
Status: Point in time view as at 18/07/1996.

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SCHEDULES

[^{F1} [SCHEDULE 13A TO 1992 ACT]

SUPERVISION OF CONTROLLERS OF FRIENDLY SOCIETIES TO WHICH SECTION 37(2) OR (3) APPLIES]

Textual Amendments

F1 Sch. 13A inserted (1.9.1994) by S.I. 1994/1984, regs 1(1), 14(2), Sch. 1.

Approval of person proposing to become controller

- 1 (1) No person shall become a controller of a friendly society to which section 37(2) or (3) above applies unless—
- (a) he has served on the Commission a notice stating—
 - (i) that he intends to become a controller of the society; and
 - (ii) the details of the voting rights which he proposes to acquire; and
 - (b) either the Commission has, before the expiration of the period of three months beginning with the date of service of that notice, notified him that there is no objection to his becoming a controller of the society, or that period has elapsed without the Commission having served on him a notice of objection.
- (2) The Commission may serve a notice of objection under sub-paragraph (1) above on the ground—
- (a) that it appears to the Commission that the person concerned is not a fit and proper person to become a controller of the society; or
 - (b) that it appears to it that, if that person were to acquire such voting rights, the criteria of prudent management would not or might not continue to be fulfilled in respect of the society.
- (3) Before serving such a notice the Commission shall serve on the person proposing to become a controller a preliminary notice stating—
- (a) that the Commission is considering the service on that person of a notice of objection on that ground; and
 - (b) that the person may, within the period of one month from the date of service of the preliminary notice, make written representations to the Commission and, if that person so requests, oral representations to an officer of the Commission appointed for the purpose by the Commission.
- (4) The Commission shall not be obliged to disclose to any person any particulars of the ground on which he is considering the service on him of a notice of objection.

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- (5) Where representations are made in accordance with this paragraph the Commission shall take them into consideration before serving the notice of objection.

Modifications etc. (not altering text)

C1 Sch. 13A para. 1(1)(a) modified (1.12.2001) by S.I. 2001/2637, arts. 1, 3(2)(d); S.I. 2001/3538, art. 2(1)

Approval of acquisition of notifiable voting rights

- 2 (1) No person who is a controller of a friendly society to which section 37(2) or (3) above applies shall acquire notifiable voting rights in the society unless—
- (a) he has served on the Commission a notice stating—
 - (i) that he intends to acquire such voting rights; and
 - (ii) the details of the voting rights which he proposes to acquire; and
 - (b) either the Commission has, before the expiration of the period of three months beginning with the date of service of that notice, notified him that there is no objection to his proposed acquisition of the voting rights, or that period has elapsed without the Commission having served on him a notice of objection.
- (2) The Commission may serve a notice of objection under sub-paragraph (1) above on the ground—
- (a) that it appears to the Commission that the person concerned is not a fit and proper person to acquire such voting rights; or
 - (b) that it appears to it that, if that person were to acquire such voting rights, the criteria of prudent management would not or might not continue to be fulfilled in respect of the society.
- (3) Sub-paragraphs (3) to (5) of paragraph 1 above shall, with the necessary modifications, apply for the purposes of this paragraph as they apply for the purposes of that paragraph.

Modifications etc. (not altering text)

C2 Sch. 13A para. 2(1)(a) modified (1.12.2001) by S.I. 2001/2637, arts. 1, 3(2)(d); S.I. 2001/3538, art. 2(1)

Provisions supplementing paragraphs 1 and 2

- 3 (1) This paragraph applies where a person who proposes—
- (a) to become a controller of a friendly society to which section 37(2) or (3) above applies; or
 - (b) to acquire notifiable voting rights in such a society,
- has served notice on the Commission under sub-paragraph (1)(a) of paragraph 1 or 2 above (“the relevant paragraph”).

