

Status: Point in time view as at 01/12/2001.

Changes to legislation: There are currently no known outstanding effects for the Friendly Societies Act 1992, SCHEDULE 15. (See end of Document for details)

SCHEDULES

SCHEDULE 15 **U.K.**

Section 85.

AMALGAMATIONS, TRANSFERS OF ENGAGEMENTS AND CONVERSION: SUPPLEMENTARY

PART I **U.K.**

PROVISION OF INFORMATION TO MEMBERS

Statements relating to amalgamations and transfers

- 1 (1) A friendly society which desires—
- (a) to amalgamate under section 85 above; or
 - (b) to transfer its engagements to any person, or to undertake to fulfil the engagements of another friendly society, under section 86 above;
- shall, subject to sub-paragraph (2) below, send a statement concerning the matters specified in paragraph 2 below to every member entitled (when the statements are sent) to vote on any resolution required by section 85, 86 or 90.
- (2) Sub-paragraph (1) above does not apply, in the case of a friendly society desirous of undertaking to fulfil another society's engagements, where the [F¹Authority] has consented under section 86(3)(b) or 90(2)(b) above to its proceeding by resolution of the committee of management.
- (3) The statement referred to in sub-paragraph (1) above shall be sent so as to arrive no later than 14 days (or such longer period as the rules may require for notice of any resolution required by section 85, 86 or 90 above) before—
- (a) the meeting at which any such resolution is to be moved; or
 - (b) where proxy voting is permitted, such earlier date as may be specified by the society, under its rules, as the final date for the receipt of instruments appointing proxies to vote at the meeting.
- (4) If it appears to the [F¹Authority] that it is impractical to include the summary mentioned in paragraph 2(1)(d) below in the statement referred to in sub-paragraph (1) above, the [F¹Authority] may direct that the summary shall be sent separately from that statement within such period as the [F¹Authority] may specify in the direction.

Textual Amendments

F1 Words in [Sch. 15 para. 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. 128\(a\)](#) (with [art. 13\(3\)](#), [Sch. 5](#)); [S.I. 2001/3538, art. 2\(1\)](#)

- 2 (1) The matters of which a statement required by paragraph 1 above is to give particulars are the following, namely—

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- (a) the financial position of the society and that of every other society or person participating in the amalgamation or transfer;
- (b) any interest of the members of the committee of management of the society in the amalgamation or transfer;
- (c) the compensation or other consideration (if any) proposed to be paid to or in respect of—
 - (i) the members of the committee of management or other officers of the society; and
 - (ii) the officers of every other society or person participating in the amalgamation or transfer;
- (d) in the case of a transfer, a summary of any actuary's report which the society is directed to furnish to the [F²Authority] under section 88 above; and
- (e) any other matter which the [F²Authority] requires in the case of the particular amalgamation or transfer.

(2) No statement shall be sent unless its contents, so far as they concern the matters specified in this paragraph, have been approved by the [F²Authority].

Textual Amendments

F2 Words in *Sch. 15 para. 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. 128(a)* (with *art. 13(3), Sch. 5*); *S.I. 2001/3538, art. 2(1)*

Statements relating to conversion of society into company

- 3 (1) A friendly society which desires to convert into a company under section 91 above shall send a statement concerning—
- (a) such matters as may be prescribed in regulations made by the F³ . . . Treasury; and
 - (b) such other matters as may be required by the [F⁴Authority] in the case of the particular conversion;
- to every member entitled (when the statements are sent) to vote on any resolution required by subsection (2) of that section.

(2) Regulations under sub-paragraph (1) above may include among the prescribed matters any alternatives to a proposed conversion which may be available.

Textual Amendments

F3 Words in *Sch. 15 para. 3(1)(a)* 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 Word in *Sch. 15 para. 3(1)(b)* substituted (17.8.2001 for specified purposes and otherwise 1.12.2001) by *S.I. 2001/2617, arts. 2, 8(1), Sch. 3 para. 128(b)(ii)* (with *art. 13(3), Sch. 5*); *S.I. 2001/3538, art. 2(1)*

Modifications etc. (not altering text)

C1 *Sch. 15 para. 3(1)(a)*: Functions of the 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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- 4 The statement referred to in paragraph 3 above shall be sent so as to arrive no later than 14 days (or such longer period as the rules may require for notice of any resolution required by section 91 above) before—
- (a) the meeting at which any such resolution is to be moved; or
 - (b) where proxy voting is permitted, such earlier date as may be specified by the society, under its rules, as the final date for the receipt of instruments appointing proxies to vote at the meeting;
- but no such statement may be sent unless its contents, so far as they concern the matters mentioned in that paragraph, have been approved by the [F⁵Authority].

