



Friendly Societies Act 1992

1992 CHAPTER 40

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;

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- (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—
- (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 [F¹Part] VI in relation to particular friendly societies.

- (1) The [F²Authority] may, on the application or with the consent of a friendly society, F³ . . . direct that all or any of the provisions of Part F⁴ . . . VI of this Act [F⁵, or any provision of regulations made for the purposes of that Part,] shall not apply to the society or shall apply to it with such modifications as may be specified in the [F⁶direction].
 - (2) [F⁷A direction] under this section may be subject to conditions.
 - (3) [F⁸A direction] under this section may be revoked by the [F⁹Authority] at any time; and the [F⁹Authority], may at any time vary any such [F¹⁰direction] on the application or with the consent of the society to which it applies.
- F¹¹(4)
- F¹¹(5)
- F¹¹(6)
- F¹²(7) Where the [F¹³Authority]—
- (a) makes a direction under [F¹⁴this section], 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.
- F¹²(8) The register kept for the purposes of subsection (7) above shall be available for inspection on reasonable notice by members of the public.
- F¹²(9) The [F¹⁵Authority] shall keep] a copy of—
- (a) any direction made by it under [F¹⁶this section], and
 - (b) any revocation or variation of any such direction,
- [F¹⁷and the central office shall keep the copy] in the public file of the society to which it relates.

Status: Point in time view as at 01/12/2003.

Changes to legislation: There are currently no known outstanding effects for the Friendly Societies Act 1992, Part X. (See end of Document for details)

Textual Amendments

- F1** Word in the sidenote to s. 103 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. 107(a)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**
- F2** Word in s. 103(1) 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. 107(b)(i)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**
- F3** Words in s. 103(1) repealed (1.12.2001) by S.I. 2001/2617, arts. 2, 13(2), **Sch. 4** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**
- F4** Words in s. 103(1) repealed (1.12.2001) by S.I. 2001/2617, arts. 2, 13(2), **Sch. 4** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**
- F5** Words in s. 103(1) 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. 107(b)(iv)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**
- F6** Word in s. 103(1) 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. 107(b)(v)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**
- F7** Words in s. 103(2) 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. 107(c)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**
- F8** Words in s. 103(3) 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. 107(d)(i)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**
- F9** Words in s. 103(3) 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. 107(d)(ii)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**
- F10** Word in s. 103(3) 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. 107(d)(iii)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**
- F11** S. 103(4)-(6) repealed (1.12.2001) by S.I. 2001/2617, arts. 2, 13(2), **Sch. 4** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**
- F12** S. 103(4)-(9) inserted (1.8.1996) by S.I. 1996/1188 art. 6
- F13** Word in s. 103(7) 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. 107(f)(i)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**
- F14** Words in s. 103(7)(a) 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. 107(f)(ii)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**
- F15** Words in s. 103(9) 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. 107(g)(i)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**
- F16** Words in s. 103(9)(a) 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. 107(g)(ii)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**
- F17** Words in s. 103(9) 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. 107(g)(iii)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**

Status: Point in time view as at 01/12/2003.

Changes to legislation: There are currently no known outstanding effects for the Friendly Societies Act 1992, Part X. (See end of Document for details)

104 Public file of a friendly society.

- (1) The [^{F18}Authority] 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 [^{F19}subject to paragraph (2A) below] below.
- (2) Any member of the public shall be entitled, [^{F20}subject to paragraph (2A) below], to be furnished with a copy of all or any of the documents or records kept in the public file of a friendly society.
- [^{F21}(2A) The Authority may charge a reasonable fee for making the public file available to any person for inspection under subsection (1)(b) above, or for furnishing any person with a copy of any documents or records under subsection (2) above.]
- (3) The [^{F18}Authority] 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.

Textual Amendments

- F18** Words in s. 104(1)(3) 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**, Pt. 1 para. 108(a) (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**
- F19** Words in s. 104(1)(b) 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. 108(b)(i)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)** also substituted (1.12.2001) by S.I. 2001/3649, **arts. 1, 203(5)(a)**
- F20** Words in s. 104(2) 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. 108(b)(ii)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)** also substituted (1.12.2001) by S.I. 2001/3538, **arts. 1, 203(5)(b)**
- F21** S. 104(2A) 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 Pt. 1 para. 108(c)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**

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.

[^{F22}105A Stamp duty land tax

- (1) A land transaction effected by or in consequence of—
- (a) an amalgamation of two or more friendly societies under section 85,
 - (b) a transfer of the engagements of a friendly society under section 86; or
 - (c) a transfer of the engagements of a friendly society pursuant to a direction given by the Authority under section 90,
- is exempt from charge for the purposes of stamp duty land tax.

