person's removal from office (whether an office in the society or in any registered branch of the society), the Commission shall also serve the notice specified in sub-paragraph (1) above on the person whose removal is proposed giving him the like right to make representations and to be heard with respect to his proposed removal from office.
- (3) The Commission shall, before reaching a decision on whether to impose conditions and, if so, what conditions, consider any representations made in accordance with sub-paragraph (1) or (2) above.
- (4) The Commission may not impose conditions on grounds other than those stated, or grounds included in those stated, in the notice served by it under sub-paragraph (1) above.
- (5) Except where paragraph 8 below applies, the Commission shall serve—
- (a) on the society and each of its officers; and
  - (b) on every other person on whom a notice was served under sub-paragraph (2) above,
- a notice stating its decision and, where it has decided to impose conditions, specifying the conditions and stating the grounds for imposing them.
- (6) Where conditions are imposed on an authorisation which is already subject to conditions, the notice served on the society under sub-paragraph (5) above shall be accompanied by a statement of all subsisting conditions to which the authorisation is subject (including any that were otherwise unaffected by the decision); and the Commission shall send a copy of that statement to the central office.

#### **Commencement Information**

**I131** Sch. 13 wholly in force; Sch. 13 not in force at Royal Assent see s. 126(2); Sch. 13 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 13 in force for all remaining purposes at 13.9.1993 by S.I. 1993/2213, art. 2(1), Sch. 2

- 8 (1) This paragraph applies where the Commission has decided to impose conditions but proposes to impose conditions different from and more onerous than those stated in the notice served by the Commission under paragraph 7(1) above.

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- (2) The Commission shall serve on the society and on each of its officers a notice stating—
- (a) what conditions the Commission proposes to impose;
  - (b) the grounds for their imposition instead of the conditions stated in the notice under paragraph 7(1) above; and
  - (c) that the society may make representations with respect to the conditions the Commission proposes to impose within such period of not less than 7 days as may be specified in the notice and that, if the society so requests, the Commission will afford to it an opportunity of being heard by the Commission within that period.
- (3) If any new or different condition proposed to be imposed on the society includes a requirement for a person's removal from office (whether an office in the society or in any registered branch of the society), the Commission shall also serve the notice specified in sub-paragraph (2) above on the person whose removal is proposed giving him the like right to make representations and to be heard with respect to his proposed removal from office.
- (4) The Commission shall, before reaching a decision on whether to impose conditions different from those stated in the notice served under paragraph 7(1) above and, if so, what conditions, consider any representations made in accordance with sub-paragraph (2) or (3) above.
- (5) The Commission may not impose conditions on grounds other than those stated, or grounds included in those stated, in the notice served by it under sub-paragraph (2) above.
- (6) The Commission shall serve-
- (a) on the society and each of its officers; and
  - (b) on every other person on whom a notice was served under sub-paragraph (3) above,
- a notice stating its decision and, where it has decided to impose conditions, specifying the conditions and stating the grounds for imposing them.
- (7) Where conditions are imposed on an authorisation which is already subject to conditions, the notice served on the society under sub-paragraph (6) above shall be accompanied by a statement of all subsisting conditions to which the authorisation is subject (including any that were otherwise unaffected by the decision); and the Commission shall send a copy of that statement to the central office.
- (8) The procedure in this paragraph may be repeated; and on any such repeat references in this paragraph to the notice under paragraph 7(1) above shall be construed as reference to the latest notice under sub-paragraph (2) of this paragraph.

#### Commencement Information

**I132** Sch. 13 wholly in force; Sch. 13 not in force at Royal Assent see s. 126(2); Sch. 13 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 13 in force for all remaining purposes at 13.9.1993 by S.I. 1993/2213, art. 2(1), Sch. 2

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### *Imposition of conditions on appeal*

- 9 (1) The modifications of the provisions of paragraphs 7 and 8 above in their application to the imposition of conditions by the Commission in pursuance of a direction of an appeal tribunal under section 59 above are as follows.
- (2) The notice under paragraph 7(1) above shall be served on the society and the other persons there specified within the period of 14 days beginning with the date on which the Commission received notice of the tribunal's decision under subsection (10) of that section; and a copy shall also be sent within that period to the tribunal.
- (3) The notice under paragraph 7(1) above may specify, as the period within which representations may be made, a period of not less than 7 days.
- (4) If the Commission serves a notice under paragraph 8(2) above on the society and other persons there specified it shall send a copy of the notice to the tribunal.

#### **Commencement Information**

**I133** Sch. 13 wholly in force; Sch. 13 not in force at Royal Assent see s. 126(2); Sch. 13 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 13 in force for all remaining purposes at 13.9.1993 by S.I. 1993/2213, art. 2(1), Sch. 2

### *Procedure for withdrawing authorisation*

- 10 (1) Subject to sub-paragraph (6) below, if the Commission proposes to give a direction under section 40 or section 41 above it shall serve on the society and on each of its officers a notice stating—
- (a) that the Commission proposes to give such a direction;
  - (b) the grounds for the proposed direction; and
  - (c) that the society may make representations with respect to the proposed direction within such period of not less than 14 days as may be specified in the notice and that, if the society so requests, it will be afforded an opportunity of being heard by the Commission within that period.
- (2) If the grounds for the proposed direction include the ground that a person is not a fit and proper person to hold office in the society, the Commission shall also serve the notice specified in sub-paragraph (1) above on the person concerned giving him the like right to make representations and to be heard with respect to his fitness and propriety for office.
- (3) Before reaching a decision on whether to give a direction, the Commission shall consider any representations made to it in accordance with sub-paragraph (1) or (2) above.
- (4) Except where the Commission proposes to impose conditions instead of giving a direction (in which case paragraphs 7 and 8 above apply), the Commission shall serve on the society and each of its officers a notice stating its decision and, where it has decided to give a direction, the grounds for the decision.

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- (5) The Commission may not give a direction on grounds other than those stated, or grounds included in those stated, in the notice served under sub-paragraph (1) above.
- (6) Sub-paragraphs (1) to (5) above shall not apply in relation to a direction to a friendly society which is given at the request of the society or under section 40(2) or (3)(g) above; but the notice of any such direction sent to the secretary of the society shall state the grounds on which it is given.

#### Commencement Information

**I134** Sch. 13 wholly in force; Sch. 13 not in force at Royal Assent see s. 126(2); Sch. 13 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 13 in force for all remaining purposes at 13.9.1993 by S.I. 1993/2213, art. 2(1), Sch. 2

- 11 (1) On giving a direction in relation to a friendly society under section 40 or 41 above the Commission shall—
  - (a) publish notice of it in one or more of the London, Edinburgh and Belfast Gazettes, and in any such other ways as the Commission considers appropriate for notifying the public;
  - (b) send a copy of it to the secretary of the society concerned and to the central office;
  - (c) where it relates only to part of the business covered by the society's authorisation, send a copy of the terms of the authorisation, after taking account of the direction, to the secretary of the society and to the central office.
  - [<sup>F94</sup>(d) in the case of a direction given in relation to a society to which section 37(2) or (3) above applies which is or has been—
    - (i) carrying on insurance business in an EEA State other than the United Kingdom through an overseas branch in that State, or
    - (ii) providing insurance in an EEA State other than the United Kingdom through an establishment in another EEA State,notify the supervisory authority in that State, or, as the case may be, in each of those States of the direction.]
- (2) The central office—
  - (a) shall keep the copy of a direction sent to it under sub-paragraph (1)(b) above on the public file of the society;
  - (b) where a copy of the terms of the society's authorisation is sent to it under sub-paragraph (1)(c) above, shall keep the copy on the public file of the society.

#### Textual Amendments

**F94** Sch. 13 para. 11(1)(d) inserted (1.9.1994) by S.I. 1994/1984, reg. 7(3)

#### Commencement Information

**I135** Sch. 13 wholly in force; Sch. 13 not in force at Royal Assent see s. 126(2); Sch. 13 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 13 in force for all remaining purposes at 13.9.1993 by S.I. 1993/2213, art. 2(1), Sch. 2



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*Non-receipt of notice by officer*

- 12 The non-receipt by an officer of a friendly society or registered branch of a notice of a matter does not affect the validity of any action on the part of the Commission.

**Commencement Information**

**I136** Sch. 13 wholly in force; Sch. 13 not in force at Royal Assent see s. 126(2); Sch. 13 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 13 in force for all remaining purposes at 13.9.1993 by S.I. 1993/2213, art. 2(1), Sch. 2

[<sup>F95</sup> [SCHEDULE  
13A TO 1992 ACT]

SUPERVISION OF CONTROLLERS OF FRIENDLY  
SOCIETIES TO WHICH SECTION 37(2) OR (3) APPLIES]

**Textual Amendments**

**F95** Sch. 13A inserted (1.9.1994) by S.I. 1994/1984, regs 1(1), 14(2), Sch. 1.

*Approval of person proposing to become controller*

- 1 (1) No person shall become a controller of a friendly society to which section 37(2) or (3) above applies unless—
- (a) he has served on the Commission a notice stating—
    - (i) that he intends to become a controller of the society; and
    - (ii) the details of the voting rights which he proposes to acquire; and
  - (b) either the Commission has, before the expiration of the period of three months beginning with the date of service of that notice, notified him that there is no objection to his becoming a controller of the society, or that period has elapsed without the Commission having served on him a notice of objection.
- (2) The Commission may serve a notice of objection under sub-paragraph (1) above on the ground—
- (a) that it appears to the Commission that the person concerned is not a fit and proper person to become a controller of the society; or
  - (b) that it appears to it that, if that person were to acquire such voting rights, the criteria of prudent management would not or might not continue to be fulfilled in respect of the society.
- (3) Before serving such a notice the Commission shall serve on the person proposing to become a controller a preliminary notice stating—
- (a) that the Commission is considering the service on that person of a notice of objection on that ground; and



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- (b) that the person may, within the period of one month from the date of service of the preliminary notice, make written representations to the Commission and, if that person so requests, oral representations to an officer of the Commission appointed for the purpose by the Commission.
- (4) The Commission shall not be obliged to disclose to any person any particulars of the ground on which he is considering the service on him of a notice of objection.
- (5) Where representations are made in accordance with this paragraph the Commission shall take them into consideration before serving the notice of objection.

**Modifications etc. (not altering text)**

C15 Sch. 13A para. 1(1)(a) modified (1.12.2001) by S.I. 2001/2637, arts. 1, 3(2)(d); S.I. 2001/3538, art. 2(1)

*Approval of acquisition of notifiable voting rights*

- 2 (1) No person who is a controller of a friendly society to which section 37(2) or (3) above applies shall acquire notifiable voting rights in the society unless—
  - (a) he has served on the Commission a notice stating—
    - (i) that he intends to acquire such voting rights; and
    - (ii) the details of the voting rights which he proposes to acquire; and
  - (b) either the Commission has, before the expiration of the period of three months beginning with the date of service of that notice, notified him that there is no objection to his proposed acquisition of the voting rights, or that period has elapsed without the Commission having served on him a notice of objection.
- (2) The Commission may serve a notice of objection under sub-paragraph (1) above on the ground—
  - (a) that it appears to the Commission that the person concerned is not a fit and proper person to acquire such voting rights; or
  - (b) that it appears to it that, if that person were to acquire such voting rights, the criteria of prudent management would not or might not continue to be fulfilled in respect of the society.
- (3) Sub-paragraphs (3) to (5) of paragraph 1 above shall, with the necessary modifications, apply for the purposes of this paragraph as they apply for the purposes of that paragraph.

**Modifications etc. (not altering text)**

C16 Sch. 13A para. 2(1)(a) modified (1.12.2001) by S.I. 2001/2637, arts. 1, 3(2)(d); S.I. 2001/3538, art. 2(1)

*Provisions supplementing paragraphs 1 and 2*

- 3 (1) This paragraph applies where a person who proposes—

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- (a) to become a controller of a friendly society to which section 37(2) or (3) above applies; or
  - (b) to acquire notifiable voting rights in such a society,
- has served notice on the Commission under sub-paragraph (1)(a) of paragraph 1 or 2 above (“the relevant paragraph”).
- (2) The Commission may by notice require the person serving the notice to provide such additional information or documents as the Commission may reasonably require for the purpose of deciding whether to serve—
- (a) a notice of objection under the relevant paragraph; or
  - (b) a notice imposing conditions under paragraph 5 below.
- (3) Where additional information or documents are required from any person by a notice under sub-paragraph (2) above, the time between the giving of that notice and the receipt of the information or documents shall be added to the period mentioned in sub-paragraph (1)(b) of the relevant paragraph.
- (4) The notice shall be of no effect for the purposes of sub-paragraph (1) of the relevant paragraph if either the notice is withdrawn or—
- (a) in the case of a notice under paragraph 1(1)(a) above, the person by whom it was served does not become a controller of the society; or
  - (b) in the case of a notice under paragraph 2(1)(a) above, the person by whom it was served does not acquire the voting rights specified in the notice,
- before the end of the period of one year beginning with the date mentioned in sub-paragraph (5) below.
- (5) The date referred to in sub-paragraph (4) above is as follows—
- (a) in the case where the Commission has, before the end of the period mentioned in sub-paragraph (1)(b) of the relevant paragraph, given to the person serving the notice such a notification as is mentioned in that provision, the date of that notification;
  - (b) in a case where the Commission has, before the end of that period, served a notice imposing conditions on that person in accordance with paragraph 5 below, the date of the service of that notice; and
  - (c) in any other case, the date immediately following the end of that period.
- (6) The period mentioned in sub-paragraph (1)(b) of the relevant paragraph shall be deemed not to expire until fourteen days after the end of the period within which representations may be made in accordance with that paragraph.

*Notice of objection where requisite notice not given*

- 4 (1) This paragraph applies where a person—
- (a) becomes a controller of a friendly society to which section 37(2) or (3) above applies; or
  - (b) acquires notifiable voting rights in such a society,
- in contravention of sub-paragraph (1)(a) of paragraph 1 or 2 above; and references in this paragraph to the person in breach shall be construed accordingly.
- (2) The Commission—

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- (a) may serve the person in breach with a notice of objection at any time within three months after it becomes aware of the contravention; and
  - (b) for the purpose of deciding whether to serve the person in breach with such a notice or with a notice imposing conditions under paragraph 5 below, may require that person by notice to provide such information or documents as the Commission may reasonably require.
- (3) Before serving a notice of objection under sub-paragraph (2) above, the Commission shall serve on the person in breach a preliminary notice—
- (a) stating that the Commission is considering serving a notice of objection on the person in breach; and
  - (b) specifying the matters mentioned in sub-paragraph (5) below as respects which the Commission is not satisfied.
- (4) A person served with a preliminary notice under sub-paragraph (3) above may, within the period of one month from the date of service of that notice—
- (a) make written representations to the Commission; and
  - (b) if that person so requests, oral representations to an officer of the Commission appointed for that purpose by the Commission.
- (5) The Commission shall not serve a notice of objection under sub-paragraph (2) above unless it appears to the Commission—
- (a) that the person in breach is not or may not be a fit and proper person to be a controller of the society or to retain the notifiable voting rights in the society; or
  - (b) that the interests of members and potential members of the society are or may in some other manner be jeopardised by that person's ability to influence the society.
- (6) Where representations are made in accordance with this paragraph the Commission shall take them into consideration before a notice of objection.
- (7) The Commission shall not be obliged to disclose to the person in breach any particulars of the ground on which he is considering the service of a notice of objection.
- (8) The period mentioned in sub-paragraph (2)(a) above shall be deemed not to expire until fourteen days after the end of the period within which representations may be made in accordance with this paragraph.

#### *Notices imposing conditions*

- 5 (1) This paragraph applies where either—
- (a) paragraph 3 above applies and the Commission is entitled to serve a notice of objection under the relevant paragraph; or
  - (b) paragraph 4 above applies;
- and expressions in this paragraph which are also used in paragraph 3 or 4 above have the same meanings as in that paragraph.
- (2) If the Commission considers that, if certain conditions were complied with—
- (a) by the person serving the notice under sub-paragraph (1)(a) of the relevant paragraph; or

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- (b) by the person in breach,  
 the criteria of prudent management would continue to be or, as the case may be, would be fulfilled in respect of the society, it may, instead of serving a notice of objection under the relevant paragraph or paragraph 4 above, serve on that person a notice requiring those conditions to be complied with by that person (“the person concerned”).
- (3) Before serving a notice under sub-paragraph (2) above, the Commission shall serve on the person concerned a preliminary notice stating–
- (a) that the Commission is considering serving a notice under sub-paragraph (2) above;
  - (b) the conditions which would be required by such a notice to be complied with by that person;
  - (c) the criteria of prudent management which it considers would not be fulfilled in respect of the society if neither such a notice nor a notice of objection were served on that person; and
  - (d) that the person may, within the period of one month from the date of service of the preliminary notice–
    - (i) make written representations to the Commission; and
    - (ii) if that person so requests, oral representations to an officer of the Commission appointed for the purpose by the Commission.
- (4) Where representations are made in accordance with this paragraph the Commission shall take them into consideration before serving a notice under sub-paragraph (2) above.
- (5) The Commission shall not be obliged to disclose to the person concerned any particulars of the ground on which it is considering service on that person of a notice under sub-paragraph (2) above or a notice of objection under the relevant paragraph or, as the case may be, paragraph 4 above.

#### *Objection to existing controller*

- 6 (1) Where it appears to the Commission, as respects a friendly society to which section 37(2) or (3) above applies, that the criteria of prudent management are not or may not be fulfilled in respect of the society by reason of the ability of a person who is a controller of the society to influence the society, it may serve on that person a notice of objection to that person continuing to be a controller of the society.
- (2) Before serving a notice of objection under this paragraph, the Commission shall serve on the person concerned a preliminary notice stating that the Commission is considering serving a notice of objection under this paragraph.
- (3) A notice under sub-paragraph (2) above shall–
- (a) give particulars of the rights conferred by sub-paragraph (4) below; and
  - (b) specify the criteria of prudent management which are not or may not be fulfilled in respect of the society.
- (4) A person served with a notice under sub-paragraph (2) above may, within the period of one month beginning with the day on which the notice is served–
- (a) make written representations to the Commission; and

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- (b) if that person so requests, oral representations to an officer of the Commission appointed for the purpose by the Commission.
- (5) Where representations are made in accordance with this paragraph, the Commission shall take them into account in deciding whether to serve a notice of objection.
- (6) The Commission shall not be obliged to disclose to the person concerned or to the society any particulars of the ground on which it is considering the service of a notice of objection.

*Restrictions etc. as respects voting rights*

- 7 (1) This paragraph applies where a person—
- (a) has contravened paragraph 1 or 2 above by becoming a controller of a friendly society to which section 37(2) or (3) above applies, or by acquiring notifiable voting rights in such a society;
  - (b) having become such a controller or acquired such voting rights in contravention of paragraph 1 or 2 above, continues to be such a controller or to retain those voting rights after being served with a notice of objection under paragraph 4 above;
  - (c) having been served with a notice imposing conditions under paragraph 5 above, has failed to comply with any of the conditions specified in that notice; or
  - (d) having been served with a notice of objection under paragraph 6 above to his continuing to be such a controller, continues to be such a controller;
- and references in this paragraph to the person in breach shall be construed accordingly.
- (2) The Commission may by notice served on the person in breach direct that—
- (a) no voting rights shall be exercisable by that person;
  - (b) that any vote cast by that person shall be ineffective;
  - (c) that any resolution adopted, in relation to which that person voted, shall be ineffective and treated as void;
  - (d) any appointment of that person as a delegate shall be void;
  - (e) that person may be disqualified from membership of the society.
- (3) A copy of the notice served on the person in breach under sub-paragraph (2) above shall be served on the society to whose voting rights it relates.

*Notification of changes of controller*

- 8 (1) A person who becomes or ceases to be—
- (a) a controller of a friendly society to which section 37(2) or (3) above applies; or
  - (b) a 10 per cent. controller, a 20 per cent. controller, a 33 per cent. controller, a 50 per cent. controller or a majority controller of such a society,
- shall, before the expiration of the period of seven days beginning with the day next following that on which he does so, notify the society of that fact.

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- (2) If, after ceasing to be a controller of any description mentioned in sub-paragraph (1) above, a person will still be a controller of the society, his notice under that sub-paragraph shall state the percentage of the voting power which he will (alone or with any associate or associates) hold or be entitled to exercise or control.
- (3) A friendly society to which section 37(2) or (3) above applies shall give notice to the central office of the fact that any person has become or ceased to be—
- (a) a controller of the society; or
  - (b) a controller of the society of any description mentioned in sub-paragraph (1) above;
- and that notice shall be given before the expiration of the period of one month beginning with the day next following that on which that fact comes to the society's knowledge.
- (4) Any notice under this paragraph shall state—
- (a) the person's full name and address;
  - (b) the date on which he became, or ceased to be, a controller of the society, or a controller of the society of any description mentioned in sub-paragraph (1) above; and
  - (c) in the case of a person becoming such a controller, the date of his birth.
- (5) Any person who fails to comply with sub-paragraph (1) or (3) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (6) On receipt of a notice under this paragraph, the central office shall record the name of the person to whom the notice relates and the date on which he became or, as the case may be, ceased to be a controller of any description, in the public file of the society.

[<sup>F96</sup> [SCHEDULE  
13B TO 1992 ACT]

RECOGNITION IN OTHER EEA STATES OF FRIENDLY  
SOCIETIES TO WHICH SECTION 37(2) OR (3) APPLIES]

**Textual Amendments**

**F96** Sch. 13B inserted (1.9.1994) by S.I. 1994/1984 reg. 15(2), Sch. 2

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## PART I

### FRIENDLY SOCIETIES CARRYING ON BUSINESS ETC, IN OTHER MEMBER STATES

#### *Requirements for carrying on insurance business*

- 1 (1) A friendly society to which section 37(2) or (3) above applies shall not carry on direct insurance business of a class or part of a class through an overseas branch in a member State other than the United Kingdom unless—
- (a) the society is authorised under section 32 above to carry on insurance business of that class or part of a class; and
  - (b) the requirements of this paragraph have been complied with in relation to that branch.
- (2) The requirements of this paragraph are—
- (a) that the society has given to the Commission a notice containing both the requisite EC details and the requisite UK details;
  - (b) that the Commission has given to the supervisory authority in the member State in which the overseas branch is to be established (“the member State of the branch”)—
    - (i) a notice which contains the requisite EC details; and
    - (ii) a certificate in accordance with sub-paragraph (3) below; and
  - (c) that either—
    - (i) that authority has informed the Commission of the conditions which, in the interest of the general good, must be complied with by the society in carrying on insurance business through the branch; or
    - (ii) the period of two months beginning with the day on which the Commission gave that authority the certificate mentioned in paragraph (b) above has elapsed.
- (3) A certificate is in accordance with this sub-paragraph if it—
- (a) attests that the society has the minimum margin of solvency calculated in accordance with such of the following as are appropriate—
    - (i) Articles 16 and 17 of the first general insurance Directive, and
    - (ii) Articles 19 and 20 of the first life Directive; and
  - (b) indicates the classes of insurance business which the society is authorised to carry on in the United Kingdom.
- (4) The Commission shall, within the period of three months beginning with the date on which the society’s notice was received—
- (a) give the notice and certificate referred to in sub-paragraph (2)(b) above; or
  - (b) refuse to give either or both of those documents.
- (5) The Commission shall, within the period of three months referred to in sub-paragraph (4) above, notify the society—
- (a) that it has given the notice and certificate referred to in sub-paragraph (2)(b) above, stating the date on which it did so; or
  - (b) that it has refused to give either or both those documents, stating the reasons for the refusal.

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- (6) The Commission shall not refuse to give the notice referred to in sub-paragraph (2) (b) above unless, having regard to the business to be carried on through the overseas branch, it appears to it that the criteria of prudent management would not or might not continue to be fulfilled in respect of the society.
  - (7) Where the supervisory authority in the member State of the branch has informed the Commission as mentioned in paragraph (2)(c)(i) above, the Commission shall forward the information to the society.
- 2
- (1) A friendly society to which section 37(2) or (3) above applies shall not change the requisite EC details of an overseas branch—
    - (a) which has been established by it in a member State other than the United Kingdom (“the member State of the branch”); and
    - (b) through which it carries on direct insurance business,
 unless the requirements of this paragraph have been complied with in relation to its making of the change.
  - (2) Subject to sub-paragraph (3) below, the requirements of this paragraph are—
    - (a) that the society has given a notice to the Commission, and to the supervisory authority in the member State of the branch, stating the details of the proposed change not less than one month before the change is to take place;
    - (b) that the Commission has sent to that authority a notice in accordance with sub-paragraph (4)(a) below; and
    - (c) that either—
      - (i) that authority has informed the society of any consequential changes in the conditions which, in the interest of the general good, must be complied with by the society in carrying on insurance business through the branch; or
      - (ii) the period of two months beginning with the day on which the society gave that authority the notice of the proposed change in accordance with paragraph (a) above has elapsed.
  - (3) In the case of a change occasioned by circumstances beyond the society’s control, the requirements of this paragraph are that the society shall as soon as practicable (whether before or after the change) give a notice to the Commission, and to the supervisory authority in the member State of the branch, stating the details of the change.
  - (4) The Commission shall, as soon as practicable after receiving a notice under sub-paragraph (2)(a) above—
    - (a) give notice to the the supervisory authority in the member State of the branch informing it of the proposed change; or
    - (b) refuse to give such notice.
  - (5) The Commission shall, as soon as practicable after making a decision under sub-paragraph (4) above, notify the society—
    - (a) that it has given the notice referred to in that sub-paragraph, stating the date on which it did so; or
    - (b) that it refused to give the notice, stating the reasons for that refusal.



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- (6) The Commission shall not refuse to give the notice referred to in sub-paragraph (4) (a) above unless, having regard to the proposed change, it appears to it that the criteria of prudent management would not or might not continue to be fulfilled in respect of the society.
- 3 (1) A friendly society to which section 37(2) or (3) above applies shall not change the requisite UK details of an overseas branch—
- (a) which has been established by it in a member State other than the United Kingdom; and
  - (b) through which it carries on direct insurance business,
- unless the requirements of this paragraph have been complied with in relation to its making of the change.
- (2) Subject to sub-paragraph (3) below, the requirements of this paragraph are that the society has given a notice to the Commission stating the details of the proposed change not less than one month before the change is to take place.
- (3) In the case of a change occasioned by circumstances beyond the society's control, the requirements of this paragraph are that the society shall as soon as practicable (whether before or after the change) give a notice to the Commission stating the details of the change.