Textual Amendments

- F5** Word in Sch. 15 para. 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. 128(c) (with art. 13(3), Sch. 5); S.I. 2001/3538, art. 2(1)

PART II U.K.

CONFIRMATION BY [F⁶AUTHORITY]

Textual Amendments

- F6** Word in the title of Sch. 15 Pt. II 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. 128(d) (with art. 13(1), Sch. 5); S.I. 2001/3538, art. 2(1)

Applications for confirmation

- 5 (1) An application by a friendly society for confirmation by the [F⁷Authority]—
- (a) of an amalgamation under section 85 above,
 - (b) of a transfer of engagements of a friendly society under section 86 above, or
 - (c) of the conversion of a friendly society into a company under section 91 above,
- shall be made in such manner as [F⁸the Authority may direct].
- (2) An application for confirmation of an amalgamation shall be made jointly by the friendly societies concerned.
- [F⁹(3) The [F¹⁰Authority] may, on the application or with the consent of a friendly society, direct in relation to any provision of regulations made for the purposes of sub-paragraph (1) above that the provisions shall not apply to the society, or shall apply to it with such modifications as may be specified in the direction.
- [F⁹(4) A direction under sub-paragraph (3) above may be subject to conditions.
- [F⁹(5) A direction under sub-paragraph (3) above may be revoked by the [F¹⁰Authority] at any time; and the [F¹⁰Authority] may at any time vary any such direction on the application or with the consent of the society to which it applies.
- [F⁹(6) Where the [F¹⁰Authority]—

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- (a) makes a direction under subsection (3) above, 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.

^{F9}(7) The register kept for the purposes of subsection (6) above shall be available for inspection on reasonable notice by members of the public.

^{F9}(8) The [^{F11}Authority shall keep] a copy of—

- (a) any direction made by it under subsection (3) above, and
- (b) any revocation or variation of any such direction,

^{F12} . . . in the public file of the society to which it relates.]

Textual Amendments

- F7** Word in Sch. 15 para. 5(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. 128(e)(i)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**
- F8** Words in Sch. 15 para. 5(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. 128(e)(ii)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**
- F9** Sch. 15 para. 5(3)-(8) inserted (1.8.1996) by S.I. 1996/1188, **art. 8**
- F10** Words in Sch. 15 para. 5(3)-(6) 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. 128(f)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**
- F11** Words in Sch. 15 para. 5(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. 128(g)(i)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**
- F12** Words in Sch. 15 para. 5(8) 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)**

- 6 (1) Where a friendly society applies for confirmation of an amalgamation, transfer or conversion, it shall publish a notice of the application—
- (a) in one or more of the London Gazette, the Edinburgh Gazette or the Belfast Gazette, as the Commission directs, and,
 - (b) if it so directs, in one or more newspapers.

[^{F13}(1A) Where an application for confirmation of a transfer is made by a friendly society to which section 37(2) or (3) above applies and ^{F14} . . . -

^{F15} . . . as regards any policy included in the proposed transfer, [^{F16}an EEA State] other than the United Kingdom is the State in which the risk or commitment is situated;

^{F15} . . .

^{F17}(b)the society shall also; if the [^{F18}Authority] so directs publish the notice in two national newspapers in that State.]

(2) The notice shall—

- (a) state that any interested party has the right to make representations to the [^{F18}Authority] with respect to the application;
- (b) specify a date determined by the [^{F18}Authority] before which any written representations or notice of a person's intention to make oral representation must be received by the [^{F18}Authority]; and

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- (c) specify a date determined by the [Authority] as the day on which it intends to hear any oral representations.
- (3) Where a friendly society participating in a transfer is required under section 88 above to furnish an actuary's report, the society shall publish a notice in the manner required by sub-paragraph (1) above—
- (a) stating that such a report has been obtained;
- [^{F19}(b) stating—
- (i) the addresses of the offices of the society, and
- (ii) where the society is directed in accordance with sub-paragraph (1A) above to publish a notice of the application in two national newspapers in a State other than the United Kingdom, the address of such place in that State as the [^{F18}Authority] directs,
- at which copies of the report shall be available for inspection for a period of not less than 21 days beginning with the date of the first publication of the notice; and]
- (c) containing such particulars of any other matter relating to the report which the [^{F18}Authority] requires in the case of the transfer in question;
- and such a society may include the notice required by this sub-paragraph in the notice required by sub-paragraph (1) above.

