

Status: Point in time view as at 07/02/1994.

Changes to legislation: There are currently no known outstanding effects for the Friendly Societies Act 1992, SCHEDULE 13. (See end of Document for details)

SCHEDULES

SCHEDULE 13

Section 32.

AUTHORISATION: SUPPLEMENTARY PROVISIONS

PART I

APPLICATIONS FOR AUTHORISATION

Preliminary

- 1 (1) In this Part of this Schedule “application” means an application by a friendly society for authorisation and, in relation to any application, “the society” means the friendly society making the application.
- (2) For the purposes of this Part of this Schedule “officer”, in relation to a registered friendly society, does not include a trustee of the society.

Commencement Information

- II** Sch. 13 wholly in force; Sch. 13 not in force at Royal Assent see s. 126(2); Sch. 13 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 13 in force for all remaining purposes at 13.9.1993 by S.I. 1993/2213, art. 2(1), Sch. 2

Procedure for granting authorisation

- 2 (1) An application shall be made in such manner as the Commission may specify, either generally or in any particular case.
- (2) Subject to sub-paragraph (3) below, the society must submit to the Commission such proposals as to the manner in which it proposes to carry on business, such financial forecasts and such other information as may be required by or in accordance with regulations made by the Commission with the consent of the Treasury.
- (3) Where the application is made under section 33 above the society shall, instead of submitting the information mentioned in sub-paragraph (2) above, furnish the Commission with the documents referred to in sub-paragraph (4) below and such other information as the Commission may request.
- (4) The documents referred to in sub-paragraph (3) above are—
 - (a) a statement by the society, signed by its secretary and certified by its appropriate actuary or some other independent person acceptable to the Commission, which describes—

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- (i) the insurance business carried on by the society in the United Kingdom immediately before the commencement of section 32 above (and stating, in relation to each description of insurance business, the class specified in head A or B of Schedule 2 to this Act into which that description falls); and
 - (ii) the non-insurance business carried on by it in the United Kingdom at that time;
- (b) where any solvency requirements imposed by or under this Act are applicable to the society, a statement by the society's appropriate actuary that, in his opinion, the society complies with those requirements; and
 - (c) a statement made jointly by each member of the committee of management, the secretary and the chief executive that the affairs of the society are directed in accordance with the criteria of prudent management and will continue to be so.
- (5) The Commission shall decide an application within 6 months of receiving the information referred to in sub-paragraph (2) above or, in the case of an application under section 33 above, the documents and other information mentioned in sub-paragraph (3) above.

Commencement Information

I2 Sch. 13 wholly in force; Sch. 13 not in force at Royal Assent see s. 126(2); Sch. 13 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 13 in force for all remaining purposes at 13.9.1993 by S.I. 1993/2213, art. 2(1), Sch. 2

- 3
- (1) If on an application the Commission proposes to impose conditions, the provisions of paragraphs 7 and 8 below shall apply.
 - (2) If the Commission proposes to refuse to grant authorisation, it shall serve a notice on the society stating—
 - (a) that it proposes to refuse to grant authorisation;
 - (b) the grounds for the proposed refusal; and
 - (c) that the society may make representations with respect to the proposed refusal within such period of not less than 28 days as may be specified in the notice and that, if the society so requests, the Commission will afford to it an opportunity of being heard by the Commission within that period.
 - (3) If the grounds for the proposed refusal include the ground that a person is not a fit and proper person to hold office in the society, the Commission shall also serve the notice specified in sub-paragraph (2) above on the person concerned giving him the like right to make representations and to be heard with respect to his fitness and propriety for office.
 - (4) If, on an application made by virtue of section 33 above, the grounds for the proposed refusal include the ground that the Commission is not satisfied that a statement referred to in paragraph 2(4)(b) or (c) above is accurate, it shall also serve the notice specified in sub-paragraph (2) above on the person or, as the case may be, each person who made the statement giving him the like right to make representations and to be heard with respect to the accuracy of his statement.

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- (5) The Commission shall, before reaching a decision on the application, consider any representations made to it in accordance with sub-paragraph (2), (3) or (4) above.
- (6) If, on an application for authorisation, the Commission refuses to grant authorisation it shall serve—
- (a) on the society and each of its officers;
 - (b) on any other person on whom a notice was served under sub-paragraph (4) above,
- a notice stating the Commission's decision and the grounds for it.
- (7) The non-receipt by an officer or other person of a notice of a matter under this paragraph does not affect the validity of any action on the part of the Commission.

Commencement Information

I3 Sch. 13 wholly in force; Sch. 13 not in force at Royal Assent see s. 126(2); Sch. 13 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 13 in force for all remaining purposes at 13.9.1993 by S.I. 1993/2213, art. 2(1), Sch. 2

Offences in connection with application

- 4 (1) A friendly society which furnishes any information or makes any statement which is false or misleading in a material particular in connection with an application 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.
- (2) Any person who knowingly or recklessly furnishes any information or makes any statement which is false or misleading in a material particular in connection with an application shall be guilty of an offence and liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or both; and
 - (b) on summary conviction, to a fine not exceeding the statutory maximum.

