



Friendly Societies Act 1992

1992 CHAPTER 40

PART IV

AUTHORISATION OF FRIENDLY SOCIETIES' BUSINESS

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.

Status: Point in time view as at 01/01/1998.

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- (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

- II** 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.
- (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 ^{M1}Industrial Assurance Act 1923, the 1974 Act, the ^{M2}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;

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- (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; ^{F1} . . .
- (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 [^{F2}^{F1}or
- ^{F2}(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.

Textual Amendments

F1 Word in S. 40(3)(f) omitted (1.9.1994) by virtue of S.I. 1994/1984 reg. 6

F2 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)

C1 S. 40(5)(b) excluded (20.7.2001) by S.I. 2001/2636, arts. 1(2)(b), 46(3)

Commencement Information

I2 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

M1 1923 c.8.

M2 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
- ^{F3}(i) in the case of a society to which section 37(2) or (3) above applies, in the [^{F4}EEA States];
- (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

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- (b) has not, since the grant of authorisation to carry on insurance business of any class (or part of a class), carried on
- [^{F3}(i) in the case of a society to which section 37(2) or (3) above applies, in the [^{F4}EEA States];
 - (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.

- (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
- [^{F5}(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

- F3** S. 41(1) words substituted (1.9.1994) by S.I. 1994/1984 reg. 7(1)
F4 Words in s. 41(1)(a)(i) substituted (1.1.1998) by S.I. 1997/2849 reg. 4
 Words in s. 41(1)(b)(i) substituted (1.1.1998) by S.I. 1997/2849 reg. 4
F5 S. 41(3) words substituted (1.9.1994) by 1994/1984 reg. 7(2)

Commencement Information

- I3** 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

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