Textual Amendments

- F13** Sch. 15 para.6(1A) inserted (1.9.1994) by S.I. 1994/1984, reg. 25, **Sch. 4 para. 1(1)**
- F14** Word in Sch. 15 Pt. II para. 6(1A) repealed (1.1.1998) by S.I. 1997/2849, reg. 5, **Sch.**
- F15** Words in Sch. 15 Pt. II para. 6(1A)(a) repealed (1.1.1998) by S.I. 1997/2849, reg. 5, **Sch.**
- F16** Words in Sch. 15 Pt. II para. 6 substituted (1.1.1998) by S.I. 1997/2849, **reg. 3**
- F17** Sch. 15 Pt. II para. 6(1A)(b) repealed (1.1.1998) by S.I. 1997/2849, reg. 5, **Sch**
- F18** Words in Sch. 15 para. 6 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. 128(h)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**
- F19** Sch. 15 para. 6(3)(b) substituted (1.9.1994) by S.I. 1994/1984, reg. 25, **Sch. 4 para. 1(2)**

- 7 After the date specified in the notice in pursuance of paragraph 6(2)(b) above, the [^{F20}Authority] shall—
- (a) determine the time and place at which oral representations may be made;
- (b) give notice of that determination to the friendly society applying for confirmation and to any persons who have give notice of their intention to make oral representations; and
- (c) send copies of any written representations received by the [^{F20}Authority] to that society;
- and the [^{F20}Authority] shall allow that society an opportunity to comment on the written representations (whether at a hearing or in writing) before the expiration of such period as the [^{F20}Authority] specifies in a notice to the society.

Textual Amendments

- F20** Words in Sch. 15 para. 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. 128(h)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**

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Confirmation by [F²¹Authority]: General

Textual Amendments

F21 Words in *Sch. 15 para. 8* and the cross-heading 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. 128(h)* (with *art. 13(3), Sch. 5*); *S.I. 2001/3538, art. 2(1)*

- 8 (1) Where an application is duly made for confirmation by the [F²²Authority] of an amalgamation, transfer of engagements or conversion, the [F²²Authority] shall confirm the amalgamation, transfer or conversion unless it is precluded from doing so by any of the following provisions of this Schedule.
- (2) If it appears to the [F²²Authority], in relation to any amalgamation or transfer of engagements, that there is a substantial risk that the successor society or the person taking the transfer will not be able lawfully to carry out the engagements to be transferred to it under section 85(4) or 86(5) above, the [F²²Authority]—
- (a) shall not confirm the amalgamation or transfer; and
 - (b) where it has confirmed the amalgamation or transfer, shall ^{F23} . . . withdraw its confirmation;
- but it may not withdraw its confirmation on or after the transfer date for the amalgamation or transfer.
- (3) For the purposes of sub-paragraph (2) above, the [F²²Authority] may have regard to any requirements of the law of a country or territory outside the United Kingdom which appear to the [F²²Authority] to be relevant.

Textual Amendments

F22 Words in *Sch. 15 para. 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. 128(h)* (with *art. 13(3), Sch. 5*); *S.I. 2001/3538, art. 2(1)*

F23 Words in *Sch. 15 para. 8(2)(b)* 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)*

- 9 (1) Subject to sub-paragraph (3) below, the [F²⁴Authority] shall not confirm an amalgamation or transfer if it considers that—
- (a) some information material to the members' decision (including any decision on an affected members' resolution under section 86 above) about the amalgamation or transfer was not made available to all the members eligible to vote;
 - (b) the vote on any resolution approving the amalgamation or transfer does not represent the views of the members eligible to vote; or
 - (c) some relevant requirement of this Act or the rules of any friendly society participating in the amalgamation or transfer was not fulfilled or not fulfilled as regards that society.
- (2) Subject to sub-paragraph (3) below, the [F²⁴Authority] shall not confirm the conversion of a society if it considers that—
- (a) some information material to the members' decision about the conversion was not made available to all the members eligible to vote;

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- (b) the vote on any resolution approving the conversion does not represent the views of the members eligible to vote;
 - ^{F25}(c)
 - (d) some relevant requirement of this Act or the rules of the society was not fulfilled.
- (3) The [^{F24}Authority] shall not be precluded from confirming an amalgamation, transfer or conversion by virtue only of the non-fulfilment of some relevant requirement of this Act or the rules of a friendly society if it appears to the [^{F24}Authority] that it could not have been material to the members' decision about the amalgamation, transfer or conversion and the [^{F24}Authority] gives a direction that the failure is to be disregarded for the purposes of this paragraph.