*Requisite details for purposes of paragraphs 1 to 3*

- 4 (1) The requisite EC details for the purposes of paragraphs 1 and 2 above are—
- (a) the member State in which the overseas branch is to be or has been established ("the member State of the branch");
  - (b) the address of the branch and confirmation that that address is an address for service on the society's authorised agent;
  - (c) the name of the society's authorised agent;
  - (d) the classes and parts of classes of insurance business to be carried on, and the nature of the risks or commitments to be covered, in the member State of the branch;
  - (e) details of the structural organisation of the branch;
  - (f) the guiding principles as to reinsurance of business to be carried on in the member State of the branch, including the society's maximum retention per risk or event after all reinsurance ceded;
  - (g) estimates of the following, namely—
    - (i) the costs of installing administrative services and the organisation for securing business in the member State of the branch; and
    - (ii) the resources available to cover those costs;
  - (h) for each of the first three financial years following the establishment of the branch—
    - (i) estimates of the society's margin of solvency and the margin of solvency required, and a statement showing how both have been calculated;

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- (ii) in the case of a society which intends to carry on long term business, the details mentioned in sub-paragraph (2) below as respects the business to be carried on in the member State of the branch; and
  - (iii) in the case of a society which intends to carry on general business, the details mentioned in sub-paragraph (3) below as respect the business to be so carried on; and
  - (i) in the case of a society which intends to cover health insurance risks, the technical bases which will be used for calculating premiums in respect of such risks.
- (2) The details referred to in sub-paragraph (1)(h)(ii) above are–
- (a) a statement showing, on both optimistic and pessimistic bases, for each type of contract or treaty–
    - (i) the number of contracts or treaties expected to be issued;
    - (ii) the total premium income, both gross and net of reinsurance ceded;
    - (iii) the total sums assured or the total amounts payable each year by way of annuity;
  - (b) a statement setting out, on both optimistic and pessimistic bases, detailed estimates of income and expenditure in respect of direct business, reinsurance acceptances and reinsurance cessions; and
  - (c) estimates relating to the financial resources intended to cover underwriting liabilities.
- (3) The details referred to in sub-paragraph (1)(h)(iii) above are–
- (a) estimates relating to expenses of management (other than costs of installation), and in particular those relating to current general expenses and commissions;
  - (b) estimates relating to premiums or contributions (both gross and net of all reinsurance ceded) and to claims (after all reinsurance recoveries); and
  - (c) estimates relating to the financial resources intended to cover underwriting liabilities.
- (4) The requisite UK details for the purposes of paragraphs 1 and 3 above are–
- (a) the names of the society’s managers and main agents in the member State of the branch;
  - (b) particulars of any association which exists or is proposed to exist between–
    - (i) the committee of management and the controllers (if any) of the society; and
    - (ii) any person who will act as an insurance broker, agent, loss adjuster or reinsurer for the society in the member State of the branch;
  - (c) the names of the principal reinsurers of business to be carried on in the member State of the branch;
  - (d) the sources of business in the member State of the branch (for example, insurance brokers, agents, own employees or direct selling) with the approximate percentage expected from each of those sources;
  - (e) copies or drafts of the following, namely–
    - (i) any separate reinsurance treaties covering business to be written in the member State of the branch;

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- (ii) any standard agreements which the society will enter into with persons who will be sources of business in the member State of the branch;
  - (iii) any agreements which the society will enter into with persons (other than employees of the society) who will manage the business to be carried on in the member State of the branch;
  - (f) in the case of a society which intends to carry on long term business–
    - (i) the technical bases which the appointed actuary proposes to use for each class of business to be carried on in the member State of the branch, including the bases needed for calculating premium rates and mathematical reserves;
    - (ii) a statement by that actuary as to whether he considers that the premium rates that will be used in the member State of the branch are suitable;
    - (iii) a statement by that actuary as to whether he agrees with the information provided under sub-paragraphs (1)(f) and (2)(b) and (c) above; and
    - (iv) the technical bases used to calculate the statements and estimates referred to in sub-paragraph (2) above; and
  - (g) in the case of a society which intends to carry on general business, copies or drafts of any agreements which the society will have with main agents in the member State of the branch.
- (5) In this paragraph “authorised agent” means an agent or employee of the society who has authority–
- (a) to bind the society in its relations with third parties; and
  - (b) to represent the society in its relations with supervisory authorities and courts in the member State of the branch.

#### *Requirements for providing insurance*

- 5 (1) A friendly society to which section 37(2) or (3) above applies shall not provide insurance of any class or part of a class in a member State other than the United Kingdom unless–
- (a) the society is authorised under section 32 above to carry on insurance of that class or part of a class; and
  - (b) the requirements of this paragraph have been complied with in relation to the provision of the insurance in that member State.
- (2) The requirements of this paragraph are–
- (a) that the society has given to the Commission a notice containing the requisite details; and
  - (b) that the Commission has given to the supervisory authority in the member State in which the insurance is to be provided–
    - (i) a notice which contains the requisite details; and
    - (ii) a certificate in accordance with sub-paragraph (3) below.
- (3) A certificate is in accordance with this sub-paragraph if it–

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- (a) attests that the society has the minimum margin of solvency calculated in accordance with such of the following as are appropriate—
    - (i) Articles 16 and 17 of the first general insurance Directive, and
    - (ii) Articles 19 and 20 of the first life Directive; and
  - (b) indicates the classes of insurance business which the society is authorised to carry on in the United Kingdom.
- (4) Where the society intends to provide insurance in more than one member State, the requisite details may be contained in a single notification but must be set out separately in relation to each member State.
- (5) The Commission shall, within the period of one month beginning with the date on which the society's notice was received—
- (a) give the notice and certificate referred to in sub-paragraph (2)(b) above to the supervisory authority in the member State in which the society intends to provide insurance; or
  - (b) refuse to give either or both of those documents.
- (6) The Commission shall, within the period of one month referred to in sub-paragraph (5) above, notify the society—
- (a) that it has given the notice and certificate referred to in sub-paragraph (2)(b) above to the supervisory authority in the member State in which the society intends to provide insurance, stating the date on which it did so; or
  - (b) that it has refused to give either or both of those documents, stating the reasons for the refusal.
- (7) The Commission shall not refuse to give the notice referred to in sub-paragraph (2)(b) above unless, having regard to the insurance to be provided in the member State, it appears to it that the criteria of prudent management would not or might not continue to be fulfilled in respect of the society.
- 6 (1) A friendly society to which section 37(2) or (3) above applies shall not change the requisite details of the provision of insurance in a member State other than the United Kingdom unless the requirements of this paragraph have been complied with in relation to its making of the change.
- (2) The requirements of this paragraph are—
- (a) that the society has given a notice to the Commission stating the details of the proposed change;
  - (b) that the Commission has sent to the supervisory authority in the member State in which the insurance is provided a notice in accordance with sub-paragraph (4)(a) below.
- (3) In the case of a change occasioned by circumstances beyond the society's control, the requirements of this paragraph are that the society shall as soon as practicable give a notice to the Commission stating the details of the change.
- (4) The Commission shall, as soon as practicable after receiving a notice under sub-paragraph (2)(a) above either—
- (a) give notice to the supervisory authority in the member State in which the insurance is provided informing it of the proposed change; or
  - (b) refuse to give such notice.

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- (5) The Commission shall, as soon as practicable after making a decision under sub-paragraph (4) above, notify the society—
- (a) that it has given the notice referred to in that sub-paragraph, stating the date on which it did so; or
  - (b) that it has refused to give the notice, stating the reasons for the refusal.
- (6) The Commission shall not refuse to give the notice referred to in sub-paragraph (4) (a) above unless, having regard to the proposed change, it appears to it that the criteria of prudent management would not or might not continue to be fulfilled in respect of the society.

*Requisite details for purposes of paragraphs 5 and 6*

- 7 The requisite details for the purposes of paragraphs 5 and 6 above are—
- (a) the member State in which the insurance is to be provided;
  - (b) the nature of the risks or commitments which the society proposes to cover in that State; and
  - (c) in the case of a society which intends to cover health insurance risks, the technical bases which will be used for calculating premiums in respect of such risks.

*Requirement to notify cessation of business etc.*

- 8 A friendly society to which section 37(2) or (3) above applies which has ceased—
- (a) to carry on insurance business through an overseas branch in a member State other than the United Kingdom; or
  - (b) to provide insurance in such a member State,
- shall as soon as practicable notify the Commission in writing that it has done so.

## PART II

### FRIENDLY SOCIETIES PROVIDING INSURANCE IN EFTA STATES

*Notification to Commission*

- 9 (1) Where a friendly society to which section 37(2) or (3) above applies intends to provide insurance in an EFTA State, it shall before doing so notify the Commission of its intention.
- (2) The notification shall indicate—
- (a) the EFTA State in which the insurance is to be provided;
  - (b) the EEA State in which the establishment through which the risks or commitments will be covered is situated (“the EEA State of establishment”); and
  - (c) the nature of the risks or commitments which the society proposes to cover.

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- (3) Where the society intends to provide insurance in more than one EFTA State, the information specified above may be contained in a single notification but must be set out separately in relation to each such State.
- (4) Where—
- (a) a friendly society to which section 37(2) or (3) above applies has duly notified the Commission of its intention to provide insurance in an EFTA State; and
  - (b) the society subsequently intends to extend its activities to risks or commitments the nature of which was not indicated in the notification,
- it shall before doing so comply with sub-paragraphs (1) to (3) above in relation to those risks or commitments.

#### *Issue of certificates by Commission*

- 10 (1) A friendly society to which section 37(2) or (3) above applies which intends to provide insurance in an EFTA State may apply to the Commission for a certificate—
- (a) attesting that the society possesses for its activities as a whole the minimum solvency margin calculated in accordance with the relevant provisions;
  - (b) indicating the classes of business which the society is authorised to carry on in the United Kingdom;
  - (c) stating that the Commission does not object to the society providing the insurance; and
  - (d) attesting that the society's authorisation to carry on business in the United Kingdom, issued in accordance with Article 7(1) of the relevant Directive, enables the society to carry on business outside the EEA State of establishment.
- (2) If it appears to the Commission that a certificate applied for under sub-paragraph (1) above ought to be issued, it shall issue the certificate accordingly.
- (3) If the Commission refuses to issue a certificate, it shall inform the society in writing of its decision and of the reasons for it.
- (4) In sub-paragraph (1) above "the relevant Directive" and "the relevant provisions" means respectively—
- (a) if the society intends to cover risks, the first general insurance Directive and Articles 16 and 17 of that Directive;
  - (b) if the society intends to cover commitments, the first life Directive and Articles 19 and 20 of that Directive.

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### PART III

#### FRIENDLY SOCIETIES PROVIDING INSURANCE IN THE UNITED KINGDOM THROUGH OVERSEAS BRANCHES IN OTHER EEA STATES

- 11 (1) Where a friendly society to which section 37(2) or (3) above applies intends to provide insurance in the United Kingdom, it shall before doing so notify the Commission of its intention.
- (2) The notification shall indicate—
- (a) the EEA State in which is situated the overseas branch through which the society intends to provide insurance in the United Kingdom; and
  - (b) the nature of the risks or commitments which the society proposes to cover in the United Kingdom.
- (3) Where the EEA State in which is situated the overseas branch through which the society intends to provide insurance in the United Kingdom is an EFTA State, the notification shall be accompanied by a certificate, issued by the supervisory authority in that State, which—
- (a) indicates the classes of insurance business which the society has been authorised to undertake through that branch;
  - (b) states that the authority does not object to the society providing insurance in the United Kingdom; and
  - (c) where the society intends to provide long term insurance in the United Kingdom, confirms that all the commitments which the society intends to cover fall within the classes of insurance business which the society has been authorised to undertake through that branch.
- (4) The society shall notify the Commission in writing if—
- (a) it changes either of the details notified to the Commission under subparagraph (2) above; or
  - (b) it ceases to provide insurance in the United Kingdom.

### PART IV

#### SUPPLEMENTAL

##### *Offences*

- 12 (1) A friendly society to which section 37(2) or (3) above applies commits an offence if—
- (a) it carries on insurance business in a member State other than the United Kingdom in contravention of paragraph 1 above;
  - (b) in contravention of paragraph 2 or 3 above, it changes the requisite EC details or, as the case may be, the requisite UK details of an overseas branch established by it in such a member State;
  - (c) it provides insurance in such a member State in contravention of paragraph 5 above;

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- (d) in contravention of paragraph 6 above, it changes the requisite details relating to the provision of insurance in such a member State; or
  - (e) it makes default in complying with, or with a requirement imposed under, any other provision of this Schedule.
- (2) A person commits an offence if he causes or permits to be included in a notification sent to the Commission under paragraph 1, 2, 3, 5 or 6 above a statement which he knows to be false in a material particular or recklessly causes or permits to be so included a statement which is false in a material particular.
- (3) A person committing an offence under this paragraph shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

### *Interpretation*

- 13 (1) In this Schedule—
- (a) references in Part I to the provision of insurance in a member State other than the United Kingdom are references to the covering (otherwise than by way of reinsurance) of a risk or commitment situated in that member State through an establishment in another member State;
  - (b) references in Part II to the provision of insurance in an EFTA State are references to the covering (otherwise than by way of reinsurance) of a risk or commitment situated in that EFTA State through an establishment in another EEA State;
  - (c) references in Part III to the provision of insurance in the United Kingdom are references to the covering (otherwise than by way of reinsurance) of a risk or commitment situated in the United Kingdom—
    - (i) through an establishment in another member State; or
    - (ii) through an establishment in an EFTA State.
- (2) In sub-paragraph (1)(b) and (c)(ii) above—
- (a) references to a risk are references to a risk falling within head B of Schedule 2 to this Act (general business), other than class 1, so far as it relates to accidents at work; and
  - (b) references to a commitment are references to a commitment falling within head A of Schedule 2 to this Act (long term business), other than class VII.
- (3) In this Schedule “health insurance risks”, in relation to a member State, means risks falling within class 2 of Schedule 2 to this Act (sickness) where—
- (a) insurance contracts covering those risks serve as a partial or complete alternative to the health cover provided by the statutory social security system in that State; and
  - (b) the law of that State requires such contracts to be operated on a technical basis similar to life assurance in accordance with all the conditions listed in the first sub-paragraph of Article 54(2) of the third general insurance Directive.



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[<sup>F97</sup> [SCHEDULE  
13C TO 1992 ACT]

INFORMATION FOR MEMBERS OF FRIENDLY  
SOCIETIES TO WHICH SECTION 37(2) OR (3) APPLIES]

**Textual Amendments**

**F97** Sch. 13C inserted (1.9.1994) by S.I. 1994/1984, reg. 21(2), Sch. 3

*Information before contract of long term insurance*

- 1 (1) Subject to sub-paragraph (2) below, this paragraph applies to a contract entered into by a friendly society to which section 37(2) above applies the effecting of which constitutes—
- (a) the carrying on in the United Kingdom of long term business which is not reinsurance business; or
  - (b) the provision there of long term insurance.
- (2) This paragraph does not apply to a contract entered into by an authorised person the effecting of which constitutes the carrying on in the United Kingdom of investment business; and in this sub-paragraph expressions which are also used in the Financial Services Act 1986 <sup>M90</sup> have the same meanings as in that Act.
- (3) Before entering into a contract to which this paragraph applies, the society shall furnish the other party to the contract in writing with the information required by sub-paragraph (4) below.
- (4) The information required by this sub-paragraph is—
- (a) the name and legal form of the society;
  - (b) a statement that the society's registered office is the United Kingdom and, where appropriate, the [<sup>F98</sup>EEA State] in which is situated the overseas branch through which the contract is to be entered into;
  - (c) the address of the society's registered office and, where appropriate, the address of the overseas branch through which the contract is to be entered into;
  - (d) a definition of each benefit and option;
  - (e) the term of the contract and the means by which it may be terminated;
  - (f) the method of paying premiums and the duration of the payments;
  - (g) the method of calculating bonuses and the distribution of bonuses;
  - (h) an indication of surrender and paid-up values and the extent to which such values are guaranteed;
  - (i) an indication of the premiums for each benefit, whether a main or supplementary benefit;
  - (j) in the case of a contract for a unit-linked policy, a definition of the units to which benefits are linked and an indication of the nature of the underlying assets;
  - (k) information as to the following, namely—

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- (i) the arrangements with respect to the period within which the other party may cancel the contract;
  - (ii) the tax arrangements applicable to the contract or any policy to be effected by it;
  - (iii) the arrangements for handling any complaints concerning the contract, whether by the other party or any other person who is a life assured or beneficiary; and
  - (iv) any compensation or guarantee arrangements which will be available if the society is unable to meet its liabilities under the contract; and
  - (m) whether the parties to the contract are entitled to choose the law applicable to the contract and–
    - (i) if so, the law which the society proposes to choose; and
    - (ii) if not, the law which will be so applicable.
- (5) Any information required by sub-paragraph (4) above shall be furnished in English except that, where the other party to the contract so requests, it may instead be furnished in an official language of [<sup>F98</sup>an EEA State] other than the United Kingdom.

#### Textual Amendments

**F98** Words in [Sch. 13c](#) substituted (1.1.1998) by [S.I. 1997/2849](#), [art. 3](#)

#### Marginal Citations

**M90** [1986 c. 60](#)

### *Information during contract of long term insurance*

- 2 (1) This paragraph applies where a friendly society to which section 37(2) above applies has, on or after 1st September 1994, entered into a contract the effecting of which constitutes–
- (a) the carrying on in the United Kingdom of long term business which is not reinsurance business; or
  - (b) the provision there of long term insurance.
- (2) If during the term of the contract there is any change in the information required by paragraphs (a) to (j) of paragraph 1(4) above, the society shall inform the other party to the contract in writing of the effect of the change.
- (3) If the contract provides for the payment of bonuses, the society shall, at least once in every calendar year except the first, inform the other party to the contract in writing of the amount of any bonus–
- (a) which has become payable under the contract, and
  - (b) of which that party has not been previously informed under this sub-paragraph.
- (4) There is a sufficient compliance with sub-paragraph (3) above if the society furnishes the other party to the contract with such information as will enable him to determine the amount of any such bonus as is mentioned in that sub-paragraph, or if the society informs that party of–

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- (a) the rates of bonus which have been declared since that party was previously informed under this sub-paragraph; and
  - (b) the total value of the benefits (including bonuses) which have accrued under the contract.
- (5) In this paragraph “bonus” does not include a bonus the amount of which is specified in the contract.

*Information before contract of general insurance*

- 3 (1) This paragraph applies to a contract entered into by a friendly society to which section 37(3) above applies if–
- (a) the effecting of the contract constitutes–
    - (i) the carrying on in the United Kingdom of general business which is not reinsurance business; or
    - (ii) the provision there of general insurance; and
  - (b) the risk which is covered by the contract is situated in the United Kingdom.
- (2) Before entering into a contract to which this paragraph applies, the society shall, if the other party to the contract is an individual, inform that party in writing–
- (a) of any arrangements which exist for handling complaints concerning the contract including, where appropriate, the name and address of any body which deals with complaints from any party to the contract;
  - (b) that the existence of a complaints body does not affect any right of action which any party to the contract may have against the society; and,
  - (c) as to whether the parties to the contract are entitled to choose the law applicable to the contract and–
    - (i) if so, of the law which the society proposes to choose; and
    - (ii) if not, of the law which will be so applicable.
- (3) If the information required by sub-paragraph (2) above is furnished otherwise than in writing before the time when the contract is entered into, there is a sufficient compliance with that sub-paragraph if it is also furnished in writing as soon as practicable after that time.
- 4 (1) This paragraph applies to a contract entered into by a friendly society to which section 37(3) above applies if the effecting of the contract constitutes the provision in the United Kingdom of general insurance.
- (2) Before entering into a contract to which this paragraph applies, the society shall inform the other party to the contract in writing of the member State in which is situated the establishment which will cover the risks; and any document issued to that party by the society shall also contain that information.
- (3) If the information required by sub-paragraph (2) above is furnished otherwise than in writing before the time when the contract is entered into, there is a sufficient compliance with that sub-paragraph if it is also furnished in writing as soon as practicable after that time.

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- (4) Any relevant document issued by the society in relation to a contract to which this paragraph applies shall state the address of the establishment through which the risk is to be covered.
- (5) In this paragraph “relevant document”, in relation to a contract to which this section applies, means any proposal, policy, rules or other document which, or statements contained in which, will or may bind the other party to the contract.

### *Supplemental*

- 5 A friendly society which fails to comply with any provision of this Schedule shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

## SCHEDULE 14

Section 72.

### AUDITORS: APPOINTMENT, TENURE, QUALIFICATIONS AND REMUNERATION

#### *Appointment*

- 1 (1) The first auditors of a friendly society or registered branch may be appointed by the committee of management of the society or branch at any time before the first general meeting of the society or branch following the end of its initial financial year; and auditors so appointed shall hold office until the conclusion of that meeting.
- (2) If the committee of management fails to exercise its powers under sub-paragraph (1) above, those powers may be exercised by the society or branch in general meeting.

#### **Commencement Information**

**I137** [Sch. 14 para. 1](#) wholly in force; [Sch. 14 para. 1](#) not in force at Royal Assent see s. 126(2); [Sch. 14 para. 1](#) in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, [Sch. 1](#); [Sch. 14 para. 1](#) in force to the extent not already in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), [Sch. 5](#)

- 2 The committee of management, or the society or branch in general meeting, may fill any casual vacancy in the office of auditor; but while any such vacancy continues, the surviving or continuing auditor or auditors (if any) may act.

#### **Commencement Information**

**I138** [Sch. 14 para. 2](#) wholly in force; [Sch. 14 para. 2](#) not in force at Royal Assent see s. 126(2); [Sch. 14 para. 2](#) in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, [Sch. 1](#); [Sch. 14 para. 2](#) in force to the extent not already in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), [Sch. 5](#)

- 3 (1) If at any annual general meeting of a friendly society or registered branch no auditors are appointed or re-appointed, the Commission may appoint a person to fill the

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vacancy; and the society or branch shall, within one week of the power of the Commission becoming exercisable, give it notice of that fact.

- (2) If a society or branch fails to give the notice required by sub-paragraph (1) above, the society or branch shall be guilty of an offence and liable on summary conviction—
- (a) to a fine not exceeding level 3 on the standard scale; and
  - (b) in the case of a continuing offence to an additional fine not exceeding one-tenth of that level for every day during which the offence continues.

#### Commencement Information

**I139** Sch. 14 para. 3 wholly in force; Sch. 14 para. 3 not in force at Royal Assent see s. 126(2); Sch. 14 para. 3 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 14 para. 3 in force to the extent not already in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

#### *Eligibility for appointment*

- 4 (1) Subject to paragraph 7 below, a person is eligible for appointment as the auditor of a friendly society or registered branch only if he—
- (a) is a member of a recognised supervisory body; and
  - (b) is not ineligible for the appointment under the rules of that body.
- (2) An individual or a firm may be appointed as auditor of a friendly society or registered branch.
- (3) In this Schedule—
- “firm” means a body corporate or a partnership; and
- “recognised supervisory body” means a body which is a recognised supervisory body for the purposes of Part II of the <sup>M91</sup>Companies Act 1989 or Part III of the <sup>M92</sup>Companies (Northern Ireland) Order 1990.

#### Commencement Information

**I140** Sch. 14 para. 4 wholly in force; Sch. 14 para. 4 not in force at Royal Assent see s. 126(2); Sch. 14 para. 4 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 14 para. 4 in force to the extent not already in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

#### Marginal Citations

**M91** 1989 c. 40.

**M92** S.I. 1990/593 (N.I.5).

- 5 (1) A person is ineligible for appointment as an auditor of a friendly society or a registered branch of the society under this Schedule if he is—
- (a) an officer or employee of the friendly society or any registered branch of the society;
  - (b) a partner or employee of such a person or a partnership of which such a person is a partner,
- or, in the case of an incorporated friendly society, if he is ineligible by virtue of section 27(1)(a) or (b) of the <sup>M93</sup>Companies Act 1989 or Article 20(1) of the

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<sup>M94</sup> Companies (Northern Ireland) Order 1990 for appointment as company auditor of a subsidiary of the society or of a body jointly controlled by the society and some other person.

- (2) For this purpose an auditor of a friendly society or branch shall not be regarded as an officer or employee of the society or branch.
- (3) A person is also ineligible for appointment as auditor of a friendly society or branch if there exists between him or any associate of his and the society or branch or, if it is an incorporated friendly society, any of its subsidiaries, a connection of any such description as may be specified by regulations made by the Commission.
- (4) In this paragraph “associate” has the meaning given by section 52 of the Companies Act 1989 or Article 54 of the Companies (Northern Ireland) Order 1990.

#### Commencement Information

**I141** Sch. 14 para. 5 wholly in force; Sch. 14 para. 5 not in force at Royal Assent see s. 126(2); Sch. 14 para. 5 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 14 para. 5 in force to the extent not already in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

#### Marginal Citations

**M93** 1989 c.40.

**M94** S.I.1990/593 (N.I.5).

#### *Appointment of partnerships*

- 6 (1) The following provisions apply to the appointment as auditor under this Schedule of a partnership constituted under the law of England and Wales or Northern Ireland, or under the law of any other country or territory in which a partnership is not a legal person.
  - (2) The appointment is (unless a contrary intention appears) an appointment of the partnership as such and not of the partners.
  - (3) Where the partnership ceases, the appointment shall be treated as extending to—
    - (a) any partnership which succeeds to the practice of that partnership and is eligible for the appointment; and
    - (b) any person who succeeds to that practice having previously carried it on in partnership and is eligible for the appointment.
  - (4) For this purpose a partnership shall be regarded as succeeding to the practice of another partnership only if the members of the successor partnership are substantially the same as those of the former partnership; and a partnership or other person shall be regarded as succeeding to the practice of a partnership only if it or he succeeds to the whole or substantially the whole of the business of the former partnership.
  - (5) Where the partnership ceases and no person succeeds to the appointment under sub-paragraph (3) above, the appointment may with the consent of the recognised supervisory body be treated as extending to a partnership or other person eligible for the appointment who succeeds to the business of the former partnership or to such part of it as is agreed by the body shall be treated as comprising the appointment.