Commencement Information

I4 Sch. 13 wholly in force; Sch. 13 not in force at Royal Assent see s. 126(2); Sch. 13 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 13 in force for all remaining purposes at 13.9.1993 by S.I. 1993/2213, art. 2(1), Sch. 2

Terms of authorisation: supplementary

- 5 (1) On granting authorisation to a friendly society the Commission shall send a copy of the terms of the authorisation—
- (a) to the secretary of the society; and
 - (b) to the central office;
- and the central office shall keep a copy of those terms in the public file of the society.

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- (2) Where the terms of a society’s authorisation are superseded by the grant of authorisation—
- (a) on an application to which section 35 above applies, or
 - (b) on an application required by a direction under section 39 above,
- the central office shall, on placing the copy of the terms of the authorisation on the public file of the society under sub-paragraph (1) above, indicate on the copy of the previous terms kept on that file that they have been superseded.

Commencement Information

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PART II

IMPOSITION OF CONDITIONS AND WITHDRAWAL OF AUTHORISATION

Preliminary

- 6 (1) In this Part of this Schedule “the society” means—
- (a) in relation to the imposition of conditions on the grant of authorisation, the friendly society making the application for authorisation; and
 - (b) in relation to the imposition of conditions on a current authorisation, the friendly society on whose authorisation the Commission proposes to impose conditions.
- (2) For the purposes of this Part of this Schedule “officer”, in relation to a registered friendly society, does not include a trustee of the society.

Commencement Information

- I6** Sch. 13 wholly in force; Sch. 13 not in force at Royal Assent see s. 126(2); Sch. 13 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 13 in force for all remaining purposes at 13.9.1993 by S.I. 1993/2213, art. 2(1), Sch. 2

Imposition of conditions

- 7 (1) If the Commission proposes to impose conditions, it shall serve on the society and on each of its officers a notice stating—
- (a) that the Commission proposes to impose conditions;
 - (b) what conditions the Commission proposes to impose;
 - (c) the grounds for their imposition; and
 - (d) that the society may make representations with respect to the proposed imposition of the conditions within such period of not less than 14 days as

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may be specified in the notice and that, if it so requests, the Commission will afford to it an opportunity of being heard by the Commission within that period.

- (2) If any condition proposed to be imposed on the society includes a requirement for a person's removal from office (whether an office in the society or in any registered branch of the society), the Commission shall also serve the notice specified in sub-paragraph (1) above on the person whose removal is proposed giving him the like right to make representations and to be heard with respect to his proposed removal from office.
- (3) The Commission shall, before reaching a decision on whether to impose conditions and, if so, what conditions, consider any representations made in accordance with sub-paragraph (1) or (2) above.
- (4) The Commission may not impose conditions on grounds other than those stated, or grounds included in those stated, in the notice served by it under sub-paragraph (1) above.
- (5) Except where paragraph 8 below applies, the Commission shall serve—
 - (a) on the society and each of its officers; and
 - (b) on every other person on whom a notice was served under sub-paragraph (2) above,a notice stating its decision and, where it has decided to impose conditions, specifying the conditions and stating the grounds for imposing them.
- (6) Where conditions are imposed on an authorisation which is already subject to conditions, the notice served on the society under sub-paragraph (5) above shall be accompanied by a statement of all subsisting conditions to which the authorisation is subject (including any that were otherwise unaffected by the decision); and the Commission shall send a copy of that statement to the central office.

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- 8 (1) This paragraph applies where the Commission has decided to impose conditions but proposes to impose conditions different from and more onerous than those stated in the notice served by the Commission under paragraph 7(1) above.
- (2) The Commission shall serve on the society and on each of its officers a notice stating—
 - (a) what conditions the Commission proposes to impose;
 - (b) the grounds for their imposition instead of the conditions stated in the notice under paragraph 7(1) above; and
 - (c) that the society may make representations with respect to the conditions the Commission proposes to impose within such period of not less than 7 days as may be specified in the notice and that, if the society so requests, the Commission will afford to it an opportunity of being heard by the Commission within that period.