Textual Amendments

- F24** Words in Sch. 15 para. 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. 128(j) (with art. 13(3), Sch. 5); S.I. 2001/3538, art. 2(1)
- F25** Sch. 15 para. 9(2)(c) 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)

- 10 (1) Where the [^{F26}Authority] would be precluded—
- (a) from confirming an amalgamation or transfer by reason of any of the defects specified in paragraph 9(1) above, or
 - (b) from confirming a conversion by reason of any of the defects specified in paragraph 9(2) above, [^{F27}or]
 - [(c) from confirming a conversion by reason of paragraph 11 below,]

it may give to any friendly society participating in the amalgamation or transfer or, as the case may be, to the society proposing to convert a direction under sub-paragraph (2) below.

- (2) A direction under this sub-paragraph is a direction requiring a friendly society—
- (a) to take such steps to remedy the defect or defects, including the calling of a further meeting, [^{F28}or (as the case may be) to remove the risk referred to in paragraph 11 below,] as are specified in the direction; and
 - (b) to furnish the [^{F26}Authority] with evidence that those steps have been taken; and if the [^{F26}Authority] is satisfied that the steps have been taken and the defect or defects has or have been substantially remedied, [^{F29}or (as the case may be) that the risk has been removed,] the [^{F26}Authority] shall confirm the amalgamation, transfer or conversion.

Textual Amendments

- F26** Words in Sch. 15 para. 10 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. 128(h) (with art. 13(3), Sch. 5); S.I. 2001/3538, art. 2(1)
- F27** Sch. 15 para. 10(1)(c) and the word “or” immediately preceding 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. 128(k) (with art. 13(3), Sch. 5); S.I. 2001/3538, art. 2(1)

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- F28** Words in Sch. 15 para. 10(2)(a) 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. 128(l)(i)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**
- F29** Words in Sch. 15 para. 10(2) 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. 128(l)(ii)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**

F30
 . . .

Textual Amendments

- F30** Cross-heading 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)**

- [^{F31}11 The Authority shall not confirm an amalgamation, transfer of engagements or conversion unless it is satisfied that there is no substantial risk that the successor society, the proposed transferee, or the company into which the society is converted, will not have—
- (a) such permission (if any) under Part IV of the Financial Services and Markets Act 2000, or
 - (b) such permission (if any) under paragraph 15 of Schedule 3 to that Act (as a result of qualifying for authorisation under paragraph 12 of that Schedule),
- as will enable it to carry on the business which it will have as a result of the amalgamation, transfer or conversion without contravening section 19 of that Act (the general prohibition).]

Textual Amendments

- F31** Sch. 15 para. 11 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. 128(n)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**

Confirmation of transfers of engagements

- 12 The [^{F32}Authority] shall not confirm a transfer unless it is satisfied—
- (a) that all the engagements included in the transfer may be transferred under section 86 above to the transferee;
 - (b) that the transfer is in the interests of the members of each friendly society participating in the transfer; and
 - (c) where the transfer is not of all the engagements of the transferor, that the purposes of each friendly society participating in the transfer will, after the transfer, continue to include the carrying on of one or more activities falling within Schedule 2 to this Act.

Textual Amendments

- F32** Words in Sch. 15 para. 12 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. 128(o)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**

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- 13 (1) The [^{F33}Authority] shall not confirm a transfer in any case where the transferee is required by section 87 above to furnish the [^{F33}Authority] with a report unless it is satisfied that the transferee will (after taking the proposed transfer into account) [^{F34}possess the margin of solvency required by rules made by the Authority under section 138 of the Financial Services and Markets Act 2000.]
- (2) The [^{F33}Authority] shall not confirm a transfer of any engagements the fulfilment of which will constitute the carrying on of insurance business in the United Kingdom in any case where the transferee is a person to whom Part II of the Insurance Companies Act 1982 applies unless the [^{F35}Treasury certify] that the transferee will, after taking the proposed transfer into account, possess any margin of solvency required by that Part of that Act.
- [^{F36}(3) This paragraph [^{F37}does] not apply to any transfer of engagements to which paragraph 15 or 15A below applies.]