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### Commencement Information

**1142** Sch. 14 para. 6 wholly in force; Sch. 14 para. 6 not in force at Royal Assent see s. 126(2); Sch. 14 para. 6 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 14 para. 6 in force to the extent not already in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

### *Cases in which auditor need not be a member of a recognised supervisory body*

- 7 (1) A person who is not a member of a recognised supervisory body may be an auditor of a registered friendly society if—
- its receipts and payments in respect of the preceding financial year did not, in the aggregate, exceed £5,000; and
  - the number of its members at the end of that year did not exceed 500; and
  - the value of its assets at the end of that year did not, in the aggregate, exceed £5,000; and
  - it is not a collecting society.
- (2) A person who is not a member of a recognised supervisory body may be an auditor of a registered branch if—
- the conditions mentioned in sub-paragraph (1)(a), (b) and (c) above are satisfied; and
  - it is not a branch of a collecting society.
- (3) A person who is not a member of a recognised supervisory body may also be an auditor of a registered branch if—
- the conditions mentioned in sub-paragraph (1)(a) and (b) and sub-paragraph (2)(b) above are satisfied; and
  - at the end of the preceding financial year at least 75 per cent of its assets had been transferred to the society of which it is a branch or to another registered branch of that society for the purpose of being invested, in accordance with the 1974 Act, by that society or other branch, and the value of its assets not so transferred did not, in the aggregate, exceed £5,000; and
  - an auditor of the society or branch to which the assets were transferred must be a member of a recognised supervisory body.
- (4) Regulations made by the Commission, with the consent of the Treasury, may—
- substitute for any sum or number for the time being specified in sub-paragraph (1) above, or for any sum or percentage for the time being specified in sub-paragraph (3) above, such sum, number or percentage as may be specified in the regulations; and
  - prescribe what receipts and payments of a body shall be taken into account for the purposes of those sub-paragraphs.
- (5) A registered friendly society or registered branch which, by virtue of this paragraph, may appoint a person who is not a member of a recognised supervisory body as an auditor in respect of any financial year is in this Schedule referred to as an exempt society or, as the case may be, an exempt branch, in respect of that financial year.



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- (6) Subject to any direction given by the Commission under sub-paragraph (7) below, a society or branch which in respect of any financial year is an exempt society or, as the case may be, an exempt branch shall in respect of that year appoint—
- (a) one or more qualified auditors; or
  - (b) two or more persons who are not qualified auditors,
- to audit its annual accounts for that year.
- (7) The Commission may give a direction in the case of any particular society or branch which is an exempt society or branch in respect of any financial year that sub-paragraph (4) above shall apply to it in respect of that year as if it were not an exempt society or branch.

#### Commencement Information

**I143** Sch. 14 para. 7 wholly in force; Sch. 14 para. 7 not in force at Royal Assent see s. 126(2); Sch. 14 para. 7(4) in force at 13.9.1993 by S.I. 1993/2213, art. 2(1), Sch. 3; Sch. 14 para. 7 in force to the extent not already in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 6

#### *Effect of ineligibility*

- 8 (1) No person shall act as an auditor under this Act if he is ineligible for appointment to the office.
- (2) If during his term of office an auditor appointed under this Schedule become ineligible for appointment to the office, he shall thereupon vacate office and shall forthwith give notice in writing to the society concerned that he has vacated it by reason of ineligibility.
- (3) A person who acts as auditor under this Act in contravention of sub-paragraph (1) above, or fails to give notice of vacating his office as required by sub-paragraph (2) above, is guilty of an offence and liable—
- (a) on conviction on indictment, to a fine; and
  - (b) on summary conviction, to a fine not exceeding the statutory maximum and, in the case of a continuing offence, to an additional fine not exceeding one-tenth of the statutory maximum for every day during which the offence continues.
- (4) In proceedings against a person for an offence under this paragraph it is a defence for him to show that he did not know and had no reason to believe that he was, or had become, ineligible for appointment.

#### Commencement Information

**I144** Sch. 14 para. 8 wholly in force; Sch. 14 para. 8 not in force at Royal Assent see s. 126(2); Sch. 14 para. 8 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 14 para. 8 in force to the extent not already in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5



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### *Power of Commission to require second audit*

- 9 (1) Where a person appointed auditor under this Schedule was, for any part of the period during which the audit was conducted, ineligible for appointment to that office, the Commission may direct the friendly society or registered branch concerned to retain a person eligible for appointment as auditor under this Schedule—
- (a) to audit the relevant accounts again; or
  - (b) to review the first audit and to report (giving his reasons) whether a second audit is needed;
- and the society or branch shall comply with such a direction within 21 days of its being given.
- (2) If a second audit is recommended, the society or branch shall forthwith take such steps as are necessary to comply with the recommendation.
- (3) Where a direction is given under this paragraph, the Commission shall send a copy of the direction to the central office; and the society or branch shall within 21 days of receiving any report under sub-paragraph (1)(b) above send a copy of it to the central office.
- (4) Any statutory or other provisions applying in relation to the first audit shall apply, so far as practicable, in relation to a second audit under this paragraph.
- (5) If a society or branch fails to comply with the requirements of this paragraph, it is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale; and in the case of a continuing offence to an additional fine not exceeding one-tenth of that level for every day during which the offence continues.
- (6) A direction under this paragraph is, on the application of the Commission, enforceable by injunction or, in Scotland, by an order under section 45 of the <sup>M95</sup>Court of Session Act 1988.
- (7) If a person accepts an appointment, or continues to act, as an auditor under this Act at a time when he knows he is ineligible, the society concerned may recover from him any costs incurred by it in complying with the requirements of this paragraph.

#### **Commencement Information**

**I145** Sch. 14 para. 9 wholly in force; Sch. 14 para. 9 not in force at Royal Assent see s. 126(2); Sch. 14 para. 9 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 14 para. 9 in force to the extent not already in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

#### **Marginal Citations**

**M95** 1988 c. 36.

### *Removal of auditors*

- 10 (1) A friendly society or registered branch may by ordinary resolution in general meeting remove an auditor before the expiration of his term of office, notwithstanding anything in any agreement between it and him.

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- (2) Where such a resolution is passed, the society or branch shall within 14 days give notice of that fact to the central office.
- (3) If a friendly society or branch fails to give the notice required by sub-paragraph (2) above, it shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale and in the case of a continuing offence to an additional fine not exceeding one-tenth of that level for every day during which the offence continues.
- (4) Nothing in this paragraph is to be taken as depriving a person removed under it of compensation or damages that may be payable to him in respect of the termination of his appointment as auditor or of any appointment terminating with that as auditor.
- (5) An auditor of a friendly society or registered branch who has been removed has, notwithstanding his removal, the rights conferred by section 75 above in relation to any general meeting of the society or branch at which—
  - (a) his term of office would otherwise have expired; or
  - (b) it is proposed to fill the vacancy caused by his removal.

#### **Commencement Information**

**I146** [Sch. 14 para. 10](#) wholly in force; [Sch. 14 para. 10](#) not in force at Royal Assent see [s. 126\(2\)](#); [Sch. 14 para. 10](#) in force for certain purposes at 13.1.1993 by [S.I. 1993/16, art. 2](#), [Sch. 1](#); [Sch. 14 para. 10](#) in force to the extent not already in force at 1.1.1994 by [S.I. 1993/2213, art. 2\(1\)](#), [Sch. 5](#)

#### *Rights of auditors who are removed or not re-appointed*

- 11 (1) Special notice is required for a resolution at a general meeting of a friendly society or registered branch—
  - (a) removing an auditor before the expiration of his term of office; or
  - (b) appointing as auditor a person other than a retiring auditor.
- (2) On receipt of notice of such an intended resolution the friendly society or branch shall forthwith send a copy of it to the person proposed to be removed or, as the case may be, to the person proposed to be appointed and to the retiring auditor.
- (3) The auditor proposed to be removed or (as the case may be) the retiring auditor may make with respect to the intended resolution representations in writing to the society or branch (not exceeding a reasonable length) and request their notification to members of the society.
- (4) The society or branch shall (unless the representations are received by it too late for it to do so)—
  - (a) in any notice of the resolution given to members of the society or branch, state the fact of the representations having been made;
  - (b) include in or with any such notice a copy of the representations; and
  - (c) make copies of them available to members at the meeting at which the resolution is to be moved.
- (5) If notice of any such representations is not given as required by sub-paragraph (4) above because received too late or because of the default of the society or branch,

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the auditor may (without prejudice to his right to be heard orally) require that the representations be read out at the meeting.

- (6) The steps required by sub-paragraphs (4) or (5) above need not be taken if, on the application of the society or branch or of any other person claiming to be aggrieved, the court is satisfied that the rights conferred by this paragraph are being abused to secure needless publicity for defamatory matter; and the court may order the costs of the society or branch on the application to be paid in whole or in part by the auditor, notwithstanding that he is not a party to the application.

#### Commencement Information

**I147** Sch. 14 para. 11 wholly in force; Sch. 14 para. 11 not in force at Royal Assent see s. 126(2); Sch. 14 para. 11 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 14 para. 11 in force to the extent not already in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

#### *Resignation of auditors*

- 12 (1) An auditor of a friendly society or registered branch may resign his office by depositing a notice in writing to that effect at the society's registered office.
- (2) The notice is not effective unless it is accompanied by the statement required by paragraph 14 below.
- (3) An effective notice of resignation operates to bring the auditor's term of office to an end as of the date on which the notice is deposited or on such later date as may be specified in it.
- (4) The society or branch shall within 14 days of the deposit of a notice of resignation send a copy of the notice to the central office.
- (5) If default is made in complying with sub-paragraph (4) above, the society or branch is guilty of an offence and liable—
- (a) on conviction on indictment, to a fine; and
  - (b) on summary conviction, to a fine not exceeding the statutory maximum and in the case of a continuing offence, to an additional fine not exceeding one-tenth of the statutory maximum for every day during which the offence continues.

#### Commencement Information

**I148** Sch. 14 para. 12 wholly in force; Sch. 14 para. 12 not in force at Royal Assent see s. 126(2); Sch. 14 para. 12 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 14 para. 12 in force to the extent not already in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

#### *Rights of resigning auditors*

- 13 (1) This paragraph applies where an auditor's notice of resignation is accompanied by a statement of circumstances which he considers should be brought to the attention of members or creditors of the society or branch.

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- (2) He may deposit with the notice a signed requisition calling on the committee of management of the society or branch forthwith duly to convene an extraordinary general meeting of the society or branch for the purpose of receiving and considering such explanation of the circumstances connected with his resignation as he may wish to place before the meeting.
- (3) The society or branch shall, at the request of the auditor (unless the statement is received too late to comply)—
  - (a) in any notice of the meeting convened on his requisition or of any general meeting at which his term of office would otherwise have expired or at which it is proposed to fill the vacancy caused by his resignation, state the fact that the statement has been made;
  - (b) include in or with that notice a copy of a statement in writing by him (not exceeding a reasonable length) of the circumstances connected with his resignation; and
  - (c) make copies of the statement available to members at any such meeting.
- (4) If the committee of management does not within 21 days from the date of the deposit of a requisition under this paragraph proceed duly to convene a meeting for a day not more than 28 days after the date on which the notice convening the meeting is given, every member of the committee who failed to take all reasonable steps to secure that a meeting was convened as mentioned above is guilty of an offence and liable—
  - (a) on conviction on indictment, to a fine; and
  - (b) on summary conviction, to a fine not exceeding the statutory maximum.
- (5) If notice of the statement mentioned above is not given as required because received too late or because of the default of the society or branch, the auditor may (without prejudice to his right to be heard orally) require that the statement be read out at the meeting in question.
- (6) The steps required by sub-paragraphs (3) and (5) above need not be taken if, on the application of the society or branch or of any other person who claims to be aggrieved, the court is satisfied that the rights conferred by this paragraph are being abused to secure needless publicity for defamatory matter; and the court may order the costs of the society or branch on such an application to be paid in whole or in part by the auditor, notwithstanding that he is not a party to the application.
- (7) An auditor who has resigned has, notwithstanding his resignation, the rights conferred by section 75 above in relation to any such general meeting of the society or branch as is mentioned in sub-paragraph (3) above; and in such a case, the references in that section to matters concerning the auditors as auditors shall be construed as references to matters concerning him as a former auditor.

#### **Commencement Information**

**I149** Sch. 14 para. 13 wholly in force; Sch. 14 para. 13 not in force at Royal Assent see s. 126(2); Sch. 14 para. 13 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 14 para. 13 in force to the extent not already in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

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*Statement by person ceasing to hold office*

- 14 (1) Where an auditor of a friendly society or registered branch ceases for any reason to hold office, he shall deposit at the registered office of the society or branch concerned—
- (a) a statement of any circumstances connected with his ceasing to hold office which he considers should be brought to the attention of the members or creditors of the society or branch; or
  - (b) if he considers that there are no such circumstances, a statement that there are none.
- (2) In a case falling within sub-paragraph (1)(a) above it shall also be the duty of the auditor, unless he receives notice of an application under sub-paragraph (4) below before the end of the period of 21 days beginning with the day on which he deposited the statement, to send the central office a copy within a further 7 days.
- (3) In the case of resignation, the statement shall be deposited along with the notice of resignation; in the case of failure to seek re-appointment, the statement shall be deposited not less than 14 days before the end of the time allowed for next appointing auditors; in any other case, the statement shall be deposited not later than the end of the period of 14 days beginning with the date on which he ceases to hold office.
- (4) If the statement is of circumstances which the auditor considers should be brought to the attention of the members or creditors of the society or branch, the society shall within 14 days of the deposit of the statement either—
- (a) send a copy of it to every member who is, when the statement is deposited, entitled to vote at a meeting of the society or branch; or
  - (b) apply to the court.
- (5) The society or branch shall if it applies to the court notify the auditor of the application.
- (6) If the court is satisfied that the auditor is using the statement to secure needless publicity for defamatory matter—
- (a) it shall direct that copies of the statement need not be sent out; and
  - (b) it may further order the costs of the society or branch on the application to be paid in whole or in part by the auditor, notwithstanding that he is not a party to the application;
- and the society or branch shall within 14 days of the court's decision send to the persons mentioned in sub-paragraph (4)(a) above a statement setting out the effect of the order.
- (7) If the court is not so satisfied, the society or branch shall within 14 days of the court's decision—
- (a) send copies of the statement to the persons mentioned in sub-paragraph (4) (a) above; and
  - (b) notify the auditor of the court's decision;
- and the auditor shall within 7 days of receiving such notice send a copy of the statement to the central office.

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#### Commencement Information

**I150** Sch. 14 para. 14 wholly in force; Sch. 14 para. 14 not in force at Royal Assent see s. 126(2); Sch. 14 para. 14 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 14 para. 14 in force to the extent not already in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

#### *Offences of failing to comply with paragraph 14*

- 15 (1) If a person ceasing to hold office as auditor fails to comply with paragraph 14 above, he is guilty of an offence and liable—
- (a) on conviction on indictment, to a fine; and
  - (b) on summary conviction, to a fine not exceeding the statutory maximum.
- (2) If a society or branch makes default in complying with paragraph 14 above, it is guilty of an offence and liable—
- (a) on conviction on indictment, to a fine, and
  - (b) on summary conviction, to a fine not exceeding the statutory maximum and in the case of a continuing offence, to an additional fine not exceeding one-tenth of the statutory maximum for every day during which the offence continues.

#### Commencement Information

**I151** Sch. 14 para. 15 wholly in force; Sch. 14 para. 15 not in force at Royal Assent see s. 126(2); Sch. 14 para. 15 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 14 para. 15 in force to the extent not already in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

#### *Remuneration of auditors*

- 16 (1) The remuneration of auditors appointed by a friendly society or registered branch in general meeting shall be fixed by the society or branch in general meeting or in such manner as the society or branch in general meeting may determine.
- (2) The remuneration of auditors appointed by the committee of management or the Commission shall be fixed by the committee of management or the Commission as the case may be.
- (3) There shall be stated in a note to the annual accounts of the society or branch the amount of the remuneration of the auditors in their capacity as such.
- (4) For the purposes of this paragraph “remuneration” includes sums paid in respect of expenses.
- (5) This paragraph applies in relation to benefits in kind as to payments in cash, and in relation to any such benefit references to its amount are to its estimated money value.
- (6) The nature of any such benefit shall also be disclosed.

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#### Commencement Information

**I152** Sch. 14 para. 16 wholly in force; Sch. 14 para. 16 not in force at Royal Assent see s. 126(2); Sch. 14 para. 16 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 14 para. 16 in force to the extent not already in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

#### *Remuneration of auditors or their associates for non-audit work*

- 17 (1) The Commission may make provision by regulations for securing the disclosure of the amount of any remuneration received or receivable by auditors appointed under this Schedule or their associates in respect of services other than those of auditors in their capacity as such.
- (2) The regulations may—
- (a) provide that “remuneration” includes sums paid in respect of expenses;
  - (b) apply in relation to benefits in kind as to payments in cash, and in relation to any such benefit require disclosure of its nature and its estimated money value;
  - (c) define “associate” in relation to an auditor; and
  - (d) require the disclosure of remuneration in respect of services rendered to subsidiaries.
- (3) The regulations may require the auditors to disclose the relevant information in their report or require the relevant information to be disclosed in a note to the accounts of the society or branch and require the auditors to supply the committee of management of the society or branch with such information as is necessary to enable that disclosure to be made.

#### Commencement Information

**I153** Sch. 14 para. 17 wholly in force; Sch. 14 para. 17 not in force at Royal Assent see s. 126(2); Sch. 14 para. 17 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 14 para. 17 in force for all remaining purposes at 13.9.1993 by S.I. 1993/2213, art. 2(1), Sch. 2

## SCHEDULE 15

Section 85.

### AMALGAMATIONS, TRANSFERS OF ENGAGEMENTS AND CONVERSION: SUPPLEMENTARY

#### PART I

#### PROVISION OF INFORMATION TO MEMBERS

#### *Statements relating to amalgamations and transfers*

- 1 (1) A friendly society which desires—

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- (a) to amalgamate under section 85 above; or
  - (b) to transfer its engagements to any person, or to undertake to fulfil the engagements of another friendly society, under section 86 above;
- shall, subject to sub-paragraph (2) below, send a statement concerning the matters specified in paragraph 2 below to every member entitled (when the statements are sent) to vote on any resolution required by section 85, 86 or 90.
- (2) Sub-paragraph (1) above does not apply, in the case of a friendly society desirous of undertaking to fulfil another society's engagements, where the Commission has consented under section 86(3)(b) or 90(2)(b) above to its proceeding by resolution of the committee of management.
  - (3) The statement referred to in sub-paragraph (1) above shall be sent so as to arrive no later than 14 days (or such longer period as the rules may require for notice of any resolution required by section 85, 86 or 90 above) before—
    - (a) the meeting at which any such resolution is to be moved; or
    - (b) where proxy voting is permitted, such earlier date as may be specified by the society, under its rules, as the final date for the receipt of instruments appointing proxies to vote at the meeting.
  - (4) If it appears to the Commission that it is impractical to include the summary mentioned in paragraph 2(1)(d) below in the statement referred to in sub-paragraph (1) above, the Commission may direct that the summary shall be sent separately from that statement within such period as the Commission may specify in the direction.
- 2 (1) The matters of which a statement required by paragraph 1 above is to give particulars are the following, namely—
- (a) the financial position of the society and that of every other society or person participating in the amalgamation or transfer;
  - (b) any interest of the members of the committee of management of the society in the amalgamation or transfer;
  - (c) the compensation or other consideration (if any) proposed to be paid to or in respect of—
    - (i) the members of the committee of management or other officers of the society; and
    - (ii) the officers of every other society or person participating in the amalgamation or transfer;
  - (d) in the case of a transfer, a summary of any actuary's report which the society is directed to furnish to the Commission under section 88 above; and
  - (e) any other matter which the Commission requires in the case of the particular amalgamation or transfer.
- (2) No statement shall be sent unless its contents, so far as they concern the matters specified in this paragraph, have been approved by the Commission.

*Statements relating to conversion of society into company*

- 3 (1) A friendly society which desires to convert into a company under section 91 above shall send a statement concerning—



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- (a) such matters as may be prescribed in regulations made by the Commission with the consent of the Treasury; and
- (b) such other matters as may be required by the Commission in the case of the particular conversion;

to every member entitled (when the statements are sent) to vote on any resolution required by subsection (2) of that section.

- (2) Regulations under sub-paragraph (1) above may include among the prescribed matters any alternatives to a proposed conversion which may be available.

4 The statement referred to in paragraph 3 above shall be sent so as to arrive no later than 14 days (or such longer period as the rules may require for notice of any resolution required by section 91 above) before—

- (a) the meeting at which any such resolution is to be moved; or
- (b) where proxy voting is permitted, such earlier date as may be specified by the society, under its rules, as the final date for the receipt of instruments appointing proxies to vote at the meeting;

but no such statement may be sent unless its contents, so far as they concern the matters mentioned in that paragraph, have been approved by the Commission.

## PART II

### CONFIRMATION BY COMMISSION

#### *Applications for confirmation*

- 5 (1) An application by a friendly society for confirmation by the Commission—
- (a) of an amalgamation under section 85 above,
  - (b) of a transfer of engagements of a friendly society under section 86 above, or
  - (c) of the conversion of a friendly society into a company under section 91 above,

shall be made in such manner as may be prescribed, with respect to applications under that section, in regulations made by the Commission with the consent of the Treasury.

- (2) An application for confirmation of an amalgamation shall be made jointly by the friendly societies concerned.

[<sup>F99</sup>(3) The Commission may, on the application or with the consent of a friendly society, direct in relation to any provision of regulations made for the purposes of sub-paragraph (1) above that the provisions shall not apply to the society, or shall apply to it with such modifications as may be specified in the direction.

<sup>F99</sup>(4) A direction under sub-paragraph (3) above may be subject to conditions.

<sup>F99</sup>(5) A direction under sub-paragraph (3) above may be revoked by the Commission at any time; and the Commission may at any time vary any such direction on the application or with the consent of the society to which it applies.

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- <sup>F99</sup>(6) Where the Commission—
- (a) makes a direction under subsection (3) above, or
  - (b) revokes or varies such a direction,
- it shall cause the direction, variation or revocation to be entered on a register kept by it for the purposes of this subsection.
- <sup>F99</sup>(7) The register kept for the purposes of subsection (6) above shall be available for inspection on reasonable notice by members of the public.
- <sup>F99</sup>(8) The Commission shall provide to the central office a copy of—
- (a) any direction made by it under subsection (3) above, and
  - (b) any revocation or variation of any such direction,
- and the central office shall keep the copy in the public file of the society to which it relates.]

#### Textual Amendments

**F99** Sch. 15 para. 5(3)-(8) inserted (1.8.1996) by S.I. 1996/1188, art. 8

- 6 (1) Where a friendly society applies for confirmation of an amalgamation, transfer or conversion, it shall publish a notice of the application—
- (a) in one or more of the London Gazette, the Edinburgh Gazette or the Belfast Gazette, as the Commission directs, and,
  - (b) if it so directs, in one or more newspapers.
- [<sup>F100</sup>(1A) Where an application for confirmation of a transfer is made by a friendly society to which section 37(2) or (3) above applies and either—
- (a) as regards any policy included in the proposed transfer, a member State other than the United Kingdom is the State in which the risk or commitment is situated; or
  - (b) as regards any EFTA policy included in the proposed transfer, an EEA State other than the United Kingdom is the State in which the risk or commitment is situated,
- the society shall also; if the Commission so directs publish the notice in two national newspapers in that State.]
- (2) The notice shall—
- (a) state that any interested party has the right to make representations to the Commission with respect to the application;
  - (b) specify a date determined by the Commission before which any written representations or notice of a person's intention to make oral representation must be received by the Commission; and
  - (c) specify a date determined by the Commission as the day on which it intends to hear any oral representations.
- (3) Where a friendly society participating in a transfer is required under section 88 above to furnish an actuary's report, the society shall publish a notice in the manner required by sub-paragraph (1) above—
- (a) stating that such a report has been obtained;

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[<sup>F101</sup>(b) stating—

- (i) the addresses of the offices of the society, and
- (ii) where the society is directed in accordance with sub-paragraph (1A) above to publish a notice of the application in two national newspapers in a State other than the United Kingdom, the address of such place in that State as the Commission directs,

at which copies of the report shall be available for inspection for a period of not less than 21 days beginning with the date of the first publication of the notice; and]

- (c) containing such particulars of any other matter relating to the report which the Commission requires in the case of the transfer in question;

and such a society may include the notice required by this sub-paragraph in the notice required by sub-paragraph (1) above.

#### Textual Amendments

**F100** Sch. 15 para.6(1A) inserted (1.9.1994) by S.I. 1994/1984, reg. 25, Sch. 4 para. 1(1)

**F101** Sch. 15 para. 6(3)(b) substituted (1.9.1994) by S.I. 1994/1984, reg. 25, Sch. 4 para. 1(2)

7 After the date specified in the notice in pursuance of paragraph 6(2)(b) above, the Commission shall—

- (a) determine the time and place at which oral representations may be made;
- (b) give notice of that determination to the friendly society applying for confirmation and to any persons who have give notice of their intention to make oral representations; and
- (c) send copies of any written representations received by the Commission to that society;

and the Commission shall allow that society an opportunity to comment on the written representations (whether at a hearing or in writing) before the expiration of such period as the Commission specifies in a notice to the society.

#### *Confirmation by Commission: General*

8 (1) Where an application is duly made for confirmation by the Commission of an amalgamation, transfer of engagements or conversion, the Commission shall confirm the amalgamation, transfer or conversion unless it is precluded from doing so by any of the following provisions of this Schedule.

(2) If it appears to the Commission, in relation to any amalgamation or transfer of engagements, that there is a substantial risk that the successor society or the person taking the transfer will not be able lawfully to carry out the engagements to be transferred to it under section 85(4) or 86(5) above, the Commission—

- (a) shall not confirm the amalgamation or transfer; and
- (b) where it has confirmed the amalgamation or transfer, shall, by notice to the central office, withdraw its confirmation;

but it may not withdraw its confirmation on or after the transfer date for the amalgamation or transfer.

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- (3) For the purposes of sub-paragraph (2) above, the Commission may have regard to any requirements of the law of a country or territory outside the United Kingdom which appear to the Commission to be relevant.
- 9 (1) Subject to sub-paragraph (3) below, the Commission shall not confirm an amalgamation or transfer if it considers that—
- (a) some information material to the members' decision (including any decision on an affected members' resolution under section 86 above) about the amalgamation or transfer was not made available to all the members eligible to vote;
  - (b) the vote on any resolution approving the amalgamation or transfer does not represent the views of the members eligible to vote; or
  - (c) some relevant requirement of this Act or the rules of any friendly society participating in the amalgamation or transfer was not fulfilled or not fulfilled as regards that society.
- (2) Subject to sub-paragraph (3) below, the Commission shall not confirm the conversion of a society if it considers that—
- (a) some information material to the members' decision about the conversion was not made available to all the members eligible to vote;
  - (b) the vote on any resolution approving the conversion does not represent the views of the members eligible to vote;
  - (c) there is a substantial risk, in the case of conversion into a company which will require to be authorised under Part I of the <sup>M96</sup>Insurance Companies Act 1982, that the company will not be so authorised; or
  - (d) some relevant requirement of this Act or the rules of the society was not fulfilled.
- (3) The Commission shall not be precluded from confirming an amalgamation, transfer or conversion by virtue only of the non-fulfilment of some relevant requirement of this Act or the rules of a friendly society if it appears to the Commission that it could not have been material to the members' decision about the amalgamation, transfer or conversion and the Commission gives a direction that the failure is to be disregarded for the purposes of this paragraph.

