



Friendly Societies Act 1992

1992 CHAPTER 40

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.

Status: Point in time view as at 01/08/1996.

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- (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,
- 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.

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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—
 - (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 [^{F1}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

F1 Words in s. 7(5) inserted (1.8.1996) by S.I. 1996/1188 art. 3

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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 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—

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- (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 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.

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- (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.

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

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(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.
- (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

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- (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.
- (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.

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(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 ^{M1}Companies Act 1985 or the ^{M2}Companies (Northern Ireland) Order 1986.

Marginal Citations

M1 1985 c. 6.

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

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