Textual Amendments

- F33** Words in Sch. 15 para. 13 substituted (17.8.2001 for specified purposes and otherwise *prosp.*) by S.I. 2001/2617, arts. 2(a), 8(1), 13(1), Sch. 3 para. 128(o) (with art. 13(3), **Sch. 5**)
- F34** Words in Sch. 15 para. 13(1) substituted (17.8.2001 for specified purposes and otherwise *prosp.*) for Sch. 15 para. 13(1)(a)(b) by S.I. 2001/2617, arts. 2(a), 8(1), 13(1), Sch. 3 para. 128(p) (with art. 13(3), **Sch. 5**)
- F35** Words in Sch. 15 para. 13(2) substituted (5.1.1998) by S.I. 1997/2781, art. 7, 8(1), **Sch. Pt. II para. 119** (with art. 7)
- F36** Sch. 15 para. 13(3) inserted (1.9.1994) by S.I. 1994/1984 reg. 25, Sch. 4 para. 2
- F37** Word in Sch. 15 para. 13(3) substituted (17.8.2001 for specified purposes and otherwise *prosp.*) by S.I. 2001/2617, arts. 2(a), 8(1), 13(1), Sch. 3 para. 128(q) (with art. 13(3), **Sch. 5**)

Modifications etc. (not altering text)

- C2** Sch. 15 para. 13(2): by S.I. 1997/2842, arts. 2, 3, **Sch. Pt. II para. 65** it is provided that any function of the Treasury may be exercised by, or by employees of, such persons (if any), as may be authorised in that behalf by the Treasury.
- C3** Sch. 15 para. 13(2): functions of Secretary of State transferred to Treasury (5.1.1998) by S.I. 1997/2781, **art. 2(1)(e)** (with art. 7)

- [^{F38}14 The Commission shall not confirm a transfer of any engagements the fulfilment of which will constitute the carrying on in the United Kingdom of insurance business unless it is satisfied—
- (a) that the proposed transferee will be able to fulfil the engagements without authorisation under Part I of the Insurance Companies Act 1982 or section 32 of this Act; or
- (b) that there is no substantial risk that the proposed transferee will not have such authorisation as will permit it to fulfil them.]

Textual Amendments

- F38** Sch. 15 para. 14 omitted (17.8.2001 for specified purposes and otherwise *prosp.*) by virtue of S.I. 2001/2617, arts. 2(a), 8(1), 13(1), Sch. 3 para. 128(r) (with art. 13(3), **Sch. 5**) and is repealed (*prosp.*) by S.I. 2001/3538, **art. 2(1)**

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[^{F39}15 (1) This paragraph applies to any transfer of engagements (other than contracts of reinsurance) where—

- (a) the effecting of the engagements constituted the carrying on of general business;
- (b) the transferor is a friendly society to which section 37(3) above applies; and
- (c) the transferee is—
 - (i) a friendly society to which section 37(2) or (3) above applies;
 - [^{F40}(ii) a UK firm which has an EEA right deriving from any of the insurance directives;]
 - [^{F41}(iii) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to the Financial Services and Markets Act 2000;]
 - [^{F42}(iv)]
 - [^{F43}(v) an insurance company whose head office is in Switzerland, which has permission under Part IV of the Financial Services and Markets Act 2000 to effect or carry out contracts of insurance, which permission is not limited to reinsurance business;]
 - (vi) an insurance company whose margin of solvency is required to be supervised in accordance with Article 25 or 26 of the first general insurance Directive.

(2) The [^{F44}Authority] shall not confirm the transfer unless—

- [^{F45}(a)]
- (b) it is [^{F46}] satisfied that every policy included in the transfer evidences a contract which was entered into before the date of the application;
- (c) the relevant authority certifies that the transferee possesses the necessary margin of solvency after taking the proposed transfer into account; and
- (d) where the establishment from which the policies are to be transferred is situated in [^{F47}an EEA State] other than the United Kingdom, the [^{F44}Authority] is satisfied—
 - (i) that the supervisory authority in that [^{F47}EEA State] has been consulted about the proposed transfer; and
 - (ii) either that the authority has responded or that the period of three months beginning with the consultation has elapsed.