**Marginal Citations**

**M96** 1982 c. 50.

- 10 (1) Where the Commission would be precluded—
- (a) from confirming an amalgamation or transfer by reason of any of the defects specified in paragraph 9(1) above, or
  - (b) from confirming a conversion by reason of any of the defects specified in paragraph 9(2) above,
- it may give to any friendly society participating in the amalgamation or transfer or, as the case may be, to the society proposing to convert a direction under sub-paragraph (2) below.

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- (2) A direction under this sub-paragraph is a direction requiring a friendly society—
- (a) to take such steps to remedy the defect or defects, including the calling of a further meeting, as are specified in the direction; and
  - (b) to furnish the Commission with evidence that those steps have been taken;
- and if the Commission is satisfied that the steps have been taken and the defect or defects has or have been substantially remedied, the Commission shall confirm the amalgamation, transfer or conversion.

#### *Confirmation of amalgamations*

- 11 The Commission shall not confirm an amalgamation unless it is satisfied—
- (a) that the successor society will be able to carry on the business of the amalgamating societies in the United Kingdom without authorisation under section 32 above; or
  - (b) that there is no substantial risk that the successor society will not be granted such authorisation under that section as will permit it to carry on that business in the United Kingdom.

#### *Confirmation of transfers of engagements*

- 12 The Commission shall not confirm a transfer unless it is satisfied—
- (a) that all the engagements included in the transfer may be transferred under section 86 above to the transferee;
  - (b) that the transfer is in the interests of the members of each friendly society participating in the transfer; and
  - (c) where the transfer is not of all the engagements of the transferor, that the purposes of each friendly society participating in the transfer will, after the transfer, continue to include the carrying on of one or more activities falling within Schedule 2 to this Act.
- 13 (1) The Commission shall not confirm a transfer in any case where the transferee is required by section 87 above to furnish the Commission with a report unless it is satisfied that the transferee will (after taking the proposed transfer into account)—
- (a) where the report is furnished under section 87(2), possess the margin of solvency required by section 48 above;
  - (b) where the report is furnished under section 87(3), possess an excess of assets over liabilities.
- (2) The Commission shall not confirm a transfer of any engagements the fulfilment of which will constitute the carrying on of insurance business in the United Kingdom in any case where the transferee is a person to whom Part II of the <sup>M97</sup>Insurance Companies Act 1982 applies unless the Secretary of State certifies that the transferee will, after taking the proposed transfer into account, possess any margin of solvency required by that Part of that Act.
- [<sup>F102</sup>(3) This paragraph and paragraph 14 below do not apply to any transfer of engagements to which paragraph 15 or 15A below applies.]

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#### Textual Amendments

**F102** Sch. 15 para. 13(3) inserted (1.9.1994) by S.I. 1994/1984 reg. 25, Sch. 4 para. 2

#### Marginal Citations

**M97** 1982 c.50.

14 The Commission shall not confirm a transfer of any engagements the fulfilment of which will constitute the carrying on in the United Kingdom of insurance business unless it is satisfied—

- (a) that the proposed transferee will be able to fulfil the engagements without authorisation under Part I of the Insurance Companies Act 1982 or section 32 of this Act; or
- (b) that there is no substantial risk that the proposed transferee will not have such authorisation as will permit it to fulfil them.

[<sup>F103</sup>15(1) This paragraph applies to any transfer of engagements (other than contracts of reinsurance) where—

- (a) the effecting of the engagements constituted the carrying on of general business;
- (b) the transferor is a friendly society to which section 37(3) above applies; and
- (c) the transferee is—
  - (i) a friendly society to which section 37(2) or (3) above applies;
  - (ii) a UK company;
  - (iii) an EC company;
  - (iv) a non-EC company whose head office is in an EFTA State;
  - (v) a Swiss general insurance company; or
  - (vi) an insurance company whose margin of solvency is required to be supervised in accordance with Article 25 or 26 of the first general insurance Directive.

(2) The Commission shall not confirm the transfer unless—

- (a) it is satisfied that the transferee is, or will be immediately after the approval—
  - (i) authorised under section 32 above to carry on, or
  - (ii) authorised under section 3 or 4 of the Insurance Companies Act 1982 <sup>M98</sup>to carry on, or
  - (iii) authorised in accordance with Article 6 of the first general insurance Directive to carry on in an EEA State other than the United Kingdom,
 general business of the class or classes to be transferred;
- (b) it is also satisfied that every policy included in the transfer evidences a contract which was entered into before the date of the application;
- (c) the relevant authority certifies that the transferee possesses the necessary margin of solvency after taking the proposed transfer into account; and
- (d) where the establishment from which the policies are to be transferred is situated in a member State other than the United Kingdom, the Commission is satisfied—

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- (i) that the supervisory authority in that member State has been consulted about the proposed transfer; and
    - (ii) either that the authority has responded or that the period of three months beginning with the consultation has elapsed.
- (3) Where, as regards any policy (other than an EFTA policy) which is included in the proposed transfer, the risk is situated in a member State other than the United Kingdom, the Commission shall not confirm the transfer unless it is satisfied—
  - (a) that the supervisory authority in that member State has been notified of the proposed transfer;
  - (b) either that the authority has consented to the transfer or that the authority has not refused its consent to the transfer within the period of three months beginning with the notification.
- (4) Where the establishment of the transferee to which the policies are to be transferred is situated in the United Kingdom and, as regards any EFTA policy included in the proposed transfer, an EEA State other than the United Kingdom is the State in which the risk is situated, the Commission shall not confirm the transfer unless it is satisfied that—
  - (a) the transferee either fulfils the conditions in Articles 13 to 16 of the second general insurance Directive in that EEA State; and
  - (b) the supervisory authority in that EEA State agrees to the transfer.
- (5) Where the establishment of the transferee to which the policies are to be transferred is situated in an EEA State other than the United Kingdom and, as regards any EFTA policy included in the proposed transfer, an EEA State other than the United Kingdom is the State in which the risk is situated, the Commission shall not confirm the transfer unless—
  - (a) where the EEA State in which the establishment is situated is also the State in which the risk is situated, it is satisfied that the supervisory authority in that EEA State agrees to the transfer;
  - (b) where the United Kingdom is the State in which the risk is situated, it is satisfied that the transferee is not precluded by Schedule 2F to the Insurance Companies Act 1982 from covering the risk; and
  - (c) where an EEA State other than the United Kingdom or the EEA State in which the establishment is situated is the State in which the risk is situated, it is satisfied that—
    - (i) the transferee either fulfils the conditions in Articles 13 to 16 of the second general insurance Directive in the EEA State in which the risk is situated;
    - (ii) the law of that State provides for the possibility of such a transfer; and
    - (iii) the supervisory authority in that State agrees to the transfer.
- (6) In this paragraph “the relevant authority” means—
  - (a) if the transferee is a friendly society to which section 37(2) or (3) above applies, the Commission;
  - (b) if the transferee is a United Kingdom company, the Secretary of State;
  - (c) if the transferee is an EC company, the supervisory authority in its home State;

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- (d) if the transferee is a non-EC company whose head office is in an EFTA State, the supervisory authority in that EFTA State;
- (e) if the transferee is a Swiss general insurance company, the supervisory authority in Switzerland;
- (f) if the transferee is an insurance company whose margin of solvency is required to be supervised in accordance with Article 25 or 26 of the first general insurance Directive, the Secretary of State or other supervisory authority responsible for the supervision.]

#### Textual Amendments

**F103** Sch. 15 para. 15 substituted (1.9.1994) by S.I. 1994/1984, reg. 25, Sch. 4 para. 3

#### Marginal Citations

**M98** 1982 c. 50.

[<sup>F104</sup>15(A)] This paragraph applies to any transfer of engagements (other than contracts of reinsurance) where—

- (a) the effecting of the engagements constituted the carrying on of long term business;
- (b) the transferor is a friendly society to which section 37(3) above applies; and
- (c) the transferee is—
  - (i) a friendly society to which section 37(2) or (3) above applies;
  - (ii) a UK company;
  - (iii) an EC company;
  - (iv) a non-EC company whose head office is an EFTA State; or
  - (v) an insurance company whose margin of solvency is required to be supervised in accordance with Article 29 or 30 of the first life Directive.

(2) The Commission shall not confirm the transfer unless—

- (a) it is satisfied that the transferee is, or will be immediately after the making of the confirmation—
  - (i) authorised under section 32 above to carry on, or
  - (ii) authorised under section 3 or 4 of the Insurance Companies Act 1982 to carry on, or
  - (iii) authorised in accordance with Article 6 of the first life Directive to carry on in an EEA State other than the United Kingdom, long term business of the class or classes to be transferred;
- (b) the relevant authority certifies that the transferee possesses the necessary margin of solvency after taking the proposed transfer into account; and
- (c) where the establishment from which the policies are to be transferred is situated in a member State other than the United Kingdom, the Commission is satisfied—
  - (i) that the supervisory authority in that member State has been consulted about the proposed scheme; and
  - (ii) either that the authority has responded or that the period of three months beginning with the consultation has elapsed.



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- (3) Where, as regards any policy (other than an EFTA policy) which is included in the proposed transfer, a member State other than the United Kingdom, is the State in which the commitment is situated, the Commission shall not confirm the transfer unless it is satisfied—
- (a) that the supervisory authority in that member State has been notified of the proposed scheme; and
  - (b) either that the authority has consented to the scheme or that the authority has not refused its consent to the scheme within the period of three months beginning with the notification.
- (4) Where the establishment of the transferee to which the policies are to be transferred is situated in the United Kingdom and, as regards any EFTA policy included in the proposed transfer, an EEA State other than the United Kingdom is the State in which the commitment is situated, the Commission shall not confirm the transfer unless it is satisfied that—
- (a) the transferee either fulfils the conditions in Articles 11, 12, 14 and 16 of the second life Directive in that EEA State; and
  - (b) the supervisory authority in that EEA State agrees to the transfer.
- (5) Where the establishment of the transferee to which the policies are to be transferred is situated in an EEA State other than the United Kingdom and, as regards any EFTA policy included in the proposed transfer, an EEA State is the State in which the commitment is situated, the Commission shall not confirm the transfer unless—
- (a) where the EEA State in which the establishment is situated is also the State in which the commitment is situated, it is satisfied that the supervisory authority in that EEA State agrees to the transfer;
  - (b) where the United Kingdom is the State in which the commitment is situated, it is satisfied that the transferee is not precluded by Schedule 2F to the Insurance Companies Act 1982 from covering the commitment; and
  - (c) where an EEA State other than the United Kingdom or the EEA State in which the establishment is situated is the State in which the risk is situated, it is satisfied that—
    - (i) the transferee fulfils the conditions in Articles 11, 12, 14 and 16 of the second life Directive in the EEA State which is the State in which the commitment is situated;
    - (ii) the law of that State provides for the possibility of such a transfer; and
    - (iii) the supervisory authority in that State agrees to the transfer.
- (6) In this paragraph “the relevant authority” means—
- (a) if the transferee is a friendly society to which section 37(2) or (3) above applies, the Commission;
  - (b) if the transferee is a UK company, the Secretary of State;
  - (c) if the transferee is an EC company, the supervisory authority in its home State;
  - (d) if the transferee is a non-EC company whose head office is in an EFTA State, the supervisory authority in that EFTA State;
  - (e) if the transferee is an insurance company whose margin of solvency is required to be supervised in accordance with Article 29 or 30 of the first life Directive, the Secretary of State or other supervisory authority responsible for the supervision.]

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#### Textual Amendments

**F104** Sch. 15 para 15A substituted (1.9.1994) by S.I. 1994/1984, reg. 25, Sch. 4 para. 4

- 16 The Commission shall not confirm a transfer to a friendly society of engagements the fulfilment of which will constitute the carrying on in the United Kingdom of non-insurance business of any description unless it is satisfied that there is no substantial risk that the society will not be authorised under section 32 above to carry on non-insurance business of that description.

*[<sup>F105</sup>Rights of policy holders]*

#### Textual Amendments

**F105** Sch. 15 para. 16A and Cross-heading inserted (1.9.1994) by S.I. 1994/1984, reg. 25, Sch. 4 para. 5

<sup>F106</sup>16(A) This paragraph applies where the Commission confirms a transfer in accordance with paragraph 15 above and either–

- (a) as regards any policy included in the transfer, a member State other than the United Kingdom is the member State in which the risk is situated; or
- (b) as regards any EFTA policy included in the transfer, and EEA State other than the United Kingdom is the EEA State in which the risk is situated.

(2) The Commission shall direct that–

- (a) notice of its decision, and of the execution of any instrument giving effect to the transfer, shall be published in the member State or, as the case may be, the EEA State in which the risk is situated; and
- (b) the notice shall specify the period during which the policy holder may exercise any right to cancel the policy;

and the instrument shall not bind the policy holder if either such a notice is not so published or the policy holder exercises any such right during the period so specified.

(3) The law of the member State or, as the case may be, the EEA State in which the risk is situated shall determine–

- (a) whether the policy holder has a right to cancel the policy; and
- (b) the conditions applicable to any such right.]

#### Textual Amendments

**F106** Sch. 15 para. 16A inserted (1.9.1994) by S.I. 1994/1984, reg. 25, Sch. 4 para. 5

<sup>F107</sup>16(B) This paragraph applies where the Commission confirms a transfer in accordance with paragraph 15A above and either–

- (a) as regards any policy included in the transfer, a member State other than the United Kingdom is the State in which the commitment is situated; or

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- (b) as regards any EFTA policy included in the transfer, an EEA State other than the United Kingdom is the State in which the commitment is situated.
- (2) The Commission shall direct that—
- (a) notice of the making of any order, or the execution of any instrument, giving effect to the transfer shall be published in the member State or, as the case may be, the EEA State which is the State in which the commitment is situated; and
- (b) the notice shall specify the period during which the policy holder may exercise any right to cancel the policy;
- and the instrument or order shall not bind the policy holder if either such a notice is not so published or the policy holder exercises any such right during the period so specified.
- (3) The law of the member State or, as the case may be, the EEA State which is the State in which the commitment is situated shall determine—
- (a) whether the policy holder has a right to cancel the policy; and
- (b) the conditions applicable to any such right.]

#### Textual Amendments

**F107** Sch. 15 para. 16B inserted (1.9.1994) by S.I. 1994/1984, reg. 25 Sch. 4 para. 6

#### *Effect of failure to comply with relevant requirements*

- 17 A failure to comply with a relevant requirement of this Act or any rules of a friendly society shall not invalidate any amalgamation, transfer of engagements or conversion; but a society which—
- (a) participates in an amalgamation or transfer or converts into a company; and
- (b) fails without reasonable excuse to comply with such a requirement;
- shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

#### *Interpretation*

[<sup>F108</sup>18(1) In this Part of this Schedule expressions used which are defined in the Insurance Companies Act 1982 but are not defined for the purposes of this Part of this Schedule have the same meaning as they have for the purposes of that Act.

(2) In this Part of this Schedule—

“policy” means a contract (other than a contract of reinsurance) the effecting of which by a friendly society to which section 37(2) or (3) above applies constituted the carrying on of insurance business of any class;

“policy holder” means a member whose contract with such a society is a contract the effecting of which by the society constituted the carrying on of insurance business (other than reinsurance business) of any class;

“relevant requirement”, with reference to this Act or the rules of a friendly society, means a requirement of this Part of this Act or of any rules prescribing the procedure

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to be followed by the society in approving or effecting an amalgamation or transfer of engagements or its conversion into a company.

- (3) A policy which evidences a contract of direct insurance is an “EFTA policy” for the purposes of this Part of this Schedule if—
- (a) it covers a risk or commitment in an EFTA State and the transferee is a friendly society to which section 37(2) or (3) above applies, a UK or EC company or a non– EC company whose head office is in an EFTA State; or
  - (b) it covers a risk or commitment situated in a member State and the transferee is a non–EC company whose head office is in an EFTA State.]

#### Textual Amendments

**F108** Sch. 15 para. 18 substituted (1.9.1994) by S.I. 1994/1984, reg. 25 Sch. 4 para. 7

## SCHEDULE 16

Section 95.

### AMENDMENTS OF 1974 ACT

- 1 The 1974 Act shall be amended as follows.
- 2 (1) In subsection (1) of section 4—
- (a) after the word “Act” there shall be inserted the words “ and the 1992 Act ”; and
  - (b) in paragraph (a), after the word “Wales,” there shall be inserted the words “ Northern Ireland, ”.
- (2) After subsection (2) of that section there shall be inserted the following subsection—
- “(2A) The central office shall maintain separate registers under this Act or, as the case may be, the 1992 Act in relation to societies whose registered offices are in Northern Ireland.”
- (3) In subsection (3) of that section, after the word “Act”, in each place where it occurs, there shall be inserted the words “ or the 1992 Act ”.

#### Commencement Information

**I154** Sch. 16 para. 2 wholly in force; Sch. 16 para. 2 not in force at Royal Assent see s. 126(2); Sch. 16 para. 2(1)(a)(3) in force at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 2; Sch. 16 para. 2(1)(b)(2) in force at 1.1.1994 by S.I. 1993/3226, art. 2(1), Sch. 2

- 3 Section 6(2) shall cease to have effect.
- 4 In section 7, in subsection (1)—
- (a) for the words “may be” there shall be substituted the words “ may remain ”;
  - (b) in paragraph (a), for the words from “any” to the end of the paragraph there shall be substituted the words “ any purpose falling within Schedule 2 to the 1992 Act ”; and
  - (c) after paragraph (f) there shall be inserted the words—

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“but no society may become registered under this Act after the commencement of section 93 of the 1992 Act.”

#### Commencement Information

**I155** Sch. 16 para. 4 wholly in force; Sch. 16 para. 4 not in force at Royal Assent see s. 126(2); Sch. 16 para. 4(a)(c) in force at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 3; Sch. 16 para. 4(b) in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 6

5 In section 13(1), for the words from “except” to the end of the subsection there shall be substituted the words “ after the commencement of section 93 of the 1992 Act ”.

6 (1) For section 15 there shall be substituted the following section—

#### “15A Acknowledgement of registration and rules of new branch.

(1) On being satisfied that a branch has complied with the provisions of this Act as to registration, the registrar shall issue to that branch an acknowledgement of registration.

(2) An acknowledgement under subsection (1) above shall be conclusive evidence that the branch in question is duly registered under this Act, unless it is proved that the registration of the society of which it is a branch has been suspended or cancelled.

(3) An acknowledgement under subsection (1) above shall also constitute an acknowledgement, and be conclusive evidence, of the rules of the branch in force at the date of its registration.”

(2) Section 17 shall cease to have effect.

(3) Sub-paragraphs (1) and (2) above shall not affect the operation of section 15(2) and section 17 in relation to an acknowledgement of registration issued to a registered society under section 15(1).

7 In section 21, for the words “sum not exceeding 10p” there shall be substituted the words “ reasonable fee ”.

8 After section 23 there shall be inserted the following section—

#### “ Reinsurance

#### 23A Reinsurance.

(1) The rules of a registered friendly society may provide for the carrying on by the society of any reinsurance business to which subsection (2) below applies but only to such extent or in such circumstances as may from time to time be approved by the appropriate actuary.

(2) This subsection applies to business consisting of the effecting and carrying out of contracts of reinsurance which—

(a) are insured or to be insured by any other registered society or any incorporated friendly society; and

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(b) are of a class or part of a class of insurance business which the society carrying on the re-insurance business itself carries on.

(3) In this section “the appropriate actuary” has the same meaning as in the 1992 Act.”

9 For section 24 there shall be substituted the following section—

**“24 Trustees of registered societies and branches.**

(1) Every registered society and branch shall have one or more trustees.

(2) The trustees may be appointed—

(a) by a resolution of the society or branch in general meeting; or

(b) in such other manner as the rules of the society or branch may provide.

(3) If a trustee is appointed under subsection (2)(a) above, the society or branch shall send to the registrar a copy of the resolution appointing him, signed by the trustee so appointed and by the secretary of the society or branch.

(4) If a trustee is appointed under subsection (2)(b) above, the society or branch shall send to the registrar—

(a) notice of his appointment signed by the secretary of the society or branch; and

(b) an acceptance of office signed by the trustee so appointed.

(5) In the case of the appointment of a trustee of a branch, any document referred to in subsection (3) or (4) above shall be sent to the registrar through an officer appointed in that behalf by the society of which the branch forms part.

(6) The same person may not be a secretary or treasurer of a registered society or branch and also a trustee of that society or branch.”

10 For section 26 there shall be substituted the following section—

**“26 Proof of appointment of officers and trustees.**

If any such list as is referred to in section 12(1)(c) above is signed—

(a) by every trustee and other officer named in the list; and

(b) by the secretary of the branch,

then on the registration of the branch the list shall be evidence that the persons so named have been duly appointed.”

11 Sections 27 and 28 shall cease to have effect.

12 Sections 29 to 45 shall cease to have effect in relation to registered friendly societies and registered branches of such societies.

13 In section 35, after subsection (5) there shall be inserted the following subsection—

“(5A) In the application of subsection (4) above to a society whose registered office is in Northern Ireland, the reference to the High Court shall be construed as a reference to the High Court in Northern Ireland.”

14 In section 40, after subsection (2) there shall be added the following subsection—

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“(3) For the purposes of regulations made by virtue of this section, section 10 of the Friendly and Industrial and Provident Societies Act 1968 shall be taken to extend to Northern Ireland.”

15 (1) In section 46, in subsection (1), paragraphs (a) and (b) shall be omitted.

(2) Sub-paragraph (1) above has effect without prejudice to the generality of paragraph (e) of that subsection.

(3) After subsection (2) of that section there shall be inserted the following subsection—

“(2A) Subsections (2) to (12) of section 14 of the 1992 Act shall apply in respect of the powers of investment of the trustees of a registered friendly society as they apply to the powers of investment of an incorporated friendly society; and the consent required for any such investment as is available to the trustees of a registered friendly society by virtue of this subsection shall be the same as that required under subsection (1) above.”

16 In section 49—

(a) in paragraph (b), for “£200” there shall be substituted “£800”; and

(b) in paragraph (c), for “£50” there shall be substituted “£200”.

17 In section 50, after subsection (2) there shall be inserted the following subsection—

“(2A) Subsection (2) above does not apply to advances made by a registered friendly society or a branch of such a society.”

18 (1) In section 51—

(a) at the end of subsection (2) there shall be added the words “; but those restrictions shall not apply to investments made by the trustees of a registered friendly society or of a branch of such a society”; and

(b) at the end of subsection (4) there shall be inserted the words “or Part II of the Housing (Northern Ireland) Order 1981.”.

#### Commencement Information

**I156** Sch. 16 para. 18 wholly in force; Sch. 16 para. 18 not in force at Royal Assent see s. 126(2); Sch. 16 para. 18(1)(a) in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 6; Sch. 16 para. 18(1)(b) in force at 1.1.1994 by S.I. 1993/3226, art. 2(1), Sch. 2

19 In section 53, for subsection (1) there shall be substituted the following subsection—

“(1) A registered society or branch may, if its rules so provide, acquire and hold land for the purpose of carrying on any of its activities in the names of its trustees and may dispose of, or otherwise deal with, any land so held; and—

(a) no person shall be bound to enquire as to the authority of the trustees to dispose of or deal with land;

(b) the receipt of the trustees shall be a discharge for all sums of money arising from, or in connection with, the disposal of or other dealing with land.”

(2) Subsection (3) of that section shall be omitted.

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20 In section 55, at the end of subsection (4) there shall be added the words “ or Northern Ireland ”.

21 After section 57 there shall be inserted the following section—

**“57A Discharge of certain mortgages in Northern Ireland.**

(1) Where, in the case of any mortgage to a registered society or branch of any property, a receipt in full for any moneys secured thereby on that property is endorsed on or annexed to the mortgage, being a receipt—

- (a) signed by the trustees of the society or branch and counter-signed by the secretary thereof; and
- (b) in the form set out in Schedule 4 to this Act or in any other form specified in the rules of the society or branch or any schedule thereto,

that receipt shall be fully effective to vacate the mortgage and vest in the mortgagor the estate of and in the property comprised in the mortgage.

(2) If the mortgage is registered in accordance with the Registration of Deeds Act (Northern Ireland) 1970 the registrar under that Act shall—

- (a) on production of the receipt mentioned in subsection (1) above make a note in the Abstract Book against the entry relating to the mortgage that the mortgage is satisfied; and
- (b) grant a certificate, either on the mortgage or separately, that the mortgage is satisfied.

(3) The certificate granted under subsection (2)(b) above shall—

- (a) be received in all courts and proceedings without further proof; and
- (b) have the effect of clearing the register of the mortgage.

(4) In this section “mortgage” includes a further charge and “mortgagor”, in relation to a mortgage, means the person for the time being entitled to the equity of redemption.

(5) This section extends to Northern Ireland only.”

22 After section 63 there shall be inserted the following section—

**“63A Register of members of registered friendly societies.**

(1) Every registered friendly society shall maintain a register of the names and addresses of the members of the society.

(2) The register shall be kept at the registered office of the society or at such other place or places as the committee of management thinks fit.

(3) A society need not enter in the register the address of a member who became a member before the commencement of this section while it has no address for him and his whereabouts are unknown.

(4) Where it appears to a society that the address shown in the register for a member is no longer current, the society—

- (a) may remove that address from the register; and
- (b) need not enter in the register an address for that member while it has no address for him and his whereabouts are unknown.



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- (5) If a society contravenes subsection (1) above, it shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.”

23 After section 65 there shall be inserted the following sections—

**“65A Group insurance business.**

- (1) If the rules of a registered friendly society expressly so direct, the society may carry on any group insurance business.
- (2) In this Act “group insurance business” means business (carried on in accordance with the society’s rules and subject to any regulations under section 11 of the 1992 Act) which—
- (a) is of a description falling within Head A, or class 2 of Head B, of Schedule 2 to the 1992 Act; and
  - (b) is carried on as the business of providing benefits, in pursuance of a contract with a qualifying person, for or in respect of the members of a group scheme.
- (3) For the purposes of this section—
- “group scheme” means a scheme or other arrangement under which benefits are to be provided for or in respect of persons who are members of the scheme and who qualify for membership by virtue of—
- (a) being employees of a particular employer; or
  - (b) being members of some other group of persons of a description specified in regulations under section 11 of the 1992 Act;
- “qualifying person” means a person who has established or is otherwise responsible for the operation of a group scheme or a trustee of such a scheme;
- and “member”, in relation to a group scheme, includes any person for or in respect of whom benefits are to be provided under the scheme, whatever the terms in which such persons are described in the scheme.
- (4) Group insurance business may be carried on by a registered friendly society whether or not members of the group scheme are, or are required by the society to be, members of the society.
- (5) Where a registered friendly society carries on any group insurance business and the rules of the society so provide, any qualifying person with whom the society contracts (or his nominee) may be accorded the rights of a member of the society (including any right to vote) for the purpose of participating in the affairs of the society in the interests of the members of the group scheme with which he is concerned.
- (6) The rules of an incorporated friendly society may not prevent a person from being a member of the society in his private capacity by reason only of the fact that he has been accorded the rights of a member by virtue of subsection (5) above.
- (7) A person who is accorded the rights of a member of a society by virtue of subsection (5) above shall, for the purposes of any power which is conferred

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on the registrar or the Commission by this Act or the 1992 Act and is exercisable in the interests of members of the society, be treated as if he were a member of the society.