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- (3) If any new or different condition proposed to be imposed on the society includes a requirement for a person's removal from office (whether an office in the society or in any registered branch of the society), the Commission shall also serve the notice specified in sub-paragraph (2) above on the person whose removal is proposed giving him the like right to make representations and to be heard with respect to his proposed removal from office.
- (4) The Commission shall, before reaching a decision on whether to impose conditions different from those stated in the notice served under paragraph 7(1) above and, if so, what conditions, consider any representations made in accordance with sub-paragraph (2) or (3) above.
- (5) The Commission may not impose conditions on grounds other than those stated, or grounds included in those stated, in the notice served by it under sub-paragraph (2) above.
- (6) The Commission shall serve-
 - (a) on the society and each of its officers; and
 - (b) on every other person on whom a notice was served under sub-paragraph (3) above,
 a notice stating its decision and, where it has decided to impose conditions, specifying the conditions and stating the grounds for imposing them.
- (7) Where conditions are imposed on an authorisation which is already subject to conditions, the notice served on the society under sub-paragraph (6) above shall be accompanied by a statement of all subsisting conditions to which the authorisation is subject (including any that were otherwise unaffected by the decision); and the Commission shall send a copy of that statement to the central office.
- (8) The procedure in this paragraph may be repeated; and on any such repeat references in this paragraph to the notice under paragraph 7(1) above shall be construed as reference to the latest notice under sub-paragraph (2) of this paragraph.

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Imposition of conditions on appeal

- 9 (1) The modifications of the provisions of paragraphs 7 and 8 above in their application to the imposition of conditions by the Commission in pursuance of a direction of an appeal tribunal under section 59 above are as follows.
 - (2) The notice under paragraph 7(1) above shall be served on the society and the other persons there specified within the period of 14 days beginning with the date on which the Commission received notice of the tribunal's decision under subsection (10) of that section; and a copy shall also be sent within that period to the tribunal.
 - (3) The notice under paragraph 7(1) above may specify, as the period within which representations may be made, a period of not less than 7 days.

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- (4) If the Commission serves a notice under paragraph 8(2) above on the society and other persons there specified it shall send a copy of the notice to the tribunal.

Commencement Information

- I9** Sch. 13 wholly in force; Sch. 13 not in force at Royal Assent see s. 126(2); Sch. 13 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 13 in force for all remaining purposes at 13.9.1993 by S.I. 1993/2213, art. 2(1), Sch. 2

Procedure for withdrawing authorisation

- 10 (1) Subject to sub-paragraph (6) below, if the Commission proposes to give a direction under section 40 or section 41 above it shall serve on the society and on each of its officers a notice stating—
- that the Commission proposes to give such a direction;
 - the grounds for the proposed direction; and
 - that the society may make representations with respect to the proposed direction within such period of not less than 14 days as may be specified in the notice and that, if the society so requests, it will be afforded an opportunity of being heard by the Commission within that period.
- (2) If the grounds for the proposed direction include the ground that a person is not a fit and proper person to hold office in the society, the Commission shall also serve the notice specified in sub-paragraph (1) above on the person concerned giving him the like right to make representations and to be heard with respect to his fitness and propriety for office.
- (3) Before reaching a decision on whether to give a direction, the Commission shall consider any representations made to it in accordance with sub-paragraph (1) or (2) above.
- (4) Except where the Commission proposes to impose conditions instead of giving a direction (in which case paragraphs 7 and 8 above apply), the Commission shall serve on the society and each of its officers a notice stating its decision and, where it has decided to give a direction, the grounds for the decision.
- (5) The Commission may not give a direction on grounds other than those stated, or grounds included in those stated, in the notice served under sub-paragraph (1) above.
- (6) Sub-paragraphs (1) to (5) above shall not apply in relation to a direction to a friendly society which is given at the request of the society or under section 40(2) or (3)(g) above; but the notice of any such direction sent to the secretary of the society shall state the grounds on which it is given.

Commencement Information

- I10** Sch. 13 wholly in force; Sch. 13 not in force at Royal Assent see s. 126(2); Sch. 13 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 13 in force for all remaining purposes at 13.9.1993 by S.I. 1993/2213, art. 2(1), Sch. 2

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- 11 (1) On giving a direction in relation to a friendly society under section 40 or 41 above the Commission shall—
- (a) publish notice of it in one or more of the London, Edinburgh and Belfast Gazettes, and in any such other ways as the Commission considers appropriate for notifying the public;
 - (b) send a copy of it to the secretary of the society concerned and to the central office;
 - (c) where it relates only to part of the business covered by the society's authorisation, send a copy of the terms of the authorisation, after taking account of the direction, to the secretary of the society and to the central office.
- (2) The central office—
- (a) shall keep the copy of a direction sent to it under sub-paragraph (1)(b) above on the public file of the society;
 - (b) where a copy of the terms of the society's authorisation is sent to it under sub-paragraph (1)(c) above, shall keep the copy on the public file of the society.

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I11 Sch. 13 wholly in force; Sch. 13 not in force at Royal Assent see s. 126(2); Sch. 13 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 13 in force for all remaining purposes at 13.9.1993 by S.I. 1993/2213, art. 2(1), Sch. 2

Non-receipt of notice by officer

- 12 The non-receipt by an officer of a friendly society or registered branch of a notice of a matter does not affect the validity of any action on the part of the Commission.

Commencement Information

I12 Sch. 13 wholly in force; Sch. 13 not in force at Royal Assent see s. 126(2); Sch. 13 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 13 in force for all remaining purposes at 13.9.1993 by S.I. 1993/2213, art. 2(1), Sch. 2

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