(3) Where, as regards any policy [^{F48}] which is included in the proposed transfer, the risk is situated in a [^{F47}an EEA State] other than the United Kingdom, the [^{F44}Authority] shall not confirm the transfer unless it is satisfied—

- (a) that the supervisory authority in that [^{F47}an EEA State] has been notified of the proposed transfer;
- (b) either that the authority has consented to the transfer or that the authority has not refused its consent to the transfer within the period of three months beginning with the notification.

[^{F49}(4)]

[^{F50}(5)]

[^{F51}(6) In this paragraph “the relevant authority” means—

- (a) if the transferee falls within paragraph (1)(c)(iii), its home state regulator;

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- (b) if the transferee falls within paragraph (1)(c)(v), the supervisory authority in Switzerland;
- (c) if the transferee falls within paragraph (1)(c)(vi), the Authority or other supervisory body responsible for the supervision;
- (d) in any other case, the Authority.]]

Textual Amendments

- F39** Sch. 15 para. 15 substituted (1.9.1994) by S.I. 1994/1984 reg. 25, Sch. 4 para. 3
- F40** Sch. 15 para. 15(1)(c)(ii) substituted (1.12.2001) by S.I. 2001/3649, arts. 1, **207(2)(a)**
- F41** Sch. 15 para. 15(1)(c)(iii) substituted (1.12.2001) by S.I. 2001/3649, arts. 1, **207(2)(b)**
- F42** Sch. 15 para. 15(1)(c)(iv) repealed (1.12.2001) by virtue of S.I. 2001/3649, arts. 1, **207(2)(c)**
- F43** Sch. 15 para. 15(1)(c)(v) substituted (1.12.2001) by S.I. 2001/3649, arts. 1, **207(2)(d)**
- F44** Words in Sch. 15 para. 15 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. 128(s)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**
- F45** Sch. 15 para. 15(2)(a) repealed (17.8.2001 for specified purposes and otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8(1), 13, **Sch. 3 para. 128(t)(i)**; Sch. 4 (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**
- F46** Word in Sch. 15 para. 15(2)(b) repealed (17.8.2001 for specified purposes and otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8(1), 13, **Sch. 3 para. 128(t)(ii)**; Sch. 4 (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**
- F47** Words in Sch. 15 Pt. II para. 15 substituted (1.1.1998) by S.I. 1997/2849, **reg. 3**
- F48** Words in Sch. 15 para. 15(3) repealed (1.1.1998) by S.I. 1997/2849, **reg. 5, Sch.**
- F49** Sch. 15 para. 15(4) repealed (1.1.1998) by S.I. 1997/2849, **reg. 5, Sch.**
- F50** Sch. 15 para. 15(5) repealed (1.1.1998) by S.I. 1997/2849, **reg. 5, Sch.**
- F51** Sch. 15 para. 15(6) substituted (1.12.2001) by S.I. 2001/3649, arts. 1, **207(3)**

^{F52}[15A(1) This paragraph applies to any transfer of engagements (other than contracts of reinsurance) where—

- (a) the effecting of the engagements constituted the carrying on of long term business;
- (b) the transferor is a friendly society to which section 37(3) above applies; and
- (c) the transferee is—
 - (i) a friendly society to which section 37(2) or (3) above applies;
 - (ii) a UK company;
 - (iii) an EC company;
 - (iv) a non-EC company whose head office is an EFTA State; or
 - (v) an insurance company whose margin of solvency is required to be supervised in accordance with Article 29 or 30 of the first life Directive.

(2) The [^{F53}Authority] shall not confirm the transfer unless—

- [it is satisfied that the transferee is, or will be immediately after the making
- ^{F54}(a) of the confirmation—
 - (i) authorised under section 32 above to carry on, or
 - (ii) authorised under section 3 or 4 of the Insurance Companies Act 1982 to carry on, or
 - (iii) authorised in accordance with Article 6 of the first life Directive to carry on in an EEA State other than the United Kingdom,

