



# Friendly Societies Act 1992

## 1992 CHAPTER 40

### PART V **U.K.**

#### REGULATION OF FRIENDLY SOCIETIES' BUSINESS

##### *Information*

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

- (1) This section applies to information, documents or other material, or explanations of matters which relate to—
- the activities or the plans for future development of a friendly society; or
  - 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 [FCA or the PRA] 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 [FCA or the PRA] 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—
- to furnish to it, within a specified period or at a specified time or times, such specified information as the [FCA or the PRA] considers it needs for the purposes of its supervisory functions;

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- (b) to produce to it, at a specified time and place, such specified documents or other material as the [F1FCA or the PRA] 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 [F1FCA or the PRA] considers it needs for the purposes of its supervisory functions;

[F2(3A) Subject to subsection (2) above, any person authorised for the purpose by the [F1FCA or the PRA] (“an authorised officer”) may, on producing evidence of his authority, require a friendly society or a subsidiary of, or body jointly controlled by, an incorporated friendly society—

- (a) to furnish to him forthwith such specified information as the [F1FCA or the PRA] considers it needs for the purposes of its supervisory functions;
- (b) to produce to him forthwith such documents or other material as the [F1FCA or the PRA] considers it needs for those purposes;
- (c) to provide to him forthwith such explanations of specified matters as the [F1FCA or the PRA] considers it needs for those purposes.]

(4) Where by virtue of subsection (3)(a), (b) or (c) above the [F3[F1FCA or the PRA] has power, or by virtue of subsection (3A) above an authorised officer 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 [F4[F5FCA, the PRA or] authorised officer] shall have the like power as regards any person who—

- (a) is or has been an officer, employee or agent of the society [F6or, in the case of a society to which section 37(2) or (3) above applies, a controller or manager of the society], or
- (b) in the case of documents or material, appears to the [F4[F5FCA, the PRA or] authorised officer] 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 [F7[F1FCA or the PRA] has power, or by virtue of subsection (3A) above an authorised officer 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 [F8[F5FCA, the PRA or] authorised officer] 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 [F8[F5FCA, the PRA or] authorised officer] to have the document or material in his possession or under his control.

[F9(5A) .....

(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—

- [F10(a) by a relevant lawyer 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 or to the relevant

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- lawyer in that capacity or the furnishing of information contained in such communication so made;]
- (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>M1</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), [<sup>F11</sup>(3A),] (4) or (5) above, the [<sup>F12</sup>[<sup>F5</sup>FCA, the PRA or] an authorised officer] requires the production by a friendly society or other body or any other person of documents or material, the [<sup>F13</sup>[<sup>F5</sup>FCA, the PRA or] authorised officer] 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, 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 [<sup>F14</sup>one tenth of that level][<sup>F14</sup>one-tenth of the greater of £5,000 or level 4 on the standard scale] 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 [<sup>F15</sup>; and
- “relevant lawyer” means a barrister, advocate, solicitor or other legal representative communications with whom may be the subject of a claim to professional privilege or, in Scotland, be protected from disclosure in legal proceedings on grounds of confidentiality of communication].

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### Textual Amendments

- F1** Words in s. 62 substituted (1.4.2013) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2013 \(S.I. 2013/496\)](#), art. 1(1), **Sch. 9 para. 21(b)** (with Sch. 12)
- F2** S. 62(3A) inserted (17.8.2001 for specified purposes and otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8(1), 13(1), **Sch. 3 para. 76(c)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**
- F3** Words in s. 62(4) substituted (17.8.2001 for specified purposes and otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8(1), 13(1), **Sch. 3 para. 76(d)(i)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**
- F4** Words in s. 62(4) substituted (17.8.2001 for specified purposes and otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8(1), 13(1), **Sch. 3 para. 76(d)(ii)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**
- F5** Words in s. 62 substituted (1.4.2013) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2013 \(S.I. 2013/496\)](#), art. 1(1), **Sch. 9 para. 21(a)** (with Sch. 12)
- F6** S. 62(4)(a) words substituted (1.9.1994) by S.I. 1994/1984, **reg. 17(1)**
- F7** Words in s. 62(5) substituted (17.8.2001 for specified purposes and otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8(1), 13(1), **Sch. 3 para. 76(e)(i)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**
- F8** Words in s. 62(5) substituted (17.8.2001 for specified purposes and otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8(1), 13(1), **Sch. 3 para. 76(e)(ii)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**
- F9** S. 62(5A) repealed (17.8.2001 for specified purposes and otherwise 1.12.2001) by S.I. 2001/2617, art. 2, 13, Sch. 3 para. 76(f), **Sch. 4** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**
- F10** S. 62(7)(a) substituted for s. 62(7)(a)(b) (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), s. 211(2), **Sch. 21 para. 103(a)** (with ss. 29, 192, 193); S.I. 2009/3250, art. 2(h)
- F11** Words in s. 62(8) inserted (17.8.2001 for specified purposes and otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8(1), 13(1), **Sch. 3 para. 76(g)(i)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**
- F12** Words in s. 62(8) substituted (17.8.2001 for specified purposes and otherwise 1.12.2001) by S.I. 2001/2617, art. 2, 8(1), 13(1), **Sch. 3 para. 76(g)(ii)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**
- F13** Words in s. 62(8) substituted (17.8.2001 for specified purposes and otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8(1), 13(1), **Sch. 3 para. 76(g)(iii)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**
- F14** Words in s. 62(9)(b) substituted (E.W.) (12.3.2015) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Fines on Summary Conviction\) Regulations 2015 \(S.I. 2015/664\)](#), reg. 1(1), **Sch. 3 para. 7(2)** (with reg. 5(1))
- F15** Words in s. 62(12) inserted (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), s. 211(2), **Sch. 21 para. 103(b)** (with ss. 29, 192, 193); S.I. 2009/3250, art. 2(h)

### Commencement Information

- I1** 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

- M1** 1990 c. 40.

## [<sup>F16</sup>62A] **Entry of premises under warrant under section 176 of the Financial Services and Markets Act 2000.** **U.K.**

- (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 the [<sup>F17</sup>FCA or the PRA], 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

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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

- F16** 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)
- F17** Words in s. 62A(1) substituted (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), Sch. 9 para. 22 (with Sch. 12)

#### [<sup>F19</sup>63A Disclosure of information. U.K.]

- (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—
    - [<sup>F20</sup>(i) the FCA;
    - (ia) the PRA;]
    - (ii) any person who is or has been employed by the [<sup>F21</sup>FCA or the PRA]; and
    - (iii) any person appointed by the [<sup>F22</sup>FCA or the PRA] 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;

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- (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 [F<sup>23</sup>FCA or the PRA] 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;
  - (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**

- F19** 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)
- F20** S. 63A(1)(b)(i)(ia) substituted for s. 63A(1)(b)(i) (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), **Sch. 9 para. 23(2)** (with Sch. 12)
- F21** Words in s. 63A(1)(b)(ii) substituted (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), **Sch. 9 para. 23(3)** (with Sch. 12)
- F22** Words in s. 63A(1)(b)(iii) substituted (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), **Sch. 9 para. 23(3)** (with Sch. 12)
- F23** Words in s. 63A(2)(b) substituted (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), **Sch. 9 para. 23(3)** (with Sch. 12)

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