- (8) The Commission may make regulations under section 11(7) of the 1992 Act which apply to group insurance business carried on by registered friendly societies.

### **65B Terms on which benefits are provided by friendly societies.**

- (1) The terms on which a registered friendly society provides any benefit shall be—
- (a) specified in its rules; or
  - (b) determined in a manner specified in its rules.
- (2) If they are not specified in the society's rules, the society—
- (a) shall make copies of them available free of charge to members of the society at every office of the society; and
  - (b) shall send, free of charge, copies of them to any member of the society who demands them.
- (3) If, on demand made of it under subsection (2) above, a society fails, in accordance with that subsection, to make available or, as the case may be within 7 days of the demand, to send to a person a copy of the terms on which a benefit is to be provided, the society shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.”

24 Sections 70 to 75 shall cease to have effect.

#### **Commencement Information**

**I157** Sch. 16 para. 24 partly in force; Sch. 16 para. 24 not in force at Royal Assent see s. 126(2); Sch. 16 para. 24 in force to the extent specified at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 3

- 25 (1) Section 76 shall be amended as follows.
- (2) In subsection (1)—
- (a) for the words “section 77 below” there shall be substituted the words “subsection (3A) below”; and
  - (b) in paragraphs (c) to (e) the words “or branch” shall be omitted in each place where they occur.
- (3) For subsection (3) there shall be substituted the following subsections—
- “(3A) This section does not apply to a dispute if—
- (a) the registered society concerned is a registered friendly society; or
  - (b) the registered branch concerned is a branch of a registered friendly society.
- (3B) The county court or, in Scotland, the sheriff may hear and determine a dispute falling within subsection (1) above if the parties agree that it shall be so determined instead of being determined under the rules.”
- (4) In subsection (4), at the end of paragraph (b) there shall be added the words “; and

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- (c) does not include a dispute between the parties mentioned in subsection (1)(a) or (b) above which has arisen as a result of and incidentally to a dispute between a member, or a person aggrieved who has ceased to be a member, of a registered society or branch and a person claiming through him or under the rules of the registered society or branch.”
- 26 Section 77 shall cease to have effect.
- 27 In section 78(1), after the words “Act 1950” there shall be inserted the words “ or the corresponding provisions of the Arbitration Act (Northern Ireland) 1937 ”.
- 28 In section 80—
- (a) in subsection (1), at the beginning there shall be inserted the words “ Subject to subsection (1A) below, ”;
- (b) after subsection (1) there shall be inserted the following subsection—
- “(1A) Subsection (1) above does not apply in any case where the lender is a registered friendly society or a branch of such a society.”
- 29 (1) Section 82 (amalgamation and transfer of engagements) shall be amended as follows.
- (2) In subsection (2), after the word “transfer” there shall be inserted the words “ to any extent ”.
- (3) In subsection (3)—
- (a) after the word “transfer” there shall be inserted the words “ to any extent ”; and
- (b) at the end there shall be added the words “ or to an industrial and provident society ”.
- (4) After subsection (3) there shall be inserted the following subsections—
- “(3A) A registered society, in order to transfer some but not all of its engagements, must in addition to passing the special resolution required by subsection (2) or (3) above resolve to do so by an affected members’ resolution, that is, a resolution passed by the appropriate majority of the members whose engagements with the society are included in the transfer and who, under the rules of the society, would be entitled to vote on a special resolution.
- (3B) In subsection (3A) above, “appropriate majority” means a majority consisting of not less than three quarters of those members who vote.”
- (5) After subsection (7) there shall be added the following subsections—
- “(8) This section does not apply to an amalgamation of or transfer of engagements by a registered friendly society.
- (9) In this section “industrial and provident society” means a society registered or deemed to be registered under the Industrial and Provident Societies Act 1965 or the Industrial and Provident Societies Act (Northern Ireland) 1969.”
- 30 (1) In section 83(3), in subsection (3), after “1950” there shall be inserted the words “ or, in Northern Ireland, the Arbitration Act (Northern Ireland) 1937 ”.

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- (2) In subsection (8) of that section, after the word “district” there shall be inserted “or division”.
- 31       Section 84 shall cease to apply to registered friendly societies.
- 32       After section 84 there shall be inserted the following section—

**“84A Conversion of registered societies into industrial and provident societies.**

- (1) A registered society other than a registered friendly society may apply for registration under the Industrial and Provident Societies Act 1965 if the proposal to apply for registration has been submitted to the members of the society for their consent by the procedure required for a proposal to amend the rules of the society and consent has been obtained in accordance with that procedure.
- (2) On the registration under the Industrial and Provident Societies Act 1965 of a registered society all property held immediately before that registration by any person in trust for the society or any branch of the society (whether or not a registered branch) shall become by virtue of this subsection property of the industrial and provident society.
- (3) After its registration under that Act, the society shall continue to be entitled to all rights and subject to all liabilities to which it was entitled or subject immediately before registration.
- (4) It is hereby declared for the avoidance of doubt that—
- (a) the reference in subsection (2)(a) above to property includes a reference to property situated outside the United Kingdom; and
  - (b) the reference to rights and liabilities of such a society or branch includes a reference and liabilities under the law of any country or territory outside the United Kingdom.
- (5) Not later than the end of the period of 90 days beginning with the day on which a registered society is registered under the Industrial and Provident Societies Act 1965—
- (a) the trustees of the society shall deliver to the registered office of the industrial and provident society any property of the registered society or any branch of the registered society held by them and any documents relating to the property, rights and liabilities of the registered society or to its financial affairs;
  - (b) the trustees of any branch of the registered society shall deliver to that office any property of the branch or any other branch of the society held by them and any documents relating to the property, rights and liabilities of the branch or to its financial affairs; and
  - (c) if he holds property on trust for the society or any branch of the society, the Public Trustee shall deliver to that office the property so held by him and any documents relating to it;
- but nothing in this Act shall have effect to relieve the trustees of a registered society or branch or the Public Trustee from any liability arising from acts or omissions before that registration.

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- (6) If a registered society is registered under the Industrial and Provident Societies Act 1965, the registration of that society under this Act shall thereupon become void and shall be cancelled by the Chief Registrar or, under the direction of the Chief Registrar, by the assistant registrar for Scotland.
- (7) Schedule 6A to this Act shall have effect to supplement this section.
- (8) In the application of this section to Northern Ireland, references in this section and Schedule 6A to the Industrial and Provident Societies Act 1965 shall be construed as references to the Industrial and Provident Societies Act (Northern Ireland) 1969.”

#### Commencement Information

**I158** Sch. 16 para. 32 wholly in force; Sch. 16 para. 32 not in force at Royal Assent see s. 126(2); Sch. 16 para. 32 (except para. (8)) in force at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 3; Sch. 16 para. 32 (except subsection (8) of s. 84A) in force for all remaining purposes at 13.9.1993 by S.I. 1993/2213, art. 2(1), Sch. 2; Sch. 16 para. 32 (to the extent that it inserts section 84A(8) of the 1974 Act) in force at 1.1.1994 by S.I. 1993/3226, art. 2(1), Sch. 2

- 33 In section 86—
- (a) in subsection (1), at the beginning there shall be inserted the words “ Subject to subsection (2A) below ” and, after the words “registered society”, there shall be inserted the words “ or branch ”;
- (b) after subsection (2) there shall be inserted the following subsection—
- “(2A) For the purposes of this Act “special resolution”, in relation to a registered friendly society, shall be construed in accordance with paragraph 7 of Schedule 12 to the 1992 Act.”

- 34 For section 87 there shall be substituted the following section—

“ *Winding-up, suspension of business and inspection*

#### **87 Power of Commission to apply for winding-up of registered friendly societies and branches.**

- (1) If, on receiving the report on the state and conduct of the activities of a registered friendly society from a person appointed under section 65 of the 1992 Act, it appears to the Commission that it is in the interests of the members of the society or of the public that the society should be wound up, then, unless the society is already being wound up by the court, the Commission may present a petition to the High Court or, in Scotland, to the Court of Session for the society to be wound up by the court in accordance with the Insolvency Act 1986 or, as the case may be, the Insolvency (Northern Ireland) Order 1989 if the court thinks it just and equitable that this should be done.
- (2) Subsection (1) above applies in relation to a registered branch of a registered friendly society as it applies in relation to such a society.”

- 35 Sections 88 and 89 shall cease to have effect.

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- 36 Section 90 shall cease to have effect in relation to registered friendly societies.
- 37 In section 91(4), after the words “section 85(4) above” there shall be inserted the words “ or under any provision of the 1992 Act ”.
- 38 In section 93—
- (a) in subsection (1)(b), for the words from the beginning to “dissolution” there shall be substituted the words “ by an instrument of dissolution approved by a special resolution of the society or branch; ”;
  - (b) in subsection (1)(c), after the words “section 95(3)” there shall be inserted the words “ or 95A(1) ”; and
  - (c) in subsection (3), for the words from “to the county” to “within” there shall be substituted the words “—
    - (a) in England and Wales, to the county court for the district,
    - (b) in Scotland, to the sheriff of the sheriffdom, or
    - (c) in Northern Ireland, to the county court for the division,
 within ”.

#### Commencement Information

**I159** Sch. 16 para. 38 wholly in force; Sch. 16 para. 38 not in force at Royal Assent see s. 126(2); Sch. 16 para. 38(a) in force at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 3; Sch. 16 para. 38(b)(c) (to the extent that it introduces paras. (a)(b) into section 93(3)) in force at 28.4.1993 by S.I. 1993/1186, art. 2(3), Sch. 3; Sch. 16 para. 38(c) (to the extent that it introduces para. (c) into s. 93(3) of the 1974 Act) in force at 1.1.1994 by S.I. 1993/3226, art. 2(1), Sch. 2

- 39 Section 95 shall cease to have effect in relation to registered friendly societies and, after that section, there shall be inserted the following section—

#### “95A Dissolution of registered friendly societies and branches by award.

- (1) Subject to subsection (2) below, if upon an investigation under section 65 of the 1992 Act it appears to the Commission—
- (a) that the funds of a registered friendly society or of a registered branch of such a society are insufficient to meet the existing claims on them, or
  - (b) that the rates of contribution fixed in the rules of the society or branch are insufficient to cover the benefits assured to be given by the society or branch,

the Commission may, if it considers it expedient to do so, award that the society or branch be dissolved and its affairs wound up; and where such an award is made the Commission shall direct in what manner the assets of the society or branch shall be divided or appropriated.

- (2) Where the Commission makes an award under this section, it may suspend the operation thereof for such period as it may deem necessary to enable the society or branch to make such alterations and adjustments of contributions and benefits as will in its judgment prevent the necessity of the award of dissolution coming into operation; and where within that period the alterations and adjustments are made, the Commission may cancel the award.

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- (3) The Commission proceeding under this section shall have the same powers and authorities, enforceable by the same penalties, as the Chief Registrar has under section 95 above.
- (4) Within twenty-one days after the making of an award under this section, the Commission shall send to the central office notice of the award of dissolution and upon its receipt the central office shall cause notice of the award to be advertised in the Gazette and in some newspaper in general circulation in the neighbourhood of the registered office of the society or branch; and unless—
- (a) within three months from the date on which that advertisement appears, a member or other person interested or having any claim on the funds of the society or branch commences proceedings to set aside the dissolution of the society or branch consequent upon the award, and
- (b) the dissolution is set aside accordingly,
- the society or branch shall be legally dissolved from the date of the advertisement.
- (5) The expenses of every award, and of advertising every notice, under this section shall be paid out of the funds of the society or branch before any other appropriation thereof is made.”

40 In section 96, after the words “section 95(3)” there shall be inserted the words “ or 95A(1) ”.

41 In section 97, in subsection (1)(b) after the words “section 95 (6)(a)” there shall be inserted the words “ or 95A(4)(a) ”.

42 In section 98—

- (a) in subsection (1)(g), for the words from “a certificate” to “false” there shall be substituted the words “ to the society or branch from which the money is claimed a false death ”;
- (b) in subsection (2), at the end there shall be inserted the words “ or the Industrial Assurance (Northern Ireland) Order 1979 ”;
- (c) in subsection (8), after “1923” there shall be inserted the words “ and Article 46(2) of the Industrial Assurance (Northern Ireland) Order 1979 ”.

#### Commencement Information

**1160** Sch. 16 para. 42 wholly in force; Sch. 16 para. 42 not in force at Royal Assent see s. 126(2); Sch. 16 para. 42(a) in force at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 3; Sch. 16 para. 42(b)(c) in force at 1.1.1994 by S.I. 1993/3226, art. 2(1), Sch. 2

43 In section 100(a), at the end there shall be added the words “ other than a registered friendly society or branch of such a society ”.

44 In section 102—

- (a) after “1980” there shall be inserted the words “ or the Magistrates’ Courts (Northern Ireland) Order 1981 ”;
- (b) after the word “Wales” there shall be inserted the words “ or Northern Ireland ”; and
- (c) after paragraph (b) there shall be inserted the words “;

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and, in the application of this section to Northern Ireland, the reference in paragraph (a) to a petty sessions area shall be construed as a reference to a county court division and paragraph (b) shall be omitted.”

45 Section 106 shall cease to have effect.

46 In section 107, after subsection (2) there shall be inserted the following subsection—

“(2A) In the application of this section to Northern Ireland, references to the Secretary of State shall be construed as references to the Department of Health and Social Services for Northern Ireland.”

47 In section 110(2), after the word “Act” there shall be inserted the words “ or the 1992 Act ”.

48 In section 111(1)—

(a) in the definition of “collecting society” at the end there shall be added the words “ or the Industrial Assurance (Northern Ireland) Order 1979 ”;

(b) after that definition there shall be inserted the following definition—

““Commission” means the Friendly Societies Commission;”;

(c) in the definition of “the Companies Acts” after “1985” there shall be inserted the words “ or, in Northern Ireland, the Companies (Northern Ireland) Order 1986 ”;

(d) in the definition of “Gazette”, after paragraph (b) there shall be inserted the following paragraph—

“(c) the Belfast Gazette if the registered office of the society or branch is in Northern Ireland”;

(e) after the definition of “signed” there shall be inserted the following definition—

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

#### Commencement Information

**I161** Sch. 16 para. 48 wholly in force; Sch. 16 para. 48 not in force at Royal Assent see s. 126(2); Sch. 16 para. 48(b)(e) in force at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 3; Sch. 16 para. 48(a)(c)(d) in force at 1.1.1994 by S.I. 1993/3226, art. 2(1), Sch. 2

49 Section 115 shall cease to have effect.

50 In section 117(3), after the words “extends to” there shall be inserted the words “ Northern Ireland, ”.

51 (1) In paragraph 3 of Schedule 2—

(a) in sub-paragraph (1), for the words “sub-paragraph (2)” there shall be substituted the words “ sub-paragraphs (2) and (3) ” and the words “the fines and” and “or fine” shall be omitted;

(b) after sub-paragraph (2) there shall be inserted the following sub-paragraph—

“(3) Nothing in sub-paragraph (1) above shall prevent a registered friendly society from specifying in its rules the manner in which



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the conditions under which any member may become entitled to any benefit assured by the society are to be determined, instead of specifying the conditions themselves.”

- (2) Paragraphs 7, 12 and 15 of that Schedule shall cease to have effect in relation to registered friendly societies.

52 After Schedule 6 there shall be inserted the following Schedule—

“SCHEDULE  
6A

CONVERSION OF REGISTERED SOCIETIES INTO INDUSTRIAL  
AND PROVIDENT SOCIETIES: SUPPLEMENTARY

- 1 This Schedule has effect in relation to any registered society (“the society”) which is registered under the Industrial and Provident Societies Act 1965 and, in this Schedule, “registration” means registration under that Act.
- 2 (1) On the registration of the society any appointment as trustee of the society or any branch of it shall determine.
- (2) All officers of the society other than its trustees shall upon its registration become officers of the industrial and provident society holding corresponding offices in that society.
- 3 Any agreement made, transaction effected or other thing done by, to or in relation to the society or any branch of it (whether registered or not) which is in force or effective immediately before its registration shall have effect as if made, effected or done by, to or in relation to the industrial and provident society, in all respects, as if the industrial and provident society were the same person as the society or branch and accordingly references to the society or branch—
  - (a) in any agreement (whether or not in writing) and in any deed, bond or instrument;
  - (b) in any process or other document issued, prepared or employed for the purposes of any proceeding before any court or other tribunal or authority; and
  - (c) in any other document whatsoever (other than an enactment) relating to or affecting any property, right or liability of the registered society or branch,
 shall be taken as referring to the industrial and provident society.
- 4 (1) Any agreement made by the society or any branch of it which is in force immediately before the society’s registration shall have effect as if—
  - (a) for references to members of the society or branch there were substituted references to members of the industrial and provident society;
  - (b) for references to officers of the society or branch other than its trustees there were substituted references to the corresponding officers of the industrial and provident society; and
  - (c) for references to the trustees of the registered society or branch there were substituted references to the industrial and provident society.

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- (2) References in sub-paragraph (1) above to an agreement include references to a deed, bond or other instrument.
- (3) It is hereby declared for the avoidance of doubt that—
- (a) the effect of section 84A of this Act in relation to any contract of employment with the society or any of its branches in force immediately before the society’s registration is merely to modify the contract by substituting the industrial and provident society as the employer (and not to terminate the contract or vary it in any other way); and
  - (b) that section is effective to vest the rights and liabilities of the society or branch under any agreement or arrangement for the payment of pensions, allowances or gratuities in the industrial and provident society along with all other rights and liabilities of the society or branch;
- and accordingly any period of employment with the society or branch shall count for all purposes as a period of employment with the industrial and provident society.”

[<sup>F109</sup>SCHEDULE 17

Section 97.

AMENDMENTS OF POLICYHOLDERS PROTECTION ACT 1975]

**Textual Amendments**

**F109** Schs. 17-19 shall cease to have effect (17.8.2001 for specified purposes and otherwise *prosp.*) by virtue of S.I. 2001/2617, arts. 2(a), 8(1), 13(1), Sch. 3 para. 130 (with art. 13(3), **Sch. 5**) and are repealed (*prosp.*) by S.I. 2001/2617, arts. 2(b), 13(2), Sch. 4 (with art. 13(3), **Sch. 5**)

- 1 (1) In section 1 (the Policyholders Protection Board), in subsection (2), after paragraph (a) there shall be inserted the following paragraph—
- “(aa) to take the measures provided for by sections 8A to 16 below for the purpose of indemnifying (in whole or in part) or otherwise assisting or protecting—
- [<sup>F110</sup>(i) members of friendly societies who have entered into contracts of insurance with societies of which they are members;]
  - (ii) others who have been or may be prejudiced in consequence of the inability of friendly societies to meet their liabilities under such contracts; and
  - (iii) persons who have entered into contracts of insurance with friendly societies for the provision of group insurance benefits to the members of a group scheme (within the meaning of section 11 of the Friendly Societies Act 1992);
- but, in relation to benefits provided by a friendly society in pursuance of such a scheme, a person falling within sub-paragraph (iii) above is not entitled to be

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indemnified, assisted or protected if the members of the scheme are required to be members of the society. ”

- (2) In paragraph (b) of that subsection, after the word “companies” there shall be inserted “ friendly societies ”.

#### Textual Amendments

**F110** Sch. 17 para. 1(1) words substituted (19.3.1997) by 1997 c. 18, ss. 20, 23(2), Sch. 4 para. 1

- 1 (1) In section 1 (the Policyholders Protection Board), in subsection (2), after paragraph (a) there shall be inserted the following paragraph—

“(aa) to take the measures provided for by sections 8A to 16 below for the purpose of indemnifying (in whole or in part) or otherwise assisting or protecting—

- (i) members of friendly societies carrying on insurance business in the United Kingdom who have entered into contracts of insurance with societies of which they are members; and
- (ii) others who have been or may be prejudiced in consequence of the inability of friendly societies to meet their liabilities under such contracts; and
- (iii) persons who have entered into contracts of insurance with friendly societies for the provision of group insurance benefits to the members of a group scheme (within the meaning of section 11 of the Friendly Societies Act 1992);

but, in relation to benefits provided by a friendly society in pursuance of such a scheme, a person falling within sub-paragraph (iii) above is not entitled to be indemnified, assisted or protected if the members of the scheme are required to be members of the society. ”

- (2) In paragraph (b) of that subsection, after the word “companies” there shall be inserted “ friendly societies ”.

- 2 After section 3 there shall be inserted the following section—

#### “3A Authorised and other friendly societies.

- (1) The functions of the Board under this Act shall be exercisable in relation to persons such as are mentioned in section 1(2)(aa) above only in cases where the friendly societies in question are qualifying friendly societies.

- (2) Friendly societies are qualifying friendly societies if—

- (a) they are authorised friendly societies;
- (b) the Board is satisfied that they fall within subsection (3) or (4) below; or
- (c) the Board has at any time been so satisfied.

- (3) A society falls within this subsection if—

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- (a) it is required by section 48 of the Friendly Societies Act 1992 to maintain a margin of solvency; and
  - (b) it possesses the margin of solvency which it is required to maintain.
- (4) A society falls within this subsection if—
- (a) it is not required by section 48 of the Friendly Societies Act 1992 to maintain a margin of solvency; but
  - (b) the value of its assets exceeds its liabilities.
- (5) It shall be the duty of the Commission to send the Board any abstract or other information required by the Board to enable it to perform the functions conferred on it by this section.”
- [<sup>F111</sup>3 (1) Section 4 (protection confined to insurance under qualifying policies of protected risks or commitments) shall be amended as follows.
- (2) In subsection (2), at the end there shall be inserted ,
- (c) a contract of insurance with a friendly society entered into through an establishment in—
    - (i) the United Kingdom,
    - (ii) another EEA State, or
    - (iii) the Channel Islands or the Isle of Man.”
- (3) In subsection (3)—
- (a) in paragraph (a), after “above” there shall be inserted “, or a contract falling within subsection (2)(c)(i) above”,
  - (b) in paragraph (b), after “above” there shall be inserted “, or a contract falling within subsection (2)(c)(ii) above”, and
  - (c) in paragraph (c), after “above” there shall be inserted “or a contract falling within subsection (2)(c)(iii) above”.]

#### Textual Amendments

**F111** Sch. 17 para. 3 substituted (19.3.1997) by 1997 c. 18, ss. 20, 23(2), Sch. 4 para. 2

- 3 In section 4 (protection confined to United Kingdom policies) after subsection (2) there shall be inserted the following subsection—
- “(3) A contract of insurance with a friendly society is a United Kingdom policy for the purposes of this Act at any time when the performance by the society of any of its obligations under the contract would constitute the carrying on by the society in the United Kingdom of insurance business of any class.”
- 4 In the heading preceding section 5 (duties of the Board in case of companies in liquidation) after the word “companies” there shall be inserted “and friendly societies”.
- 5 After section 5 there shall be inserted the following section—

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### “5A Application of sections 8A, 10 and 11.

- (1) The functions of the Board under sections 8A, 10 and 11 below are exercisable in the case of a registered friendly society if—
  - (a) an order has been made for the winding up of the society on a petition under section 87 of the <sup>M99</sup>Friendly Societies Act 1974;
  - (b) it has terminated under paragraph (a) of subsection (1) of section 93 of that Act upon the happening of an event;
  - (c) it has been dissolved in accordance with paragraph (b) of that subsection; or
  - (d) an award has been made under section 95 or section 95A of that Act.
- (2) The functions of the Board under sections 8, 10 and 11 below are exercisable in the case of an incorporated friendly society if—
  - (a) an instrument of dissolution has been approved under section 20 of the Friendly Societies Act 1992;
  - (b) a special resolution that it be wound up voluntarily has been passed under section 21 of that Act; or
  - (c) an order has been made for the winding up of the society on a petition under section 22 or 52 of that Act.
- (3) In this Act “closing society” means a friendly society in the case of which the Board’s functions are exercisable under subsection (1) or (2) above.
- (4) References in this Act to the beginning of the liquidation of a closing society are references—
  - (a) in a case falling within paragraph (a) of subsection (1) above, to the date of the order;
  - (b) in a case falling within paragraph (b) of that subsection, to the date of the happening of the event;
  - (c) in a case falling within paragraph (c) of that subsection, to the date of signature of the instrument of dissolution;
  - (d) in a case falling within paragraph (d) of that subsection, to the date of the award;
  - (e) in a case falling within paragraph (a) of subsection (2) above, to the date of signature of the instrument of dissolution;
  - (f) in a case falling within paragraph (b) of that subsection, to the date of the passing of the special resolution; and
  - (g) in a case falling within paragraph (c) of that subsection, to the date of the order.”

#### Marginal Citations

M99 1974 c. 46.

- 6 (1) In section 8 (general policies other than compulsory policies), in subsection (1) after the word “policy”, in the first place where it occurs, there shall be inserted “ issued by an [<sup>F112</sup>insurance company to which this Act applies] ”.

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- (2) In subsection (4) of that section, for the words “ this Act ” there shall be substituted “ the application of this Act to [<sup>F113</sup>insurance companies which are not friendly societies] ”.

#### Textual Amendments

**F112** Words in Sch. 17 para. 6(1) substituted (19.3.1997) by 1997 c. 18, ss. 20, 23(2), Sch. 4 para. 3(2)

**F113** Words in Sch. 17 para. 6(2) substituted (19.3.1997) by 1997 c. 19, ss. 20, 23(2), Sch. 4 para. 3(3)

- 6 (1) In section 8 (general policies other than compulsory policies), in subsection (1) after the word “policy”, in the first place where it occurs, there shall be inserted “ issued by an authorised insurance company ”.

- (2) In subsection (4) of that section, for the words “ this Act ” there shall be substituted “ the application of this Act to authorised insurance companies ”.

- 7 After section 8 there shall be inserted the following section—

#### “8A General contracts made by friendly societies

[<sup>F114</sup>(1)]Subject to sections 13 and 14 [<sup>F114</sup>and subsection (2)] below, where the Board’s functions are exercisable in relation to a closing society, it shall be the duty of the Board to secure that a sum equal to ninety per cent of the amount of any liability of the society to a private policyholder (within the meaning of section 6(7) above) under the terms of a contract the effecting of which constituted the carrying on of general business of any class and which [<sup>F115</sup>is a qualifying policy] is paid to the member as soon as reasonably practicable after the beginning of the liquidation.”