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- (2) Relief under this section must be claimed in a land transaction return or an amendment of such a return.
- (3) In this section—
 - “land transaction” has the meaning given by section 43(1) of the Finance Act 2003;
 - “land transaction return” has the meaning given by section 76(1) of that Act.]

Textual Amendments

F22 S. 105A inserted (1.12.2003) by [The Stamp Duty Land Tax \(Consequential Amendment of Enactments\) Regulations 2003 \(S.I. 2003/2867\)](#), reg. 1, [Sch. para. 20](#)

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 ^{M1}Companies Act 1985 or Article 675 of the ^{M2}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 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

M1 1985 c. 6.
M2 S.I. 1986/1032 (N.I. 6).

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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 [F23 Authority] at any time within the period of one year beginning with the date on which evidence sufficient in the opinion of the [F23 Authority] 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 [F23 Authority], 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 [F23 Authority]” shall be omitted and in this section references to the [F23 Authority] shall be read as references to the Lord Advocate.
- (5) In the application of this section to Scotland, [F24 section 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

- F23** Words in s. 107 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. 109** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**
- F24** 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.
- (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

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(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 ^{M3}Magistrates' Courts Act 1980 or the ^{M4}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

M3 1980 c. 43.

M4 S.I. 1981/165 (N.I. 26).

111 Evidence.

^{F25}(1) Any document bearing the seal or stamp of the Authority shall be received in evidence without further proof.

(1A) Any document purporting to have been signed by a person authorised to do so on behalf of the Authority, and every document purporting to be signed by any inspector or public valuer under this Act, shall, in the absence of any evidence to the contrary, be received in evidence without proof of the signature.

(1B) In subsections (1) and (1A), "document" means any document issued, received or created by the Authority (or, as the case may be, by any inspector or public valuer under this Act) for the purposes of or in connection with this Act.]

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- (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.

Textual Amendments

F25 S. 111(1)-(1B) substituted (17.8.2001 for specified purposes and otherwise 1.12.2001) for s. 111(1) by S.I. 2001/2617, arts. 2, 8(1), 13(1), **Sch. 3 para. 110** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**

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 [^{F26}Treasury may by regulations], make such provision in addition to subsection (3) above as [^{F27}they consider] 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.

Textual Amendments

F26 Words in s. 112(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, Pt. 1 para. 111(a)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**

F27 Words in s. 112(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. 111(b)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**

Modifications etc. (not altering text)

C1 S. 112(4): functions of Friendly Societies Commission transferred (1.12.2001) to the Treasury by S.I. 2001/2617, arts. 2(b), 4(1), **Sch. 1 Pt. II** (with art. 5); S.I. 2001/3538, **art. 2(1)**

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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 [^{F28}Authority] 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—
 - (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 ^{M5}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).

Textual Amendments

F28 Words in s. 113(1) 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, Pt. 1 para. 112 (with art. 13(3), Sch. 5); S.I. 2001/3538, art. 2(1)

Marginal Citations

M5 1978 c. 30.

Status: Point in time view as at 01/12/2003.

Changes to legislation: There are currently no known outstanding effects for the Friendly Societies Act 1992, Part X. (See end of Document for details)

[^{F29} **114 Form of documents.**

- (1) The Authority may, by directions under this section, make provision with respect to the form of, and the particulars to be included in, any document to be sent to it under this Act or the 1974 Act.
- (2) The directions have effect subject to any other provision of or made under this Act.]

Textual Amendments

F29 S. 114 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**, Pt. 1 para. 113 (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**; s. 114(2)(3) expressed to be repealed (1.12.2001) by S.I. 2001/2617, arts. 2(b), 13(2), **Sch. 4** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**; s. 114 substituted (1.12.2001) by S.I. 2001/3649, **arts. 1**, 204(1)

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.
- [^{F30}(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

F30 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.

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Commencement Information

II 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;

[^{F31}“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 [^{F32}, except for the purposes of sections 87 and 88 above,] does not include the operations of a society whose benefits vary according to the resources available and which require each of its members to contribute on a flat-rate basis;

[^{F33}“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.

[^{F34}(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

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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 [^{F35}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 [^{F35}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 [^{F35}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.]

