

Status: Point in time view as at 17/08/2001.

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 [F¹AUTHORITY]

Textual Amendments

- F1** 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)**

Confirmation of transfers of engagements

- 12 The [F¹Authority] 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

- F1** 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)**

- 13 (1) The [F²Authority] shall not confirm a transfer in any case where the transferee is required by section 87 above to furnish the [F²Authority] with a report unless it is satisfied that the transferee will (after taking the proposed transfer into account) [F³possess the margin of solvency required by rules made by the Authority under section 138 of the Financial Services and Markets Act 2000.]
- (2) The [F²Authority] 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 [F⁴Treasury certify] that the transferee will,

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after taking the proposed transfer into account, possess any margin of solvency required by that Part of that Act.

[^{F5}(3) This paragraph [^{F6}does] not apply to any transfer of engagements to which paragraph 15 or 15A below applies.]

Textual Amendments

- F2** 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)
- F3** 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)
- F4** 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)
- F5** Sch. 15 para. 13(3) inserted (1.9.1994) by S.I. 1994/1984 reg. 25, Sch. 4 para. 2
- F6** 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)

- C1** 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.
- C2** 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)

Marginal Citations

- M1** 1982 c.50.

- [^{F7}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

- F7** 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)

- [^{F8}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;

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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)

- (ii) a UK company;
- (iii) an EC company;
- (iv) a non-EC company whose head office is in an EFTA State;
- (v) a Swiss general insurance company; or
- (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 [^{F9}Authority] shall not confirm the transfer unless—
- (a) ^{F10}
 - (b) it is ^{F11} . . . 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 [^{F12}an EEA State] other than the United Kingdom, the [^{F9}Authority] is satisfied—
 - (i) that the supervisory authority in that [^{F12}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 ^{F13} . . . which is included in the proposed transfer, the risk is situated in a [^{F12}an EEA State] other than the United Kingdom, the [^{F9}Authority] shall not confirm the transfer unless it is satisfied—
- (a) that the supervisory authority in that [^{F12}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.

^{F14}(4)

^{F15}(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 [^{F9}Authority];
 - (b) if the transferee is a United Kingdom 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 a Swiss general insurance company, the supervisory authority in Switzerland;
 - (f) if the transferee is 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, the Secretary of State or other supervisory authority responsible for the supervision.]

Status: Point in time view as at 17/08/2001.

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Textual Amendments

- F8** Sch. 15 para. 15 substituted (1.9.1994) by S.I. 1994/1984 reg. 25, Sch. 4 para. 3
- F9** 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)**
- F10** 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)**
- F11** 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)**
- F12** Words in Sch. 15 Pt. II para. 15 substituted (1.1.1998) by S.I. 1997/2849, **reg. 3**
- F13** Words in Sch. 15 para. 15(3) repealed (1.1.1998) by S.I. 1997/2849, **reg. 5, Sch.**
- F14** Sch. 15 para. 15(4) repealed (1.1.1998) by S.I. 1997/2849, **reg. 5, Sch.**
- F15** Sch. 15 para. 15(5) repealed (1.1.1998) by S.I. 1997/2849, **reg. 5, Sch.**

^{F16}[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 [^{F17}Authority] shall not confirm the transfer unless—

- ^{F18}(a) it is satisfied that the transferee is, or will be immediately after the making 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, 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 [^{F19}an EEA State] other than the United Kingdom, the [^{F17}Authority] is satisfied—
 - (i) that the supervisory authority in that [^{F19} EEA State] has been consulted about the proposed scheme; and

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- (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 ^{F20} . . . which is included in the proposed transfer, [^{F19}an EEA State] other than the United Kingdom, is the State in which the commitment is situated, the [^{F17}Authority] shall not confirm the transfer unless it is satisfied—
- (a) that the supervisory authority in that [^{F19}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.
- ^{F21}(4)
- ^{F22}(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 [^{F17}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

- F16** Sch. 15 para 15A substituted (1.9.1994) by S.I. 1994/1984, reg. 25, Sch. 4 para. 4
- F17** 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)
- F18** 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)
- F19** Words in Sch. 15 Pt. II para. 15A substituted (1.1.1998) by 1997/2849, reg. 3
- F20** Words in Sch. 15 Pt. II para. 15A(3) repealed (1.1.1998) by S.I. 1997/2849, reg. 5, Sch.
- F21** Sch. 15 Pt. II para. 15A(4) repealed (1.1.1998) by S.I. 1997/2849, reg. 5, Sch.
- F22** Sch. 15 Pt. II para. 15A(5) repealed (1.1.1998) by S.I. 1997/2849, reg. 5, Sch.

^{F23}[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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Textual Amendments

- F23** 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**)

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