- [<sup>F116</sup>(2) The duty of the Board under subsection (1) above shall only apply if the liability is in respect of a protected risk]

#### Textual Amendments

**F114** Words in Sch. 17 para. 7 (inserting 8A(1) in the 1975 Act) inserted (19.3.1997) by 1997 c. 18, ss. 20, 23(2), Sch. 4 para. 4

**F115** Words in Sch. 17 para. 7 (inserting 8A(1) in the 1975 Act) substituted (19.3.1997) by 1997 c. 18, ss. 20, 23(2), Sch. 4 para. 4

**F116** Words in Sch. 17 para. 7 (inserting 8A(2) in the 1975 Act) inserted (19.3.1997) by 1997 c. 18, ss. 20, 23(2), Sch. 4 para. 4

- 7 After section 8 there shall be inserted the following section—

#### “8A General contracts made by friendly societies

Subject to sections 13 and 14 below, where the Board’s functions are exercisable in relation to a closing society, it shall be the duty of the Board to secure that a sum equal to ninety per cent of the amount of any liability

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of the society to a private policyholder (within the meaning of section 6(7) above) under the terms of a contract the effecting of which constituted the carrying on of general business of any class and which was a United Kingdom policy at the beginning of the liquidation is paid to the member as soon as reasonably practicable after the beginning of the liquidation.”

8 (1) In section 10 (long term policies), in subsection (1) for the words “this Act” there shall be substituted “ the application of this Act to insurance companies ”.

(2) At the end of that section there shall be added the following subsection—

“(3) In this Act references to a “long term policy” include, in relation to a friendly society, references to a contract the effecting of which constituted the carrying on of long term business of any class, not being a contract of reinsurance.”

9 In section 11 (special provision for future benefits under long term policies) after [F117subsection (3A)] there shall be inserted the following subsection—

[F118“(3B)] This section applies to a long term policy of a closing society as it applies to a long term policy of a company in liquidation but—

(a) with the addition at the end of subsection (3) above of the words “subject to the giving up of any right to a payment on dissolution of the society”; and

[F119(b) in subsection (5)(b) below, with the insertion after the words “this Act applies” of the words “or authorised friendly society”,”][F120 and in subsection (5)(a) for “another” there shall be substituted “an”]

#### Textual Amendments

**F117** Words in Sch. 17 para. 9 substituted (19.3.1997) by 1997 c. 18, ss. 20, 23(2), Sch. 4 para. 5(a)

**F118** Words in Sch. 17 para. 9 renumbered (19.3.1997) by 1997 c. 18 ss. 20, 23(2), Sch. 4 para. 5(b)

**F119** Words in Sch. 17 para. 9 substituted (19.3.1997) by 1997 c. 18, ss. 20, 23(2), Sch. 4 para. 5(b)

**F120** Words in Sch. 17 para. 9 inserted (19.3.1997) by 1997 c. 18, ss. 20, 23(2), Sch. 4 para. 5(c)

9 In section 11 (special provision for future benefits under long term policies) after subsection (3) there shall be inserted the following subsection—

“(3A) This section applies to a long term policy of a closing society as it applies to a long term policy of a company in liquidation but—

(a) with the addition at the end of subsection (3) above of the words “subject to the giving up of any right to a payment on dissolution of the society”; and

(b) in subsection (5) below, with the insertion after the words “insurance company” of the words “or friendly society”.”

10 After section 11 there shall be inserted the following section—



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### “11A Application of provisions to closing societies.

Sections 12, 13, 14(2) to (9) and 15 shall apply to a closing society as they apply to a company in liquidation.”

11 At the end of section 16 (companies in financial difficulties) there shall be added the following subsection—

“(10) This section applies to a friendly society, not being a closing society—

(a) with the substitution of the following subsections for subsection (1)

—  
[<sup>F121</sup>(aa) with, in subsection (3), the substitution for “another” of “an”];

(“ A friendly society, not being a closing society, is a society in financial difficulties for the purposes of this section if—

(a) it is required by section 42 or 46 of the Friendly Societies Act 1992 to send abstracts of actuaries’ reports to the Commission and the most recent abstract so sent shows that it has ceased to fall within subsection (2) or subsection (3) of section 3A above;

(b) it fails to comply with a direction of the Board under subsection (1A) below;

(c) a provisional liquidator of the society has been appointed under section 135 of the Insolvency Act 1986 or, as the case maybe, Article 115 of the Insolvency (Northern Ireland) Order 1989; or

(d) it has been proved on a winding-up petition to be unable to pay its debts.

(1A) A direction under this subsection is a direction that a society, not required by section 42 or 46 of the Friendly Societies Act 1992 to send abstracts of actuaries’ reports to the Commission, satisfy the Board that it possesses sufficient assets to meet its liabilities.

(1B) It shall be the duty of the Commission to send the Board any information required by the Board to enable it to determine whether it is satisfied that a society to which a direction under subsection (1A) above has been given possesses sufficient assets to meet its liabilities.”; and

(b) with the omission of subsection (6)(a).”

#### Textual Amendments

**F121** Words in [Sch. 17 para. 11](#) inserted (19.3.1997) by [1997 c. 18, ss. 20, 23\(2\)](#), [Sch. 4 para. 6](#)

11 At the end of section 16 (companies in financial difficulties) there shall be added the following subsection—

“(10) This section applies to a friendly society, not being a closing society—

(a) with the substitution of the following subsections for subsection (1)

—



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(“) A friendly society, not being a closing society, is a society in financial difficulties for the purposes of this section if—

- (a) it is required by section 42 or 46 of the Friendly Societies Act 1992 to send abstracts of actuaries’ reports to the Commission and the most recent abstract so sent shows that it has ceased to fall within subsection (2) or subsection (3) of section 3A above;
- (b) it fails to comply with a direction of the Board under subsection (1A) below;
- (c) a provisional liquidator of the society has been appointed under section 135 of the Insolvency Act 1986 or, as the case maybe, Article 115 of the Insolvency (Northern Ireland) Order 1989; or
- (d) it has been proved on a winding-up petition to be unable to pay its debts.

(1A) A direction under this subsection is a direction that a society, not required by section 42 or 46 of the Friendly Societies Act 1992 to send abstracts of actuaries’ reports to the Commission, satisfy the Board that it possesses sufficient assets to meet its liabilities.

(1B) It shall be the duty of the Commission to send the Board any information required by the Board to enable it to determine whether it is satisfied that a society to which a direction under subsection (1A) above has been given possesses sufficient assets to meet its liabilities.”; and

(b) with the omission of subsection (6)(a).”

12 In section 17 (special provision with respect to long term business of a company in financial difficulties) at the end of subsection (8) there shall be added the words “ and this section applies to friendly societies in financial difficulties as it applies to companies in financial difficulties ”.

13 In section 18(1)(a) (definition of “general business expenditure”), for the words “or 8” there shall be substituted “ 8 or 8A ”.

14 At the end of section 19 there shall be inserted the following subsection—

“(11) This section, Schedule 2 to this Act and section 20 below apply to a closing society as they apply to a company in liquidation and to a society in financial difficulties as they apply to a company in financial difficulties.”

.....  
[<sup>F122</sup>15]

**Textual Amendments**

**F122** Sch. 17 para. 15 repealed (19.3.1997) by 1997 c. 18, ss. 22, 23(2), Sch. 5

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15 At the end of section 21 ( levies on authorised insurance companies) there shall be added the following subsection—

“(10) This section and Schedule 3 apply to qualifying friendly societies as they apply to authorised insurance companies carrying on general business in the United Kingdom, except that contributions in respect of discretionary benefits shall be disregarded in the application of subsections (4), (5) and (6) above by virtue of this subsection.”

[<sup>F123</sup>16 In section 25 (application of surplus funds by the Board), in subsection (1), after the word “applies”, there shall be inserted “and to qualifying friendly societies carrying on business in the United Kingdom”.]

#### Textual Amendments

**F123** Sch. 17 para. 16 substituted (19.3.1997) by 1997 c. 18, ss. 20, 23(2) Sch. 4 para. 7

16 In section 25 (application of surplus funds by the Board), in subsection (1), after the words “United Kingdom”, there shall be inserted “ and to qualifying friendly societies carrying on such business ”.

17 At the end of section 27 (disclosure of documents and information to the Board) there shall be added the words “ in relation to companies ”.

18 (1) Section 32 (interpretation) shall be amended as follows.

(2) In subsection (1), at the appropriate places in alphabetical order, there shall be inserted the following definitions—

**F124** . . .

““closing society” has the meaning given by section 5A(3) above;”

““the Commission” means the Friendly Societies Commission;”

““friendly society” has the same meaning as in the Friendly Societies Act 1992;”

““incorporated friendly society” means a friendly society incorporated under the Friendly Societies Act 1992;”

““qualifying society” is to be construed in accordance with section 3A(2) above;”

[<sup>F125</sup>(3) In subsection (2), for “subsection (2ZA)” there shall be substituted “subsections (2ZA) to (2ZC)”.]

(4) After [<sup>F126</sup>subsection (2ZA)] there shall be inserted the following subsections—

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[<sup>F127</sup>(2ZB)] Any reference to a policy holder in this Act is to be construed, in the application of this Act to friendly societies, as a reference to a person who has entered into a contract of insurance with that society.

[<sup>F127</sup>(2ZC)] References in this Act to insurance business of any class are references, in the application of this Act to friendly societies, to insurance business of a class specified in head A or head B of Schedule 2 to the Friendly Societies Act 1992.”

[<sup>F128</sup>(4A) In subsection (2A), in paragraph (c)—

- (a) after “policies” there shall be inserted “, or contracts,” and
- (b) at the end there shall be inserted “, or entered into the contract”.

(4B) In subsection (2B), after “policy”, in both places, there shall be inserted “or contract”.]

(5) After subsection (4) there shall be inserted the following subsection—

“(4A) For the purposes of this Act, a liability of a closing society towards a member arising otherwise than under the terms of the member’s contract with the society shall be treated as a liability under the terms of the contract if the liability of the society arises from any failure on the part of the society to perform an obligation under the contract to provide any services or facilities on the occurrence of any event to which the risk under the contract relates.”

#### Textual Amendments

**F124** Words in Sch. 17 para. 18(2) repealed (19.3.1997) by 1997 c. 18, ss. 22, 23(2), Sch. 5

**F125** Sch. 17 para. 18(3) substituted (19.3.1997) by 1997 c. 18, ss. 20, 23(2), Sch. 4 para. 8(2)

**F126** Words in Sch. 17 para. 18(4) substituted (19.3.1997) by 1997 c. 18, ss. 20, 23(2), Sch. 4 para. 8(3)(a)

**F127** Sch. 17 para. 18(4): subsections (2ZB)(2ZC) (previously (2A)(2B)) renumbered (19.3.1997) by 1997 c. 18, ss. 20, 23(2), Sch. 4 para. 8(3)(b)

**F128** Words in Sch. 17 para. 18(4) inserted (19.3.1997) by 1997 c. 18, ss. 20, 23(2), Sch. 4 para. 8(4)

18 (1) Section 32 (interpretation) shall be amended as follows.

(2) In subsection (1), at the appropriate places in alphabetical order, there shall be inserted the following definitions—

““authorised friendly society” means a society authorised under section 32 of the Friendly Societies Act 1992 to carry on in the United Kingdom insurance business such as is mentioned in section 31 of that Act;”

““closing society” has the meaning given by section 5A(3) above;”

““the Commission” means the Friendly Societies Commission;”

““friendly society” has the same meaning as in the Friendly Societies Act 1992;”

““incorporated friendly society” means a friendly society incorporated under the Friendly Societies Act 1992;”

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““qualifying society” is to be construed in accordance with section 3A(2) above;”

- (3) In subsection (2), after the word “above”, there shall be inserted “ but subject to subsections (2A) and (2B) below ”.
- (4) After subsection (2) there shall be inserted the following subsections—
- “(2A) Any reference to a policy holder in this Act is to be construed, in the application of this Act to friendly societies, as a reference to a person who has entered into a contract of insurance with that society.
- (2B) References in this Act to insurance business of any class are references, in the application of this Act to friendly societies, to insurance business of a class specified in head A or head B of Schedule 2 to the Friendly Societies Act 1992.”
- (5) After subsection (4) there shall be inserted the following subsection—
- “(4A) For the purposes of this Act, a liability of a closing society towards a member arising otherwise than under the terms of the member’s contract with the society shall be treated as a liability under the terms of the contract if the liability of the society arises from any failure on the part of the society to perform an obligation under the contract to provide any services or facilities on the occurrence of any event to which the risk under the contract relates.”
- 19 (1) In Schedule 3 (additional provisions with respect to levies on authorised insurance companies) after paragraph 4 there shall be inserted the following paragraphs—
- “4A In the application of this Schedule to a friendly society—
- (a) paragraph 4 above shall have effect with the substitution for any reference to the Secretary of State of a reference to the Commission; and
- (b) paragraph 9 below shall be omitted.”
- “4B (1) Any person who causes or permits to be included in a statement sent to the Commission under paragraph 4 above as applied by this paragraph any information which he knows to be false in a material particular or recklessly causes or permits to be so included any information which is false in a material particular shall be guilty of an offence and liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both;
- (b) on summary conviction, to a fine not exceeding the statutory maximum.
- (2) Any friendly society which makes default in complying with paragraph 4 above as so applied shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.”

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## SCHEDULE 18

Section 98.

### AMENDMENTS OF FINANCIAL SERVICES ACT 1986

#### PART I

##### AMENDMENTS OF PROVISIONS OTHER THAN SCHEDULE 11

1 The following section shall be substituted for section 23—

**“23 Friendly societies.**

A friendly society which carries on investment business in the United Kingdom is an authorised person as respects any investment business which it carries on for or in connection with any of the activities mentioned in Schedule 2 to the Friendly Societies Act 1992.”

**Commencement Information**

**I162** Sch. 18 para. 1 wholly in force; Sch. 18 para. 1 not in force at Royal Assent see s. 126(2); Sch. 18 para. 1 in force for certain purposes at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 4; Sch. 18 para. 1 in force for all remaining purposes at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

2 In section 113 (periodical fees), for subsection (3) there shall be substituted the following subsection—

“(3) So long as a friendly society is authorised under section 23 above to carry on investment business it shall pay to the Friendly Societies Commission such periodical fees as the Commission may by regulations specify.”

**Commencement Information**

**I163** Sch. 18 para. 2 wholly in force; Sch. 18 para. 2 not in force at Royal Assent see s. 126(2); Sch. 18 para. 2 in force for certain purposes at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 4; Sch. 18 para. 2 in force for all remaining purposes at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

3 In section 141 (indemnity schemes), in subsection (2), for the words from “the Chief Registrar” onwards there shall be substituted “ the Friendly Societies Commission ”.

**Commencement Information**

**I164** Sch. 18 para. 3 wholly in force; Sch. 18 para. 3 not in force at Royal Assent see s. 126(2); Sch. 18 para. 3 in force for certain purposes at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 4; Sch. 18 para. in force for all remaining purposes at 28.4.1993 by S.I. 1993/1186, art. 2(2), Sch. 2

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- 4 In section 179 (restrictions on disclosure of information), in subsection (3), for paragraph (e) there shall be substituted—  
 “(e) the Friendly Societies Commission”.

**Commencement Information**

**I165** Sch. 18 para. 4 wholly in force; Sch. 18 para. 4 not in force at Royal Assent see s. 126(2); Sch. 18 para. 4 in force for certain purposes at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 4; Sch. 18 para. 4 in force for all remaining purposes at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

- 5 In section 180 (exceptions from restrictions on disclosure), in subsection (1), for paragraph (h) there shall be substituted—  
 “(h) for the purpose of enabling or assisting the Friendly Societies Commission to discharge its functions under this Act, the enactments relating to friendly societies or the enactments relating to industrial assurance”.

**Commencement Information**

**I166** Sch. 18 para. 5 wholly in force; Sch. 18 para. 5 not in force at Royal Assent see s. 126(2); Sch. 18 para. 5 in force for certain purposes at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 4; Sch. 18 para. 5 in force for all remaining purposes at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

- 6 In section 204(1) (service of notices), for the words from “the Chief Registrar” onwards there shall be substituted “ or the Friendly Societies Commission ”.

**Commencement Information**

**I167** Sch. 18 para. 6 wholly in force; Sch. 18 para. 6 not in force at Royal Assent see s. 126(2); Sch. 18 para. 6 in force for certain purposes at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 4; Sch. 18 para. 6 in force for all remaining purposes at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

- 7 In section 207(1) (interpretation), the following definitions shall be inserted after the definition of “exempted person”—

““friendly society”, “incorporated friendly society” and “registered friendly society” have the meaning given by section 116 of the Friendly Societies Act 1992”.

**Commencement Information**

**I168** Sch. 18 para. 7 wholly in force; Sch. 18 para. 7 not in force at Royal Assent see s. 126(2); Sch. 18 para. 7 in force for certain purposes at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 4; Sch. 18 para. 7 in force for all remaining purposes at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

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- 8 In section 210(3) (expenses and receipts), for the words from “the Chief Registrar” onwards there shall be substituted “ the Friendly Societies Commission ”.

**Commencement Information**

**I169** Sch. 18 para. 8 wholly in force; Sch. 18 para. 8 not in force at Royal Assent see s. 126(2); Sch. 18 para. 8 in force for certain purposes at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 4; Sch. 18 para. 8 in force for all remaining purposes at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

- 9 (1) In the following provisions of Schedule 14 (restriction of Rehabilitation of Offenders Act 1974)—
- (a) paragraph 5 of Part I,
  - (b) paragraph 7 of Part II, and
  - (c) paragraph 4 of Part III,
- for the words “Chief Registrar of friendly societies, the Registrar of Friendly Societies for Northern Ireland” there shall be substituted “ Friendly Societies Commission ”.
- (2) In paragraph 6 of Part I of that Schedule, for the word “Registrar” there shall be substituted “ Friendly Societies Commission ”.

**Commencement Information**

**I170** Sch. 18 para. 9 wholly in force; Sch. 18 para. 9 not in force at Royal Assent see s. 126(2); Sch. 18 para. 9 in force for certain purposes at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 4; Sch. 18 para. 9 in force for all remaining purposes at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

## PART II

### AMENDMENTS OF SCHEDULE 11

- 10 (1) Subject to paragraph 11 below, for each of the following phrases—
- (a) “the Registrar”,
  - (b) “the Chief Registrar of friendly societies”, and
  - (c) “the Chief Registrar of friendly societies or the Registrar of Friendly Societies for Northern Ireland”,
- wherever occurring, there shall be substituted the words “ the Commission ”.
- (2) Subject to sub-paragraph (3) below, for the word “he” or “him”, in each place where it occurs, there shall be substituted “ the Commission ”.
- (3) Sub-paragraph (2) above does not apply where the word “he” or “him” refers to the Secretary of State or to the Chairman of any body.

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#### Commencement Information

**I171** Sch. 18 para. 10 wholly in force; Sch. 18 para. 10 not in force at Royal Assent see s. 126(2); Sch. 18 para. 10 in force for certain purposes at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 4; Sch. 18 para. 10 in force for all remaining purposes at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

- 11 (1) In paragraph 1, in the definition of “a recognised self-regulating organisation for friendly societies”, for the words “an order of the Registrar” there shall be substituted “a recognition order”.
- (2) In that paragraph, in the definition beginning “a member society”—
- (a) for the words “an appropriate” there shall be substituted “a”; and
  - (b) the words from “and, for the purposes” onwards shall be omitted.
- (3) In that paragraph, for the definition of “the Registrar” there shall be substituted—
- ““the Commission” means the “Friendly Societies Commission” and;
- “recognition order” means—
- (a) an order made by the Chief Registrar of friendly societies or the Registrar of Friendly Societies for Northern Ireland before Schedule 18 to the Friendly Societies Act 1992 came into force; or
  - (b) an order made by the Commission after that Schedule came into force”.

#### Commencement Information

**I172** Sch. 18 para. 11 wholly in force; Sch. 18 para. 11 not in force at Royal Assent see s. 126(2); Sch. 18 para. 11 in force for certain purposes at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 4; Sch. 18 para. 11 in force for all remaining purposes at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

- 12 In paragraph 3(1)—
- (a) for the word “his” there shall be substituted “the Commission’s”; and
  - (b) for the words from “an order” onwards there shall be substituted “a recognition order in respect of the organisation declaring the applicant to be a recognised self-regulating organisation for friendly societies”.

#### Commencement Information

**I173** Sch. 18 para. 12 wholly in force; Sch. 18 para. 12 not in force at Royal Assent see s. 126(2); Sch. 18 para. 12 in force for certain purposes at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 4; Sch. 18 para. 12 in force for all remaining purposes at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

- 13 In paragraph 4(2), for the words “the Friendly Societies Act 1974, or as the case may be, the Friendly Societies Act (Northern Ireland) 1970” there shall be substituted the words “Parts V and VIII of the Friendly Societies Act 1992”.



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#### Commencement Information

**I174** Sch. 18 para. 13 wholly in force; Sch. 18 para. 13 not in force at Royal Assent see s. 126(2); Sch. 18 para. 13 in force for certain purposes at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 4; Sch. 18 para. 13 in force for all remaining purposes at 1.1.1994 by S.I. 1993/3226, art. 2(1), Sch. 1

- 14 In paragraph 7(1), for the words “himself alter, its rules” there shall be substituted “itself alter, the rules of the organisation”.

#### Commencement Information

**I175** Sch. 18 para. 14 wholly in force; Sch. 18 para. 14 not in force at Royal Assent see s. 126(2); Sch. 18 para. 14 in force for certain purposes at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 4; Sch. 18 para. 14 in force for all remaining purposes at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

- 15 In paragraph 13A(6), for the word “his” there shall be substituted “its”.

#### Commencement Information

**I176** Sch. 18 para. 15 wholly in force; Sch. 18 para. 15 not in force at Royal Assent see s. 126(2); Sch. 18 para. 15 in force for certain purposes at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 4; Sch. 18 para. 15 in force for all remaining purposes at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

- 16 In paragraph 26, for sub-paragraph (2) there shall be substituted the following sub-paragraph—

“(2) The powers mentioned in sub-paragraph (1) above are—

- (a) in relation to a registered friendly society, those under subsection (1) of section 87 (inspection and winding up of registered friendly societies) and subsections (1) and (2) of section 91 (cancellation and suspension of registration) of the Friendly Societies Act 1974;
- (b) in relation to an incorporated friendly society, those under section 22 (winding up by court: grounds and petitioners) of the Friendly Societies Act 1992; and
- (c) in relation to a registered friendly society or an incorporated friendly society, those under the following provisions of the Friendly Societies Act 1992, namely, section 36 (imposition of conditions on current authorisation), section 39 (power to direct application for fresh authorisation), section 40 (withdrawal of authorisation in respect of new business), section 51 (power to forbid acceptance of new members), section 52 (application to court), section 62 (power to obtain information and documents etc.), section 65 (investigations on behalf of Commission) and section 66 (inspections and special meetings: general),

and the sections referred to above shall apply in relation to the exercise of those powers by virtue of this paragraph as they apply in relation to their exercise in the circumstances mentioned in those sections”.

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#### Commencement Information

**I177** Sch. 18 para. 16 wholly in force; Sch. 18 para. 16 not in force at Royal Assent see s. 126(2); Sch. 18 para. 16 in force for certain purposes at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 4; Sch. 18 para. 16 in force for all remaining purposes at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

17 In paragraph 28(6), for the word “his” there shall be substituted “ its ”.

#### Commencement Information

**I178** Sch. 18 para. 17 wholly in force; Sch. 18 para. 17 not in force at Royal Assent see s. 126(2); Sch. 18 para. 17 in force for certain purposes at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 4; Sch. 18 para. 17 in force for all remaining purposes at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

18 In paragraph 29, in sub-paragraph (1)—

- (a) in paragraph (a) for the word “it” there shall be substituted “ the body ”; and
- (b) in paragraph (b) for the word “they” there shall be substituted “ the Commission and the Secretary of State ”.

#### Commencement Information

**I179** Sch. 18 para. 18 wholly in force; Sch. 18 para. 18 not in force at Royal Assent see s. 126(2); Sch. 18 para. 18 in force for certain purposes at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 4; Sch. 18 para. 18 in force for all remaining purposes at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

19 After paragraph 31 there shall be inserted the following paragraph—

“31A(1) Where any functions under this Act are for the time being exercisable by a transferee body the Commission shall, before issuing an authorisation under section 32 of the Friendly Societies Act 1992 to a friendly society which is carrying on or proposes to carry on in the United Kingdom insurance business or non-insurance business which is investment business—

- (a) seek the advice of the transferee body with respect to any matters which are relevant to those functions of the body and relate to the society, its proposed business or persons who are or will be, within the meaning of the Friendly Societies Act 1992, members of the committee of management or other officers of the society; and
- (b) take into account any advice on those matters given to the Commission by the transferee body before the application is decided.

(2) In sub-paragraph (1) above—

- (a) “insurance business” has the meaning given by section 117(1) of the Friendly Societies Act 1992; and

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(b) “non-insurance business” has the meaning given by section 119(1) of that Act.

(3) The Commission may for the purpose of obtaining the advice of a transferee body under sub-paragraph (1) above furnish it with any information obtained by the Commission in connection with the application.”

#### Commencement Information

**I180** Sch. 18 para. 19 wholly in force; Sch. 18 para. 19 not in force at Royal Assent see s. 126(2); Sch. 18 para. 19 in force for certain purposes at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 4; Sch. 18 para. 19 in force for all remaining purposes at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

20 (1) In paragraph 37, in sub-paragraph (1), for the words from “powers” onwards there shall be substituted the words “relevant powers”.

(2) After that sub-paragraph there shall be inserted the following sub-paragraph—

“(1A) In sub-paragraph (1) above “the relevant powers” means those powers specified in paragraph 26(2).”

#### Commencement Information

**I181** Sch. 18 para. 20 wholly in force; Sch. 18 para. 20 not in force at Royal Assent see s. 126(2); Sch. 18 para. 20 in force for certain purposes at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 4; Sch. 18 para. 20 in force for all remaining purposes at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

21 After paragraph 40 there shall be inserted the following paragraph—

“40A(1) In the case of an application for authorisation under section 26 of this Act made by an incorporated friendly society section 27(3) shall have effect as if the following paragraph were substituted for paragraph (a)—

(") to any member of the committee of management or any director or controller of a subsidiary of the society or of a body jointly controlled by the society.”

(2) Where the other person mentioned in paragraph (b) of the definition of “connected person” in section 105(9) of this Act is an incorporated friendly society that paragraph shall have effect with the substitution for the words from “director” onwards of the words “member of the committee of management of the society or any director, secretary or controller of a subsidiary of the society or a body jointly controlled by the society.””