^{F36}(8)

- [^{F37}(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

- F31** Definition in s. 117(1) inserted (1.1.1994) by S.I. 1993/2519, **reg. 7(1)**
- F32** Words in definition in s. 117(1) 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. 114** (with **art. 13(3), Sch. 5**); S.I. 2001/3538, **art. 2(1)**
- F33** Definition in s. 117(1) added (1.9.1994) by S.I. 1994/1984, **reg. 29(1)**
- F34** S. 117(6)(7) substituted for s. 117(6) (1.1.1994) by S.I. 1993/2519, **reg. 7(2)**
- F35** Words in s. 117(6) substituted (1.9.1994) by S.I. 1994/1984, **reg. 29(2)**
- F36** S. 117(8) repealed (1.12.2001) by S.I. 2001/3649, **arts. 1, 205(1)**
- F37** S. 117(9) inserted (1.9.1994) by S.I. 1994/1984, **reg. 29(3)**

Commencement Information

- I2** 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.

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Commencement Information

I3 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 ^{M6}Friendly Societies Act 1974;

“actuary” means an actuary possessing [^{F38}such qualifications, if any, as may be specified in rules made by the Authority under section 340 of the Financial Services and Markets Act 2000 (and subsections (3) to (6) of that section apply in relation to an actuary appointed by virtue of any provision of this Act as they apply in relation to an actuary appointed in compliance with such rules)];

“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;

[^{F39}“the Authority” means the Financial Services Authority;]

“appointed actuary” means the actuary appointed [^{F40}in accordance with rules made under section 340 of the Financial Services and Markets Act 2000];

“the appropriate actuary” means—

- (a) if the society is under [^{F41}a duty imposed by rules made by the Authority under section 340 of the Financial Services and Markets Act 2000], the society’s appointed actuary; and
- (b) if it is not under [^{F42}such a] duty, an actuary appointed to perform the function in question;

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“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;

[^{F44}“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;

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F43

[^{F45}“EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 ^{F46} as adjusted by the Protocol signed at Brussels on 17th March 1993 ^{F47};

^{F45}“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;

^{F45}“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 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;

[^{F48}“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;

[^{F49}“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;

F43

...

“officer” means—

- (a) in relation to a registered friendly society or a registered branch—
 - (i) a trustee;

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- (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;

“the public file”, in relation to a friendly society, means the file relating to the society which the [^{F50}Authority] 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

[^{F51}“supervisory authority”, in relation to an EEA State other than the United Kingdom, means the authority responsible in that State for supervising [^{F52}persons whose business consists of effecting or carrying out contracts of insurance];

^{F51}“the third general insurance Directive” means Council Directive [92/49/EEC](#) of 18th June 1992 ^{F53} on the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance and amending Directives [73/239/EEC](#) ^{F54} and [88/357/EEC](#) ^{F55};

^{F51}“the third life Directive” means Council Directive [92/96/EEC](#) of 10th November 1992 ^{F56} on the coordination of laws, regulations and administrative provisions relating to direct life assurance and amending Directives [79/267/EEC](#) ^{F57} and [90/619/EEC](#) ^{F58};

...

[^{F59}(1AA) Any reference in this Act to the seal of the Authority is a reference to the seal provided for in regulations made under section 109(1)(b) of the Friendly Societies Act 1974 (and not to the Authority’s common seal).]

[^{F60}(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 [^{F61}European

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Parliament and Council Directive of 29th June 1995 amending Directives [77/780/EEC](#) and [89/646/EEC](#) in the field of credit institutions, Directives [72/239/EEC](#) and [92/96/EEC](#) in the field of non-life insurance, Directives [79/267/EEC](#) and [92/49/EEC](#) in the field of life assurance, Directive [93/22/EEC](#) in the field of investment firms and Directive [85/611/EEC](#) in the field of undertakings for collective investment in transferable securities (UCITS) with a view to reinforcing prudential supervision (No. [95/26/EC](#))].]

^{F62}(1B)

[^{F63}(1C) In the definition of “supervisory authority” in subsection (1), the reference to contracts of insurance and to effecting or carrying out such contracts must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.]

(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 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

