



Friendly Societies Act 1992

1992 CHAPTER 40

PART IV

AUTHORISATION OF FRIENDLY SOCIETIES' BUSINESS

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.
- [^{F1}(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

F1 S. 32(4) substituted (1.9.1994) by S.I. 1994/1984 reg. 4

Commencement Information

II 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 [F²78(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

F2 Words in s. 33(1)(c) substituted (1.1.1994) by S.I. 1993/3226, art. 3, Sch.3

Commencement Information

I2 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.

[^{F3}(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.

^{F3}(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) [^{F3}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 [^{F4}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) [^{F3}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) [^{F5}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) [^{F5}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

- F3** 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)
- F4** Words in s. 34(2)(a) inserted (1.9.1994) by S.I. 1994/1984 reg. (5)
- F5** 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

- I3** 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

- I4** 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

I5 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

[^{F6}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

F6 S. 36A inserted (1.1.1994) by S.I. 1993/2519, reg. 2(1)

Modifications etc. (not altering text)

C1 S.36A(2) excluded (20.7.2001) by S.I. 2001/2636, art. 45(3)

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