#### Commencement Information

**I182** Sch. 18 para. 21 wholly in force; Sch. 18 para. 21 not in force at Royal Assent see s. 126(2); Sch. 18 para. 21 in force for certain purposes at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 4; Sch. 18 para. 21 in force for all remaining purposes at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

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22 For paragraph 45 there shall be substituted the following paragraph—

“45 (1) Any power of the Commission to make regulations, rules or orders which is exercisable by virtue of this Act shall be exercisable by statutory instrument and the Statutory Instruments Act 1946 shall apply to any such power as if the Commission were a Minister of the Crown.

(2) Any regulations, rules or orders made under this Schedule by the Commission may make different provision for different cases.”

**Commencement Information**

**I183** Sch. 18 para. 22 wholly in force; Sch. 18 para. 22 not in force at Royal Assent see s. 126(2); Sch. 18 para. 22 in force for certain purposes at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 4; Sch. 18 para. 22 in force for all remaining purposes at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

SCHEDULE 19

Section 100.

INDUSTRIAL ASSURANCE

PART I

GREAT BRITAIN

*Industrial Assurance Act 1923*

1 The <sup>M100</sup>Industrial Assurance Act 1923 shall be amended as follows.

**Marginal Citations**

**M100** 1923 c. 8.

2 (1) In section 1, for subsection (1A) there shall be substituted the following subsection—

“(1A) In this Act—

“collecting society” means an incorporated friendly society or registered friendly society which carries on industrial assurance business; and

“industrial assurance company” means a body corporate which carries on such business other than an incorporated friendly society.”

(2) In subsection (2) of that section, in paragraph (d), for the words “the Commissioner hereinafter mentioned certifies” there shall be substituted “the relevant authority certifies”.

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#### Commencement Information

**I184** Sch. 19 para. 2 wholly in force; Sch. 19 para. 2 not in force at Royal Assent see s. 126(2); Sch. 19 para. 2(1) in force at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 3; Sch. 19 para. 2(2) in force for certain purposes at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 4; Sch. 19 para. 2(2) in force for all remaining purposes at 28.4.1993 by S.I. 1993/1186, art. 2(2), Sch. 2

- 3 In section 10, for subsection (1) there shall be substituted the following subsection—

“(1) The Commission may, on the application of a collecting society, grant it a certificate of exemption from all or any of the provisions of this Act, in any case where the Commission is satisfied that the society does not or will not carry on the business of effecting assurances upon human life, premiums in respect of which are received by means of collectors at a greater distance than ten miles from the registered office of the society, and where the Commission is of opinion that the society is not one to which those provisions ought to apply.”

#### Commencement Information

**I185** Sch. 19 para. 3 wholly in force; Sch. 19 para. 3 not in force at Royal Assent see s. 126(2); Sch. 19 para. 3 in force for certain purposes at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 4; Sch. 18 para. 3 in force for all remaining purposes at 28.4.1993 by S.I. 1993/1186, art. 2(2), Sch. 2

- 4 In section 11, in subsection (2), for the word “Commissioner” there shall be substituted “relevant authority”.

#### Commencement Information

**I186** Sch. 19 para. 4 wholly in force; Sch. 19 para. 4 not in force at Royal Assent see s. 126(2); Sch. 19 para. 4 in force for certain purposes at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 4; Sch. 18 para. 4 in force for all remaining purposes at 28.4.1993 by S.I. 1993/1186, art. 2(2), Sch. 2

- 5 (1) In the following provisions—

- (a) section 10(3),
- (b) section 17(3),
- (c) section 18(1) and (3),
- (d) section 39(1), and
- (e) section 43,

for the word “Commissioner”, wherever occurring, there shall be substituted “Commission”.

- (2) In the following provisions—

- (a) section 17(3), and
- (b) section 18(1) and (3),

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for the words “he” and “him”, wherever occurring, there shall be substituted “ it ”.

#### Commencement Information

**I187** Sch. 19 para. 5 wholly in force; Sch. 19 para. 5 not in force at Royal Assent see s. 126(2); Sch. 19 para. 5(1)(a)(b)(d)(e)(2)(a) in force for certain purposes at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 4; Sch. 18 para. 5(1)(a)(b)(d)(e)(2)(a) in force for all remaining purposes at 28.4.1993 by S.I. 1993/1186, art. 2(2), Sch. 2; Sch. 19 para. 5(1)(c)(2)(b) in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 6

6 In section 17, for subsections (1) and (2) there shall be substituted the following subsections—

“(1) If in the opinion of the Commission there is reasonable cause to believe that an offence against this Act or against the Insurance Companies Act 1982 has been or is likely to be committed by an industrial assurance company, the Commission or any inspector appointed by it for the purpose shall have power to examine into and report on the affairs of the company, and for that purpose may exercise in respect of the company all or any of the powers given by Part V of the Friendly Societies Act 1992 to a person appointed by the Commission to investigate a friendly society.

(2) When it receives the report of a person appointed under subsection (1) above, the Commission may issue such directions and take such steps as it considers necessary or proper to deal with the situation disclosed by the report and in particular may present a petition to the court for the winding up of the company.”

7 For section 23 there shall be substituted the following section—

#### “23 Notice before forfeiture for default in paying industrial assurance premium.

A forfeiture shall not be incurred by any member or person assured in a collecting society or industrial assurance company by reason of any default in paying any premium under a contract, the effecting of which constituted the carrying on of industrial assurance business, until after—

- (a) notice stating the amount due from him, and informing him that in case of default of payment by him within 28 days and at a place to be specified in the notice his interest or benefit will be forfeited, has been served upon him by or on behalf of the society or company; and
- (b) default has been made by him in paying any premium in accordance with that notice.”

8 In section 26, for subsection (1) there shall be substituted the following subsection—

“(1) A person assured with an industrial assurance company shall not, without his written consent or, in the case of a person under the age of 18, without the written consent of his parent or other guardian, be transferred from

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the company to another company or to a collecting society except on an amalgamation or transfer of business under section 37 below or any other enactment, and any company and any collector or other officer of any company concerned in such a transfer shall, if the provisions of this section are not complied with, be deemed to have contravened the provisions of this Act.”.

9 For section 32 there shall be substituted the following section—

**“32 Disputes.**

Any dispute between an industrial assurance company and—

- (a) any person assured; or
  - (b) any person claiming through a person assured or under or in respect of any policy, or under the rules of the company, or under this Act,
- may, notwithstanding any provision of the rules to the contrary, be determined by the county court or, in Scotland, by the sheriff.”

10 For section 33 there shall be substituted the following section—

**“33 Disabilities of collectors etc.**

- (1) A collector of an industrial assurance company shall not be a member of the board of directors, or hold any other office in the company except that of superintending collectors within a specified area.
- (2) A collector or superintendent shall not be present at any meeting of the company.”

11 In section 39, in subsection (5), for the word “Commissioner” there shall be substituted “relevant authority”.

**Commencement Information**

**I188** Sch. 19 para. 11 wholly in force; Sch. 19 para. 11 not in force at Royal Assent see s. 126(2); Sch. 19 para. 11 in force for certain purposes at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 4; Sch. 18 para. 11 in force for all remaining purposes at 28.4.1993 by S.I. 1993/1186, art. 2(2), Sch. 2

12 In section 45(1) after the definition of “collector” there shall be inserted the following definitions—

“The expression “the Commission” means the Friendly Societies Commission;

The expressions “friendly society” and “incorporated friendly society” have the same meanings as in the Friendly Societies Act 1992”.

“The expression “the relevant authority” means—



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- (a) in relation to a time before Schedule 19 to the Friendly Societies Act 1992 came into force, the Chief Registrar of Friendly Societies; and
- (b) in relation to a time after the coming into force of that Schedule, the Commission.”

#### *Industrial Assurance and Friendly Societies Act 1948*

- 13 In section 8(2) of the <sup>M101</sup>Industrial Assurance and Friendly Societies Act 1948, for the word “Commissioner” there shall be substituted “ Commission. ”.

#### **Commencement Information**

**I189** Sch. 19 para. 13 wholly in force; Sch. 19 para. 13 not in force at Royal Assent see s. 126(2); Sch. 19 para. 13 in force for certain purposes at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 4; Sch. 18 para. 13 in force for all remaining purposes at 28.4.1993 by S.I. 1993/1186, art. 2(2), Sch. 2

#### **Marginal Citations**

**M101** 1948 c. 39.

- 14 In section 13(1) of that Act—
- (a) for the word “Commissioner” there shall be substituted “ Commission ”;
  - and
  - (b) for the word “him” there shall be substituted “ it ”.

#### **Commencement Information**

**I190** Sch. 19 para. 14 wholly in force; Sch. 19 para. 14 not in force at Royal Assent see s. 126(2); Sch. 19 para. 14 in force for certain purposes at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 4; Sch. 18 para. 14 in force for all remaining purposes at 13.9.1993 by S.I. 1993/2213, art. 2(1), Sch. 2

- 15 In section 17A(1) of that Act, for the words “Industrial Assurance Commissioner” there shall be substituted “ Commission ”.

#### **Commencement Information**

**I191** Sch. 19 para. 15 wholly in force; Sch. 19 para. 15 not in force at Royal Assent see s. 126(2); Sch. 19 para. 15 in force for certain purposes at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 4; Sch. 18 para. 15 in force for all remaining purposes at 28.4.1993 by S.I. 1993/1186, art. 2(2), Sch. 2

- 16 In section 23(1) of that Act—
- (a) at the end of paragraph (c) the word “and” shall be omitted; and
  - (b) after paragraph (d) there shall be added—

“and



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- (e) the expression “the Commission” means the Friendly Societies Commission.”

#### Commencement Information

**I192** Sch. 19 para. 16 wholly in force; Sch. 19 para. 16 not in force at Royal Assent see s. 126(2); Sch. 19 para. 16 in force for certain purposes at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 4; Sch. 18 para. 16 in force for all remaining purposes at 28.4.1993 by S.I. 1993/1186, art. 2(2), Sch. 2

## PART II

### NORTHERN IRELAND

- 17 The <sup>M102</sup>Industrial Assurance (Northern Ireland) Order 1979 shall be amended as follows.

#### Commencement Information

**I193** Sch. 19 para. 17 in force at 1.1.1994 to the extent specified by S.I. 1993/3226, art.2(1), Sch. 2

#### Marginal Citations

**M102** S.I.1979/1574 (N.I.13.)

- 18 (1) In Article 2, in paragraph (2), for the definitions of “collecting society”, “the Friendly Societies Act” and “industrial assurance company”, respectively, there shall be substituted—

““collecting society” means an incorporated friendly society or registered friendly society which carries on industrial assurance business in Northern Ireland;

“the Friendly Societies Act” means the Friendly Societies Act 1974;

“industrial assurance company” means a body corporate which carries on industrial assurance business in Northern Ireland other than an incorporated friendly society”.

- (2) In that paragraph—

- (a) in the definition of “exempted business”, in paragraph (c), for the words “the Commissioner certifies” there shall be substituted “it has been certified”;
- (b) after the definition of “collector” there shall be inserted—

““the Commission” means the Friendly Societies Commission;

“friendly society” and “incorporated friendly society” have the same meanings as in the Friendly Societies Act 1992”; and

- (c) in the definition of “Registrar”, for the words “Friendly Societies Act” there shall be substituted “ Friendly Societies Act (Northern Ireland) 1970 ”.

- (3) After that paragraph there shall be inserted the following paragraph—

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*Changes to legislation:* Friendly Societies Act 1992 is up to date with all changes known to be in force on or before 25 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

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- “(2A) In paragraph (2) above, in the definition of “exempted business”, in paragraph (c) “certified” means—
- (a) in relation to a time before Schedule 19 to the Friendly Societies Act 1992 came into force, certified by the Registrar in his capacity as Industrial Assurance Commissioner; and
  - (b) in relation to a time after the coming into force of that Schedule, certified by the Commission.”
- (6) In Article 2(4), for the words “Friendly Societies Act” there shall be substituted “Friendly Societies Act (Northern Ireland) 1970.”
- 19 In Article 4(2), for the word “Registrar” there shall be substituted “Chief Registrar of Friendly Societies”.
- 20 In the following provisions—
- (a) Article 4(2),
  - (b) Article 12(3),
  - (c) Article 13,
  - (d) Article 18(3),
  - (e) Article 23(1),
  - (f) Article 24,
  - (g) Article 35(3),
  - (h) Article 42(1)(b),
  - (i) Article 43(1)(b),
  - (j) paragraph 1(a) and (b) of Schedule 4,
  - (k) paragraphs 5(1) and (2), 6 and 7 of Schedule 5, and
  - (l) Schedule 7,
- for the word “Commissioner”, wherever occurring, there shall be substituted “Commission”.
- 21 In Article 12, for paragraph (1) there shall be substituted the following paragraph—
- “(1) The Commission may, on the application of a collecting society, grant it a certificate of exemption from all or any of the provisions of this Order, in any case where the Commission is satisfied that the society does not or will not carry on the business of effecting assurances upon human life, premiums in respect of which are received by means of collectors at a greater distance than ten miles from the registered office of the society, and where the Commission is of the opinion that the society is not one to which those provisions ought to apply.”
- 22 In Article 13(1), for the word “registered” there shall be substituted “whose registered office is”.
- 23 In Article 14, after paragraph (2) there shall be inserted the following paragraph—

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“(3) In paragraph (2) above “shown” means—

- (a) in relation to a time before Schedule 19 to the Friendly Societies Act 1992 came into force, shown to the satisfaction of the Registrar in his capacity as Industrial Assurance Commissioner; and
- (b) in relation to a time after the coming into force of that Schedule, shown to the satisfaction of the Commission.”

24 (1) Article 18 shall be amended as follows.

(2) For paragraphs (1) and (2) there shall be substituted the following paragraphs—

“(1) If in the opinion of the Commission there is reasonable cause to believe that an offence against this Order or against the Insurance Companies Act 1982 has been or is likely to be committed by an industrial assurance company, the Commission or any inspector appointed by it for the purpose shall have power to examine into and report on the affairs of the company, and for that purpose may exercise in respect of the company all or any of the powers given by Part V of the Friendly Societies Act 1992 to a person appointed by the Commission to investigate a friendly society.

(2) Where it receives the report of a person appointed under paragraph (1), the Commission may issue such directions and take such steps as it considers necessary or proper to deal with the situation disclosed by the report and in particular may present a petition to the court for the winding up of the company.”

(3) In paragraph (3), for the words “he” and “him” there shall be substituted “it”.

25 For Article 29 there shall be substituted the following Article—

“29 A forfeiture shall not be incurred by any member or person assured in a collecting society or industrial assurance company by reason of any default in paying any premium under a contract the effecting of which constituted the carrying on of industrial assurance business until after—

- (a) notice stating the amount due from him, and informing him that in case of default of payment by him within 28 days and at a place to be specified in the notice his interest or benefit will be forfeited, has been served upon him by or on behalf of the society or company; and
- (b) default has been made by him in paying any premium in accordance with that notice.”

26 In Article 32, for paragraph (1) there shall be substituted the following paragraph—

“(1) A person assured with an industrial assurance company shall not, without his written consent or, in the case of a person under the age of 18, without the written consent of his parent or other guardian, be transferred from the company to another company or to a collecting society except on an amalgamation or transfer of business under Article 40 or any other enactment, and any company and any collector or other officer of any

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company concerned in such a transfer shall, if the provisions of this Article are not complied with, be deemed to have contravened the provisions of this Order.”

27 For Article 36 there shall be substituted the following Article—

**Disputes**

“36 Any dispute between an industrial assurance company and—  
(a) any person assured; or  
(b) any person claiming through a person assured or under or in respect of any policy, or under the rules of the company, or under this Order, may, notwithstanding any provision of the rules to the contrary, be determined by the county court.”

28 For Article 37 there shall be substituted the following Article—

**Disabilities of collectors etc.**

“37 (1) A collector of an industrial assurance company shall not be a member of the board of directors, or hold any other office in the company except that of superintending collectors within a specified area.  
(2) A collector or superintendent shall not be present at any meeting of the company.”

29 (1) In Article 46, in paragraph (2) for the word “Commissioner” there shall be substituted “relevant authority”.

(2) After that paragraph there shall be inserted the following paragraph—

“(2A) In paragraph (2) above “relevant authority” means—  
(a) in relation to a time before Schedule 19 to the Friendly Societies Act 1992 came into force, the Registrar; and  
(b) in relation to a time after the coming into force of that Schedule, the Commission.”

30 In Schedule 3, in paragraph 10, in paragraph (d) of the definition of “relevant insurance” for the words “paragraph 2(d)” there shall be substituted “paragraph (2)(d)”.

31 In Schedule 4—

(a) in paragraph 1(a) for the words “sections 62 and 63(2) and (3)” there shall be substituted “sections 72 and 73(2) and (3)”; and  
(b) in paragraph 1(b)—

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- (i) for the words from “section 61(1)” to “Schedule 7” there shall be substituted “ section 71(1) to (4) of, and paragraph 5 of Schedule 6 ”; and
- (ii) for the words “section 62” there shall be substituted “ section 72 ”.
- 32 (1) In Schedule 5, in paragraph 5(1), for the word “he” there shall be substituted “ the Commission ”.
- (2) In paragraphs 6 and 7 of that Schedule, for the words “him” and “he” there shall be substituted “ it ” and for the word “himself” there shall be substituted “ itself ”.

## <sup>X1</sup>SCHEDULE 20

Section 101.

### LAW APPLICABLE TO CERTAIN CONTRACTS OF INSURANCE

#### Editorial Information

**X1** Sch. 20: by virtue of S.I. 1993/2519, reg. 6(2), Sch. 20 has become (1.1.1994) Sch. 20 Pt. I

## <sup>F129X2</sup>PART I

### GENERAL MODE OF APPLICATION]

#### Editorial Information

**X2** Sch. 20: by virtue of S.I. 1993/2519, reg. 6(2), Sch. 20 has become (1.1.1994) Sch. 20 Pt. I

#### Textual Amendments

**F129** Sch. 20: by virtue of S.I. 1993/2519, reg. 6(2), Sch. 20 has become (1.1.1994) Sch. 20 Pt. I under the heading “GENERAL BUSINESS BY SOCIETIES TO WHICH SECTION 37(3) APPLIES”

### <sup>X3</sup>General rules as to applicable law

#### Editorial Information

**X3** Sch. 20: by virtue of S.I. 1993/2519, reg. 6(2), Sch. 20 has become (1.1.1994) Sch. 20 Pt. I

- <sup>X41</sup> (1) Where the person (“the person insured”) who has entered into the contract of insurance with a friendly society has his habitual residence [<sup>F130</sup>or central administration] within the territory of the member State where the risk is situated, the law applicable to the contract is the law of that member State.

However, where the law of that member State so allows, the parties may choose the law of another country.

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- (2) Where the person insured does not have his habitual residence [<sup>F130</sup>or central administration] within the territory of the member State where the risk is situated, the parties to the contract may choose to apply either—
- (a) the law of the member State where the risk is situated, or
  - (b) the law of the country in which the person insured has his habitual residence [<sup>F130</sup>or central administration].
- (3) Where the person insured carries on a business and the contract covers two or more risks relating to his business which are situated in different member States, the freedom of choice of the law applicable to the contract extends to the laws of those member States and of the country in which he has his habitual residence [<sup>F130</sup>or central administration].
- In this sub-paragraph “business” includes a trade or profession.
- (4) Where the member States referred to in sub-paragraph (2) or (3) grant greater freedom of choice of the law applicable to the contract, the parties may take advantage of that freedom.
- (5) Notwithstanding sub-paragraphs (1) to (3) above, when the risks covered by the contract are limited to events occurring in a member State other than the member State where the risk is situated, the parties may always choose the law of the former State.

#### Editorial Information

**X4** Sch. 20: by virtue of S.I. 1993/2519, reg. 6(2), Sch. 20 has become (1.1.1994) Sch. 20 Pt. I

#### Textual Amendments

**F130** Words in Sch. 20 Pt. I para. 1 inserted (1.1.1994) by S.I. 1993/2519, reg. 6(3)(a)

<sup>x5</sup>*Applicable law in the absence of choice*

#### Editorial Information

**X5** Sch. 20: by virtue of S.I. 1993/2519, reg. 6(2), Sch. 20 has become (1.1.1994) Sch. 20 Pt. I

- <sup>x62</sup> (1) The choice referred to in paragraph 1 above must be expressed or demonstrated with reasonable certainty by the terms of the contract or the circumstances of the case.
- (2) If that is not so, or if no choice has been made, the contract shall be governed by the law of the country (from amongst those considered in the relevant sub-paragraphs) with which it is most closely connected.
- (3) Nevertheless, a severable part of the contract which has a closer connection with another country (from amongst those considered in the relevant sub-paragraphs) may by way of exception be governed by the law of that other country.
- (4) A contract is rebuttably presumed to be most closely connected with the member State where the risk is situated.

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#### Editorial Information

**X6** Sch. 20: by virtue of S.I. 1993/2519, reg. 6(2), Sch. 20 has become (1.1.1994) Sch. 20 Pt. I

#### <sup>x7</sup>Mandatory rules

#### Editorial Information

**X7** Sch. 20: by virtue of S.I. 1993/2519, reg. 6(2), Sch. 20 has become (1.1.1994) Sch. 20 Pt. I

- <sup>x8</sup>3 (1) The fact that in the cases referred to in paragraph 1 above the parties have chosen a law does not, where all the other elements relevant to the situation at the time of the choice are connected with one member State only, prejudice the application of the mandatory rules of the law of that member State, which means the rules from which the law of that member State allows no derogation by means of a contract.
- (2) Nothing in [<sup>F131</sup>this Part of this Schedule] restricts the application of the rules of a part of the United Kingdom in a situation where they are mandatory, irrespective of the law otherwise applicable to the contract.

#### Editorial Information

**X8** Sch. 20: by virtue of S.I. 1993/2519, reg. 6(2), Sch. 20 has become (1.1.1994) Sch. 20 Pt. I

#### Textual Amendments

**F131** Words in Sch. 20 Pt. I para. 3(2) substituted (1.1.1994) by S.I. 1993/2519, reg. 6(3)(b)

#### <sup>x9</sup>Supplementary provisions

#### Editorial Information

**X9** Sch. 20: by virtue of S.I. 1993/2519, reg. 6(2), Sch. 20 has become (1.1.1994) Sch. 20 Pt. I

- <sup>x10</sup>4 (1) Where a member State includes several territorial units, each of which has its own rules concerning contractual obligations, each unit shall be considered as a country for the purposes of identifying the applicable law.
- (2) The provisions of [<sup>F132</sup>this Part of this Schedule] apply to conflicts between the laws of the different parts of the United Kingdom.

#### Editorial Information

**X10** Sch. 20: by virtue of S.I. 1993/2519, reg. 6(2), Sch. 20 has become (1.1.1994) Sch. 20 Pt. I

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#### Textual Amendments

**F132** Words in Sch. 20 Pt. I para. 4(2) substituted (1.1.1994) by S.I. 1993/2519, reg. 6(3)(b)

<sup>x115</sup> (1) Subject to the preceding provisions of [<sup>F133</sup>this Part of this Schedule], a court in a part of the United Kingdom [<sup>F134</sup>shall act in accordance with the provisions of the Contracts (Applicable Law) Act 1990].

(2) In particular, reference shall be made to [<sup>F135</sup>those provisions]—

- (a) to ascertain for the purposes of paragraph 1 above what freedom of choice the parties have under the law of a part of the United Kingdom; and
- (b) to determine whether the mandatory rules of another member State should be applied in accordance with paragraph 3(1) above where the law otherwise applicable is the law of a part of the United Kingdom.

#### Editorial Information

**X11** Sch. 20: by virtue of S.I. 1993/2519, reg. 6(2), Sch. 20 has become (1.1.1994) Sch. 20 Pt. I

#### Textual Amendments

**F133** Words in Sch. 20 Pt. I para. 5(1) substituted (1.1.1994) by S.I. 1993/2519, reg. 6(3)(b)

**F134** Words in Sch. 20 Pt. I para. 5(1) substituted (1.1.1994) by S.I. 1993/2519, reg. 6(3)(c)

**F135** Words in Sch. 20 Pt. I para. 5(2) substituted (1.1.1994) by S.I. 1993/2519, reg. 6(3)(d)

## [<sup>F136</sup>PART II

### LONG TERM BUSINESS BY SOCIETIES TO WHICH SECTION 37(2) APPLIES]

#### Textual Amendments

**F136** Sch. 20 Pt. II inserted (1.1.1994) by S.I. 1993/2519, reg. 6(4)

### <sup>F137</sup>General rules as to applicable law

#### Textual Amendments

**F137** Sch. 20 Pt. II inserted (1.1.1994) by S.I. 1993/2519, reg. 6(4)

<sup>F138</sup>6 The law applicable to the contract of insurance is the law of the member State in which the commitment is situated. However, where the law of that member State so allows, the parties may choose the law of another country.

#### Textual Amendments

**F138** Sch. 20 Pt. II inserted (1.1.1994) by S.I. 1993/2519, reg. 6(4)



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- F139**<sup>7</sup> Where the person who has entered into the contract of insurance is an individual and has his habitual residence in a member State other than that of which he is a national, the parties may choose the law of the member State of which he is a national.

**Textual Amendments**

**F139** Sch. 20 Pt. II inserted (1.1.1994) by S.I. 1993/2519, reg. 6(4)

*F140* Mandatory rules

**Textual Amendments**

**F140** Sch. 20 Pt. II inserted (1.1.1994) by S.I. 1993/2519, reg. 6(4)

- F141**<sup>8</sup> Nothing in this Part of this Schedule restricts the application of the rules of a part of the United Kingdom in a situation where they are mandatory, irrespective of the law otherwise applicable to the contract.

**Textual Amendments**

**F141** Sch. 20 Pt. II inserted (1.1.1994) by S.I. 1993/2519, reg. 6(4)

*F142* Supplementary provisions

**Textual Amendments**

**F142** Sch. 20 Pt. II inserted (1.1.1994) by S.I. 1993/2519, reg. 6(4)

- F143**<sup>9</sup> (1) Where a member State includes several territorial units, each of which has its own rules of law concerning contractual obligations, each unit shall be considered as a country for the purposes of identifying the applicable law.
- (2) The provisions of this Part of this Schedule apply to conflicts between the laws of the different parts of the United Kingdom.

**Textual Amendments**

**F143** Sch. 20 Pt. II inserted (1.1.1994) by S.I. 1993/2519, reg. 6(4)

- F144**<sup>10</sup> (1) Subject to the preceding provisions of this Part of this Schedule, a court in a part of the United Kingdom shall act in accordance with the provisions of the Contracts (Applicable Law) Act 1990.

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- (2) In particular, reference shall be made to those provisions to ascertain for the purposes of paragraph 6 above what freedom of choice the parties have under the law of a part of the United Kingdom.