- F38** Words in the definition of “actuary” in s. 119(1) 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. 115(a)(i)** (with art. 13(3), Sch. 5); [S.I. 2001/3538](#), **art. 2(1)**
- F39** Definition of “the authority” in s. 119(1) 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. 115(a)(ii)** (with art. 13(3), Sch. 5); [S.I. 2001/3538](#), **art. 2(1)**
- F40** Words in the definition of “appointed actuary” in s. 119(1) 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. 115(a)(iii)** (with art. 13(3), Sch. 5); [S.I. 2001/3538](#), **art. 2(1)**
- F41** [S. 119\(1\)](#): Words in para. (a) of the definition of “appropriate actuary” 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. 115(a)(iv)(A)** (with art. 13(3), Sch. 5); [S.I. 2001/3538](#), **art. 2(1)**
- F42** [S. 119\(1\)](#): Words in para. (b) of the definition of “appropriate actuary” 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. 115(a)(iv)(B)** (with art. 13(3), Sch. 5); [S.I. 2001/3538](#), **art. 2(1)**
- F43** Definitions of “the central office”, “the Chief Registrar”, “collecting society”, “the Commission”, “the criteria of prudent management” and “notifiable voting rights” in s. 119(1) repealed (1.12.2001) by [S.I. 2001/2617](#), arts. 2(b), 13(2), **Sch. 4** (with art. 13(3), Sch. 5); [S.I. 2001/3538](#), **art. 2(1)**
- F44** [S. 119\(1\)](#): definition inserted (1.9.1994) by [S.I. 1994/1984](#) reg. 30(a)
- F45** [S. 119\(1\)](#): definition inserted (1.9.1994) by [S.I. 1994/1984](#), **reg. 30(b)**
- F46** O.J. L1, 3.1.94, page 3.
- F47** O.J. L1, 3.1.94, page 572.
- F48** [S. 119\(1\)](#): definition substituted (1.9.1994) by [S.I. 1994/1984](#) reg. 30(c)
- F49** [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)**
- F50** Words in the definition of “the public file” in s. 119(1) substituted (17.8.2001 for specified purposes and otherwise 1.12.2001) by [The Financial Services and Markets Act 2000 \(Mutual Societies\) Order](#)

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2001 (S.I. 2001/2617), arts. 2, 8(1), 13(1), **Sch. 3 para. 115(a)(vi)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**

- F51** Words in s. 119(1) inserted (1.9.1994) by S.I. 1994/1984, **reg. 30(f)**
- F52** Words in the definition of “supervisory authority” in s. 119(1) substituted (1.12.2001) by The Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001 (S.I. 2001/3649), arts. 1, **205(3)**
- F53** O.J. L228, 11.8.92, page 1.
- F54** O.J. L228, 16.8.73, page 3.
- F55** O.J. L172, 4.7.88, page 1.
- F56** O.J. L360, 9.12.92, page 1.
- F57** O.J. L63, 13.3.79, page 1.
- F58** O.J. L330, 29.11.90, page 50.
- F59** S. 119(1AA) inserted (17.8.2001 for specified purposes and otherwise 1.12.2001) by The Financial Services and Markets Act 2000 (Mutual Societies) Order 2001 (S.I. 2001/2617), arts. 2, 8(1), 13(1), **Sch. 3 para. 115(b)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**
- F60** S. 119(1A) inserted (18.7.1996) by S.I. 1996/1669, reg. 23, **Sch. 5 para. 6**
- F61** Words in s. 119(1A) substituted (1.12.2001) by The Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001 (S.I. 2001/3649), arts. 1, **205(4)**
- F62** S. 119(1B) repealed (1.12.2001) by The Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001 (S.I. 2001/3649), arts. 1, **205(5)**
- F63** S. 119(1C) inserted (1.12.2001) by The Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001 (S.I. 2001/3649), arts. 1, **205(6)**

Commencement Information

- I4** Ss. 116-119 wholly in force at 8.6.1992 see s. 126(2) and S.I. 1992/1325, **art. 2(c)**.

Marginal Citations

- M6** 1974 c. 46.

[^{F64}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;
- “son” includes stepson and “daughter” includes stepdaughter;

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“subsidiary undertaking” has the same meaning as in the Insurance Companies Act 1982 ^{M7}.]

Textual Amendments

F64 S. 119(A) inserted (1.9.1994) by S.I. 1994/1984 reg. 31

Marginal Citations

M7 1982 c.50.

^{F65} **119B**.....

Textual Amendments

F65 S. 119B repealed (1.12.2001) by S.I. 2001/2617, arts. 2, 13(2), **Sch. 4** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**

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

I5 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 ^{F66} . . . 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—

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- (a) to make different provision for different cases; and
- (b) to make transitional, consequential or supplementary provision.

Textual Amendments

F66 Words in s. 121(1) repealed (1.12.2001) by S.I. 2001/2617, arts. 2(b), 13(2), **Sch. 4** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**

Commencement Information

I6 S. 121 wholly in force at 8.6.1992 see s. 126(2) and S.I. 1992/1325, **art. 2(d)**.

^{F67}**122**

Textual Amendments

F67 S. 122 repealed (1.12.2001) by S.I. 2001/2617, arts. 2(b), 13(2), **Sch. 4** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**

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

I7 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.

^{F68}(2)

Textual Amendments

F68 S. 124(2) repealed (2.12.1999) by 1998 c.47, s. 100(2), **Sch. 15**; S.I. 1999/3209, art. 2, **Sch.**

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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.

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.

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](#)

Commencement Information

- I8** [S. 126](#) wholly in force at 8.6.1992 see [s. 126\(2\)](#) and [S.I. 1992/1325, art. 2](#).

Status:

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