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- long term business of the class or classes to be transferred;]
- (b) the relevant authority certifies that the transferee possesses the necessary margin of solvency after taking the proposed transfer into account; and
- (c) where the establishment from which the policies are to be transferred is situated in [^{F55}an EEA State] other than the United Kingdom, the [^{F53}Authority] is satisfied–
- (i) that the supervisory authority in that [^{F55} EEA State] has been consulted about the proposed scheme; and
- (ii) either that the authority has responded or that the period of three months beginning with the consultation has elapsed.
- (3) Where, as regards any policy ^{F56} . . . which is included in the proposed transfer, [^{F55}an EEA State] other than the United Kingdom, is the State in which the commitment is situated, the [^{F53}Authority] shall not confirm the transfer unless it is satisfied–
- (a) that the supervisory authority in that [^{F55}an EEA State] has been notified of the proposed scheme; and
- (b) either that the authority has consented to the scheme or that the authority has not refused its consent to the scheme within the period of three months beginning with the notification.
- ^{F57}(4)
- ^{F58}(5)
- (6) In this paragraph “the relevant authority” means–
- (a) if the transferee is a friendly society to which section 37(2) or (3) above applies, the [^{F53}Authority];
- (b) if the transferee is a UK company, the Secretary of State;
- (c) if the transferee is an EC company, the supervisory authority in its home State;
- (d) if the transferee is a non–EC company whose head office is in an EFTA State, the supervisory authority in that EFTA State;
- (e) if the transferee is an insurance company whose margin of solvency is required to be supervised in accordance with Article 29 or 30 of the first life Directive, the Secretary of State or other supervisory authority responsible for the supervision.]

Textual Amendments

- F52** Sch. 15 para 15A substituted (1.9.1994) by S.I. 1994/1984, reg. 25, Sch. 4 para. 4
- F53** Words in Sch. 15 para. 15A substituted (17.8.2001 for specified purposes and otherwise *prosp.*) by S.I. 2001/2617, arts. 2(a), 8(1), 13(1), Sch. 3 para. 128(s) (with art. 13(3), Sch. 5)
- F54** Sch. 15 para. 15A(2)(a) omitted (17.8.2001 for specified purposes and otherwise *prosp.*) by virtue of S.I. 2001/2617, arts. 2(a), 8(1), 13(1), Sch. 3 para. 128(u) (with art. 13(3), Sch. 5) and is repealed (*prosp.*) by S.I. 2001/2617, arts. 2(b), 13(2), Sch. 4 (with art. 13(3), Sch. 5)
- F55** Words in Sch. 15 Pt. II para. 15A substituted (1.1.1998) by 1997/2849, reg. 3
- F56** Words in Sch. 15 Pt. II para. 15A(3) repealed (1.1.1998) by S.I. 1997/2849, reg. 5, Sch.
- F57** Sch. 15 Pt. II para. 15A(4) repealed (1.1.1998) by S.I. 1997/2849, reg. 5, Sch.
- F58** Sch. 15 Pt. II para. 15A(5) repealed (1.1.1998) by S.I. 1997/2849, reg. 5, Sch.

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^{F59}[16 The Commission shall not confirm a transfer to a friendly society of engagements the fulfilment of which will constitute the carrying on in the United Kingdom of non-insurance business of any description unless it is satisfied that there is no substantial risk that the society will not be authorised under section 32 above to carry on non-insurance business of that description.]

Textual Amendments

F59 Sch. 15 para. 16 omitted (17.8.2001 for specified purposes and otherwise *prosp.*) by S.I. 2001/2617, arts. 2(a), 8(1), 13(1), Sch. 3 para. 128(v) (with art. 13(3), Sch. 5) and is repealed (*prosp.*) by S.I. 2001/2617, arts. 2(b), 13(2), Sch. 4 (with art. 13(3), Sch. 5)

[^{F60}Rights of policy holders]

Textual Amendments

F60 Sch. 15 para. 16A and Cross-heading inserted (1.9.1994) by S.I. 1994/1984, reg. 25, Sch. 4 para. 5

[^{F61}16A(1) This paragraph applies where the Commission confirms a transfer in accordance with paragraph 15 above and ^{F62} . . . –

^{F63}(. .) as regards any policy included in the transfer, [^{F64}an EEA State] other than the United Kingdom is the [^{F64}EEA State] in which the risk is situated; ^{F63} . . .

^{F65}(b)

(2) The Commission shall direct that–

- (a) notice of its decision, and of the execution of any instrument giving effect to the transfer, shall be published in the [^{F64}EEA State]^{F62} . . . ; and
- (b) the notice shall specify the period during which the policy holder may exercise any right to cancel the policy;

and the instrument shall not bind the policy holder if either such a notice is not so published or the policy holder exercises any such right during the period so specified.