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- (2) The Commission may by notice require the person serving the notice to provide such additional information or documents as the Commission may reasonably require for the purpose of deciding whether to serve—
- (a) a notice of objection under the relevant paragraph; or
 - (b) a notice imposing conditions under paragraph 5 below.
- (3) Where additional information or documents are required from any person by a notice under sub-paragraph (2) above, the time between the giving of that notice and the receipt of the information or documents shall be added to the period mentioned in sub-paragraph (1)(b) of the relevant paragraph.
- (4) The notice shall be of no effect for the purposes of sub-paragraph (1) of the relevant paragraph if either the notice is withdrawn or—
- (a) in the case of a notice under paragraph 1(1)(a) above, the person by whom it was served does not become a controller of the society; or
 - (b) in the case of a notice under paragraph 2(1)(a) above, the person by whom it was served does not acquire the voting rights specified in the notice,
- before the end of the period of one year beginning with the date mentioned in sub-paragraph (5) below.
- (5) The date referred to in sub-paragraph (4) above is as follows—
- (a) in the case where the Commission has, before the end of the period mentioned in sub-paragraph (1)(b) of the relevant paragraph, given to the person serving the notice such a notification as is mentioned in that provision, the date of that notification;
 - (b) in a case where the Commission has, before the end of that period, served a notice imposing conditions on that person in accordance with paragraph 5 below, the date of the service of that notice; and
 - (c) in any other case, the date immediately following the end of that period.
- (6) The period mentioned in sub-paragraph (1)(b) of the relevant paragraph shall be deemed not to expire until fourteen days after the end of the period within which representations may be made in accordance with that paragraph.

Notice of objection where requisite notice not given

- 4 (1) This paragraph applies where a person—
- (a) becomes a controller of a friendly society to which section 37(2) or (3) above applies; or
 - (b) acquires notifiable voting rights in such a society,
- in contravention of sub-paragraph (1)(a) of paragraph 1 or 2 above; and references in this paragraph to the person in breach shall be construed accordingly.
- (2) The Commission—
- (a) may serve the person in breach with a notice of objection at any time within three months after it becomes aware of the contravention; and
 - (b) for the purpose of deciding whether to serve the person in breach with such a notice or with a notice imposing conditions under paragraph 5 below, may require that person by notice to provide such information or documents as the Commission may reasonably require.

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- (3) Before serving a notice of objection under sub-paragraph (2) above, the Commission shall serve on the person in breach a preliminary notice—
 - (a) stating that the Commission is considering serving a notice of objection on the person in breach; and
 - (b) specifying the matters mentioned in sub-paragraph (5) below as respects which the Commission is not satisfied.
- (4) A person served with a preliminary notice under sub-paragraph (3) above may, within the period of one month from the date of service of that notice—
 - (a) make written representations to the Commission; and
 - (b) if that person so requests, oral representations to an officer of the Commission appointed for that purpose by the Commission.
- (5) The Commission shall not serve a notice of objection under sub-paragraph (2) above unless it appears to the Commission—
 - (a) that the person in breach is not or may not be a fit and proper person to be a controller of the society or to retain the notifiable voting rights in the society; or
 - (b) that the interests of members and potential members of the society are or may in some other manner be jeopardised by that person's ability to influence the society.
- (6) Where representations are made in accordance with this paragraph the Commission shall take them into consideration before a notice of objection.
- (7) The Commission shall not be obliged to disclose to the person in breach any particulars of the ground on which he is considering the service of a notice of objection.
- (8) The period mentioned in sub-paragraph (2)(a) above shall be deemed not to expire until fourteen days after the end of the period within which representations may be made in accordance with this paragraph.

Notices imposing conditions

- 5 (1) This paragraph applies where either—
 - (a) paragraph 3 above applies and the Commission is entitled to serve a notice of objection under the relevant paragraph; or
 - (b) paragraph 4 above applies;
 and expressions in this paragraph which are also used in paragraph 3 or 4 above have the same meanings as in that paragraph.
- (2) If the Commission considers that, if certain conditions were complied with—
 - (a) by the person serving the notice under sub-paragraph (1)(a) of the relevant paragraph; or
 - (b) by the person in breach,
 the criteria of prudent management would continue to be or, as the case may be, would be fulfilled in respect of the society, it may, instead of serving a notice of objection under the relevant paragraph or paragraph 4 above, serve on that person

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a notice requiring those conditions to be complied with by that person (“the person concerned”).

- (3) Before serving a notice under sub-paragraph (2) above, the Commission shall serve on the person concerned a preliminary notice stating—
 - (a) that the Commission is considering serving a notice under sub-paragraph (2) above;
 - (b) the conditions which would be required by such a notice to be complied with by that person;
 - (c) the criteria of prudent management which it considers would not be fulfilled in respect of the society if neither such a notice nor a notice of objection were served on that person; and
 - (d) that the person may, within the period of one month from the date of service of the preliminary notice—
 - (i) make written representations to the Commission; and
 - (ii) if that person so requests, oral representations to an officer of the Commission appointed for the purpose by the Commission.
- (4) Where representations are made in accordance with this paragraph the Commission shall take them into consideration before serving a notice under sub-paragraph (2) above.
- (5) The Commission shall not be obliged to disclose to the person concerned any particulars of the ground on which it is considering service on that person of a notice under sub-paragraph (2) above or a notice of objection under the relevant paragraph or, as the case may be, paragraph 4 above.

