

Status: Point in time view as at 13/09/1993.

Changes to legislation: There are currently no known outstanding effects for the Friendly Societies Act 1992, Cross Heading: Confirmation of transfers of engagements. (See end of Document for details)

SCHEDULES

SCHEDULE 15

AMALGAMATIONS, TRANSFERS OF ENGAGEMENTS AND CONVERSION: SUPPLEMENTARY

PART II

CONFIRMATION BY COMMISSION

Confirmation of transfers of engagements

- 12 The Commission 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.
- 13 (1) The Commission shall not confirm a transfer in any case where the transferee is required by section 87 above to furnish the Commission with a report unless it is satisfied that the transferee will (after taking the proposed transfer into account)—
- (a) where the report is furnished under section 87(2), possess the margin of solvency required by section 48 above;
 - (b) where the report is furnished under section 87(3), possess an excess of assets over liabilities.
- (2) The Commission 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 ^{M1}Insurance Companies Act 1982 applies unless the Secretary of State certifies that the transferee will, after taking the proposed transfer into account, possess any margin of solvency required by that Part of that Act.

Marginal Citations

M1 1982 c.50.

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- 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.
- 15 (1) This paragraph applies to a transfer of engagements (other than contracts of reinsurance) the effecting of which constituted the carrying on of general business.
- (2) The Commission shall not confirm such a transfer if it is to a transferee who is or will be authorised under Part I of the ^{M2}Insurance Companies Act 1982 to carry on in the United Kingdom insurance business and whose head office is situated in another member State, unless the supervisory authorities of that State certify that the transferee will, after taking the proposed transfer into account, possess the margin of solvency required for compliance with the first general insurance Directive.
- (3) The Commission shall not confirm such a transfer in relation to engagements entered into by way of provision of insurance in another member State unless—
- (a) the transferee fulfils or will fulfil the conditions mentioned in Articles 13 to 16 of the second general insurance Directive in the member State where the risk is situated; and
 - (b) the supervisory authorities of that member State agree to the transfer.
- (4) The Commission shall not confirm such a transfer, in relation to engagements which cover risks situated in the United Kingdom, to a transferee who is not or will not be authorised under section 32 above or Part I of the Insurance Companies Act 1982 unless—
- (a) the transferee is an insurance company established in another member State which is or will be entitled in accordance with section 81B of the Insurance Companies Act 1982 to provide insurance in the United Kingdom in respect of those risks through that establishment; and
 - (b) the supervisory authorities of the member State of that establishment agree to the transfer.
- (5) The Commission shall not confirm such a transfer, in relation to engagements which cover risks situated in another member State, to a transferee who is not or will not be authorised under section 32 above or Part I of the Insurance Companies Act 1982 unless—
- (a) the transferee is an insurance company established in another member State and the supervisory authorities of that member State agree to the transfer; and
 - (b) where the risk is not situated in the transferee's member State of establishment—
 - (i) the transferee fulfills the conditions mentioned in Articles 13 to 16 of the second general insurance Directive in the member State where the risk is situated;
 - (ii) the law of that member State provides for the possibility of such a transfer; and
 - (iii) the supervisory authorities of that member State agree to the transfer.

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M2 1982 c.50.

- 15A (1) This paragraph applies to a transfer by a friendly society to which section 37(2) above applies of engagements (other than contracts of reinsurance) the effecting of which constituted the carrying on of long term business.
- (2) The Commission shall not confirm such a transfer if it is to a transferee who is or will be authorised under Part I of the Insurance Companies Act 1982 ^{F2} to carry on in the United Kingdom insurance business and whose head office is situated in another member State, unless the supervisory authorities of that State certify that the transferee will, after taking the proposed transfer into account, possess the margin of solvency required for compliance with the first life Directive.
- (3) The Commission shall not confirm such a transfer in relation to engagements entered into by way of provision of insurance in another member State unless—
- (a) the transferee fulfils or will fulfil the conditions mentioned in Articles 11, 12, 14 and 16 of the second life Directive in the member State in which the commitment is situated; and
 - (b) the supervisory authorities of that member State agree to the transfer.
- (4) The Commission shall not confirm such a transfer, in relation to engagements which cover commitments situated in the United Kingdom, to a transferee who is not or will not be authorised under section 32 above or Part I of the Insurance Companies Act 1982 unless—
- (a) the transferee is an insurance company established in another member State which is or will be entitled in accordance with section 81B of the Insurance Companies Act 1982 to provide insurance in the United Kingdom in respect of those commitments through that establishment; and
 - (b) the supervisory authorities of the member State of that establishment agree to the transfer.
- (5) The Commission shall not confirm such a transfer, in relation to engagements which cover commitments situated in another member State, to a transferee who is not or will not be authorised under section 32 above or Part I of the Insurance Companies Act 1982 unless—
- (a) the transferee is an insurance company established in another member State and the supervisory authorities of that member State agree to the transfer; and
 - (b) where the commitment is not situated in the transferee's member State of establishment—
 - (i) the transferee fulfils the conditions mentioned in Articles 11, 12, 14 and 16 of the second life Directive in the member State in which the commitment is situated;
 - (ii) the law of that member State provides for the possibility of such a transfer; and
 - (iii) the supervisory authorities of that member State agree to the transfer.

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- 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.

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