(3) The law of the [^{F64}EEA State]^{F62} . . . shall determine–

- (a) whether the policy holder has a right to cancel the policy; and
- (b) the conditions applicable to any such right.]

Textual Amendments

F61 Sch. 15 para. 16A inserted (1.9.1994) by S.I. 1994/1984, reg. 25 Sch. 4 para. 5

F62 Words in Sch. 15 para. 16A repealed (1.1.1998) by S.I. 1997/2849, reg. 5, Sch.

F63 Words in Sch. 15 para. 16A(1)(a) repealed (1.1.1998) by S.I. 1997/2849, reg. (5), Sch.

F64 Words in Sch. 15 para. 16A substituted (1.1.1998) by S.I. 1997/2849, reg. 3

F65 Sch. 15 para. 16A(1)(b) repealed (1.1.1998) by S.I. 1997/2849, reg. 5, Sch.

[^{F66}16B(1) This paragraph applies where the Commission confirms a transfer in accordance with paragraph 15A above and ^{F67} . . . –

^{F68}(. .) as regards any policy included in the transfer, [^{F69}an EEA State] other than the United Kingdom is the State in which the commitment is situated; ^{F68} . . .

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^{F70}(b)

(2) The Commission shall direct that—

- (a) notice of the making of any order, or the execution of any instrument, giving effect to the transfer shall be published in the [^{F69} EEA State]^{F67} . . . which is the State in which the commitment is situated; and
- (b) the notice shall specify the period during which the policy holder may exercise any right to cancel the policy;

and the instrument or order shall not bind the policy holder if either such a notice is not so published or the policy holder exercises any such right during the period so specified.

(3) The law of the [^{F69} EEA State]^{F67} . . . which is the State in which the commitment is situated shall determine—

- (a) whether the policy holder has a right to cancel the policy; and
- (b) the conditions applicable to any such right.]

Textual Amendments

F66 Sch. 15 para. 16B inserted (1.9.1994) by S.I. 1994/1984, reg. 25 Sch. 4 para. 6

F67 Words in Sch. 15 para. 16B repealed (1.1.1998) by S.I. 1997/2849, reg. 5, Sch.

F68 Words in Sch. 15 para. 16B(1)(a) repealed (1.1.1998) by S.I. 1997/2849, reg. (5), Sch.

F69 Words in Sch. 15 para. 16B substituted (1.1.1998) by S.I. 1997/2849, reg. 3

F70 Sch. 15 para. 16B(1)(b) repealed (1.1.1998) by S.I. 1997/2849, reg. 5, Sch.

Effect of failure to comply with relevant requirements

17 A failure to comply with a relevant requirement of this Act or any rules of a friendly society shall not invalidate any amalgamation, transfer of engagements or conversion; but a society which—

- (a) participates in an amalgamation or transfer or converts into a company; and
- (b) fails without reasonable excuse to comply with such a requirement;

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Interpretation

[^{F71}18 (1) In this Part of this Schedule expressions used which are defined in [^{F72}Schedule 3 to the Financial Services and Markets Act 2000] but are not defined for the purposes of this Part of this Schedule have the same meaning as they have for the purposes of that Act.

(2) In this Part of this Schedule—

“policy” means a contract (other than a contract of reinsurance) the effecting of which by a friendly society to which section 37(2) or (3) above applies constituted the carrying on of insurance business of any class;

“policy holder” means a member whose contract with such a society is a contract the effecting of which by the society constituted the carrying on of insurance business (other than reinsurance business) of any class;

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“relevant requirement”, with reference to this Act or the rules of a friendly society, means a requirement of this Part of this Act or of any rules prescribing the procedure to be followed by the society in approving or effecting an amalgamation or transfer of engagements or its conversion into a company.

^{F73}(3).....]

Textual Amendments

- F71** Sch. 15 para. 18 substituted (1.9.1994) by S.I. 1994/1984, reg. 25, **Sch. 4 para. 7**
- F72** Words in Sch. 15 para. 18 substituted (1.12.2001) by S.I. 2001/3649, **arts. 1, 209**
- F73** Sch. 15 para. 18(3) repealed (1.1.1998) by S.I. 1997/2849, reg. 5, **Sch.**

Status:

Point in time view as at 01/12/2001.

Changes to legislation:

There are currently no known outstanding effects for the Friendly Societies Act 1992, SCHEDULE 15.