Objection to existing controller

- 6 (1) Where it appears to the Commission, as respects a friendly society to which section 37(2) or (3) above applies, that the criteria of prudent management are not or may not be fulfilled in respect of the society by reason of the ability of a person who is a controller of the society to influence the society, it may serve on that person a notice of objection to that person continuing to be a controller of the society.
- (2) Before serving a notice of objection under this paragraph, the Commission shall serve on the person concerned a preliminary notice stating that the Commission is considering serving a notice of objection under this paragraph.
- (3) A notice under sub-paragraph (2) above shall—
 - (a) give particulars of the rights conferred by sub-paragraph (4) below; and
 - (b) specify the criteria of prudent management which are not or may not be fulfilled in respect of the society.
- (4) A person served with a notice under sub-paragraph (2) above may, within the period of one month beginning with the day on which the notice is served—
 - (a) make written representations to the Commission; and
 - (b) if that person so requests, oral representations to an officer of the Commission appointed for the purpose by the Commission.
- (5) Where representations are made in accordance with this paragraph, the Commission shall take them into account in deciding whether to serve a notice of objection.

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- (6) The Commission shall not be obliged to disclose to the person concerned or to the society any particulars of the ground on which it is considering the service of a notice of objection.

Restrictions etc. as respects voting rights

- 7 (1) This paragraph applies where a person—
- (a) has contravened paragraph 1 or 2 above by becoming a controller of a friendly society to which section 37(2) or (3) above applies, or by acquiring notifiable voting rights in such a society;
 - (b) having become such a controller or acquired such voting rights in contravention of paragraph 1 or 2 above, continues to be such a controller or to retain those voting rights after being served with a notice of objection under paragraph 4 above;
 - (c) having been served with a notice imposing conditions under paragraph 5 above, has failed to comply with any of the conditions specified in that notice; or
 - (d) having been served with a notice of objection under paragraph 6 above to his continuing to be such a controller, continues to be such a controller;
- and references in this paragraph to the person in breach shall be construed accordingly.
- (2) The Commission may by notice served on the person in breach direct that—
- (a) no voting rights shall be exercisable by that person;
 - (b) that any vote cast by that person shall be ineffective;
 - (c) that any resolution adopted, in relation to which that person voted, shall be ineffective and treated as void;
 - (d) any appointment of that person as a delegate shall be void;
 - (e) that person may be disqualified from membership of the society.
- (3) A copy of the notice served on the person in breach under sub-paragraph (2) above shall be served on the society to whose voting rights it relates.

Notification of changes of controller

- 8 (1) A person who becomes or ceases to be—
- (a) a controller of a friendly society to which section 37(2) or (3) above applies; or
 - (b) a 10 per cent. controller, a 20 per cent. controller, a 33 per cent. controller, a 50 per cent. controller or a majority controller of such a society,
- shall, before the expiration of the period of seven days beginning with the day next following that on which he does so, notify the society of that fact.
- (2) If, after ceasing to be a controller of any description mentioned in sub-paragraph (1) above, a person will still be a controller of the society, his notice under that sub-paragraph shall state the percentage of the voting power which he will (alone or with any associate or associates) hold or be entitled to exercise or control.

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- (3) A friendly society to which section 37(2) or (3) above applies shall give notice to the central office of the fact that any person has become or ceased to be—
- (a) a controller of the society; or
 - (b) a controller of the society of any description mentioned in sub-paragraph (1) above;
- and that notice shall be given before the expiration of the period of one month beginning with the day next following that on which that fact comes to the society's knowledge.
- (4) Any notice under this paragraph shall state—
- (a) the person's full name and address;
 - (b) the date on which he became, or ceased to be, a controller of the society, or a controller of the society of any description mentioned in sub-paragraph (1) above; and
 - (c) in the case of a person becoming such a controller, the date of his birth.
- (5) Any person who fails to comply with sub-paragraph (1) or (3) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (6) On receipt of a notice under this paragraph, the central office shall record the name of the person to whom the notice relates and the date on which he became or, as the case may be, ceased to be a controller of any description, in the public file of the society.

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