#### Textual Amendments

**F144** Sch. 20 Pt. II inserted (1.1.1994) by S.I. 1993/2519, reg. 6(4)

## SCHEDULE 21

Section 120.

### AMENDMENTS

#### PART I

#### AMENDMENTS OF ENACTMENTS

##### *Loan Societies Act 1840*

- 1 The duty of the Chief Registrar to lay before Parliament the documents mentioned in section 27 of the <sup>M103</sup>Loan Societies Act 1840 (accounts etc of loan societies) is abolished.

#### Marginal Citations

**M103** 1840 c. 110

##### *National Savings Bank Act 1971*

- 2 In sections 10 (disputes) and 11 (fees on reference of disputes) of the <sup>M104</sup>National Savings Bank Act 1971 for the word “Registrar”, in each place where it occurs, there shall be substituted the word “ adjudicator ”.

#### Commencement Information

**I194** Sch. 21 paras. 2-4 wholly in force at 1.1.1993 see s. 126(2) and S.I. 1992/3117, art. 2(iii).

#### Marginal Citations

**M104** 1971 c. 29.

- 3 In section 27 of that Act for the definition beginning “the Registrar” there shall be substituted—

““the adjudicator” means the adjudicator appointed under section 84 of the Friendly Societies Act 1992”.

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#### Commencement Information

**I195** Sch. 21 paras. 2-4 wholly in force at 1.1.1993 see s. 126(2) and S.I. 1992/3117, art. 2(iii).

#### National Debt Act 1972

- 4 For section 5 of the <sup>M105</sup>National Debt Act 1972 there shall be substituted the following section—

##### “5 Settlement of disputes as to holdings on the register

- (1) If a dispute arises between the Director of Savings and the holder of any stock registered in the register or a person claiming to be entitled to any such stock, the matter in dispute shall be referred in writing to a person (“the adjudicator”) appointed under section 84 of the Friendly Societies Act 1992.
- (2) On a reference under the foregoing subsection the adjudicator may proceed ex parte on notice in writing sent by post to the Director of Savings, and may inspect the register and may administer oaths to any witnesses appearing before him, and his award on the matter in dispute shall be final and binding on all parties.”

#### Commencement Information

**I196** Sch. 21 paras. 1-4 wholly in force at 1.1.1993 see s. 126(2) and S.I. 1992/3117, art. 2(iii).

#### Marginal Citations

**M105** 1972 c. 65.

#### Solicitors Act 1974

- 5 (1) Section 23 of the <sup>M106</sup>Solicitors Act 1974 (preparation of papers for probate etc. by unqualified persons) shall be amended as follows.
- (2) In subsection (2), after paragraph (h) there shall be inserted the following paragraph—
- “(i) a jointly controlled body or subsidiary—
- (i) whose business, or any part of whose business, consists of acting as trustee or executor; and
- (ii) which satisfies those conditions.”
- (3) After subsection (2A) there shall be inserted the following subsection—
- “(2B) In subsection (2)(i) “jointly controlled body” and “subsidiary” have the meanings given by section 13 of the Friendly Societies Act 1992.”

#### Marginal Citations

**M106** 1974 c.47.

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### *Insurance Companies Act 1982*

- 6 (1) In section 49 of the <sup>M107</sup>Insurance Companies Act 1982, (sanction of court for transfer of long term business) at the beginning of subsection (1) there shall be inserted “Subject to section 49A below”.
- (2) After that section there shall be inserted the following section—

#### **“49A Transfer of long term business to friendly society.**

- (1) Section 49 above applies, with the following adaptations, to a transfer of business to an incorporated friendly society or registered friendly society authorised under Part IV of the Friendly Societies Act 1992.
- (2) In subsection (3)(c) (service of documents), after the words “the Secretary of State” there shall be inserted the words “and on the Friendly Societies Commission”.
- (3) In subsection (5) (persons entitled to be heard on petition), in paragraph (a) after the words “the Secretary of State” there shall be inserted the words “and the Friendly Societies Commission”.
- (4) In subsection (6) (requirement that transferee company be authorised to carry on long term business), for the words “authorised under section 3 or 4 above” there shall be substituted the words “authorised under Part IV of the Friendly Societies Act 1992.””

#### **Marginal Citations**

**M107** 1982 c. 50.

### *Companies Act 1985*

- 7 (1) In section 449 of the <sup>M108</sup>Companies Act 1985 (provision for security of information obtained), in subsection (1), after paragraph (dd) there shall be inserted the following paragraphs—
- “(de) for the purpose of enabling or assisting the Chief Registrar of friendly societies or the Assistant Registrar of friendly societies for Scotland to discharge his functions under the enactments relating to friendly societies;
- (df) for the purpose of enabling or assisting the Friendly Societies Commission to discharge its functions under the Financial Services Act 1986.”
- (2) In subsection (3) of that section, after paragraph (j) there shall be inserted the following paragraph—
- “(jj) the Friendly Societies Commission”.

#### **Marginal Citations**

**M108** 1985 c.6.

**Status:** Point in time view as at 01/08/1996. This version of this Act contains provisions that are not valid for this point in time.

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### *Company Directors Disqualification Act 1986*

- 8 After section 22A of the <sup>M109</sup>Company Directors Disqualification Act 1986 (application of Act to building societies) there shall be inserted the following section—

#### **“22B Application of Act to incorporated friendly societies.**

- (1) This Act applies to incorporated friendly societies as it applies to companies.
- (2) References in this Act to a company, or to a director or an officer of a company include, respectively, references to an incorporated friendly society within the meaning of the Friendly Societies Act 1992 or to a member of the committee of management or officer, within the meaning of that Act, of an incorporated friendly society.
- (3) In relation to an incorporated friendly society every reference to a shadow director shall be omitted.
- (4) In the application of Schedule 1 to the members of the committee of management of an incorporated friendly society, references to provisions of the Insolvency Act or the Companies Act include references to the corresponding provisions of the Friendly Societies Act 1992.”

#### **Marginal Citations**

**M109** 1986 c. 46.

### *Banking Act 1987*

- 9 In section 84(1) of the <sup>M110</sup>Banking Act 1987 (disclosure of information obtained under that Act), in the Table showing the authorities to which, and functions for the purposes of which, disclosure may be made, after the entry beginning “The Chief Registrar of friendly societies” there shall be inserted the following entry—

“The Friendly Societies Commission.	Functions under the enactments relating to friendly societies or under the Financial Services Act 1986.”
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#### **Marginal Citations**

**M110** 1987 c. 22.

### *Income and Corporation Taxes Act 1988*

- 10 In section 461 of the <sup>M111</sup>Income and Corporation Taxes Act 1988 (taxation in respect of other business),—
- (a) in subsections (6) to (8) for the words “the registrar”, “he” and “him” wherever occurring there shall be substituted “ the Commission ”; and
  - (b) after subsection (8) there shall be inserted the following subsection—

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“(8A) In this section “the Commission” means the Friendly Societies Commission.”

**Marginal Citations**  
M111 1988 c.1.

*Companies Act 1989*

11 In section 87 of the <sup>M112</sup>Companies Act 1989 (disclosure of information obtained under that Act), in subsection (4), in the Table showing the authorities to which, and functions for the purposes of which, disclosure may be made after the entry beginning “The Chief Registrar of friendly societies” there shall be inserted the following entry—

“The Friendly Societies Commission. Functions under the enactments relating to friendly societies or under the Financial Services Act 1986.”

**Marginal Citations**  
M112 1989 c.40.

*Tribunals and Inquiries Act 1992*

F145 12 . . . . .

**Textual Amendments**  
F145 Sch. 21 para. 12 repealed (1.1.1994) by S.I. 1993/3084, reg.9

F146 13 . . . . .

**Textual Amendments**  
F146 Sch. 21 para. 13 repealed (1.1.1994) by S.I. 1993/3084, reg.9

F147 14 . . . . .

**Textual Amendments**  
F147 Sch. 21 para. 14 repealed (1.1.1994) by S.I. 1993/3084, reg.9

F148 15 . . . . .

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**Textual Amendments**

**F148** Sch. 21 para. 15 repealed (1.1.1994) by S.I. 1993/3084, reg.9

**F149** 16 .....

**Textual Amendments**

**F149** Sch. 21 para. 16 repealed (1.1.1994) by S.I. 1993/3084, reg.9

*Trade Union and Labour Relations (Consolidation) Act 1992*

**F150** 17 .....

**Textual Amendments**

**F150** Sch. 21 para. 17 repealed (1.1.1994) by S.I. 1993/3084, reg.9

*Social Security Contributions and Benefits (Northern Ireland) Act 1992*

18 In section 171(2) of the <sup>M113</sup>Social Security Contributions and Benefits (Northern Ireland) Act 1992, after “157” there shall be inserted the words “ and regulations made by the Chief Registrar of friendly societies under paragraph 10(2) of Schedule 1 to this Act. ”

**Marginal Citations**

**M113** 1992 c. 7.

- 19 (1) In Schedule 1 to that Act, in paragraph 10(2)—
- (a) for the words “Friendly Societies Act (Northern Ireland) 1970” there shall be substituted “ Friendly Societies Act 1974 ”; and
  - (b) for the words “Registrar of Friendly Societies for Northern Ireland” there shall be substituted “ Chief Registrar of Friendly Societies ”.
- (2) In that Schedule, in paragraph 10 for sub-paragraph (3) there shall be substituted the following sub-paragraph—
- “(3) The power conferred by sub-paragraph (2) above on the Chief Registrar of Friendly Societies to make regulations shall be exercisable by statutory instrument, and—
- (a) the Statutory Instruments Act 1946 shall apply to that power as if the Chief Registrar were a Minister of the Crown, and
  - (b) section 171(3) to (5) above shall apply to those regulations as they apply to regulations made by the Department.”

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## PART II

### AMENDMENTS OF NORTHERN IRELAND LEGISLATION

#### *Parliamentary Commissioner Act (Northern Ireland) 1969*

F151<sup>20</sup> .....

#### Textual Amendments

F151 Sch. 21 Pt. II para. 20 repealed (16.7.1996) by S.I. 1996/1298 (N.I. 8) art. 21(2), Sch. 6

#### *Industrial and Provident Societies Act (Northern Ireland) 1969*

21 In section 101(1) of the <sup>M114</sup>Industrial and Provident Societies Act (Northern Ireland) Act 1969, in the definition of “registrar”, for the words “friendly societies” there shall be substituted “credit unions”.

#### Marginal Citations

M114 1969 c.24 (N.I.).

#### *Social Security Pensions (Northern Ireland) Order 1975*

[<sup>F152</sup>22 In Article 67(1) of the commref NUM="M845">Social Security Pensions (Northern Ireland) Order 1975 for the words “Registrar of Friendly Societies for Northern Ireland” there shall be substituted “Chief Registrar of Friendly Societies”.]

#### Textual Amendments

F152 By this it is provided that Sch. 21 para. 22 is repealed (N.I.) (7.2.1994) by 1993 c. 49, s. 182(1), Sch. 4; S.R. 1994/17, art. 2

#### Modifications etc. (not altering text)

C17 Sch. 21 para. 22 expressed to be repealed (7.2.1994) by 1993 c. 49, s. 182, Sch. 4

[<sup>F153</sup>23 In Article 67(4) of that Order for the words “Friendly Societies Act (Northern Ireland) 1970” there shall be substituted “Friendly Societies Act 1974”.]

#### Textual Amendments

F153 By this it is provided that Sch. 21 para. 23 is repealed (N.I.) (7.2.1994) by 1993 c. 49, s. 182(1), Sch. 4; S.R. 1994/17, art. 2

#### Modifications etc. (not altering text)

C18 Sch. 21 para. 23 expressed to be repealed (7.2.1994) by 1993 c. 49, s. 182, Sch. 4



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*Statutory Rules (Northern Ireland) Order 1979*

- 24 In Article 7(5) of the <sup>M115</sup>Statutory Rules (Northern Ireland) Order 1979 for the words “Friendly Societies” there shall be substituted “Credit Unions”.

**Marginal Citations**

[M115 S.I. 1979/1573 \(N.I.12\).](#)

- 25 In Part I of Schedule 1 to that Order, for the words “The Registrar of Friendly Societies for Northern Ireland” there shall be substituted “The Registrar of Credit Unions for Northern Ireland”.

*Housing (Northern Ireland) Order 1981*

- 26 In Article 114 of the <sup>M116</sup>Housing (Northern Ireland) Order 1981, in the definition of “registrar”, for the words “of Friendly Societies for Northern Ireland” there shall be substituted “for the purposes of the Act of 1969”.

**Marginal Citations**

[M116 S.I. 1981/156 \(N.I.3\).](#)

*Property (Discharge of Mortgage by Receipt)(Northern Ireland) Order 1983*

- 27 In Article 3(10) of the <sup>M117</sup>Property (Discharge of Mortgage by Receipt)(Northern Ireland) Order 1983 for the words “section 48 of the Friendly Societies Act (Northern Ireland) 1970” there shall be substituted “section 57A of the Friendly Societies Act 1974”.

**Marginal Citations**

[M117 S.I. 1983/766 \(N.I.9\).](#)

*Credit Unions (Northern Ireland) Order 1985*

- 28 In Article 2(2) of the <sup>M118</sup>Credit Unions (Northern Ireland) Order 1985 for the definition of “registrar” there shall be substituted—

““registrar” has the meaning assigned to it by Article 2A;”.

**Marginal Citations**

[M118 S.I. 1985/1205 \(N.I.12\).](#)

- 29 After Article 2 there shall be inserted the following Article—

**The registrar and assistant registrar**

“2A (1) The person appointed by the Head of the Department to perform in Northern Ireland the functions of registrar under this Order shall be known as the

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Registrar of Credit Unions for Northern Ireland (in this Order referred to as “the registrar”).

- (2) A person appointed by the Department to assist the registrar shall be known as the Assistant Registrar of Credit Unions for Northern Ireland (in this Order referred to as “the assistant registrar”).
- (3) Anything which is required or authorised to be done by or to the registrar under this Order may be done by or to the assistant registrar.”

#### *Companies (Northern Ireland) Order 1986*

- 30 (1) In Article 442 of the <sup>M119</sup>Companies (Northern Ireland) Order 1986, in paragraph (1), after sub-paragraph (dd) there shall be inserted the following sub-paragraphs—
  - “(de) for the purpose of enabling or assisting the Chief Registrar of friendly societies or the Assistant Registrar of friendly societies for Scotland to discharge their functions under the enactments relating to friendly societies;
  - (df) for the purpose of enabling or assisting the Friendly Societies Commission to discharge its functions under the Financial Services Act 1986.”
- (2) In paragraph (3) of that Article, after sub-paragraph (j) there shall be inserted the following sub-paragraph—
  - “(jj) the Friendly Societies Commission”.

#### **Marginal Citations**

**M119** S.I. 1986/1032 (N.I.6).

#### *Companies (Northern Ireland) Order 1989*

- 31 After Article 2 of the <sup>M120</sup>Companies (Northern Ireland) Order 1989 there shall be inserted the following Article—

#### **Application of Order to incorporated friendly societies**

- “2A (1) This Order applies to incorporated friendly societies as it applies to companies.
- (2) References in this Order to a company, or to a director or an officer of a company include, respectively, references to an incorporated friendly society within the meaning of the Friendly Societies Act 1992 or to a member of the committee of management or officer, within the meaning of that Act, of an incorporated friendly society.
  - (3) In relation to an incorporated friendly society every reference to a shadow director shall be omitted.
  - (4) In the application of Schedule 1 to the members of the committee of management of an incorporated friendly society, references to provisions of the Insolvency Order or the Companies Order include references to the corresponding provisions of the Friendly Societies Act 1992.”

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### Marginal Citations

M120 S.I. 1989/2404 (N.I. 18).

## SCHEDULE 22

Section 120.

### REPEALS

#### PART I

#### GENERAL

### Commencement Information

**I197** Sch. 22 Pt. I partly in force; Sch. 22 Pt. I not in force at Royal Assent see s. 126(2); Sch. 22 Pt. I in force to the extent specified at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 2; Sch. 22 Pt. I in force to the extent specified at 1.2.1993 by S.I. 1993/16, art. 2, Schs. 3, 4; Sch. 22 Pt. I in force to the extent specified at 5.2.1993 by S.I. 1993/197, art. 2(b); Sch. 22 Pt. I in force to the extent specified at 28.4.1993 by S.I. 1993/1186, art. 2(1)(3), Schs. 1, 3; Sch. 22 Pt. I in force to the extent specified at 13.9.1993 by S.I. 1993/2213, art. 2(1), Sch. 3; Sch. 22 Pt. I in force to the extent specified at 1.1.1994 by S.I. 1993/2213, art. 2(1), Schs. 5, 6; Sch. 22 Pt. I in force to the extent specified at 1.1.1994 by S.I. 1993/3226, art. 2(1), Sch. 2; Sch. 22 Pt. I in force to the extent specified at 1.11.1994 by S.I. 1994/2543, art. 2(3)(b)(i)(ii)

Chapter	Short title	Extent of repeal
3 & 4 Vict., c.110	Loan Societies Act 1840.	In section 27, the words “and shall be laid by him before both Houses of Parliament”.
59 & 60 Vict., c.25	Friendly Societies Act 1896.	Section 62, so far as unrepealed. Sections 64 to 67, so far as unrepealed.
13 & 14 Geo. 5 c.8.	Industrial Assurance Act 1923.	Section 2. Section 3. Section 4. Sections 6 to 8. Section 15. Section 16. In section 18, in subsection (1), the words “In the case of a collecting society or industrial assurance

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company", paragraph (c), in paragraph (d), the words "society or" (twice), in paragraph (f), the words "society or" (three times) and in paragraph (g) the words "collecting society or" and the words from "the", in the second place where it occurs in that paragraph, to "or", in the second place where it so occurs, and in subsection (3) the words "in the case of a collecting society or industrial assurance company", the words "society or" and the words from "award" to "a company,".

In section 19, in subsection (1), the words "collecting society and", in subsection (2), the words "society or" (twice), subsection (3)(b) and the word "or" immediately preceding it and in subsection (4), the words "or company" (twice).

Section 20(1)(b).

Section 31.

Sections 35 and 36.

Section 38.

Section 44.

Section 45(2).

Schedule 1.

19 & 20 Geo. 5 c. 28.

Industrial Assurance and Friendly Societies Act 1929.

The whole Act, so far as unrepealed.

12 Geo. 6 c.39.

Industrial Assurance and Friendly Societies Act 1948.

Sections 1 and 2.

Section 4.

Sections 6 and 7.

Sections 10 and 11.

Section 13(3).

Section 17A(2)

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		In section 23(1), at the end of paragraph (c) the word “and”.
		Schedules 1 and 2.
		In Schedule 3, in paragraph (b), the entry relating to subsections (2), (4) and (5) of section 2, and paragraphs (c) and (d).
4 & 5 Eliz. 2 c.19.	Friendly Societies Act 1955.	Section 3(2).
		Section 6.
6 & 7 Eliz.2 c.27.	Industrial Assurance Act 1948 (Amendment) Act 1958.	The whole Act.
1967 c.81.	Companies Act 1967	In Schedule 6, Part II.
1969 c.12.	Industrial and Provident Societies Act 1969	In section 60(3), the words “or (2)”.
1974 c.39.	Consumer Credit Act 1974.	In section 189(1), in the definition of “friendly society”, the words “or a society within the meaning of the Friendly Societies Act (Northern Ireland) 1970”.
1974 c.46.	Friendly Societies Act 1974.	Section 6(2).
		Section 8.
		Section 9(2) and (3).
		Section 11(1).
		Section 13(2).
		In section 16, the words “society or” in each place they appear.
		Section 17.
		Sections 27 and 28.
		In section 30(5), paragraph (a) and the words “paragraph (a) or”.
		In section 46, subsection (1) (a) and (b) and subsection (3).
		Section 53(3).
		Sections 70 to 75.
		In section 76, in subsection (1)(c), (d) and (e)

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the words “or branch” in each place where they occur, and, in subsection (5) the words from “and in subsection (3)” onwards.

Section 77.

In section 78, in subsection (1) the words “or the Chief or assistant registrar” and subsections (2) and (3).

In section 79(1), the words “or a magistrates’ court”.

In section 80(1), paragraph (c) and the word “and” immediately preceding it.

In section 82, subsection (4) and, in subsection (5), the words “to a company under the Companies Acts”.

Sections 88 and 89.

In section 98, subsection (1) (e) and, in subsection (4), the words “in the amalgamation or transfer of engagements or”.

Section 106.

In section 107(1), the words “national insurance and”.

Section 111(6).

Section 115.

In section 117(3), the words “but does not extend to Northern Ireland.”

Schedule 1.

In Schedule 2, in paragraph 3(1) the words “the fines” and “fines” and in paragraph 14 the words from “by consent” onwards.

Schedules 3, 5 and 6.

In Schedule 9, paragraphs 2, 5, 6, 8 and 10(1).

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1984 c.43.	Finance Act 1984.	<p>In section 73(4), the words “section 1 of the Friendly Societies Act (Northern Ireland) 1970 and”.</p> <p>In section 73(5), the words from “according” to “1970; or”.</p>
1984 c.62.	Friendly Societies Act 1984.	Section 3.
1985 c.40.	Companies Act 1985.	<p>In section 449(3), in paragraph (j) the words “and the Registrar of Friendly Societies for Northern Ireland” and in paragraph (k) the words “and the Industrial Assurance Commission for Northern Ireland”.</p>
1986 c.53.	Building Societies Act 1986.	<p>In section 7(4)(c)(ii), the words “or the Friendly Societies Act (Northern Ireland) 1970.”</p>
1986 c.60.	Financial Services Act 1986.	<p>In section 139, subsections (3) and (4) and in subsection (5) the words “and section 77 of the said Act of 1974” and “and section 65 of the Friendly Societies Act (Northern Ireland) 1970”.</p> <p>In section 189(5)(c), the word “registered”.</p> <p>In section 207(1), the definition of “registered friendly society”.</p> <p>In Schedule 11, in paragraph 1, in the definition beginning “a member society” the words from “and for the purposes” onwards, in paragraph 26, in sub-paragraph (1), the figure “(1)”, and sub-paragraph (3), paragraph 27, in paragraph 38(1)(a) the word “registered” and paragraph 43.</p> <p>In Schedule 15, in paragraph 14(1) the word “registered” and in paragraph 14(3), the words “registered”, “or as</p>

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		the case may be, the Friendly Societies Act (Northern Ireland) 1970", "or as the case may be, section 70 of the said Act of 1970" and "or, as the case may be, section 75 of the said Act of 1970".
1987 c. 22.	Banking Act 1987.	<p>In section 84(1), in the Table, in the entry beginning "The Chief Registrar of Friendly Societies", the words "the Registrar of friendly societies for Northern Ireland" and the words "or under the Financial Services Act 1986".</p> <p>In section 96(7), the words from "and in relation to" onwards.</p> <p>In Schedule 2, in paragraph 6(1), the words from "or section 1(1)(a)" onwards.</p>
1988 c.1.	Income and Corporation Taxes Act 1988.	<p>In section 461(9), the words "or section 81 of the Friendly Societies Act (Northern Ireland) 1970".</p> <p>In section 466(2), the definition of "registrar".</p> <p>In Schedule 15, in paragraph 4(3)(b) the words from "or paragraph" to "1970".</p> <p>In Schedule 29, paragraph 11.</p>
1989 c. 40.	Companies Act 1989.	In section 87(4), in the Table, in the entry beginning "The Chief Registrar of friendly societies", the words "the Registrar of Friendly Societies for Northern Ireland" and the words "the Financial Services Act 1986 or".
...	...	...

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## PART II

### NORTHERN IRELAND LEGISLATION

#### Commencement Information

**I198** Sch. 22 Pt. II partly in force; Sch. 22 Pt. II not in force at Royal Assent see s. 126(2); Sch. 22 Pt. II in force to the extent specified at 1.1.1994 by S.I. 1993/3226, art. 2, Sch. 2; Sch. 22 Pt. II in force to the extent specified at 1.11.1994 by S.I. 1994/2543 art. 2(3)(c)(i)(ii)

Chapter or Number	Short title	Extent of repeal
1967 c.5 (N.I.).	Administration of Estates (Small Payments) Act (Northern Ireland) 1967.	In section 6(1), in paragraph (b), the words "and section 58 of the Friendly Societies Act (Northern Ireland) 1970", and paragraph (c).
1970 c.31 (N.I.).	Friendly Societies Act (Northern Ireland) 1970.	The whole Act.
S.I. 1976/1041 (N.I.14).	Births and Deaths Registration (Northern Ireland) Order 1976.	In Schedule 1, the entry relating to the Friendly Societies Act (Northern Ireland) 1970.
S.I. 1979/1574 (N.I. 13).	Industrial Assurance (Northern Ireland) Order 1979.	In Article 2(2), the definition of "the Commissioner", and in the definition of "registered friendly society" the words from "Articles" to "7 and". Articles 4(1) and (3). Articles 5 to 11. Article 23(2). In Article 24, the words "collecting society or". In Article 25, in paragraph (1), the words "collecting society and", in paragraph (2), the words "society or" and "collecting society or", and in paragraph (4), the words "collecting society or" and "society or". Articles 39 and 41. Article 49(1)(c).

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Articles 50 and 51.

Article 52(1)(b) and (ii).

Schedules 1 and 2.

In Schedule 4, in paragraph 1(a), the entry relating to Article 9(1) to (4), in paragraph 1(b), the words “of the Act of 1896” and “section 62 of the Act of 1896” and paragraph 2.

In Schedule 5—

in paragraph 3, the words “a collecting society or” and “society or”;

in paragraph 5(1), the words “society or” and in head (b), the words “collecting society or”;

in paragraph 5(2), the words “collecting society or”;

in paragraph 6, the words “collecting society or” and the words from “the society” to “may be,”;

in paragraph 7, the words “collecting society or” and sub-paragraph (a).

In Schedule 8, the amendments of the Friendly Societies (Northern Ireland) Act 1970.

S.I. 1981/156 (N.I. 3).

Housing (Northern Ireland) Order 1981.

In Schedule 10, in paragraph 6, the word from “Friendly Societies (Northern Ireland) 1970” onwards.

In Schedule 11, in Part II, the amendment of the Friendly Societies Act (Northern Ireland) 1970.

S.I. 1984/703 (N.I. 3).

Fines and Penalties (Northern Ireland) Order 1984.

In Schedule 3, the entries relating to the Friendly Societies Act (Northern Ireland) 1970.

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S.I. 1986/1032 (N.I. 6).	Companies (Northern Ireland) Order 1986.	In Article 13(3)(j) the words “the Registrar of Friendly Societies”.
S.I. 1986/1035 (N.I. 9).	Companies Consolidation (Consequential Provisions) (Northern Ireland) Order 1986.	In Schedule 1, in Part I, the entries relating to the Friendly Societies Act (Northern Ireland) 1970.

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